

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1155 Special Districts
SPONSOR(S): Local Government Affairs Subcommittee; Metz
TIED BILLS: **IDEN./SIM. BILLS:** SB 1388

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	11 Y, 0 N, As CS	Darden	Miller
2) Economic Development & Tourism Subcommittee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Special districts are used to provide a variety of local services and generally are funded through the imposition of ad valorem taxes, fees, and charges on the users of those services. There are two types of special districts: independent, which typically are created by special act and operationally are independent of any local general-purpose government, and dependent, which typically are created by local ordinance and are subject to the control of a local general-purpose government.

Special districts are governed according to chapter 189, Florida Statutes, the "Uniform Special District Accountability Act." Chapter 189 underwent extensive revisions last session, with substantive changes made to the oversight and enforcement process for special district financial reporting, an extension of the Governor's power to remove certain special district board members, and better organizing the underlying structure of the statute.

The bill requires special districts to publish additional information on their website, including a calendar of public meetings and ensuring budgets are accessible for longer periods of time. It also reorganizes the oversight provisions of the bill to increase clarity and avoid duplication. The bill specifies the power of the legislature to create dependent special districts. It also makes conforming changes to a number of related statutes.

The bill does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is October 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Introduction

A “special district” is “a unit of local government created for a special purpose... operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance, or rule of the Governor and Cabinet.”¹ Special districts are created to provide a wide variety of services, such as mosquito control,² beach facilities,³ children’s services,⁴ fire control and rescue,⁵ or drainage control.⁶

Special districts can be classified as “dependent special districts”⁷ or “independent special districts.”⁸ For a district to be classified as a “dependent special district,” the district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;⁹
- All members of its governing body are appointed by the governing body of a single county or a single municipality;¹⁰
- The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms,¹¹ or;
- The district’s budget requires approval or can be vetoed by the governing body of a single county or a single municipality¹²

An “independent special district” is any special district that does not meet the definition of “dependent special district” in s. 189.012(2), F.S.¹³ Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely with the borders of a single municipality.¹⁴

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program “master” list, the state currently has 1,647 special districts.¹⁵ The districts can be further classified as follows:

- 1,636 active districts, 11 inactive districts
- 637 dependent special districts, of which 634 are active and 3 are inactive
- 1,010 independent special districts, of which 1,002 are active and 8 are inactive

Special districts are governed generally by the Uniform Special District Accountability Act (Act).¹⁶ The Act, initially passed in 1989,¹⁷ created Ch. 189, F.S. to centralize provisions governing special districts.

¹ S. 189.012(6), F.S.

² S. 388.021(1), F.S. (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2)).

³ *See* s. 189.011, F.S.

⁴ S. 125.901(1), F.S.

⁵ S. 191.002, F.S.

⁶ S. 298.01, F.S.

⁷ S. 189.012(2), F.S.

⁸ S. 189.013(3), F.S.

⁹ S. 189.012(2)(a), F.S.

¹⁰ S. 189.012(2)(b), F.S.

¹¹ S. 189.012(2)(c), F.S.

¹² S. 189.012(2)(d), F.S.

¹³ S. 189.012(3), F.S.

¹⁴ *Id.*

¹⁵ *See* Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (accessed 3/10/15).

Chapter 189 applies to the formation,¹⁸ governance,¹⁹ administration,²⁰ supervision,²¹ merger,²² and dissolution²³ of special districts, unless otherwise expressly provided in law.²⁴ The Act also provided an extensive statement of legislative intent aiming to improve accountability of special districts to state and local governments and providing for more effective communication and coordination in the monitoring of required reporting.²⁵

In 2014, the Act was revised extensively.²⁶ Chapter 2014-22, Laws of Florida, reorganized the statute into eight parts:

- Part I: General Provisions
- Part II: Dependent Special Districts
- Part III: Independent Special Districts
- Part IV: Elections
- Part V: Finance
- Part VI: Oversight and Accountability
- Part VII: Merger and Dissolution
- Part VIII: Comprehensive Planning

The bill also made significant changes to provisions concerning independent special districts and special district oversight and accountability.²⁷

Present Situation

Legislative Intent

The purpose of the Uniform Special District Accountability Act is to provide procedures for the definition, creation, and operation of special districts.²⁸ Special districts “serve a necessary and useful function” by providing vital services to state’s residents and enabling residents to have the full use and enjoyment of their property.²⁹ In furtherance of these ends, the Legislature ensures the public trust in independent special districts by requiring the districts to register with the state, to report financial data and other activities, and provides mechanisms to ensure compliance if districts fail to comply with minimum disclosure requirements.³⁰ If a district fails to meet the minimum disclosure requirements, the Legislature intended to provide a mechanism for action against the officers of the district.³¹

Internet Accessible Budgets

¹⁶ S. 189.01, F.S., *but see* Ch. 190, F.S. (independent special fire control districts).

¹⁷ Ch. 89-169, Laws of Fla.

¹⁸ *See* s. 189.02(2), F.S. (counties authorized to create dependent special districts).

¹⁹ *See* s. 189.0311, F.S. (charter requirements for independent special districts).

²⁰ *See* s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

²¹ *See* s. 189.034, F.S. (oversight for special districts created by special act of the Legislature).

²² S. 189.071, F.S.

²³ *Id.*

²⁴ *See* s. 190.004 (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

²⁵ S. 189.06, F.S.

²⁶ Ch. 2014-22, Laws of Fla.

²⁷ Ch. 2014-22, s. 34, Laws of Fla.

²⁸ S. 189.011(1), F.S.

²⁹ S. 189.011(2), F.S.

³⁰ *Id.*

³¹ *Id.*

Each special district is required to post a tentative budget to its website at least two days before the district's budget hearing.³² If the budget is approved at the hearing, it must be posted to the district's website within thirty days after adoption.³³ If the budget is later amended, the adopted amendment must be posted on the district's website within five days after adoption.³⁴

If the special district does not operate a website, the Act creates alternative avenues for publication.³⁵ If the district is a dependent special district, the district must submit the budget or amendment to the local governing authority on which the district is dependent.³⁶ The special district must transmit the budget or amendment to the local governing authority "with a reasonable period of time," as determined by the local governing authority.³⁷ After transmission, the local governing authority posts the budget or amendment to its own website.³⁸ Independent special districts follow the same procedure, but instead submit their budget and amendments to the local general-purpose government(s) in which the district is located.³⁹

Creation of Dependent Special Districts

Under current law, new dependent special districts are created by the passage of an ordinance by a county or municipal government.⁴⁰ A district must rest entirely inside the boundary lines of the creating local government entity.⁴¹ The ordinance creating the special district must include:

- Purpose, powers, functions, and duties of the district;⁴²
- Geographic boundaries of the district;⁴³
- Authority of the district;⁴⁴
- An explanation of why the district is the best mechanism for service delivery;⁴⁵
- Membership, organization, compensation, and administrative duties of the district's board;⁴⁶
- Applicable financial disclosure, noticing, and reporting requirements;⁴⁷
- Method for financing the district;⁴⁸
- Declaration that the creation of the district is consistent with the approved local government comprehensive plans.⁴⁹

General oversight for dependent special districts rests with the local general-purpose government to which the district is dependent.⁵⁰

Status Statements

The charter for any new special district created after October 1, 1997 is required to contain a reference to the status of the district as dependent or independent.⁵¹ Existing special districts are also required to

³² S. 189.016(4), F.S.

³³ *Id.*

³⁴ S. 189.016(7), F.S.

³⁵ *See* S. 189.016(4), (7), F.S.

³⁶ S. 189.016(4), (7), F.S.

³⁷ S. 189.016(4), (7), F.S.

³⁸ S. 189.016(4), (7), F.S.

³⁹ S. 189.016(4), (7), F.S.

⁴⁰ S. 189.02(1), F.S. Prior to September 30, 1989, dependent special districts could also be created by general law or special act. There are currently 108 active dependent special districts that were created by general law and 73 created by special act.

⁴¹ S. 189.02(2), (3), F.S.

⁴² S. 189.02(4)(a), F.S.

⁴³ S. 189.02(4)(b), F.S.

⁴⁴ S. 189.02(4)(c), F.S.

⁴⁵ S. 189.02(4)(d), F.S.

⁴⁶ S. 189.02(4)(e), F.S.

⁴⁷ S. 189.02(4)(f), F.S.

⁴⁸ S. 189.02(4)(g), F.S.

⁴⁹ S. 189.02(4)(h), F.S.

⁵⁰ S. 189.068(2)(c), F.S.

⁵¹ S. 189.031(5), F.S.

amend their charter to contain status information, where practical.⁵² This provision appears in Part III, “Independent Special Districts,” of ch. 189, F.S.⁵³

Oversight of Special Districts

When an independent special district fails to file required reports or requested information, the Legislative Auditing Committee (LAC) provides written notice of the district’s noncompliance to the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and House of Representatives charged with special district oversight, and the legislator(s) who represent any portion of the geographic jurisdiction of the district.⁵⁴ The LAC may then convene a public hearing at the direction of the President of the Senate and the Speaker of the House of Representatives.⁵⁵ Before the LAC’s public hearing, the special district is required to provide:⁵⁶

- Annual financial report for the prior fiscal year;⁵⁷
- Audit report for the previous fiscal year;⁵⁸ and
- Annual report for the previous fiscal year, providing a detailed review of the performance of the special district⁵⁹

When a dependent special district fails to file required reports or requested information, the LAC provides written notice of the district’s noncompliance to the head of the local general-purpose government of which the district is a dependent.⁶⁰ The local general-purpose government may conduct a public hearing within three months of the receipt of the notice of noncompliance from the LAC.⁶¹ The local general-purpose government has thirty days upon receipt of the notice to inform the LAC of the date, time, and place of the public hearing.⁶² The special district must provide the local general-purpose government the same information required by an independent special district appearing before the LAC.⁶³ If the local general-purpose government convenes a public hearing, it must provide DEO and the LAC a report containing findings and conclusions with sixty days.⁶⁴

Special District Accountability Program

DEO is tasked with the administration of the Special District Accountability Program.⁶⁵ As part of administering the program, DEO is required to:

- Electronically publish special district noncompliance status reports;⁶⁶
- Maintain an official “master” list of dependent and independent special districts;⁶⁷
- Publish and update the “Florida Special District Handbook.”⁶⁸

The Florida Special District Handbook must contain:

⁵² *Id.*

⁵³ *See* ch. 2014-22, s. 1(3), Laws of Fla.

⁵⁴ S. 189.034(2), F.S.

⁵⁵ S. 189.034(3), F.S.

⁵⁶ S. 189.034(4), F.S.

⁵⁷ S. 189.034(4)(a), F.S.

⁵⁸ S. 189.034(4)(b), F.S.

⁵⁹ S. 189.034(4)(c), F.S. The “detailed review” required includes the special district’s purpose, sources of funding, major activities, challenges or obstacles faced, ways to better fulfill its purpose, changes to the special act that would aid in fulfilling purpose, any other information reasonably required to provide accurate understanding of situation, reasons for noncompliance, whether district is now in compliance, plans to correct recurring issues of noncompliance, efforts to promote transparency.

⁶⁰ S. 189.035(2), F.S.

⁶¹ S. 189.035(3), F.S.

⁶² *Id.*

⁶³ *See* s. 189.035(4), F.S.

⁶⁴ S. 189.035(5), F.S.

⁶⁵ S. 189.064, F.S.;

⁶⁶ S. 189.064(1), F.S.

⁶⁷ S. 189.064(2), F.S.

⁶⁸ S. 189.064(3), F.S.

- Definitions of special districts and status distinctions;⁶⁹
- Provisions concerning special district creation, implementation, modification, dissolution, and operating procedures;⁷⁰
- Summary of reporting requirements⁷¹

Internet Accessible Reporting

Each special district is required to maintain an official website containing essential information⁷² about the district.⁷³ Independent special districts are required to maintain their own website,⁷⁴ while a link to information about dependent special districts only must be displayed on the home page of the local general-purpose government which created the district.⁷⁵

Reenactment and Conforming Provisions

Section 165.0615, F.S., enables the qualified electors of an independent special district to file a petition to incorporate the district as a municipality, subject to approval via referendum.⁷⁶ If the electors approve of the conversion, the district is required to notify both the Special District Accountability Program and the local general-purpose governments where the district is located.⁷⁷

Section 189.074, F.S., allows for the voluntary merger of two or more independent special districts.⁷⁸ The merger can be initiated by either the governing bodies of each independent special district⁷⁹ or by a petition of qualified electors in the district.⁸⁰ Both methods of voluntary merger require the governing boards of the respective independent special districts to notify the supervisor of elections of the relevant counties.⁸¹ The supervisor of elections is required to schedule a referendum in each district, which must occur no more than twenty days apart.⁸²

DEO is tasked with maintaining an official list of all special districts in the state, including their status as independent or dependent.⁸³ Each special district has sixty days to report its status to DEO upon request that the official list is to be produced.⁸⁴ If the special district does not report its status within sixty days, DEO has the authority to determine the status of the district and then render the determination to an agent of the district.⁸⁵

Effect of Proposed Changes

Legislative Intent

The bill expands the statements of legislative intent in s. 189.011(2), F.S., to include all special districts in the requirements of registration, financial and other reporting, and providing a mechanism for

⁶⁹ S. 189.064(3)(a), F.S.

⁷⁰ S. 189.064(3)(b), F.S.

⁷¹ S. 189.064(3)(c), F.S.

⁷² S. 189.069(2)(a), F.S. The website must include the district's legal name, public purpose, vital information about the governing body, fiscal year, charter and associated information, contact information, geographic area, table of all taxes and fees, contact information for district's spokesperson, code of ethics, budget, and audit report for the most recently completed fiscal year.

⁷³ S. 189.069(1), F.S.

⁷⁴ S. 189.069(1)(a), F.S.

⁷⁵ S. 189.069(1)(b), F.S. Dependent special districts may maintain their own webpage, but are not required to.

⁷⁶ S. 165.0615(1), F.S.

⁷⁷ S. 165.0615(16), F.S.

⁷⁸ S. 189.074, F.S.

⁷⁹ S. 189.074(2), F.S.

⁸⁰ S. 189.074(3), F.S.

⁸¹ S. 189.074(2)(e), F.S. (for joint mergers by resolution), s. 189.074(3)(g), F.S. (for joint mergers by qualified elector petition).

⁸² S. 189.074(2)(e), F.S.; s. 189.074(3)(g), F.S.

⁸³ S. 189.061(1), F.S.

⁸⁴ S. 189.061(2), F.S.

⁸⁵ S. 189.061(4), F.S.

noncompliance with minimum disclosure requirements. The bill also clarifies the intent of the Legislature to authorize action against a special district itself for failure to comply with disclosure requirements, instead of the members of the district's board.

Internet Accessible Budgets

The bill requires special districts to make their budgets and subsequent amendments available for:

- Tentative budget: at least 45 days
- Final budget: at least two years
- Amendments: at least two years

The bill also removes the requirement for special districts without a website to transmit their tentative and final budgets to the local governing authority or the local general-purpose government(s) with which the district shares territory. The requirement remains for adopted amendments to the budget.

Creation of Dependent Special Districts

The bill creates s. 189.02(5), F.S., specifying the power of the Legislature to create dependent special districts by special act, at the request or with the consent of the local government upon which the district will be dependent. The bill also limits general oversight by local general-purpose government to dependent special districts not created by special act.

Status Statements

The bill clarifies the requirement for both dependent and independent special districts to include their status in their charter by creating a new section stating the requirement for dependent special districts in Part II ("Dependent Special Districts") of ch. 189 and amending s. 189.031(5), F.S., to refer only to independent special districts. The bill also changes the standard for when existing special districts must amend their charter to include their status from where it is "practical" to "practical and feasible."⁸⁶

Oversight of Special Districts

The bill makes no substantive changes from current law. The oversight provisions are renumbered from ss. 189.034 and 189.035, F.S., to ss. 189.0651 and 189.0652, respectively, placing the provisions in Part VI ("Oversight and Accountability") of the Act. The bill also removes certain provisions shared by the independent and dependent special district oversight processes and places them in new s. 189.0653, F.S.

Special District Accountability Program

The bill requires the Special District Accountability Program to publish noncompliance status reports from the Department of Management Services. The bill also adds a summary of the most recent public facilities report, as required by the Act's comprehensive planning provisions, with an internet address of the full report and schedule, to the required materials in the Florida Special District Handbook.

Internet Accessible Reporting

The bill requires the website for a dependent special district to be displayed prominently on the home page of the local general-purpose government upon which it is dependent, whether that government created the special district or not. The bill also requires the district's website to include a listing of

⁸⁶ For special districts created by a special act of the Legislature, the necessary charter amendment would require another act of the Legislature, which may be "practical," but not "feasible," independent of other charter changes being contemplated.

regularly scheduled public meetings (including date, time, and location), a copy of the district's public facilities report, and a link to the Department of Financial Services website.

Reenactment and Conforming Provisions

The bill reenacts ss. 165.0615(16), 189.074(2)(e), and 189.074(3)(g), F.S., to incorporate amendments made to s. 189.016, F.S.

The bill places the effect of a special district failing to provide DEO its status in the same subsection as the requirement to provide its status.

The bill amends ss. 11.40(2)(b) and 189.067(2), F.S., to update cross-references for renumbered sections concerning oversight of special districts.

B. SECTION DIRECTORY:

- Section 1: Amends s. 11.40(2)(b), F.S., conforming cross-references
- Section 2: Reenacts s. 165.0615(16), F.S., relating to municipal conversion of independent special districts upon elector-initiated and approved, to incorporate amendment made by the act to s. 189.016, F.S.
- Section 3: Amends s. 189.011, F.S., revising legislative intent with respect to the Uniform Special District Accountability Act to include independent and dependent special districts.
- Section 4: Amends s. 189.016, F.S., deleting a provision requiring a special district to transmit certain budgets to the local government, and instead posting such information on the special district's website.
- Section 5: Creates s. 189.02, F.S., enabling the Legislature to create dependent special districts by special act.
- Section 6: Creates s. 189.022, F.S., requiring new and authorizing current dependent special districts to identify themselves as such in their charters.
- Section 7: Amends s. 189.031, F.S., requiring new and authorizing current independent special districts to identify themselves as such in their charters.
- Section 8: Renumbers, transfers, and amends s. 189.034, F.S., concerning oversight of independent special districts.
- Section 9: Renumbers, transfers, and amends s. 189.035, F.S., concerning oversight of dependent special districts.
- Section 10: Creates s. 189.0653, F.S., listing information special districts must provide to local general-purpose government or Legislative Auditing Committee before hearing.
- Section 11: Amends s. 189.061, F.S., conforming provisions.
- Section 12: Amends s. 189.064, F.S., revising required content of the special district handbook.
- Section 13: Amends s. 189.067, F.S., conforming cross-references.
- Section 14: Amends s. 189.068, F.S., specifying that local general-purpose governments may review certain special districts.
- Section 15: Amends s. 189.069, F.S., deleting a cross-reference and revising the list of items required to appear on a special district's website.
- Section 16: Reenacts ss. 189.074(2)(e), (3)(g), F.S., relating to voluntary merger of independent special districts, to incorporate amendment made by the act to s. 189.016, F.S.
- Section 17: Provides an effective date of October 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2015, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment adds a copy of the public facilities report to the list of information a special district must make available on its website. The amendment also made several technical corrections.

This analysis is drawn to the bill as amended.