

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 479 Special Districts
SPONSOR(S): Local Government Affairs Subcommittee; Metz
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	12 Y, 0 N, As CS	Darden	Miller
2) Local & Federal Affairs Committee	14 Y, 0 N	Darden	Kiner

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 in 2014, 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 of 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 chapter to increase clarity and avoid duplication. The bill clarifies the power of the Legislature to create dependent special districts. The bill revises the process for the Department of Economic Opportunity (DEO) to declare a special district inactive and clarifies the power of the Legislature to dissolve inactive independent special districts by general law. It also makes conforming changes to a number of related statutes.

The bill does not appear to have a fiscal impact on local governments. Based on the DEO analysis of a similar measure, HB 1155 (2015), the bill may have a minimal fiscal impact on the agency.

The effective date of the bill is October 1, 2016.

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 municipality.¹²

An “independent special district” is any special district that does not meet the definition of “dependent special district.”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 Official List of Special Districts list, the state currently has 1,662 special districts.¹⁵ The districts can be further classified as follows:

- 1,652 active districts, 10 inactive districts
- 635 dependent special districts, of which 632 are active and 3 are inactive
- 1,027 independent special districts, of which 1,020 are active and 7 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 Section 189.012(6), F.S.

² Section 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 Section 125.901(1), F.S.

⁵ Section 191.002, F.S.

⁶ Section 298.01, F.S.

⁷ Section 189.012(2), F.S.

⁸ Section 189.012(3), F.S.

⁹ Section 189.012(2)(a), F.S.

¹⁰ Section 189.012(2)(b), F.S.

¹¹ Section 189.012(2)(c), F.S.

¹² Section 189.012(2)(d), F.S.

¹³ Section 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 11/9/15).

¹⁶ Section 189.01, F.S., *but see* ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts).

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 and reorganized into eight parts:²⁶

- 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

Effect of the Bill

Legislative Intent (Section 2)

Present Situation

The purpose of the 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 the state’s residents, enabling their 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 all districts to register with the state, to regularly report financial data and other activities, and provides mechanisms to ensure compliance if districts fail to comply with minimum disclosure requirements.³⁰

Effect of Proposed Changes

The bill expands the statements of legislative intent³¹ to include all special districts in the requirements of registration, financial and other reporting, and providing a mechanism for 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 (Section 3)

¹⁷ Ch. 89-169, Laws of Fla.

¹⁸ See s. 189.02, F.S. (creation of dependent special districts), s. 189.031, F.S. (creation of independent 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 Sections 189.071, 189.074, F.S.

²³ Sections 189.071, 189.072, F.S.

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

²⁵ Section 189.06, F.S.

²⁶ Ch. 2014-22, Laws of Fla.

²⁷ Ch. 2014-22, s. 34, Laws of Fla.

²⁸ Section 189.011(1), F.S.

²⁹ Section 189.011(2), F.S.

³⁰ *Id.*

³¹ Section 189.011(2), F.S.

Present Situation

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 a dependent special district does not operate a website, the Act creates alternative avenues for publication.³⁵

Dependent special districts 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 "within 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

Effect of Proposed Changes

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

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

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 (Sections 5 and 15)

Present Situation

Under current law, new dependent special districts typically 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

³² Section 189.016(4), F.S.

³³ *Id.*

³⁴ Section 189.016(7), F.S.

³⁵ See S. 189.016(4), (7), F.S.

³⁶ Section 189.016(4), (7), F.S.

³⁷ Section 189.016(4), (7), F.S.

³⁸ Section 189.016(4), (7), F.S.

³⁹ Section 189.016(4), (7), F.S.

⁴⁰ Section 189.02(1), F.S. Prior to September 30, 1989, some dependent special districts were created by general law or special act. There are currently 108 active dependent special districts that were created by general law and 74 created by special act.

⁴¹ Section 189.02(2), (3), F.S.

⁴² Section 189.02(4)(a), F.S.

⁴³ Section 189.02(4)(b), F.S.

⁴⁴ Section 189.02(4)(c), F.S.

⁴⁵ Section 189.02(4)(d), F.S.

- Applicable financial disclosure, noticing, and reporting requirements;⁴⁷
- Method for financing the district;⁴⁸ and
- 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

Effect of Proposed Changes

The bill creates s. 189.02(5), F.S., clarifying 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 governments to dependent special districts not created by special act.

Status Statements (Sections 6 and 7)

Present Situation

The charter for any new special district created after October 1, 1997 must contain a reference to the status of the district as dependent or independent.⁵¹ Existing special districts also are required to amend their charter to contain status information, where practical.⁵² If a district fails to submit its status to DEO as required by statute, the department is authorized to determine the district's status as dependent or independent.⁵³

Effect of Proposed Changes

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."⁵⁴

Oversight of Special Districts (Sections 8, 9, and 13)

Present Situation

When an independent special district fails to file required reports or requested information, the Joint Legislative Auditing Committee (JLAC) 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.⁵⁵ The JLAC may then convene a

⁴⁶ Section 189.02(4)(e), F.S.

⁴⁷ Section 189.02(4)(f), F.S.

⁴⁸ Section 189.02(4)(g), F.S.

⁴⁹ Section 189.02(4)(h), F.S.

⁵⁰ Section 189.068(2)(c), F.S.

⁵¹ Section 189.031(5), F.S.

⁵² *Id.*

⁵³ Section 189.061(4), F.S.

⁵⁴ 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 possibly not "feasible," independent of other charter changes being contemplated.

⁵⁵ Section 189.034(2), F.S.

public hearing at the direction of the President of the Senate and the Speaker of the House of Representatives.⁵⁶ Before the JLAC's public hearing, the special district is required to provide:⁵⁷

- Annual financial report for the prior fiscal year;⁵⁸
- Audit report for the previous fiscal year;⁵⁹ and
- Annual report for the previous fiscal year, providing a detailed review of the performance of the special district⁶⁰

When a dependent special district fails to file required reports or requested information, the JLAC provides written notice of the district's noncompliance to the head of the local general-purpose government of which the district is a dependent.⁶¹ The local general-purpose government may conduct a public hearing within three months of the receipt of the notice of noncompliance from the JLAC.⁶² The local general-purpose government has thirty days upon receipt of the notice to inform the JLAC of the date, time, and place of the public hearing.⁶³ The special district must provide the local general-purpose government the same information required by an independent special district appearing before the JLAC.⁶⁴ If the local general-purpose government convenes a public hearing, it must provide DEO and the JLAC a report containing findings and conclusions with sixty days.⁶⁵

Effect of Proposed Changes

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 (Sections 10 and 12)

Present Situation

DEO is tasked with the administration of the Special District Accountability Program.⁶⁶ As part of administering the program, DEO is required to:

- Electronically publish special district noncompliance status reports;⁶⁷
- Maintain an official "master" list of dependent and independent special districts;⁶⁸

⁵⁶ Section 189.034(3), F.S. The hearing may address general oversight of the district as well as the district's noncompliance with reporting. *Id.*

⁵⁷ Section 189.034(4), F.S.

⁵⁸ Section 189.034(4)(a), F.S.

⁵⁹ Section 189.034(4)(b), F.S.

⁶⁰ Section 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.

⁶¹ Section 189.035(2), F.S.

⁶² Section 189.035(3), F.S.

⁶³ *Id.*

⁶⁴ *See* s. 189.035(4), F.S.

⁶⁵ Section 189.035(5), F.S.

⁶⁶ Section 189.064, F.S.;

⁶⁷ Section 189.064(1), F.S.

⁶⁸ Section 189.064(2), F.S.

- Publish and update the “Florida Special District Handbook.”⁶⁹

The Florida Special District Handbook must contain:

- Definitions of special districts and status distinctions;⁷⁰
- Provisions concerning special district creation, implementation, modification, dissolution, and operating procedures;⁷¹
- Summary of reporting requirements.⁷²

The official list of special districts contains all special districts, sorted by county and containing an identification of independent or dependent status.⁷³ Each special district has sixty days to report its status to DEO upon request that the official list is to be produced.⁷⁴ 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.⁷⁵ DEO must make the official list available on its website and must provide links to the website of each special district operating one.⁷⁶

The determination of status of a special district, or its inclusion on the official list of special districts, is not a final agency action under ch. 120, F.S.⁷⁷ If the status of the district on the official list is inconsistent with the status submitted by the district, the district may request that DEO issue a declaratory statement setting forth the steps to resolve the inconsistency.⁷⁸ A special district may then either appeal the declaratory statement pursuant to ch. 120 or apply to the entity which established its charter to amend the charter to correct the deficiency.⁷⁹

Effect of Proposed Changes

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.

The bill excludes all districts declared inactive, as provided in s. 189.062, F.S., from the official list of special districts. The bill requires DEO to maintain a separate list of inactive special districts until the districts are either merged, dissolved, or regain active status. The bill also requires the Department of Financial Services to notify DEO when any entity not included on the official list of special districts attempts to file a report as a special district.

Inactive Special Districts (Section 11)

Present Situation

⁶⁹ Section 189.064(3), F.S.

⁷⁰ Section 189.064(3)(a), F.S.

⁷¹ Section 189.064(3)(b), F.S.

⁷² Section 189.064(3)(c), F.S.

⁷³ Section 189.061(1), F.S.

⁷⁴ Section 189.061(2), F.S.

⁷⁵ Section 189.061(4), F.S.

⁷⁶ Section 189.061(5), F.S.

⁷⁷ Section 189.061(6), F.S. Ch. 120, F.S., is the Florida Administrative Procedure Act. If an agency’s decision constitutes final agency action under ch. 120, F.S., the party affected by the decision may be entitled to a hearing prior to the decision and may be entitled to appeal an adverse decision to the appropriate appellate court. *See* ss. 120.569, 120.57, and 120.68, F.S.

⁷⁸ *Id.* A declaratory statement is an agency’s opinion on the applicability of a statute, agency rule, or order to the petitioner. S. 120.565, F.S. Denial of a petition for declaratory statement is subject to the hearing procedures of the APA as well as appellate review. Ss. 120.52(2), (7), 120.569, 120.68, F.S.

⁷⁹ *Id.*

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO is required to declare that district inactive by following a specified process.⁸⁰ DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of six specific factors:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
 - Provides DEO with written notice that the district has taken no action for 2 or more years.⁸¹
 - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years.⁸²
 - Fails to respond to an inquiry from DEO within 21 days.⁸³
- Following statutory procedure,⁸⁴ DEO determines the district failed to file specified reports,⁸⁵ including required financial reports.⁸⁶
- For more than 1 year, no registered office or agent for the district was on file with DEO.⁸⁷
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.⁸⁸

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.⁸⁹ The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S., within 21 days after the publication date.⁹⁰ If no objection is filed within the 21 day period, DEO declares the district inactive.⁹¹

After declaring certain special districts as being inactive, DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.⁹²

⁸⁰ Section 189.062(1), F.S. Prior to 2014, the former statute required DEO to document the existence of one of five criteria listed in paragraph (1)(a), publication and service under paragraph (1)(b) of a notice of intent to declare the district inactive, and the lack of any administrative appeal of the declaration within 21 days of that publication. Section 189.4044, F.S. (2013). In 2014, as ch. 189, F.S., was extensively revised and restructured, the word “or” was added at the end of s. 189.062(1)(a)6, F.S., apparently allowing DEO either to document one of the six criteria *or* publish notice of intent to declare inactive and find no appeal is filed. Chapter 2014-22, s. 24, Laws of Florida. During the 2015 regular legislative session, the Florida Senate passed CS/SB 1388, its version of a bill resolving technical issues stemming from the 2014 revisions, which would have amended s. 189.062(1)(a)6., F.S., by removing the word “or.” CS/SB 1388 (2015), s. 11, at line 414 (bill did not pass the Legislature). DEO still uses the 3-step process as described in the 2013 statute.

⁸¹ Section 189.062(1)(a)1., F.S.

⁸² Section 189.062(1)(a)2., F.S.

⁸³ Section 189.062(1)(a)3., F.S.

⁸⁴ Section 189.067, F.S.

⁸⁵ Section 189.066, F.S.

⁸⁶ Section 189.062(1)(a)4., F.S. *See*, ss. 189.016(9), 218.32, 218.39, F.S.

⁸⁷ Section 189.062(1)(a)5., F.S.

⁸⁸ Section 189.062(1)(a)6., F.S.

⁸⁹ Section 189.062(1)(b), F.S. Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district’s registered agent or chair of the district’s governing body, if any.

⁹⁰ *Id.* The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district’s territory.

⁹¹ Section 189.062(1)(c), F.S.

⁹² Section 189.062(3), F.S. The statute provides that the declaration of inactive status is sufficient notice under art. III, s. 10 of the Florida Constitution to authorize the repeal of special laws creating or amending the charter of the inactive district. This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature, under s. 11.02, F.S.

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district. Any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.⁹³

A district declared inactive may not collect taxes, fees, or assessments.⁹⁴ This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO⁹⁵ or invalidated in an administrative proceeding⁹⁶ or civil action⁹⁷ timely brought by the governing body of the special district.⁹⁸ Failure of the special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.⁹⁹

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature¹⁰⁰ or the entity that created the district.¹⁰¹

Effect of Proposed Changes

The bill clarifies that DEO shall declare a special district inactive by documenting that the special district meets one of the six statutory criteria for being considered inactive, publishing notice of intent to declare the district inactive, and affirming that no administrative appeal of the declaration has been filed within 21 days of publication. This was the procedure required by statute prior to the 2014 revisions to ch. 189, F.S., and is still used by DEO in practice. The bill clarifies that the Legislative may repeal, by general law, the special acts creating or amending the charters of special districts which are now inactive.

Internet Accessible Reporting (Section 16)

Present Situation

Each special district is required to maintain an official website containing essential information¹⁰² about the district.¹⁰³ Independent special districts are required to maintain their own website,¹⁰⁴ while a link to information about dependent special districts must be displayed on the home page of the local general-purpose government which created the district.¹⁰⁵

Effect of Proposed Changes

⁹³ Section 189.062(2), F.S.

⁹⁴ Section 189.062(5), F.S.

⁹⁵ Section 189.062(5)(a), F.S.

⁹⁶ Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S. See discussion supra in n. 76.

⁹⁷ Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

⁹⁸ The special district must initiate the legal challenge within 30 days after the date the written notice of the department's declaration of inactive status is provided to the special district. S. 189.062(5)(b), F.S.

⁹⁹ Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

¹⁰⁰ Sections 189.071(3), 189.072(3), F.S.

¹⁰¹ Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

¹⁰² 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.

¹⁰³ Section 189.069(1), F.S.

¹⁰⁴ Section 189.069(1)(a), F.S.

¹⁰⁵ Section 189.069(1)(b), F.S. Dependent special districts may maintain their own webpage, but are not required to.

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 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.

Conversion or Merger of Independent Special Districts (Sections 4 and 19)

Present Situation

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.¹⁰⁶ 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.¹⁰⁷

Section 189.074, F.S., allows for the voluntary merger of two or more independent special districts.¹⁰⁸ The merger can be initiated by either the governing bodies of each independent special district¹⁰⁹ or by a petition of qualified electors in the district.¹¹⁰ 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.¹¹¹ The supervisor of elections is required to schedule a referendum in each district, which must occur no more than twenty days apart.¹¹²

Effect of Proposed Changes

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.

Conforming Provisions (Sections 1, 14, 16, and 17)

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. The bill amends ss. 189.071 and 189.072 to remove the redundant phrase "or that has already been declared inactive."

B. SECTION DIRECTORY:

Section 1: Amends s. 11.40, F.S., conforming cross-references.

Section 2: Amends s. 189.011, F.S., revising legislative intent with respect to the Uniform Special District Accountability Act to include all special districts.

Section 3: Amends s. 189.016, F.S., deleting a provision requiring special districts to transmit budget information to the local government if it does not have a website, and instead posting such information on the special district's website.

¹⁰⁶ Section 165.0615(1), F.S.

¹⁰⁷ Section 165.0615(16), F.S.

¹⁰⁸ Section 189.074, F.S.

¹⁰⁹ Section 189.074(2), F.S.

¹¹⁰ Section 189.074(3), F.S.

¹¹¹ Section 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).

¹¹² Section 189.074(2)(e), F.S.; s. 189.074(3)(g), F.S.

- Section 4: Reenacts s. 165.0615(16), F.S., relating to municipal conversion of independent special districts upon elector-initiated and approved incorporation plans, to incorporate the amendment made by the act to s. 189.016, F.S.
- Section 5: Creates s. 189.02(5), F.S., clarifying the Legislature may create dependent special districts by special act.
- Section 6: Creates s. 189.022, F.S., requiring dependent special districts to identify themselves as such in their charters.
- Section 7: Amends s. 189.031, F.S., requiring 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 special districts created by special act of the Legislature.
- Section 9: Renumbers, transfers, and amends s. 189.035, F.S., concerning oversight of special districts created by local ordinance or resolution.
- Section 10: Amends s. 189.061, F.S., revising criteria for the official list of special districts.
- Section 11: Amends s. 189.062, F.S., revising process for declaring a special district inactive and requiring DEO to maintain a separate list of inactive special districts.
- Section 12: Amends s. 189.064, F.S., revising required content of the special district handbook.
- Section 13: Creates s. 189.0653, F.S., requiring a special district to provide certain information at the request of the local general-purpose government or the Legislative Auditing Committee.
- Section 14: Amends s. 189.067, F.S., conforming cross-references.
- Section 15: Amends s. 189.068, F.S., defining oversight role for local general-purpose governments over dependent special districts.
- Section 16: Amends s. 189.069, F.S., revising the list of items required to appear on a special district's website.
- Section 17: Amends s. 189.071, F.S., clarifying language concerning merger or dissolution of dependent special districts.
- Section 18: Amends s. 189.072, F.S., removing redundant language.
- Section 19: 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 20: Provides an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal fiscal impact on the operations of DEO.¹¹³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹¹³ See Florida Department of Economic Opportunity, Agency Analysis of 2015 House Bill 1155, p. 4 (Mar. 3, 2015).

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 November 18, 2015, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies that the new subsection (3) added to s. 189.061, F.S. replaces the existing subsection (6) of s. 189.061, F.S. The amendment also removes language setting forth criteria for repealing inactive special districts by general law.

This analysis is drawn to the bill as amended.