

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.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1750

INTRODUCER: Community Affairs Committee and Senator Rodriguez

SUBJECT: Special Districts

DATE: April 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1750 makes numerous changes to chs. 189 and 190, F.S., relating to special districts and community development districts (CDDs). Specifically, the bill:

- Requires a special district to post all meeting minutes on its website within 30 days after the minutes are approved by the governing board of the district and requires such information to remain on the website for at least 1 year;
- Provides that a CDD no longer has to pay a filing fee of \$1,500 to a county or municipality if the CDD wishes to shrink the CDD; and
- Provides additional circumstances under which a CDD may dissolve.

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.”¹ Special districts are created to provide a wide variety of

¹ Section 189.012(6), F.S.

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” or “independent special districts.” For a special 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;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- 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; or
- The district has a budget that requires approval or can be vetoed by the governing body of a single county or a single municipality.⁷

An “independent special district” is any special district that does not meet the definition of “dependent special district.”⁸ 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.⁹

In 1989, the Legislature enacted the Uniform Special District Accountability Act which governs special districts and reformed and consolidated laws relating to special districts.¹⁰ In 2014, the Legislature extensively revised and reorganized the Act into eight parts. The revision made significant changes to provisions concerning independent special districts and special district oversight and accountability.¹¹

According to the Department of Economic Opportunity (DEO) Special District Accountability Program Official List of Special Districts, the state currently has 1,667 active special districts. Specially there are:

- 631 dependent special districts; and
- 1,036 independent special districts.¹²

² Section 388.021(1), F.S., (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2), F.S.).

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 *Id.*

¹⁰ Section 189.06, F.S.

¹¹ Chapter 2014-22, L.O.F.

¹² *See* Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited March, 29, 2017).

Special District Websites

Each special district is required to maintain an official website containing essential information about the district.¹³ Each independent special district is required to maintain a separate website.¹⁴ Each dependent district is, at a minimum, required to be prominently displayed on the home page of the website of the local general-purpose government upon which it is dependent.¹⁵ However, a dependent special district may maintain a separate website.¹⁶ A special district shall post the following information, at a minimum, on the district's official website:¹⁷

- The full legal name of the special district.
- The public purpose of the special district.
- The name, official address, official e-mail address, and, if applicable, term and appointing authority for each member of the governing body of the special district.
- The fiscal year of the special district.
- The full text of the special district's charter, the date of establishment, the establishing entity, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established. Community development districts may reference ch. 190, F.S., as the uniform charter but must include information relating to any grant of special powers.
- The mailing address, e-mail address, telephone number, and website uniform resource locator of the special district.
- A description of the boundaries or service area of, and the services provided by, the special district.
- A listing of all taxes, fees, assessments, or charges imposed and collected by the special district, including the rates or amounts for the fiscal year and the statutory authority for the levy of the tax, fee, assessment, or charge. For purposes of this subparagraph, charges do not include patient charges by a hospital or other health care provider.
- The primary contact information for the special district for purposes of communication from the department.
- A code of ethics adopted by the special district, if applicable, and a hyperlink to generally applicable ethics provisions.
- The budget of the special district and any amendments thereto in accordance with s. 189.016, F.S.
- The final, complete audit report for the most recent completed fiscal year and audit reports required by law or authorized by the governing body of the special district.
- A listing of its regularly scheduled public meetings as required by s. 189.015(1), F.S.
- The public facilities report, if applicable.
- The link to the Department of Financial Services website as set forth in s. 218.32(1)(g), F.S.
- At least 7 days before each meeting or workshop, the agenda of the event, along with any meeting materials available in an electronic format, excluding confidential and exempt information. The information must remain on the website for at least 1 year after the event.

¹³ Section 189.069(1), F.S.

¹⁴ Section 189.069(1)(a), F.S.

¹⁵ Section 189.069(1)(b), F.S.

¹⁶ *Id.*

¹⁷ Section 189.069(2)(a), F.S.

Community Development Districts

Community Development Districts are special-purpose units of local government established to help Florida development and growth “pay for itself” by providing infrastructure and services for new and existing communities when such infrastructure and services would not otherwise be available from other local, general-purpose governments like counties and municipalities.¹⁸ CDDs serve as an alternative means of financing, constructing, acquiring, operating, and maintaining public infrastructure improvements to communities throughout Florida such as roads, utilities, hardscaping, landscaping, streetlights, stormwater infrastructure, conservation and mitigation areas, recreation facilities, and various other improvements allowed by statute.¹⁹

Boundary Amendments

A CDD may amend its boundaries after it has been established. Section 190.046, F.S., governs this process. A boundary amendment petition must contain a metes and bounds description of the boundaries of the CDD, and a statement of estimated regulatory costs.²⁰ If the petitioner seeks to expand the CDD area, the petition must describe “the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan.”²¹ If the petitioner seeks to contract the CDD, the petition must describe “what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.”²² Generally, the boundary amendment petition must be filed with the entity that established the CDD.²³

If the Florida Land and Water Adjudicatory Commission (FLWAC) established the CDD, the boundary amendment petition must be filed with the FLWAC.²⁴ The petitioner must pay a filing fee of \$1,500 to the county if the CDD or the land to be added to or deleted from the CDD is located within an unincorporated area, or to the municipality if the CDD or the land to be added to or deleted from the CDD is located within an incorporated area, and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within or to be added to or deleted from the external boundaries of the CDD.²⁵

In all cases of a petition to amend the boundaries of a CDD, the filing of the petition by the CDD constitutes consent of the landowners within the amended CDD.²⁶ As a result, the only other

¹⁸ Jere L. Earlywine and Katie S. Buchanan, *The Role of Community Development Districts In Florida*, Florida Environmental and Land Use Law Treatise 25.10-1 (2015).

¹⁹ *Id.*

²⁰ Section 190.046(1)(a), F.S.

²¹ *Id.*

²² *Id.*

²³ Section 190.046(1)(b) and (c), F.S.

²⁴ Section 190.046(1)(d), F.S.

²⁵ *Id.*

²⁶ Section 190.005(1)(g), F.S.

consent necessary for a boundary amendment is the written consent of those landowners whose land is to be added to or removed from the CDD.²⁷

Dissolution of CDDs

CDDs only terminate and cease to exist in specific circumstances. Specifically, CDDs remain in existence unless:

- The CDD is merged with another CDD under s. 190.046(3) or (4), F.S.;
- All of the specific community development systems, facilities, and services that it is authorized to perform have been transferred to a general-purpose unit of local government in the manner provided in s. 190.046(5), (6), or (7), F.S.;
- A landowner has not received a development permit, as defined in ch. 380, F.S., on some part or all of the area covered by the CDD within 5 years after the effective date of the rule or ordinance establishing the CDD;²⁸
- The CDD has become inactive pursuant to s. 189.062, F.S.; or
- The CDD has no outstanding financial obligations and no operating or maintenance responsibilities, and;
 - The CDD petitions to be dissolved by a nonemergency ordinance of the general-purpose local governmental entity that establish the CDD; or
 - If the CDD was established by rule of the FLWAC, by the repeal of such rule of the commission.

Board of Supervisors

The Board of Supervisors of the CDD generally consists of five members, and each member shall hold office for a term of 2 years or 4 years.²⁹ The members of the board must be residents of Florida and citizens of the United States.³⁰ Members of the board are known as supervisors, and upon entering into office, must take and subscribe to the oath of office as prescribed in s. 876.05, F.S.³¹ They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified.³²

Each supervisor of the board is entitled to receive for his or her services an amount not to exceed \$200 per meeting of the Board of Supervisors, not to exceed \$4,800 per year per supervisor, or an amount established by the electors at referendum.³³ In addition, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061, F.S.³⁴

²⁷ *Id.*

²⁸ Section 190.046(8), F.S.

²⁹ Section 190.006(1), F.S.

³⁰ *Id.*

³¹ Section 190.006(4), F.S.

³² *Id.*

³³ Section 190.006(8), F.S.

³⁴ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 189.069, F.S., to require a special district to post all meeting minutes on its website within 30 days after the governing board of the district approves the minutes. The information must remain on the website for at least 1 year after the event.

Section 2 amends s. 190.046, F.S., relating to the termination, contraction, and expansion of a CDD. Specifically, the bill provides that a CDD is no longer required to pay a filing fee of \$1,500 to a county or municipality if the CDD wishes to shrink the CDD. A petitioner seeking to shrink the CDD must still submit a copy of the petition to the relevant county or municipality.

The bill also provides that a CDD shall dissolve if:

- All of the community development systems, facilities, and services that it is authorized to perform have been transferred to the private sector or a general-purpose unit of local government; or
- The qualified electors or landowners within the CDD petition and vote to dissolve the CDD by referendum.

Dissolution by Transfer

If a CDD has no outstanding financial obligations, the Board of Supervisors by majority vote may transfer its assets and operating and maintenance responsibilities to the private sector or to the local general-purpose government within the geographical boundaries of the CDD. Upon the transfer of all of the community development assets and services, the CDD shall be terminated in accordance with a plan of termination which shall be adopted by the Board of Supervisors and filed with the clerk of the circuit court.

Dissolution by Referendum

A referendum to dissolve the CDD must be held if a petition containing the signatures of 40 percent of the qualified electors within the CDD or 20 percent of the landowners within the CDD is presented to the Board of Supervisors. The petition must state that it is calling for a referendum to determine whether the CDD should be dissolved. A referendum may only occur once in a 12-month period and only after a district has existed for 2 or more years.

Upon receipt of the petition, the Board of Supervisors must arrange to place on the next general election ballot a question asking whether the CDD shall sell all of its assets; fulfill any outstanding financial obligations, operating responsibilities, or maintenance responsibilities; and dissolve immediately.

If a majority of the qualified electors who vote on the ballot question approve, the CDD shall be dissolved in accordance with a plan of termination which shall be adopted by the Board of Supervisors and filed with the clerk of the circuit court. The plan of termination must provide for the sale of all CDD assets and the fulfillment of all outstanding financial obligations and operating or maintenance responsibilities.

Section 3 provides that the bill is effective July 1, 2017.

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:

CDDs may save money because they no longer have to pay the \$1,500 filing fee to contract the territory of the CDD.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear how a CDD could fulfill its outstanding financial obligations, including outstanding bonds, under the plan of termination in lines 169-171 if the CDD ceases to exist.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 189.069 and 190.046.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs Committee on April 3, 2017:

- Revises the situations under which a petitioner seeking to adjust the boundaries of a CDD must file a filing fee of \$1,500. The amendment requires the petitioner to pay the fee only when the CDD is adding territory. As a result, petitions to shrink a CDD do not require the payment of the filing fee;
- Provides that a referendum to dissolve a CDD after a petition of qualified electors may only occur once in a 12-month period and may only occur after the CDD has existed for at least 2 years;
- Removes s. 190.006, F.S., from the bill, which deleted a provision that entitled each member of the Board of Supervisors of a CDD to no more than \$200 per meeting up to a maximum of \$4,800 per member per year; and
- Requires the CDD to publish all meeting minutes to its website within 30 days after the governing board of the CDD approves the minutes.

B. Amendments:

None.