

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: SB 1244

INTRODUCER: Senator Wright

SUBJECT: Community Development District Bond Financing

DATE: March 18, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Pre-meeting
2.			FT	
3.			RC	

I. Summary:

SB 1244 increases the number of votes required for a community development district (CDD) board to authorize bonds from a majority vote to a two-thirds vote of the board beginning October 1, 2019.

II. Present Situation:

Community Development Districts

Community development districts (CDDs) are a type of special-purpose local government intended to provide basic urban community services in a cost-effective manner. These independent special districts¹ are created pursuant to and governed by the Uniform Community Development District Act of 1980.² The Act lays out the exclusive and uniform procedures for establishing and operating a CDD.³ CDDs provide a means to manage and finance the delivery of basic services and capital infrastructure to developing communities without overburdening other governments and their taxpayers.⁴ Currently, there are 685 active CDDs in Florida.⁵

¹ A “special district” is “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.” Section 189.012(6), F.S. An “independent special district” is characterized by having a governing body the members of which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Section 189.012(3), F.S. *Also, see s. 189.012(2), F.S.*

² Section 190.001, F.S.

³ *See ss. 190.004, 190.005, F.S.*

⁴ Section 190.002(1)(a), F.S.

⁵ Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited March 8, 2019).

CDDs are created either by the Florida Land and Water Adjudicatory Commission (FLWAC)⁶ or by local ordinance. CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of the land in the area in which the CDD will be located, with certain exceptions.⁷ For example, CDDs that lie wholly within a municipality are created by municipal ordinance.⁸ CDDs that are 2,500 acres or more are established by petitioning the FLWAC to adopt an administrative rule creating the district.⁹ CDDs remain in existence unless dissolved pursuant to statute, merged with another district, or all authorized services are transferred to a general-purpose unit of local government.¹⁰

A CDD is controlled by a five-member board of supervisors (board) elected by the landowners of the district. Each landowner is entitled to one vote for each acre owned. A new board election, held among the qualified electors of the district, occurs when the board proposes to exercise its ad valorem taxing authority or six years after the formation of the district (10 years for districts exceeding 5,000 acres).¹¹

The board is authorized to exercise general and special powers within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general-purpose government.¹² General powers include the authority to assess and impose ad valorem taxes within the district and to issue bonds.¹³ In part, the special powers over public improvements and community facilities include, unless prohibited elsewhere,¹⁴ the power to finance, fund, plan, establish, acquire, construct, equip, operate, and maintain facilities and basic infrastructures for:

- Water management and control for the lands within the district;
- Water supply, sewer, and wastewater management, reclamation, and reuse;
- Water supply, sewer, and wastewater management, reclamation, and reuse;
- District roads and road improvements.¹⁵

CDD Bond Financing

A CDD board may authorize general obligation, benefit, or revenue bonds by one or more resolutions approved by a majority of the members in office.¹⁶ Bond resolutions authorize the terms, covenants, or conditions of bonds,¹⁷ but cannot authorize bond proceeds to be used to fund the ongoing district operations,¹⁸ bond interest rates that deviate from the statewide

⁶ Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet (The Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet. See s. 20.03(1), F.S.).

⁷ Section 190.005(2), F.S.

⁸ Section 190.005(2)(e), F.S.

⁹ Section 190.005(1), F.S.

¹⁰ Section 190.046(2), F.S.

¹¹ See s. 190.006, F.S.

¹² See s. 190.004(3), F.S.

¹³ Section 190.011, F.S.

¹⁴ Sections 190.005(1)(f) and (2)(d), F.S.

¹⁵ Section 190.012, F.S.

¹⁶ Section 190.016(2), F.S. Although the statute allows boards to authorize benefit bonds, these bonds are not defined nor discussed any further in the chapter.

¹⁷ Section 190.016(2), F.S.

¹⁸ Section 190.016(13), F.S.

maximum,¹⁹ or bonds that mature over a period of more than 40 years.²⁰ If bond proceeds are insufficient to complete an associated project, a board may authorize additional bonds in compliance with the original bond resolution or proceeding.²¹ Finally, if a CDD defaults on bond payments, the default does not become a debt of a local general-purpose government or the state.²²

Since 2017, 147 CDDs reported issuing 219 revenue bonds. No general obligation or benefit bonds have been issued. Thirteen CDDs issued bonds categorized as a bank loan, line of credit, or other.²³

General Obligation Bonds

General obligation bonds are secured by a pledge of the full faith and credit and taxing power of the CDD in addition to special tax levies and other sources provided or pledged to pay the bonds.²⁴ A CDD board may also unconditionally and irrevocably pledge to levy ad valorem taxes on all taxable property in the district, with no limit on tax rate or amount, to repay general obligation bonds.²⁵ A pledge of the full faith and credit and taxing power of the district provides a bondholder with a recourse against the district's general fund for payment.²⁶

CDD boards may only authorize general obligation bonds to finance or refinance capital projects or refund outstanding bonds.²⁷ For bonds to be authorized, the total amount of outstanding bond principal for the district cannot exceed 35 percent of the assessed value of the taxable property within the district.²⁸ With the exception of refunding bonds, general obligation bonds must be approved at a referendum as prescribed by the State Constitution.²⁹

Revenue Bonds

Revenue bonds are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and do not pledge the property, credit, or general tax revenue of the district.³⁰ Pledged sources include anticipated project revenues, end user rates or charges,

¹⁹ Section 215.84, F.S.

²⁰ Section 190.016(2), F.S.

²¹ Section 190.016(6), F.S.

²² Section 190.016(15), F.S.

²³ See Email and attachments from Sharon Williams, State Board of Administration of Florida, Division of Bond Finance, "Community Development Districts Since 2017" (February 22, 2019) (on file with the Senate Committee on Community Affairs).

²⁴ Section 190.003(13), F.S.

²⁵ Section 190.016(9)(b), F.S.

²⁶ Section 190.003(13), F.S.

²⁷ Section 190.016(9)(a), F.S.

²⁸ *Id.* Existing general obligation bonds are not included in the outstanding bond total if they are also secured by: 1) special assessments levied in an amount sufficient to pay bond principal and interest that have been equalized and confirmed as provided by s. 170.08, F.S.; 2) district revenues from water, sewer, or water and sewer user fees when the amount is sufficient to pay bond principal and interest; or 3) any combination of such assessments and revenues. Section 190.016(9)(d)1.-3., F.S.

²⁹ Art. VII, s. 12(a), Fla. Const. and Section 190.016(9)(a), F.S.

³⁰ Section 190.003(19), F.S.

special assessments, and other revenue generating district activities.³¹ Revenue bonds are not counted as a debt of the CDD.³²

CDD boards can authorize revenue bonds without restrictions on the amount or type of project to be financed.³³ A referendum is not required unless the revenue bond will be secured by the full faith and credit and taxing power of the district.³⁴

III. Effect of Proposed Changes:

Section 1 amends s. 190.016, F.S., to increase the vote threshold required to authorize bonds issued by a CDD board from a majority vote to a two-thirds vote of the board beginning October 1, 2019.

Section 2 provides the bill takes effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³¹ Section 190.016(8)(a), F.S.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

The revised voting requirement may reduce the number of CDD bond issuances compared to that which would occur under current law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 190.016 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.