

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/SB 1388

INTRODUCER: Community Affairs Committee and Senator Stargel

SUBJECT: Special Districts

DATE: April 7, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	Pre-meeting
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1388 makes clarifying changes to provisions of the Uniform Special District Accountability Act to conform cross-references, reorganize oversight provisions to avoid duplication, and recognize that dependent special districts have been and may be created by special act.

Additionally, the bill requires special districts to publish additional information on their website, and ensure that budgets are accessible for longer periods of time.

The bill has no fiscal impact on the private sector and a minimal fiscal impact on the government sector.

The bill provides for an effective date of October 1, 2015.

II. Present Situation:

Special Districts

Special districts are local units of special purpose government, within limited geographical areas, which are utilized to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services. Special districts serve a limited purpose, function as an administrative unit separate and apart from the county or city in which they may be located, and are often referred to as a local unit of special purpose. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local

government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.

According to the Department of Economic Opportunity (DEO) Special District Accountability Program “master” list, the state currently has 1,635 active special districts and 12 inactive ones, comprised of 636 dependent and 1,011 independent special districts.¹

Special districts have existed in Florida since 1845 when the Legislature authorized five commissioners to drain the “Alachua Savannah,” also known as Paynes Prairie. The project was financed by special assessments made on landowners based on the number of acres owned and the benefit derived. Since that time, special districts have been useful to local governments in providing a broad range of government services. Some of the functions that special districts serve include community development districts, community redevelopment districts, downtown development districts, drainage and water control districts, economic development districts, fire control and rescue districts, mosquito control districts, and soil and water conservation districts.

All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 (Act) which was enacted by the Legislature to reform and consolidate laws relating to special districts. The Act provides for the definitions, creation, operation, financial report, taxation and non-ad valorem assessments, elections and dissolution of most special districts. The Act also charges the DEO Special District Accountability Program with a number of duties relating to special districts, including publishing and updating a “Florida Special District Handbook” that contains specified content.

In 2014, the Act was revised extensively.² Chapter 2014-22, Laws of Florida, made significant changes to provisions concerning independent special districts and special district oversight and accountability,³ and 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

As part of those changes, each special district is required to maintain an official website containing essential information⁴ about the district.⁵ Independent special districts are required to

¹ Florida DEO, Official List of Special Districts Online, *available at* <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/StateTotals.cfm> (last visited Mar. 26, 2015).

² Ch. 2014-22, Laws of Fla.

³ Ch. 2014-22, s. 34, Laws of Fla.

⁴ Section 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.

⁵ Section 189.069(1), F.S.

maintain their own website,⁶ while a link to information about dependent special districts only must be displayed on the home page of the local general-purpose government that created the district.⁷

Dependent Special Districts

A dependent district meets at least one of the following criteria:

- The special district governing body members are the same as the governing body members of the county or city that created the district;
- The special district governing board members are appointed by the governing body of the county or city that created the district;
- During the terms of membership, the governing board members of the special district are subject to removal at will by the governing body of the county or city that created the district;
- The special district budget must be approved by an affirmative vote of the governing body of the county or city that created the district; or
- The special district budget can be vetoed by the governing body of the county or city that created the district.

The ordinance creating a dependent special district must provide the following:

- A statement referencing the district's dependent status, including a statement that explains why the special district is the best way to provide the service being provided;
- The purpose, powers, functions, authority, and duties of the district;
- District boundaries;
- The membership, organization, compensation, and administrative duties of the special district governing board;
- Applicable financial disclosure, noticing, and reporting requirements;
- The method by which the special district will be financed; and
- A declaration that the creation of the special district is consistent with the approved local government comprehensive plan.

Independent Special Districts

An independent special district does not have any of the characteristics of a dependent district, may encompass more than one county unless the district lies wholly within the boundaries of one city, and generally is created by an act of the Legislature. However, counties and cities may create community development districts of less than 1,000 acres,⁸ public hospital districts,⁹ county children's services districts,¹⁰ and county health and mental health care districts.¹¹ Two or more counties may create regional jail districts,¹² and any combination of counties or cities, or both, may create regional water supply authorities.¹³ Regional transportation authorities may be

⁶ Section 189.069(1)(a), F.S.

⁷ Section 189.069(1)(b), F.S. Dependent special districts may maintain their own webpage, but are not required to.

⁸ Chapter 190.005(2), F.S.

⁹ Chapter 155.04 and 155.05, F.S.

¹⁰ Section 125.901, F.S.

¹¹ Section 154.331, F.S.

¹² Section 950.001, F.S.

¹³ Section 373.713, F.S.

created by any combination of contiguous counties, cities, or other political subdivisions.¹⁴ Finally, the Governor and the Cabinet, sitting as the Florida Land and Water Adjudicatory Commission, have the authority to create community development districts.¹⁵

With the exception of a community development district, the charter creating an independent special district must contain the following information:

- The purpose of the special district;
- The powers, functions and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- District boundaries.

III. Effect of Proposed Changes:

Section 1 amends s. 11.40, F.S., (Legislative Auditing Committee) by conforming cross-references to renumbered sections.

Section 2 reenacts s. 165.0615, F.S., (Municipal Conversion of Independent Special Districts Upon Elector-Initiated and Approved Referendum) for the purpose of incorporating the amendment made by this bill to s. 189.016, F. S. (Reports; Budgets; Audits).

Section 3 amends s. 189.011, F.S., (Statement of Legislative Purpose and Intent) to provide that the purpose and intent of ch. 189, F.S., applies to all special districts, instead of only the independent special districts, and to specify that failure of a special district to comply with minimum disclosure requirements may result in action against the special district, instead of the officers of the special district's governing body.

Section 4 amends s. 189.016, F.S., (Reports; Budgets; Audits) to specify that a special district's tentative budget must remain on the special district's website for at least 45 days; that the final adopted budget must remain on the special district's website for at least two years; and, that any budget amendment must remain on the website for at least two years. The bill also repeals outdated language addressing procedures for a special district to follow if it does not have a website since all special districts must have a website by October 1, 2015.

¹⁴ Section 163.567, F.S.

¹⁵ Section 190.005(1), F.S.

Section 5 amends s. 189.02, F.S., (Dependent Special Districts) to provide that the Legislature may create dependent special districts by special act at the request or consent of the local government upon which it is dependent.

Section 6 creates s. 189.022, F.S., (Status Statement) requiring a statement to be included in the charter of a newly created dependent special district referencing that the special district is dependent (as opposed to independent), and that if necessary, the status statement shall be amended to conform to the DEO determination or declaratory statement regarding the status of the district. This conforms to existing language that applies to all special districts but is in s. 189.031, F.S., which relates to independent special districts.

Section 7 amends s. 189.031, F.S., (Legislative Intent for the Creation of Independent Special Districts) clarifying that the status statement requirement applies to independent special districts.

Section 8 renumbers s. 189.034, F.S., (Oversight of Special Districts Created by Special Act of the Legislature) as s. 189.0651, F.S., to move it to Part VI of the Act, which is titled “Oversight and Accountability.” The bill moves language concerning the public hearing process to a newly created section (see Section 12 of the bill). It also repeals the requirement that the Joint Legislative Auditing Committee or its designee provide written notice to the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and House charged with special district oversight, and the legislators who represent a portion of a special district’s jurisdiction when a special district fails to file a required report.

Section 9 renumbers s. 189.035, F.S., (Oversight of Special Districts Created by Local Ordinance or Resolution) as s. 189.0652, F.S., to move it to Part VI of the Act, which is titled “Oversight and Accountability.” The bill clarifies that the section also applies to special districts enacted by a local resolution. The bill repeals and moves language concerning the public hearing process to a new section (see Section 12 of the bill).

Section 10 amends s. 189.061, F.S., (Official List of Special Districts) by moving a sentence in subsection (4) to subsection (2). The bill renumbers the remainder of the section.

Section 11 amends s. 189.064, F.S., (Special District Accountability Program) to restore a reference to the Department of Management Services that was inadvertently deleted in SB 1632 (2014). The bill clarifies the responsibilities associated with maintaining the Official List of Special Districts by correcting cross-references, and requiring the DEO to include in the Florida Special District Handbook:

- A summary of the most recent public facilities report;
- The evaluation and appraisal notification schedule, required under s. 189.08(2)(a), F.S.; and
- The Internet address of the full report and schedule.

Section 12 creates s. 189.0653, F.S., (Public Hearing on Noncompliance) in place of the repealed provisions in Sections 8 and 9 of the bill. The list of information that a noncompliant special district must provide the appropriate oversight authority prior to the public hearing is amended for clarification, and to specifically include the special district’s most recent meeting minutes, and those for the previous fiscal year.

Section 13 amends s. 189.067, F.S., (Failure of District to Disclose Financial Reports) to conform cross references.

Section 14 amends s. 189.068, F.S., (Special District; Authority for Oversight; General Oversight Review Process) to conform cross-references. The bill clarifies that all dependent special districts not created by special act may be reviewed by the local general-purpose government upon which they are dependent.

Section 15 amends s. 189.069, F.S., (Special districts; Required Reporting of Information; Web-Based Public Access) to clarify that the website of a dependent special district must be prominently displayed on the home page of the local general purpose government upon which it is dependent, as opposed to the local general-purpose government that created the special district since dependent special districts can also be created by special act of the Legislature. The bill requires each special district to post on its website its regularly scheduled public meeting notice for the year. The bill also conforms cross-references, including one related to the requirement that special districts must provide a link to the Department of Financial Services website.

Section 16 reenacts ss. 189.074(2)(e) and 189.074 (3)(g), F.S., (Voluntary Merger of Independent Special Districts) for the purpose of incorporating the changes made by this bill to s. 189.016, F.S., (Reports; Budgets; Audits).

Section 17 provides an effective date of October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

The DEO has analyzed CS/SB 1388 and determined it will have a minimal fiscal impact on its operations.¹⁶

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 11.40, 189.011, 189.016, 189.02, 189.031, 189.034, 189.035, 189.061, 189.064, 189.0651, 189.0652, 189.067, 189.068, and 189.069.

This bill creates the following sections of the Florida Statutes: 189.022 and 189.0653.

This bill reenacts the following sections of the Florida Statutes: 165.0615 and 189.074.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 31, 2015:

Clarifies the types of information a special district would be required to provide to the appropriate oversight authority prior to a public hearing on noncompliance, pursuant to s. 189.0653, F.S.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁶ DEO, *2015 Agency Legislative Bill Analysis for SB 1388*, at 4 (Mar. 3, 2015).