

**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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

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BILL: SB 956

INTRODUCER: Senator Stargel

SUBJECT: Special Districts

DATE: January 22, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 956 requires special districts to publish additional information on their website and to ensure other current information is maintained on their website for longer periods of time. The bill 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.

Based on the DEO's analysis of a similar bill, SB 1388 (2015), the bill may have a minimal, but indeterminate, fiscal impact on the agency.

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

**II. Present Situation:**

**Special Districts**

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."<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,<sup>3</sup> children’s services,<sup>4</sup> fire control and rescue,<sup>5</sup> or drainage control.<sup>6</sup>

Special districts can be classified as “dependent special districts”<sup>7</sup> or “independent special districts.”<sup>8</sup> 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;<sup>9</sup>
- All members of its governing body are appointed by the governing body of a single county or a single municipality;<sup>10</sup>
- 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;<sup>11</sup> **or**
- The district’s budget requires approval or can be vetoed by the governing body of a single county or a single municipality.<sup>12</sup>

An “independent special district” is any special district that does not meet the definition of “dependent special district.”<sup>13</sup> Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely within the borders of a single municipality.<sup>14</sup>

According to the DEO’s Special District Accountability Program Official List of Special Districts, the state currently has 1,659 special districts.<sup>15</sup> The districts can be further classified as follows:

- 1,648 active districts, 11 inactive districts;
- 634 dependent special districts; and
- 1,025 independent special districts.

Special districts are governed generally by the Uniform Special District Accountability Act (Act).<sup>16</sup> The Act, initially passed in 1989,<sup>17</sup> created ch. 189, F.S. to centralize provisions

<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> *See* Section 189.011, F.S.

<sup>4</sup> Section 125.901(1), F.S.

<sup>5</sup> Section 191.002, F.S.

<sup>6</sup> Section 298.01, F.S.

<sup>7</sup> Section 189.012(2), F.S.

<sup>8</sup> Section 189.012(3), F.S.

<sup>9</sup> Section 189.012(2)(a), F.S.

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

<sup>11</sup> Section 189.012(2)(c), F.S.

<sup>12</sup> Section 189.012(2)(d), F.S.

<sup>13</sup> Section 189.012(3), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> *See* Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/last> visited January 24, 2016).

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

<sup>17</sup> Ch. 89-169, Laws of Fla.

governing special districts. Chapter 189 applies to the formation,<sup>18</sup> governance,<sup>19</sup> administration,<sup>20</sup> supervision,<sup>21</sup> merger,<sup>22</sup> and dissolution<sup>23</sup> of special districts, unless otherwise expressly provided in law.<sup>24</sup> The Act also provided an extensive statement of legislative intent to improve accountability of special districts to state and local governments and to provide for more effective communication and coordination in the monitoring of required reporting.<sup>25</sup>

In 2014, the Act was revised extensively and reorganized into eight parts:<sup>26</sup> The revision made significant changes to provisions concerning independent special districts and special district oversight and accountability.<sup>27</sup>

### **Internet Accessible Budgets**

Each special district is required to post a tentative budget to its website at least 2 days before a budget hearing.<sup>28</sup> If the budget is approved at the hearing, it must be posted to the district's website within 30 days after adoption.<sup>29</sup> If the budget is later amended, the adopted amendment must be posted on the district's website within 5 days after adoption.<sup>30</sup> If a dependent special district does not operate a website, the Act creates alternative avenues for publication.<sup>31</sup>

Dependent special districts must submit the budget or amendment to the local governing authority on which the district is dependent.<sup>32</sup> 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.<sup>33</sup> After transmission, the local governing authority posts the budget or amendment to its own website.<sup>34</sup> Independent special districts follow the same procedure, but instead submit their budget and amendments to the local general-purpose governments in which the district is located.<sup>35</sup>

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<sup>18</sup> See Section 189.02, F.S. (creation of dependent special districts), Section 189.031, F.S. (creation of independent special districts).

<sup>19</sup> See Section 189.0311, F.S. (charter requirements for independent special districts).

<sup>20</sup> See Section 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

<sup>21</sup> See Section 189.034, F.S. (oversight for special districts created by special act of the Legislature).

<sup>22</sup> Sections 189.071, 189.074, F.S.

<sup>23</sup> Sections 189.071, 189.072, F.S.

<sup>24</sup> See Section 190.004, F.S. (Ch. 190, F.S. as "sole authorization" for creation of community development districts).

<sup>25</sup> Section 189.06, F.S.

<sup>26</sup> Ch. 2014-22, Laws of Fla.

<sup>27</sup> Ch. 2014-22, s. 34, Laws of Fla.

<sup>28</sup> Section 189.016(4), F.S.

<sup>29</sup> *Id.*

<sup>30</sup> Section 189.016(7), F.S.

<sup>31</sup> See Section 189.016(4), (7), F.S.

<sup>32</sup> Section 189.016(4), (7), F.S.

<sup>33</sup> Section 189.016(4), (7), F.S.

<sup>34</sup> Section 189.016(4), (7), F.S.

<sup>35</sup> Section 189.016(4), (7), F.S.

## Creation of Dependent Special Districts

Under current law, new dependent special districts typically are created by the passage of an ordinance by a county or municipal government.<sup>36</sup> A district must rest entirely inside the boundary lines of the creating local government entity.<sup>37</sup> The ordinance creating the special district must include:

- Purpose, powers, functions, and duties of the district;<sup>38</sup>
- Geographic boundaries of the district;<sup>39</sup>
- Authority of the district;<sup>40</sup>
- An explanation of why the district is the best mechanism for service delivery;<sup>41</sup>
- Membership, organization, compensation, and administrative duties of the district's board;<sup>42</sup>
- Applicable financial disclosure, noticing, and reporting requirements;<sup>43</sup>
- Method for financing the district;<sup>44</sup> and
- Declaration that the creation of the district is consistent with the approved local government comprehensive plans.<sup>45</sup>

General oversight for dependent special districts rests with the local general-purpose government to which the district is dependent.<sup>46</sup>

## Status Statements

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.<sup>47</sup> Existing special districts are required to amend their charter to contain status information, where practical.<sup>48</sup> If a district fails to submit its status to the DEO as required by statute, the DEO is authorized to determine the district's status as dependent or independent.<sup>49</sup>

## Oversight of Special Districts

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

<sup>36</sup> 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.

<sup>37</sup> Section 189.02(2), (3), F.S.

<sup>38</sup> Section 189.02(4)(a), F.S.

<sup>39</sup> Section 189.02(4)(b), F.S.

<sup>40</sup> Section 189.02(4)(c), F.S.

<sup>41</sup> Section 189.02(4)(d), F.S.

<sup>42</sup> Section 189.02(4)(e), F.S.

<sup>43</sup> Section 189.02(4)(f), F.S.

<sup>44</sup> Section 189.02(4)(g), F.S.

<sup>45</sup> Section 189.02(4)(h), F.S.

<sup>46</sup> Section 189.068(2)(c), F.S.

<sup>47</sup> Section 189.031(5), F.S.

<sup>48</sup> *Id.*

<sup>49</sup> Section 189.061(4), F.S.

standing committees of the Senate and House of Representatives charged with special district oversight, and the legislators who represent any portion of the geographic jurisdiction of the district.<sup>50</sup> The JLAC may then convene a public hearing at the direction of the President of the Senate and the Speaker of the House of Representatives.<sup>51</sup> Before the JLAC's public hearing, the special district is required to provide:<sup>52</sup>

- Annual financial report for the prior fiscal year;<sup>53</sup>
- Audit report for the previous fiscal year;<sup>54</sup> and
- Annual report for the previous fiscal year, providing a detailed review of the performance of the special district.<sup>55</sup>

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 to which the district is dependent.<sup>56</sup> The local general-purpose government may conduct a public hearing within 3 months of the receipt of the notice of noncompliance from the JLAC.<sup>57</sup> The local general-purpose government has 30 days upon receipt of the notice to inform the JLAC of the date, time, and place of the public hearing.<sup>58</sup> The special district must provide the local general-purpose government the same information required by an independent special district appearing before the JLAC.<sup>59</sup> If the local general-purpose government convenes a public hearing, it must provide the DEO and the JLAC a report containing findings and conclusions within 60 days.<sup>60</sup>

### **Special District Accountability Program**

The DEO is tasked with the administration of the Special District Accountability Program.<sup>61</sup> As part of administering the program, the DEO is required to:

- Electronically publish special district noncompliance status reports;<sup>62</sup>
- Maintain an official "master" list of dependent and independent special districts; and<sup>63</sup>
- Publish and update the "Florida Special District Handbook."<sup>64</sup>

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<sup>50</sup> Section 189.034(2), F.S.

<sup>51</sup> 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.*

<sup>52</sup> Section 189.034(4), F.S.

<sup>53</sup> Section 189.034(4)(a), F.S.

<sup>54</sup> Section 189.034(4)(b), F.S.

<sup>55</sup> 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, and efforts to promote transparency.

<sup>56</sup> Section 189.035(2), F.S.

<sup>57</sup> Section 189.035(3), F.S.

<sup>58</sup> *Id.*

<sup>59</sup> *See* Section 189.035(4), F.S.

<sup>60</sup> Section 189.035(5), F.S.

<sup>61</sup> Section 189.064, F.S.

<sup>62</sup> Section 189.064(1), F.S.

<sup>63</sup> Section 189.064(2), F.S.

<sup>64</sup> Section 189.064(3), F.S.

The Florida Special District Handbook must contain:

- Definitions of special districts and status distinctions;<sup>65</sup>
- Provisions concerning special district creation, implementation, modification, dissolution, and operating procedures; and<sup>66</sup>
- Summary of reporting requirements.<sup>67</sup>

The official list of special districts contains all special districts, sorted by county and containing an identification of independent or dependent status.<sup>68</sup> Each special district has 60 days to report its status to the DEO upon request.<sup>69</sup> If the special district does not report its status within 60 days, the DEO has the authority to determine the status of the district and then must render the determination to an agent of the district.<sup>70</sup> The DEO must make the official list available on its website and must provide links to the website of each special district that operates a website.<sup>71</sup>

The determination of the 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.<sup>72</sup> If the status of the district on the official list is inconsistent with the status submitted by the district, the district may request that the DEO issue a declaratory statement setting forth the steps to resolve the inconsistency.<sup>73</sup> 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.<sup>74</sup>

### Inactive Special Districts

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, the DEO is required to declare that district inactive by following a specified process.<sup>75</sup> The DEO must first document the factual basis for declaring the district inactive.

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<sup>65</sup> Section 189.064(3)(a), F.S.

<sup>66</sup> Section 189.064(3)(b), F.S.

<sup>67</sup> Section 189.064(3)(c), F.S.

<sup>68</sup> Section 189.061(1), F.S.

<sup>69</sup> Section 189.061(2), F.S.

<sup>70</sup> Section 189.061(4), F.S.

<sup>71</sup> Section 189.061(5), F.S.

<sup>72</sup> Section 189.061(6), F.S. Ch. 120, F.S., is the Florida Administrative Procedure Act (APA). 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* Sections 120.569, 120.57, and 120.68, F.S.

<sup>73</sup> *Id.* A declaratory statement is an agency's opinion on the applicability of a statute, agency rule, or order to the petitioner. Section 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. Sections 120.52(2), (7), 120.569, and 120.68, F.S.

<sup>74</sup> *Id.*

<sup>75</sup> Section 189.062(1), F.S. Prior to 2014, the former statute required the 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 the 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). The DEO still uses the 3-step process as described in the 2013 statute.

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 the DEO with written notice that the district has taken no action for 2 or more years.<sup>76</sup>
  - Provides the 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.<sup>77</sup>
  - Fails to respond to an inquiry from the DEO within 21 days.<sup>78</sup>
- Following statutory procedure,<sup>79</sup> the DEO determines the district failed to file specified reports,<sup>80</sup> including required financial reports.<sup>81</sup>
- For more than 1 year, no registered office or agent for the district was on file with the DEO.<sup>82</sup>
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to the DEO.<sup>83</sup>

Once the DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by the DEO.<sup>84</sup> The notice must state that any objections to declaring the district inactive must be filed with the DEO pursuant to ch. 120, F.S., within 21 days after the publication date.<sup>85</sup> If no objection is filed within the 21-day period, the DEO declares the district inactive.<sup>86</sup>

After declaring certain special districts inactive, the DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, the DEO sends written notice to the Speaker of the House of Representatives, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.<sup>87</sup>

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<sup>76</sup> Section 189.062(1)(a)1., F.S.

<sup>77</sup> Section 189.062(1)(a)2., F.S.

<sup>78</sup> Section 189.062(1)(a)3., F.S.

<sup>79</sup> Section 189.067, F.S.

<sup>80</sup> Section 189.066, F.S.

<sup>81</sup> Section 189.062(1)(a)4., F.S. *See*, ss. 189.016(9), 218.32, and 218.39, F.S.

<sup>82</sup> Section 189.062(1)(a)5., F.S.

<sup>83</sup> Section 189.062(1)(a)6., F.S.

<sup>84</sup> 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. See also the Florida Special District Handbook available at: <http://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/florida-special-district-handbook-online/dissolving-special-districts#Inactive>. Last visited January 24, 2016.

<sup>85</sup> *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.

<sup>86</sup> Section 189.062(1)(c), F.S.

<sup>87</sup> 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 the 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.<sup>88</sup>

A district declared inactive may not collect taxes, fees, or assessments.<sup>89</sup> This prohibition continues until the declaration of invalidity is withdrawn or revoked by the DEO<sup>90</sup> or invalidated in an administrative proceeding<sup>91</sup> or civil action<sup>92</sup> timely brought by the governing body of the special district.<sup>93</sup> Failure of the special district to challenge (or prevail against) the declaration of inactive status enables the DEO to enforce the statute through a petition for enforcement in circuit court.<sup>94</sup>

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 Legislature<sup>95</sup> or the entity that created the district.<sup>96</sup>

### **Internet Accessible Reporting**

Each special district is required to maintain an official website containing essential information<sup>97</sup> about the district.<sup>98</sup> Independent special districts are required to maintain their own website,<sup>99</sup> 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.<sup>100</sup>

### **Conversion or Merger of Independent Special Districts**

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.<sup>101</sup> If the

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<sup>88</sup> Section 189.062(2), F.S.

<sup>89</sup> Section 189.062(5), F.S.

<sup>90</sup> Section 189.062(5)(a), F.S.

<sup>91</sup> Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

<sup>92</sup> Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

<sup>93</sup> 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. Section 189.062(5)(b), F.S.

<sup>94</sup> Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County, Florida.

<sup>95</sup> Sections 189.071(3) and 189.072(3), F.S.

<sup>96</sup> 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.

<sup>97</sup> 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.

<sup>98</sup> Section 189.069(1), F.S.

<sup>99</sup> Section 189.069(1)(a), F.S.

<sup>100</sup> Section 189.069(1)(b), F.S. Dependent special districts may maintain their own webpage, but are not required to do so.

<sup>101</sup> Section 165.0615(1), F.S.



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.<sup>102</sup>

Section 189.074, F.S., allows for the voluntary merger of two or more independent special districts.<sup>103</sup> The merger can be initiated by either the governing bodies of each independent special district<sup>104</sup> or by a petition of qualified electors in the district.<sup>105</sup> 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.<sup>106</sup> The supervisor of elections is required to schedule a referendum in each district, which must occur no more than 20 days apart.<sup>107</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 11.40, F.S., to conform cross-references.

**Section 2** amends s. 189.011, F.S., to expand legislative intent<sup>108</sup> to include all special districts in the requirements of registration, financial and other reporting and provides a mechanism for noncompliance with minimum disclosure requirements. The section 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.

**Section 3** amends s. 189.016, F.S., to require special districts to make their budgets and subsequent amendments available on the special district's website.

- The tentative budget must remain on the website for at least 45 days after budget hearing.
- The final budget must remain on the website for at least 2 years after the adopted budget is posted on the district's website.
- Amendments to the budget must remain on the website for at least 2 years after the adopted budget is posted on the district's website.

The section also removes the requirement for special districts without a website to transmit their tentative budgets, final budgets, and amendments to the local governing authority or the local general-purpose government in which the special district is located.

**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 amendments made by the bill to s. 189.016, F.S.

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<sup>102</sup> Section 165.0615(16), F.S.

<sup>103</sup> Section 189.074, F.S.

<sup>104</sup> Section 189.074(2), F.S.

<sup>105</sup> Section 189.074(3), F.S.

<sup>106</sup> 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).

<sup>107</sup> Sections 189.074(2)(e) and 189.074(3)(g), F.S.

<sup>108</sup> Section 189.011(2), F.S.

**Section 5** creates s. 189.02(5), F.S., to clarify the Legislature's ability to create dependent special districts by special act at the request or with the consent of the local government upon which the special district will be dependent.

**Section 6** creates s. 189.022, F.S., to require dependent special districts to identify themselves as such in their charters.

**Section 7** amends s. 189.031, F.S., to require 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. The section also removes several provisions shared by the independent and dependent special district oversight processes and places them in new s. 189.0651, F.S.

**Section 9** renumbers, transfers, and amends s. 189.035, F.S., concerning oversight of special districts created by local ordinance or resolution. The section also removes several provisions shared by the independent and dependent special district oversight processes and places them in new s. 189.0652, F.S.

**Section 10** amends s. 189.061, F.S., to revise criteria for the official list of special districts. The official list must exclude all districts that are declared inactive. The official list must also be maintained by the DEO using the information filed by the special districts with the DEO. If a special district does not submit the required written status statement, the DEO may determine the status of the district. After the DEO determines the status, the DEO must render its determination to an agent of the special district.

The official list of special districts or the determination of status does not constitute a final agency action pursuant to ch. 120, F.S. The section also provides a procedural process if there is an inconsistency between the status of a special district on the official list and the status submitted by the district.

The Auditor General must notify the DEO of each entity that attempts to report as a special district in an audit report issued pursuant to s. 218.39, F.S., which is not included on the official list of special districts. If the DEO determines that such an entity is a special district, the DEO shall add the entity to the official list and notify each such entity that it is required to comply with s. 189.013, F.S.

**Section 11** amends s. 189.062, F.S., to clarify that the 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.

The section also provides that each special act creating or amending the charter of a special district declared to be inactive may be repealed by general law initiated by either of the standing committees of the Senate or the House of Representatives with the approval of the chamber's presiding officer. However, notice of the introduction of legislation providing for such repeal of

a special act must be given to each member of the Legislature who represents any portion of the area within the jurisdiction of the special district.

**Section 12** amends s. 189.064, F.S., to revise the required content of the special district handbook to contain a section that summarizes the public facilities reporting requirements and the evaluation and appraisal notification schedule as provided in s. 189.08(2), F.S.

**Section 13** creates s. 189.0653, F.S., to require a special district to provide certain information at the request of the local general-purpose government or the Joint Legislative Auditing Committee. The section does not make any substantive changes to current law. Rather, this section is the consolidation of provisions that were shared by the independent and dependent special district oversight processes in ss. 189.034 and 189.035, F.S.

**Section 14** amends s. 189.067, F.S., to conform cross-references.

**Section 15** amends s. 189.068, F.S., to conform cross-references and other changes made in the bill.

**Section 16** amends s. 189.069, F.S., to revise the list of items required to appear on a special district's website. The section 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 section 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, a link to the Department of Financial Services website, and an agenda of an upcoming meeting or workshop.

**Section 17** amends s. 189.071, F.S., to clarify language concerning the merger or dissolution of dependent special districts.

**Section 18** amends s. 189.072, F.S., to remove redundant language.

**Section 19** reenacts ss. 189.074(2)(e), (3)(g), F.S., relating to voluntary merger of independent special districts, to incorporate the amendment made by the bill to s. 189.016, F.S.

**Section 20** provides an effective date of October 1, 2016.

#### **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:

Based on the DEO's analysis of SB 1388, a similar bill from 2015, SB 956 may have a minimal, but indeterminate, fiscal impact on the DEO.<sup>109</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 11.40, 189.011, 189.016, 189.02, 189.031, 189.061, 189.062, 189.064, 189.067, 189.068, 189.069, 189.071, and 189.072 of the Florida Statutes.

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

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

This bill transfers, renumbers, and amends sections 189.034 and 189.035 of the Florida Statutes as sections 189.0651 and 189.0652, respectively.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

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<sup>109</sup> Department of Economic Opportunity, *SB 1388 Legislative Bill Analysis* (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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