

HB 971

2016

1 A bill to be entitled
2 An act relating to community development districts;
3 amending s. 190.005, F.S.; amending the acreage
4 threshold for the establishment, by rule or ordinance,
5 of a community development district; revising the
6 notice requirements for holding a local public hearing
7 on a petition to form a district; revising criteria
8 for requiring a petition for a proposed district to be
9 filed with the Florida Land and Water Adjudicatory
10 Commission; amending s. 190.012, F.S.; authorizing a
11 district to contract with a towing operator to remove
12 vehicles or vessels from specified facilities or
13 properties, subject to certain requirements; amending
14 s. 190.046, F.S.; revising the criteria necessary for
15 amending the boundaries of a district; authorizing up
16 to a certain number of districts to merge into one
17 surviving district, subject to certain requirements;
18 providing for membership of the surviving merged
19 district board; providing requirements of the merger
20 agreement; providing for public hearings subject to
21 certain requirements; prohibiting a petition to merge
22 from being filed within a specified timeframe;
23 conforming cross-references; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Subsections (1) and (2) of section 190.005,
 29 Florida Statutes, are amended to read:

30 190.005 Establishment of district.—

31 (1) The exclusive and uniform method for the establishment
 32 of a community development district with a size of 2,500 ~~1,000~~
 33 acres or more shall be pursuant to a rule, adopted under chapter
 34 120 by the Florida Land and Water Adjudicatory Commission,
 35 granting a petition for the establishment of a community
 36 development district.

37 (a) A petition for the establishment of a community
 38 development district shall be filed by the petitioner with the
 39 Florida Land and Water Adjudicatory Commission. The petition
 40 shall contain:

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

49 2. The written consent to the establishment of the
 50 district by all landowners whose real property is to be included
 51 in the district or documentation demonstrating that the
 52 petitioner has control by deed, trust agreement, contract, or

53 option of 100 percent of the real property to be included in the
54 district, and when real property to be included in the district
55 is owned by a governmental entity and subject to a ground lease
56 as described in s. 190.003(14), the written consent by such
57 governmental entity.

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

61 4. The proposed name of the district.

62 5. A map of the proposed district showing current major
63 trunk water mains and sewer interceptors and outfalls if in
64 existence.

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

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

77 8. A statement of estimated regulatory costs in accordance
78 with the requirements of s. 120.541.

HB 971

2016

79 (b) Prior to filing the petition, the petitioner shall:

80 1. Pay a filing fee of \$15,000 to the county, if located
81 within an unincorporated area, or to the municipality, if
82 located within an incorporated area, and to each municipality
83 the boundaries of which are contiguous with, or contain all or a
84 portion of the land within, the external boundaries of the
85 district.

86 2. Submit a copy of the petition to the county, if located
87 within an unincorporated area, or to the municipality, if
88 located within an incorporated area, and to each municipality
89 the boundaries of which are contiguous with, or contain all or a
90 portion of, the land within the external boundaries of the
91 district.

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

100 (c) Such county and each such municipality required by law
101 to receive a petition may conduct a public hearing to consider
102 the relationship of the petition to the factors specified in
103 paragraph (e). The public hearing shall be concluded within 45
104 days after the date the petition is filed unless an extension of

105 time is requested by the petitioner and granted by the county or
106 municipality. The county or municipality holding such public
107 hearing may by resolution express its support of, or objection
108 to the granting of, the petition by the Florida Land and Water
109 Adjudicatory Commission. A resolution must base any objection to
110 the granting of the petition upon the factors specified in
111 paragraph (e). Such county or municipality may present its
112 resolution of support or objection at the Florida Land and Water
113 Adjudicatory Commission hearing and shall be afforded an
114 opportunity to present relevant information in support of its
115 resolution.

116 (d) A local public hearing on the petition shall be
117 conducted by a hearing officer in conformance with the
118 applicable requirements and procedures of the Administrative
119 Procedure Act. The hearing shall include oral and written
120 comments on the petition pertinent to the factors specified in
121 paragraph (e). The hearing shall be held at an accessible
122 location in the county in which the community development
123 district is to be located. The petitioner shall cause a notice
124 of the hearing to be published in a newspaper at least once a
125 week for the 2 ~~4~~ successive weeks immediately prior to the
126 hearing. Such notice shall give the time and place for the
127 hearing, a description of the area to be included in the
128 district, which description shall include a map showing clearly
129 the area to be covered by the district, and any other relevant
130 information which the establishing governing bodies may require.

131 The advertisement shall not be placed in that portion of the
 132 newspaper where legal notices and classified advertisements
 133 appear. The advertisement shall be published in a newspaper of
 134 general paid circulation in the county and of general interest
 135 and readership in the community, not one of limited subject
 136 matter, pursuant to chapter 50. Whenever possible, the
 137 advertisement shall appear in a newspaper that is published at
 138 least 5 days a week, unless the only newspaper in the community
 139 is published fewer than 5 days a week. In addition to being
 140 published in the newspaper, the map referenced above must be
 141 part of the online advertisement required pursuant to s.
 142 50.0211. All affected units of general-purpose local government
 143 and the general public shall be given an opportunity to appear
 144 at the hearing and present oral or written comments on the
 145 petition.

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

- 153 1. Whether all statements contained within the petition
 154 have been found to be true and correct.
- 155 2. Whether the establishment of the district is
 156 inconsistent with any applicable element or portion of the state

HB 971

2016

157 comprehensive plan or of the effective local government
158 comprehensive plan.

159 3. Whether the area of land within the proposed district
160 is of sufficient size, is sufficiently compact, and is
161 sufficiently contiguous to be developable as one functional
162 interrelated community.

163 4. Whether the district is the best alternative available
164 for delivering community development services and facilities to
165 the area that will be served by the district.

166 5. Whether the community development services and
167 facilities of the district will be incompatible with the
168 capacity and uses of existing local and regional community
169 development services and facilities.

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

172 (f) The Florida Land and Water Adjudicatory Commission
173 shall not adopt any rule which would expand, modify, or delete
174 any provision of the uniform community development district
175 charter as set forth in ss. 190.006-190.041, except as provided
176 in s. 190.012. A rule establishing a community development
177 district shall only contain the following:

178 1. A metes and bounds description of the external
179 boundaries of the district and any real property within the
180 external boundaries of the district which is to be excluded.

181 2. The names of five persons designated to be the initial
182 members of the board of supervisors.

183 3. The name of the district.

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

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

198 (a) A petition for the establishment of a community
 199 development district shall be filed by the petitioner with the
 200 county commission. The petition shall contain the same
 201 information as required in paragraph (1) (a).

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

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

HB 971

2016

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

217 (e) If all of the land in the area for the proposed
218 district is within the territorial jurisdiction of a municipal
219 corporation, then the petition requesting establishment of a
220 community development district under this act shall be filed by
221 the petitioner with that particular municipal corporation. In
222 such event, the duties of the county, hereinabove described, in
223 action upon the petition shall be the duties of the municipal
224 corporation. If any of the land area of a proposed district is
225 within the land area of a municipality, the county commission
226 may not create the district without municipal approval. If all
227 of the land in the area for the proposed district, even if less
228 than 2,500 ~~1,000~~ acres, is within the territorial jurisdiction
229 of two or more municipalities or two or more counties, except
230 for proposed districts within a connected-city corridor
231 established pursuant to s. 163.3246(14), the petition shall be
232 filed with the Florida Land and Water Adjudicatory Commission
233 and proceed in accordance with subsection (1).

234 (f) Notwithstanding any other provision of this

235 subsection, within 90 days after a petition for the
 236 establishment of a community development district has been filed
 237 pursuant to this subsection, the governing body of the county or
 238 municipal corporation may transfer the petition to the Florida
 239 Land and Water Adjudicatory Commission, which shall make the
 240 determination to grant or deny the petition as provided in
 241 subsection (1). A county or municipal corporation shall have no
 242 right or power to grant or deny a petition that has been
 243 transferred to the Florida Land and Water Adjudicatory
 244 Commission.

245 Section 2. Paragraph (d) of subsection (2) of section
 246 190.012, Florida Statutes, is amended to read:

247 190.012 Special powers; public improvements and community
 248 facilities.—The district shall have, and the board may exercise,
 249 subject to the regulatory jurisdiction and permitting authority
 250 of all applicable governmental bodies, agencies, and special
 251 districts having authority with respect to any area included
 252 therein, any or all of the following special powers relating to
 253 public improvements and community facilities authorized by this
 254 act:

255 (2) After the local general-purpose government within the
 256 jurisdiction of which a power specified in this subsection is to
 257 be exercised consents to the exercise of such power by the
 258 district, the district shall have the power to plan, establish,
 259 acquire, construct or reconstruct, enlarge or extend, equip,
 260 operate, and maintain additional systems and facilities for:

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

277 Section 3. Paragraph (e) of subsection (1) and subsection
278 (2) of section 190.046, Florida Statutes, are amended,
279 subsections (4) through (9) are renumbered as subsections (5)
280 through (10), respectively, and a new subsection (4) is added to
281 that section, to read:

282 190.046 Termination, contraction, or expansion of
283 district.—

284 (1) A landowner or the board may petition to contract or
285 expand the boundaries of a community development district in the
286 following manner:

287 (e)1. During the existence of a district initially
 288 established by administrative rule, the process to amend the
 289 boundaries of the district pursuant to paragraphs (a)-(d) shall
 290 not permit a cumulative net total greater than 50 ~~40~~ percent of
 291 the land in the initial district, and in no event greater than
 292 1,000 ~~250~~ acres on a cumulative net basis.

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

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

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

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

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

309 (4) (a) To achieve economies of scale, reduce costs to
 310 affected district residents and businesses in areas with
 311 multiple existing districts, and encourage the merger of
 312 multiple districts, up to five districts that were established

313 by the same local general-purpose government and whose board
314 memberships are composed entirely of qualified electors may
315 merge into one surviving district through adoption of an
316 ordinance by the local general purpose government,
317 notwithstanding the acreage limitations otherwise set forth for
318 the establishment of a district in this chapter. The filing of a
319 petition by the majority of the members of each of the district
320 board of supervisors seeking to merge constitutes consent of the
321 landowners within each applicable district.

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

325 1. Require the surviving merged district board to consist
326 of five elected board members.

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

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

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

333 a. If two districts merge, two board members shall be
334 elected from each of the districts and one member shall be
335 elected at-large.

336 b. If three districts merge, one board member shall be
337 elected from each of the three districts and two board members
338 shall be elected at-large.

339 c. If four districts merge, one board member shall be
340 elected from each of the four districts and one board member
341 shall be elected at-large.

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

344 5. Require the election of board members for the surviving
345 merged district to be held at the next general election
346 following the merger, at which time all terms of preexisting
347 board members shall end and the merger shall be legally in
348 effect.

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

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