

By Senator Hutson

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1                   A bill to be entitled  
2           An act relating to community development districts;  
3           amending s. 190.005, F.S.; increasing minimum size  
4           requirements for the establishment of a community  
5           development district under certain circumstances;  
6           revising notice requirements; increasing maximum size  
7           requirements for the establishment of community  
8           development districts under certain circumstances;  
9           providing certain petition requirements if all of the  
10          land in the area for a proposed district is within the  
11          territorial jurisdiction of two or more counties;  
12          conforming a provision to changes made by the act;  
13          amending s. 190.012, F.S.; providing that a district  
14          is not prohibited from contracting with a towing  
15          operator to remove vehicles or vessels from specified  
16          facilities or properties, subject to certain  
17          requirements; amending s. 190.046, F.S.; revising  
18          requirements related to the process of amending  
19          community development district boundaries; authorizing  
20          certain districts up to a specified number to merge  
21          into one surviving district, subject to certain  
22          requirements; providing for membership of the  
23          surviving merged district board; providing  
24          requirements of the merger agreement; providing for  
25          public hearings subject to certain requirements;  
26          prohibiting a petition to merge from being filed  
27          within a specified timeframe; conforming provisions to  
28          changes made by the act; providing an effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:

31  
32           Section 1. Subsections (1) and (2) of section 190.005,

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33 Florida Statutes, are amended to read:

34 190.005 Establishment of district.—

35 (1) The exclusive and uniform method for the establishment  
36 of a community development district with a size of 2,500 ~~1,000~~  
37 acres or more shall be pursuant to a rule, adopted under chapter  
38 120 by the Florida Land and Water Adjudicatory Commission,  
39 granting a petition for the establishment of a community  
40 development district.

41 (a) A petition for the establishment of a community  
42 development district shall be filed by the petitioner with the  
43 Florida Land and Water Adjudicatory Commission. The petition  
44 shall contain:

45 1. A metes and bounds description of the external  
46 boundaries of the district. Any real property within the  
47 external boundaries of the district which is to be excluded from  
48 the district shall be specifically described, and the last known  
49 address of all owners of such real property shall be listed. The  
50 petition shall also address the impact of the proposed district  
51 on any real property within the external boundaries of the  
52 district which is to be excluded from the district.

53 2. The written consent to the establishment of the district  
54 by all landowners whose real property is to be included in the  
55 district or documentation demonstrating that the petitioner has  
56 control by deed, trust agreement, contract, or option of 100  
57 percent of the real property to be included in the district, and  
58 when real property to be included in the district is owned by a  
59 governmental entity and subject to a ground lease as described  
60 in s. 190.003(14), the written consent by such governmental  
61 entity.

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62           3. A designation of five persons to be the initial members  
63 of the board of supervisors, who shall serve in that office  
64 until replaced by elected members as provided in s. 190.006.

65           4. The proposed name of the district.

66           5. A map of the proposed district showing current major  
67 trunk water mains and sewer interceptors and outfalls if in  
68 existence.

69           6. Based upon available data, the proposed timetable for  
70 construction of the district services and the estimated cost of  
71 constructing the proposed services. These estimates shall be  
72 submitted in good faith but are not binding and may be subject  
73 to change.

74           7. A designation of the future general distribution,  
75 location, and extent of public and private uses of land proposed  
76 for the area within the district by the future land use plan  
77 element of the effective local government comprehensive plan of  
78 which all mandatory elements have been adopted by the applicable  
79 general-purpose local government in compliance with the  
80 Community Planning Act.

81           8. A statement of estimated regulatory costs in accordance  
82 with the requirements of s. 120.541.

83           (b) Before ~~Prior to~~ filing the petition, the petitioner  
84 shall:

85           1. Pay a filing fee of \$15,000 to the county, if located  
86 within an unincorporated area, or to the municipality, if  
87 located within an incorporated area, and to each municipality  
88 the boundaries of which are contiguous with, or contain all or a  
89 portion of the land within, the external boundaries of the  
90 district.

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91           2. Submit a copy of the petition to the county, if located  
92 within an unincorporated area, or to the municipality, if  
93 located within an incorporated area, and to each municipality  
94 the boundaries of which are contiguous with, or contain all or a  
95 portion of, the land within the external boundaries of the  
96 district.

97           3. If land to be included within a district is located  
98 partially within the unincorporated area of one or more counties  
99 and partially within a municipality or within two or more  
100 municipalities, pay a \$15,000 filing fee to each entity.  
101 Districts established across county boundaries shall be required  
102 to maintain records, hold meetings and hearings, and publish  
103 notices only in the county where the majority of the acreage  
104 within the district lies.

105           (c) Such county and each such municipality required by law  
106 to receive a petition may conduct a public hearing to consider  
107 the relationship of the petition to the factors specified in  
108 paragraph (e). The public hearing shall be concluded within 45  
109 days after the date the petition is filed unless an extension of  
110 time is requested by the petitioner and granted by the county or  
111 municipality. The county or municipality holding such public  
112 hearing may by resolution express its support of, or objection  
113 to the granting of, the petition by the Florida Land and Water  
114 Adjudicatory Commission. A resolution must base any objection to  
115 the granting of the petition upon the factors specified in  
116 paragraph (e). Such county or municipality may present its  
117 resolution of support or objection at the Florida Land and Water  
118 Adjudicatory Commission hearing and shall be afforded an  
119 opportunity to present relevant information in support of its

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120 resolution.

121 (d) A local public hearing on the petition shall be  
122 conducted by a hearing officer in conformance with the  
123 applicable requirements and procedures of the Administrative  
124 Procedure Act. The hearing shall include oral and written  
125 comments on the petition pertinent to the factors specified in  
126 paragraph (e). The hearing shall be held at an accessible  
127 location in the county in which the community development  
128 district is to be located. The petitioner shall cause a notice  
129 of the hearing to be published in a newspaper at least once a  
130 week for the 2 ~~4~~ successive weeks immediately before ~~prior to~~  
131 the hearing. Such notice shall give the time and place for the  
132 hearing, a description of the area to be included in the  
133 district, which description shall include a map showing clearly  
134 the area to be covered by the district, and any other relevant  
135 information which the establishing governing bodies may require.  
136 The advertisement shall not be placed in that portion of the  
137 newspaper where legal notices and classified advertisements  
138 appear. The advertisement shall be published in a newspaper of  
139 general paid circulation in the county and of general interest  
140 and readership in the community, not one of limited subject  
141 matter, pursuant to chapter 50. If ~~Whenever~~ possible, the  
142 advertisement shall appear in a newspaper that is published at  
143 least 5 days a week, unless the only newspaper in the community  
144 is published fewer than 5 days a week. In addition to being  
145 published in the newspaper, the map referenced above must be  
146 part of the online advertisement required pursuant to s.  
147 50.0211. All affected units of general-purpose local government  
148 and the general public shall be given an opportunity to appear

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149 at the hearing and present oral or written comments on the  
150 petition.

151 (e) The Florida Land and Water Adjudicatory Commission  
152 shall consider the entire record of the local hearing, the  
153 transcript of the hearing, resolutions adopted by local general-  
154 purpose governments as provided in paragraph (c), and the  
155 following factors and make a determination to grant or deny a  
156 petition for the establishment of a community development  
157 district:

158 1. Whether all statements contained within the petition  
159 have been found to be true and correct.

160 2. Whether the establishment of the district is  
161 inconsistent with any applicable element or portion of the state  
162 comprehensive plan or of the effective local government  
163 comprehensive plan.

164 3. Whether the area of land within the proposed district is  
165 of sufficient size, is sufficiently compact, and is sufficiently  
166 contiguous to be developable as one functional interrelated  
167 community.

168 4. Whether the district is the best alternative available  
169 for delivering community development services and facilities to  
170 the area that will be served by the district.

171 5. Whether the community development services and  
172 facilities of the district will be incompatible with the  
173 capacity and uses of existing local and regional community  
174 development services and facilities.

175 6. Whether the area that will be served by the district is  
176 amenable to separate special-district government.

177 (f) The Florida Land and Water Adjudicatory Commission

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178 shall not adopt any rule which would expand, modify, or delete  
179 any provision of the uniform community development district  
180 charter as set forth in ss. 190.006-190.041, except as provided  
181 in s. 190.012. A rule establishing a community development  
182 district shall only contain the following:

183 1. A metes and bounds description of the external  
184 boundaries of the district and any real property within the  
185 external boundaries of the district which is to be excluded.

186 2. The names of five persons designated to be the initial  
187 members of the board of supervisors.

188 3. The name of the district.

189 (g) The Florida Land and Water Adjudicatory Commission may  
190 adopt rules setting forth its procedures for considering  
191 petitions to establish, expand, modify, or delete uniform  
192 community development districts or portions thereof consistent  
193 with the provisions of this section.

194 (2) The exclusive and uniform method for the establishment  
195 of a community development district of less than 2,500 ~~1,000~~  
196 acres in size or a community development district of up to 7,000  
197 acres in size located within a connected-city corridor  
198 established pursuant to s. 163.3246(14) shall be pursuant to an  
199 ordinance adopted by the county commission of the county having  
200 jurisdiction over the majority of land in the area in which the  
201 district is to be located granting a petition for the  
202 establishment of a community development district as follows:

203 (a) A petition for the establishment of a community  
204 development district shall be filed by the petitioner with the  
205 county commission. The petition shall contain the same  
206 information as required in paragraph (1) (a).

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207 (b) A public hearing on the petition shall be conducted by  
208 the county commission in accordance with the requirements and  
209 procedures of paragraph (1)(d).

210 (c) The county commission shall consider the record of the  
211 public hearing and the factors set forth in paragraph (1)(e) in  
212 making its determination to grant or deny a petition for the  
213 establishment of a community development district.

214 (d) The county commission shall not adopt any ordinance  
215 which would expand, modify, or delete any provision of the  
216 uniform community development district charter as set forth in  
217 ss. 190.006-190.041. An ordinance establishing a community  
218 development district shall only include the matters provided for  
219 in paragraph (1)(f) unless the commission consents to any of the  
220 optional powers under s. 190.012(2) at the request of the  
221 petitioner.

222 (e) If all of the land in the area for the proposed  
223 district is within the territorial jurisdiction of a municipal  
224 corporation, then the petition requesting establishment of a  
225 community development district under this act shall be filed by  
226 the petitioner with that particular municipal corporation. In  
227 such event, the duties of the county, hereinabove described, in  
228 action upon the petition shall be the duties of the municipal  
229 corporation. If any of the land area of a proposed district is  
230 within the land area of a municipality, the county commission  
231 may not create the district without municipal approval. If all  
232 of the land in the area for the proposed district, even if less  
233 than 2,500 ~~1,000~~ acres, is within the territorial jurisdiction  
234 of two or more municipalities or two or more counties, except  
235 for proposed districts within a connected-city corridor



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236 established pursuant to s. 163.3246(14), the petition shall be  
237 filed with the Florida Land and Water Adjudicatory Commission  
238 and proceed in accordance with subsection (1).

239 (f) Notwithstanding any other provision of this subsection,  
240 within 90 days after a petition for the establishment of a  
241 community development district has been filed pursuant to this  
242 subsection, the governing body of the county or municipal  
243 corporation may transfer the petition to the Florida Land and  
244 Water Adjudicatory Commission, which shall make the  
245 determination to grant or deny the petition as provided in  
246 subsection (1). A county or municipal corporation does not ~~shall~~  
247 have the ~~no~~ right or power to grant or deny a petition that has  
248 been transferred to the Florida Land and Water Adjudicatory  
249 Commission.

250 Section 2. Paragraph (d) of subsection (2) of section  
251 190.012, Florida Statutes, is amended to read:

252 190.012 Special powers; public improvements and community  
253 facilities.—The district shall have, and the board may exercise,  
254 subject to the regulatory jurisdiction and permitting authority  
255 of all applicable governmental bodies, agencies, and special  
256 districts having authority with respect to any area included  
257 therein, any or all of the following special powers relating to  
258 public improvements and community facilities authorized by this  
259 act:

260 (2) After the local general-purpose government within the  
261 jurisdiction of which a power specified in this subsection is to  
262 be exercised consents to the exercise of such power by the  
263 district, the district shall have the power to plan, establish,  
264 acquire, construct or reconstruct, enlarge or extend, equip,

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265 operate, and maintain additional systems and facilities for:

266 (d) Security, including, but not limited to, guardhouses,  
267 fences and gates, electronic intrusion-detection systems, and  
268 patrol cars, when authorized by proper governmental agencies;  
269 except that the district may not exercise any police power, but  
270 may contract with the appropriate local general-purpose  
271 government agencies for an increased level of such services  
272 within the district boundaries. This paragraph does not prohibit  
273 a district from contracting with a towing operator to remove a  
274 vehicle or vessel from a district-owned facility or property.  
275 When removing a vehicle or vessel from a district-owned facility  
276 or property, the district has the same authorization and is  
277 subject to the same notice and procedural requirements as the  
278 authorization and the notice and procedural requirements  
279 provided in s. 715.07 for an owner or lessee of private  
280 property. The district's selection of a towing operator is not  
281 subject to public bidding if the towing operator is included in  
282 an approved list of towing operators maintained by the local  
283 government that has jurisdiction over the district's facility or  
284 property.

285 Section 3. Paragraph (e) of subsection (1) and subsection  
286 (2) of section 190.046, Florida Statutes, are amended, present  
287 subsections (4) through (9) of that section are redesignated as  
288 subsections (5) through (10), respectively, and a new subsection  
289 (4) is added to that section, to read:

290 190.046 Termination, contraction, or expansion of  
291 district.—

292 (1) A landowner or the board may petition to contract or  
293 expand the boundaries of a community development district in the

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294 following manner:

295 (e)1. During the existence of a district initially  
296 established by administrative rule, the process to amend the  
297 boundaries of the district pursuant to paragraphs (a)-(d) shall  
298 not permit a cumulative net total greater than 50 ~~10~~ percent of  
299 the land in the initial district, and in no event greater than  
300 1,000 ~~250~~ acres on a cumulative net basis.

301 2. During the existence of a district initially established  
302 by county or municipal ordinance, the process to amend the  
303 boundaries of the district pursuant to paragraphs (a)-(d) shall  
304 not permit a cumulative net total greater than 50 percent of the  
305 land in the initial district, and in no event greater than 1,000  
306 ~~500~~ acres on a cumulative net basis.

307 (2) The district shall remain in existence unless:

308 (a) The district is merged with another district as  
309 provided in subsection (3) or subsection (4);

310 (b) All of the specific community development systems,  
311 facilities, and services that it is authorized to perform have  
312 been transferred to a general-purpose unit of local government  
313 in the manner provided in subsections ~~(4)~~, (5), (6), and (7)  
314 ~~(6)~~; or

315 (c) The district is dissolved as provided in ~~subsection~~  
316 ~~(7)~~, subsection (8), ~~or~~ subsection (9), or subsection (10).

317 (4) Notwithstanding subsection (3), up to five districts  
318 whose district boards of supervisors are composed entirely of  
319 qualified electors and established by the same local general-  
320 purpose government may merge into one surviving district. The  
321 petition by the majority of the supervisors of each district  
322 board seeking to merge constitutes consent of the landowners

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323 within each applicable district. The merger process must meet  
324 the requirements provided in subsection (3). Notwithstanding the  
325 acreage limitations for establishment of districts in this  
326 chapter, the surviving merged district may be established by  
327 ordinance of the local general-purpose government regardless of  
328 the size of the surviving merged district. The surviving merged  
329 district board shall consist of five elected district  
330 supervisors.

331 (a) The merger agreement entered into between the district  
332 boards must meet, in addition to the requirements provided in  
333 subsection (3), the following requirements:

334 1. Each district that seeks to merge is entitled to at  
335 least one district supervisor elected after merger from within  
336 the district as the district existed before merger. If only two  
337 districts merge, two district supervisors of the surviving  
338 merged district shall be elected from each of the two districts,  
339 and one district supervisor shall be elected at large. If three  
340 districts merge, one district supervisor shall be elected from  
341 each of the three districts, and two district supervisors shall  
342 be elected at large. If four districts merge, one district  
343 supervisor shall be elected from each of the four districts, and  
344 one district supervisor shall be elected at large. If five  
345 districts merge, one district supervisor shall be elected from  
346 each district.

347 2. The election of district supervisors for the surviving  
348 merged district shall be held at the next general election  
349 following the merger, at which time all terms of preexisting  
350 supervisors shall end and the merger shall be legally in effect.  
351 If fewer than five districts merge into the surviving district,

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352 additional districts may later merge into the surviving district  
353 to reach the five-district limit, and the same election  
354 mechanism applies at the next general election for all district  
355 supervisor seats on the surviving merged district board. The  
356 election for a new merger may not occur less than 6 months after  
357 the date on which the previous merger is legally in effect.

358 (b) Before filing a petition to merge by ordinance of the  
359 local general-purpose government, each district proposing to  
360 merge must hold a public hearing within its district for the  
361 purpose of providing information about and taking public comment  
362 on the proposed merger, merger agreement, and assignment of  
363 district supervisor seats on the surviving merged district  
364 board. Notice of the hearing shall be published at least 14 days  
365 before the hearing. If, after the public hearing, a district  
366 board decides that it no longer wants to merge and cancels the  
367 merger agreement, the remaining districts must each hold another  
368 public hearing on the revised merger agreement. A petition to  
369 merge may not be filed for at least 30 days after the last  
370 public hearing held by the districts proposing to merge.

371 Section 4. This act shall take effect July 1, 2016.