

By the Committee on Community Affairs; and 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 increasing maximum size requirements for the
7 establishment of community development districts under
8 certain circumstances; providing certain petition
9 requirements if all of the land in the area for a
10 proposed district is within the territorial
11 jurisdiction of two or more counties; conforming a
12 provision to changes made by the act; amending s.
13 190.012, F.S.; providing that a district is not
14 prohibited from contracting with a towing operator to
15 remove vehicles or vessels from specified facilities
16 or properties, subject to certain requirements;
17 amending s. 190.046, F.S.; revising requirements
18 related to the process of amending community
19 development district boundaries; authorizing up to a
20 certain number of districts to merge into one
21 surviving district, subject to certain requirements;
22 providing requirements of the merger agreement;
23 providing for membership of the surviving merged
24 district board; providing for public hearings subject
25 to certain requirements; prohibiting a petition to
26 merge from being filed within a specified timeframe;
27 conforming cross-references; providing an effective
28 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 4 successive weeks immediately before ~~prior to~~ the
131 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) (a) To achieve economies of scale, reduce costs to
318 affected district residents and businesses in areas with
319 multiple existing districts, and encourage the merger of
320 multiple districts, up to five districts that were established
321 by the same local general-purpose government and whose board
322 memberships are composed entirely of qualified electors may

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323 merge into one surviving district through adoption of an
324 ordinance by the local general-purpose government,
325 notwithstanding the acreage limitations otherwise set forth for
326 the establishment of a district in this chapter. The filing of a
327 petition by the majority of the members of each of the district
328 board of supervisors seeking to merge constitutes consent of the
329 landowners within each applicable district.

330 (b) In addition to meeting the requirements of subsection
331 (3), a merger agreement entered into between the district boards
332 subject to this subsection must also:

333 1. Require the surviving merged district board to consist
334 of five elected board members.

335 2. Require each at-large board seat to represent the entire
336 geographic area of the surviving merged district.

337 3. Ensure that each district to be merged is entitled to
338 elect at least one board member from its former boundary.

339 4. Ensure a fair allocation of board membership to
340 represent the districts being merged. To that end:

341 a. If two districts merge, two board members shall be
342 elected from each of the districts and one board member shall be
343 elected at-large.

344 b. If three districts merge, one board member shall be
345 elected from each of the three districts and two board members
346 shall be elected at-large.

347 c. If four districts merge, one board member shall be
348 elected from each of the four districts and one board member
349 shall be elected at-large.

350 d. If five districts merge, one board member shall be
351 elected from each of the five districts.

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352 5. Require the election of board members for the surviving
353 merged district to be held at the next general election
354 following the merger, at which time all terms of preexisting
355 board members shall end and the merger shall be legally in
356 effect.

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

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