

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/SB 1388

INTRODUCER: Community Affairs Committee and Senator Stargel

SUBJECT: Special Districts

DATE: April 14, 2015

REVISED: \_\_\_\_\_

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

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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.

**II. Present Situation:**

A special district is a unit of local government created for a special purpose, which has jurisdiction to operate within a limited geographical area. 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.<sup>1</sup> Special districts are created to provide a wide variety of

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<sup>1</sup> Section 189.012(6), F.S.

services, such as mosquito control,<sup>2</sup> beach facilities, children's services,<sup>3</sup> fire control and rescue,<sup>4</sup> or drainage control.<sup>5</sup>

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 also charges the Department of Economic Opportunity (DEO) Special District Accountability Program with a number of duties relating to special districts, including publishing and updating a "Florida Special District Handbook."<sup>6</sup>

In 2014, the act was revised extensively.<sup>7</sup> Chapter 2014-22, Laws of Florida, made significant changes to provisions concerning independent special districts and special district oversight and accountability,<sup>8</sup> and reorganized ch. 189, F.S., 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; and
- Part VIII: Comprehensive Planning

According to the DEO, the state currently has 1,636 active special districts and 12 inactive ones, comprised of 636 dependent and 1,012 independent special districts.<sup>9</sup>

### **Dependent special districts**

A dependent special district is a special district that meets at least one of the following criteria:

- The membership of the special district's governing body is identical of the governing body of a single county or municipality;
- All members of the special district's governing body are appointed by the governing body of a single county or municipality;
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or municipality; or
- The special district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or municipality.<sup>10</sup>

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<sup>2</sup> Section 388.021(1), F.S. However, new independent mosquito control districts are prohibited; *see* s. 388.021(2), F.S.

<sup>3</sup> Section 125.901(1), F.S.

<sup>4</sup> Section 191.002, F.S.

<sup>5</sup> Section 298.01, F.S.

<sup>6</sup> Section 189.064, F.S.

<sup>7</sup> Ch. 2014-22, L.O.F.

<sup>8</sup> Ch. 2014-22, s. 34, L.O.F.

<sup>9</sup> Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, (data as of April 8, 2015) available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/StateTotals.cfm> (last visited April 8, 2015).

<sup>10</sup> Section 189.012(2), F.S.

Dependent special districts are created by counties or municipalities by the passage of an ordinance.<sup>11</sup> The ordinance creating a dependent special district must include:

- The purpose, powers, functions, authority, and duties of the district;
- The geographic boundary limitations of the district;
- The authority of the district;
- An explanation of why the district is the best alternative;
- The membership, organization, compensation, and administrative duties of the special district's body;
- The applicable financial disclosure, noticing, and reporting requirements;
- The methods financing of the district; and
- A declaration that the creation of the special district is consistent with the approved local government comprehensive plans.<sup>12</sup>

If a dependent special district fails to file required reports or information, the Joint Legislative Auditing Committee (JLAC) must provide notice to the local government.<sup>13</sup>

### **Independent special district**

An independent special district does not have any of the characteristics of a dependent special district. An independent special district includes more than one county unless the district lies wholly within the boundaries of one city.<sup>14</sup>

Independent special districts are created or authorized by general laws or special acts. The charters of independent special districts must include the:

- Purpose of the district;
- Powers, functions, and duties of the district relating to ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and tax certificates for non-ad valorem assessments, and contractual agreements;
- Methods for establishing the district and amending the district charter;
- Membership and organization of the governing board of the district;<sup>15</sup>
- Maximum compensation and administrative duties of the governing body of the district;
- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Methods for financing the district and for collecting non-ad valorem assessments, fees, or service charges;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;

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<sup>11</sup> Section 189.02(1), F.S.

<sup>12</sup> Section 189.02(4), F.S.

<sup>13</sup> Section 189.035(2), F.S.

<sup>14</sup> Section 189.012(3), F.S.

<sup>15</sup> If an independent SD created after September 30, 1989, uses a one-acre/one-vote election principle, it shall provide for a governing body consisting of five members. Three members shall constitute a quorum. s. 189.031(3)(e), F.S.

- Planning requirements; and
- Geographic boundary limitations.<sup>16</sup>

If an independent special district fails to file required reports or requested information, the JLAC must provide notice 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 legislators who represent a portion of a special district's jurisdiction.

### **Special district requirements**

Beginning October 1, 2015, each special district is required to maintain an official website containing specific information about the special district.<sup>17</sup> Independent special districts are required to maintain their own website,<sup>18</sup> while only a link to information about dependent special districts must be displayed on the home page of the local general-purpose government that created the district.<sup>19</sup>

Special districts are required to post tentative budgets online at least 2 days before the budget meeting. The final adopted budget must be on the special districts website within 30 days of adoption.

## **III. Effect of Proposed Changes:**

### **Dependent special districts**

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

**Section 6** creates s. 189.022, F.S., (Status Statement) requiring the charter of a newly created dependent special district and, where practical or feasible, the charter of an existing dependent special district to contain a reference to the status of the special district as dependent. When necessary, the status statement shall be amended to conform to the DEO's determination or declaratory statement regarding the status of the district. This mirrors existing language that applies to all special districts but is located in s. 189.031, F.S., which relates to independent special districts.

**Section 9** repeals the requirement that the JLAC provide notice to the chair of the local general purpose government when a special district fails to file required reports or information.

### **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.

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<sup>16</sup> Section 189.031(3), F.S.

<sup>17</sup> Section 189.069(1), F.S.

<sup>18</sup> Section 189.069(1)(a), F.S.

<sup>19</sup> Section 189.069(1)(b), F.S. Dependent SDs may maintain their own webpage, but are not required to.

**Section 8** repeals the requirement that the JLAC provide notice 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 legislators who represent a portion of a special district's jurisdiction when an independent special district fails to file required reports or information.

### **Special district Requirements**

**Section 3** amends s. 189.011, F.S., (Statement of Legislative Purpose and Intent) clarifying that the purpose and intent of ch. 189, F.S., applies to all special districts, instead of only the independent special districts, and specifies that the 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) requiring that a special district's tentative budget remain on the special district's website for at least 45 days and that the final adopted budget remain on the special district's website for at least 2 years. The bill also requires a budget amendment to remain on the website for at least 2 years. The bill 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.

**Section 15** amends s. 189.069, F.S., (Special Districts; Required Reporting of Information; Web-Based Public Access) clarifying that the website of a dependent special district must be prominently displayed on the home page of the local government upon which it is dependent, as opposed to the local government that created the special district since dependent special districts can also be created by special act of the Legislature. The bill adds to the information each special district is required to post on its website to include notice of its regularly scheduled public meetings 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 to view submitted annual financial reports.

### **Technical Changes and Effective Date**

**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 the bill to s. 189.016, F.S., (Reports; Budgets; Audits).

**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 transfers provisions concerning the public hearing process to a newly created section, **Section 12** of the bill.

**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 applies to special districts enacted by a local resolution. The bill transfers provisions concerning the public hearing process to a newly created section, **Section 12** of the bill.

**Section 10** amends s. 189.061, F.S., (Official List of Special Districts) to move provisions relating to the DEO’s determination of special district status into the same subsection.

**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 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) and transfers provisions from **Sections 8 and 9** of the bill to this newly created section. The list of information that a noncompliant special district must provide the appropriate oversight authority prior to the public hearing is amended for clarification, 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 16** reenacts ss. 189.074(2)(e) and (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.

**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 determined that the bill it will have a minimal fiscal impact on its operations.<sup>20</sup>

**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, 189.0652, 189.067, 189.068, and 189.069.

This bill creates the following sections of the Florida Statutes: 189.022, 189.064, 189.0651, 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.

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<sup>20</sup> DEO, *2015 Agency Legislative Bill Analysis for SB 1388*, at 4 (Mar. 3, 2015).

B. Amendments:

None.

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

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