

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/CS/HB 7013 PCB LFS 24-02 Special Districts

**SPONSOR(S):** State Affairs Committee; Ways & Means Committee; Local Administration, Federal Affairs & Special Districts Subcommittee; Persons-Mulicka

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1058

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**FINAL HOUSE FLOOR ACTION:** 112 Y's 1 N's **GOVERNOR'S ACTION:** Pending

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### SUMMARY ANALYSIS

CS/CS/HB 7013 passed the House on February 1, 2024. The bill was amended in the Senate on March 4, 2024, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on March 7, 2024.

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

The bill revises provisions relating to special districts by:

- Creating a 12-year term limit for popularly elected members of governing bodies of most types of independent special districts.
- Providing that boundaries of independent special districts may only be changed by an act of the Legislature, with an exception.
- Adding additional criteria for declaring a special district inactive.
- Revising notice and procedures for proposed declaration of inactive status.
- Authorizing districts that have been declared inactive to expend funds in certain instances.
- Requiring all special districts to adopt goals and objectives, as well as performance measures and standards to determine if those goals and objectives are being achieved.
- Repealing provisions that allow special districts to convert to a municipality without legislative approval.
- Requiring independent special fire control districts to report certain information to the Division of the State Fire Marshal.
- Reducing the maximum ad valorem millage rate that may be levied by a mosquito control district from 10 mills to one mill, with an exception.
- Requiring mosquito control districts to meet certain conditions required to participate in state programs.
- Prohibiting the creation of new safe neighborhood improvement districts and requiring the Office of Program Policy Analysis and Government Accountability to conduct a performance review of existing safe neighborhood improvement districts.

The bill may have an insignificant fiscal impact on state government and an indeterminate fiscal impact on local governments.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2024.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>1</sup> Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>2</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>3</sup> Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.<sup>4</sup>

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.<sup>5</sup>

A district is classified as “independent” if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.<sup>6</sup>

The Special District Accountability Program within the Department of Commerce (department) is responsible for maintaining and electronically publishing the official list of all special districts.<sup>7</sup> This list includes all active special districts, as well as a separate list of those declared inactive.<sup>8</sup> According to the official list, as of January 18, 2024, the state had 1,980 special districts, of which 1,367 were independent special districts and 613 were dependent districts.<sup>9</sup>

Special districts are governed generally by the Uniform Special District Accountability Act (USDAA).<sup>10</sup> The USDAA centralizes provisions governing special districts and applies to the formation,<sup>11</sup>

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<sup>1</sup> See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

<sup>2</sup> See ss. 189.02(1), 189.031(3), and 190.005(1), F.S.; see generally ss. 189.012(6), F.S.

<sup>3</sup> Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited January 18, 2024).

<sup>4</sup> The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. See, e.g., ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). See also, e.g., ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).

<sup>5</sup> S. 189.012(2), F.S.

<sup>6</sup> S. 189.012(3), F.S.

<sup>7</sup> S. 189.061, F.S.

<sup>8</sup> Ss. 189.061 and 189.062(6), F.S.

<sup>9</sup> Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited January 18, 2024).

<sup>10</sup> S. 189.01, F.S., but see chs. 190 (community development districts), 191 (independent special fire control districts), 298 (water control districts), 388 (mosquito control districts), and 582, F.S. (soil and water conservation districts).

<sup>11</sup> See ss. 189.02 (creation of dependent special districts) and 189.031, F.S. (creation of independent special districts).

governance,<sup>12</sup> administration,<sup>13</sup> supervision,<sup>14</sup> merger,<sup>15</sup> and dissolution<sup>16</sup> of special districts, unless otherwise expressly provided in law.<sup>17</sup> The USDAA requires notice and publication of tentative budgets and final budgets.<sup>18</sup> Certain budget amendments are allowed up to 60 days following the end of the fiscal year.<sup>19</sup>

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.<sup>20</sup>

### *Community Development Districts*

Community development districts (CDDs) are a type of independent special district intended to provide urban community services in a cost-effective manner by managing and financing the delivery of basic services and capital infrastructure to developing communities without overburdening other governments and their taxpayers.<sup>21</sup> As of January 18, 2024, there were 961 active CDDs in Florida.<sup>22</sup>

CDDs are governed by a five-member board elected by the landowners of the district on a one-acre, one-vote basis.<sup>23</sup> Board members serve four-year terms, except some initial board members serve a two-year term for the purpose of creating staggered terms.<sup>24</sup> After the sixth year (for districts of up to 5,000 acres) or the 10th year (for districts exceeding 5,000 acres or for a compact, urban, mixed-use district<sup>25</sup>) following the CDD’s creation, each member of the board is subject to election by the electors of the district at the conclusion of the member’s term. However, this transition does not occur if the district has fewer than 250 (for districts of up to 5,000 acres) or 500 (for districts exceeding 5,000 acres or for a compact, urban, mixed-use district) qualified electors.<sup>26</sup>

A CDD, upon attaining the population standards for municipal incorporation,<sup>27</sup> may hold a referendum on the question of incorporation at a general election if the CDD is wholly contained within the unincorporated area of a county and meets certain requirements for municipal incorporation.<sup>28</sup> This provision does not prohibit the annexation of a CDD that is contiguous to the boundary of a municipality following standard municipal annexation procedures under ch. 171, F.S.<sup>29</sup>

### *Community Redevelopment Agencies*

The Community Redevelopment Act of 1969 authorizes a county or municipality to create a community redevelopment agency (CRA) as a means of redeveloping slums and blighted areas.<sup>30</sup> An area is

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<sup>12</sup> See s. 189.0311, F.S. (charter requirements for independent special districts).

<sup>13</sup> See s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

<sup>14</sup> See s. 189.0651, F.S. (oversight for special districts created by special act of the Legislature).

<sup>15</sup> Ss. 189.071 and 189.074, F.S.

<sup>16</sup> Ss. 189.071 and 189.072, F.S.

<sup>17</sup> See, e.g., s. 190.004, F.S. (ch. 190, F.S., as “sole authorization” for creation of community development districts).

<sup>18</sup> S. 189.016(4), F.S.

<sup>19</sup> S. 189.016(6), F.S.

<sup>20</sup> See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

<sup>21</sup> S. 190.002(1)(a), F.S.

<sup>22</sup> Dept. of Commerce, *supra* note 9.

<sup>23</sup> S. 190.006(2), F.S.

<sup>24</sup> S. 190.006(1), F.S.

<sup>25</sup> S. 190.006(3)(a)2.a., F.S. A “compact, urban, mixed-use district” is a district located within a municipality and a CRA that consists of a maximum of 75 acres, and has development entitlements of at least 400,000 square feet of retail development and 500 residential units. S. 190.003(7), F.S.

<sup>26</sup> S. 190.006(3)(a)2.b., F.S.

<sup>27</sup> The population thresholds for incorporating are 1,500 persons in a county with a population of 75,000 or less, or 5,000 persons in a county with a population of greater than 75,000. S. 165.061(1)(b), F.S.

<sup>28</sup> S. 190.047(1), F.S.

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

<sup>30</sup> Ch. 163, part III, F.S.

“blighted” if there is a substantial number of deteriorated structures causing economic distress or endangerment to life or property and two or more of the following factors are present:

- Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the five years prior to the finding of such conditions;
- Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- Unsanitary or unsafe conditions;
- Deterioration of site or other improvements;
- Inadequate and outdated building density patterns;
- Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- Incidence of crime in the area higher than in the remainder of the county or municipality;
- Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area;
- Governmentally owned property with adverse environmental conditions caused by a public or private entity; or
- A substantial number or percentage of properties damaged by sinkhole activity that have not been adequately repaired or stabilized.<sup>31</sup>

An area also may be classified as blighted if one of the above factors is present and all taxing authorities with jurisdiction over the area have agreed that the area is blighted by either interlocal agreement or by passage of a resolution by the governing bodies of such taxing authorities.<sup>32</sup>

An area is considered a slum if it has physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements that are impaired by reason of dilapidation, deterioration, age, or obsolescence, with one of the following factors present:

- Inadequate provision for ventilation, light, air, sanitation, or open spaces;
- High density of population, compared to the population density of adjacent areas within the county or municipality, and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
- The existence of conditions that endanger life or property by fire or other causes.<sup>33</sup>

CRAs may not levy or collect taxes; however, the county or municipality that created the CRA may establish a community redevelopment trust fund that is funded through tax increment financing (TIF). The amount of TIF available to the agency in a given year is equal to an amount — set by the county or municipality that created the CRA — between 50 and 95 percent of the difference between:

- The amount of ad valorem taxes levied in the current year by each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area; and
- The amount of ad valorem taxes that would have been produced by levying the current year’s millage rate for each taxing authority, excluding any debt service millage, on taxable real

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<sup>31</sup> S. 163.340(8), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> S. 163.340(7), F.S.

property within the boundaries of the community redevelopment area at the total assessed value of the taxable real property prior to the effective date of the ordinance providing for the redevelopment trust fund.<sup>34</sup>

As of January 18, 2024, there were 220 active CRAs statewide.<sup>35</sup>

### *Independent Special Fire Control Districts*

An independent special fire control district is a type of independent special district created by the Legislature to provide fire suppression and related activities within the territorial jurisdiction of the district.<sup>36</sup> As of January 18, 2024, there were 54 active independent special fire control districts.<sup>37</sup>

The Independent Special Fire Control District Act (ISFCDA)<sup>38</sup> provides standards, direction, and procedures for the uniform operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and elections.<sup>39</sup> The ISFDCA controls over more specific provisions in any special act or general law of local application creating a fire control district's charter,<sup>40</sup> requires every fire control district be governed by a five-member board,<sup>41</sup> and provides:

- General powers.<sup>42</sup>
- Special powers.<sup>43</sup>
- Authority and procedures for the assessment and collection of ad valorem taxes.<sup>44</sup>
- Authority and procedures for the imposition, levy, and collection of non-ad valorem assessments, charges, and fees.<sup>45</sup>
- Issuance of district bonds and evidence of debt.<sup>46</sup>

Fire control districts may levy ad valorem taxes on real property within the district of no more than 3.75 mills unless a greater amount was previously authorized.<sup>47</sup> A district also may levy non-ad valorem assessments and adopt a schedule of reasonable fees for services performed.<sup>48</sup> Additionally, the district board may impose an impact fee if authorized by law and the local general purpose government has not adopted an impact fee for fire services that is distributed to the district for the purchase of new facilities and equipment.<sup>49</sup>

The Division of State Fire Marshal (division) is responsible for establishing training courses and examinations necessary to obtain a firefighter or volunteer firefighter certification.<sup>50</sup> The division is responsible for issuing a certificate of compliance to any firefighter or volunteer firefighter who completes a minimum standards course or shows proof of equivalent training in another state, and

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<sup>34</sup> S. 163.387(1)(a), F.S.

<sup>35</sup> Dept. of Commerce, *supra* note 9.

<sup>36</sup> S. 191.003(5), F.S.

<sup>37</sup> Dept. of Commerce, *supra* note 9.

<sup>38</sup> Ch. 191, F.S.

<sup>39</sup> S. 191.002, F.S.

<sup>40</sup> S. 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section.

<sup>41</sup> S. 191.005(1)(a), F.S. (fire control district may continue to be governed by a three-member board if authorized by special act adopted on or after 1997).

<sup>42</sup> S. 191.006, F.S. (e.g. the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain).

<sup>43</sup> S. 191.008, F.S.

<sup>44</sup> Ss. 191.006(14) and 191.009(1), F.S.

<sup>45</sup> Ss. 191.006(11) and (15); 191.009(2), (3), and (4); and 191.011, F.S.

<sup>46</sup> S. 191.012, F.S.

<sup>47</sup> S. 191.009(1), F.S., *but see* art. VII, s. 9, Fla. Const. (special districts may not levy an ad valorem tax in excess of the millage "authorized by law approved by vote of the electors.")

<sup>48</sup> S. 191.009(2) and (3), F.S. If the district levies a non-ad valorem assessment to fund emergency medical and transport services, the district is prohibited from levying an ad valorem tax to fund those services.

<sup>49</sup> S. 191.009(4), F.S.

<sup>50</sup> S. 633.408(1), F.S.

passes an exam within one year of completing the minimum standards course.<sup>51</sup> Additionally, the applicant must be in good physical condition, as determined by a medical examination, and have good moral character, as determined by a background investigation that includes the processing of fingerprints for a national criminal background check.<sup>52</sup>

### *Mosquito Control Districts*

Mosquito control districts (MCDs) are created to protect health and safety, improve quality of life, promote economic development, and allow for the enjoyment of natural attractions of the state by reducing the number of insects that transmit disease within their boundaries.<sup>53</sup> An MCD may contain part or all of a county or municipality.<sup>54</sup> As of January 18, 2024, there were 18 mosquito control districts: 15 independent districts and three dependent districts.<sup>55</sup>

The creation of new MCDs has been prohibited since July 1, 1980.<sup>56</sup> In counties without a district, the board of county commissioners may exercise the rights, powers, and duties authorized by statute for an MCD or may direct the county health department to do so.<sup>57</sup> For MCDs formed prior to July 1, 1980, the district board of commissioners may request the board of county commissioners for the county in which the district lies to approve a change in the boundaries of the district.<sup>58</sup>

MCDs may levy an ad valorem tax of up to 10 mills on real and personal property within the district.<sup>59</sup>

The Department of Agriculture and Consumer Services (DACS) is responsible for coordinating the activities of MCDs receiving state funds.<sup>60</sup> To be eligible to receive state funds for arthropod control during a local government fiscal year, each MCD must submit a tentative work plan and detailed work plan budget to DACS by July 15 of the preceding fiscal year. The work plan and budget may be amended by the district with DACS approval.<sup>61</sup> Each district is also required to submit an expenditure report for the preceding month within 30 days after the end of that month.<sup>62</sup>

### *Neighborhood Improvement Districts*

A neighborhood improvement district (NID), also known as a “safe neighborhood improvement district,” is a district located in an area in which more than 75 percent of the land is used for residential purposes or for commercial, office, business, or industrial purposes, and where there is a plan to reduce crime through environmental design, environmental security, defensible space techniques, or community policing innovations.<sup>63</sup> A NID can be one of four types of districts:

- Local government NID;<sup>64</sup>
- Property owners’ association NID;<sup>65</sup>
- Special NID;<sup>66</sup> or

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<sup>51</sup> S. 633.408(4)(a) and (b), F.S.

<sup>52</sup> Ss. 633.408(4)(c) and 633.412, F.S.

<sup>53</sup> Ss. 388.0101 and 388.011(5), F.S.

<sup>54</sup> S. 388.021(1), F.S.

<sup>55</sup> Dept. of Commerce, *supra* note 9.

<sup>56</sup> S. 388.021(2), F.S.

<sup>57</sup> Ss. 388.241 and 388.251, F.S. The county health department must keep the books and make all reports required under ch. 388, F.S., and all purchases, whether by bid or otherwise, must be made in accordance with the procedures allowed by the board of county commissioners. The health department must also submit to the board of county commissioners itemized monthly statements of expenses incurred in carrying out the control program in the county.

<sup>58</sup> S. 388.211(1), F.S.

<sup>59</sup> S. 388.221(1), F.S.

<sup>60</sup> S. 388.271(1), F.S.

<sup>61</sup> S. 288.281, F.S.

<sup>62</sup> S. 388.341, F.S. The reports must detail activities and accomplishments as may be required by DACS.

<sup>63</sup> S. 163.503(1), F.S.

<sup>64</sup> S. 163.506, F.S.

<sup>65</sup> S. 163.508, F.S.

<sup>66</sup> S. 163.511, F.S.

- Community redevelopment NID.<sup>67</sup>

A NID must be created through the adoption of a planning ordinance by the governing body of the applicable municipality or county pursuant to the applicable procedure in ss. 163.506, 163.508, 163.511, or 163.512.<sup>68</sup> Each NID must register with the Department of Commerce within 30 days of formation and provide the district's name, location, size, type, and any other information required by the Department of Commerce.<sup>69</sup>

Unless preempted by ordinance, a NID can:

- Enter into contracts and agreements and sue and be sued as a body corporate.
- Have and use a corporate seal.
- Acquire, own, convey, or otherwise dispose of, lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type to which it holds title and grant and acquire licenses, easements, and options with respect thereto.
- Accept grants and donations of any type of property, labor, or other thing of value from any public or private source.
- Have exclusive control of funds legally available to it, subject to limitations imposed by law or by any agreement validly entered into by it.
- Cooperate and contract with other governmental agencies or other public bodies.
- Contract for services of planning consultants, experts on crime prevention through community policing innovations, environmental design, environmental security, or defensible space, or other experts in areas pertaining to the operations of the board of directors or the district.
- Contract with the county or municipal government for planning assistance and increased levels of law enforcement protection and security, including additional personnel.
- Promote and advertise the commercial advantages of the district so as to attract new businesses and encourage the expansion of existing businesses.
- Promote and advertise the district to the public and engage in cooperative advertising programs with businesses located in the district.
- Improve street lighting, parks, streets, drainage, utilities, swales, and open areas, and provide safe access to mass transportation facilities in the district.
- Undertake innovative approaches to securing neighborhoods from crime, such as crime prevention through community policing innovations, environmental design, environmental security, and defensible space.
- Privatize, close, vacate, plan, or replan streets, roads, sidewalks, and alleys, subject to the concurrence of the local governing body and, if required, the state Department of Transportation.
- Prepare, adopt, implement, and modify a safe neighborhood improvement plan for the district.
- Identify areas with blighted influences, including, but not limited to, areas where unlawful urban dumping or graffiti are prevalent, and develop programs for eradication thereof.
- Subject to referendum approval, make and collect special assessments pursuant to ss. 197.3632 and 197.3635, F.S., to pay for improvements to the district and for reasonable expenses of operating the district, including the payment of expenses included in the district's budget, subject to an affirmative vote by a majority of the registered voters residing in the district. Such assessments may not exceed \$500 for each individual parcel of land per year. Notwithstanding the provisions of s. 101.6102, F.S., the referendum to approve the special assessment must be by mail ballot.<sup>70</sup>

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<sup>67</sup> S. 163.512, F.S.

<sup>68</sup> S. 163.504, F.S.

<sup>69</sup> S. 163.5055(1), F.S.

<sup>70</sup> S. 163.514, F.S.

If approved at a referendum, a local government NID or special NID may be authorized to levy an ad valorem tax of up to two mills annually.<sup>71</sup> A property owners' association NID may collect assessments related to common areas within the district.<sup>72</sup> A community redevelopment NID may use the community redevelopment trust fund created pursuant to s. 163.387, F.S., for specified purposes.<sup>73</sup>

As of January 18, 2024, there were 21 active NIDs in the state,<sup>74</sup> 18 of which were local government NIDs, two were special NIDs, and one was a property owners' association NID.<sup>75</sup>

### Inactive Special Districts

Whether dependent or independent, the department must declare a special district inactive if it meets one of the following criteria:

- The registered agent of the district, the chair of the district's governing body, or the governing body of the appropriate county or municipality:
  - Provides written notice to the department that the district has taken no action for two or more years;
  - Provides written notice to the department that the district has not had a governing body or a sufficient number of governing body members to constitute a quorum for two or more years; or
  - Fails to respond to an inquiry by the department within 21 days.<sup>76</sup>
- The department determines the district failed to file certain specified reports,<sup>77</sup> including required financial reports.<sup>78</sup>
- The district has not had a registered office or agent on file with the department for one or more years.<sup>79</sup>
- The governing body of the district provides documentation to the department that it has unanimously adopted a resolution declaring the district inactive.<sup>80</sup>

After the department determines at least one of these criteria applies to the special district, a notice of the proposed declaration of inactive status may be published by the department, the county or municipality for the area where the district is located, or the district itself. The notice must be published in a newspaper of general circulation in the county or municipality where the special district is located, and a copy of the notice must be sent by certified mail to the registered agent or chair of the district's board.<sup>81</sup> The notice must include the name of the district, the law under which the district was organized and operating, a general description of the territory of the district, and a statement that any objections to the declaration must be filed pursuant to chapter 120, F.S.,<sup>82</sup> within 21 days after the publication date. If no objection is filed within the 21-day period, the department declares the district inactive.<sup>83</sup>

Additionally, a CRA must be declared inactive if it has reported no revenue, no expenditures, and no debt in its annual financial reports and annual financial audit reports for six consecutive fiscal years beginning on October 1, 2016.<sup>84</sup> The declaration must be delivered to the governing body or registered agent of the agency, unless the agency does not have one, in which case the declaration is delivered to

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<sup>71</sup> Ss. 163.506(1)(c) and 163.511(1)(b), F.S.

<sup>72</sup> S. 163.508(3)(c), F.S.

<sup>73</sup> S. 163.512(1)(c), F.S.

<sup>74</sup> Dept. of Commerce, *supra* note 9.

<sup>75</sup> There is also one active preservation and enhancement district pursuant to s. 163.524, F.S., that appears unrelated to the substance of this bill.

<sup>76</sup> S. 189.062(1)(a)1.-3., F.S.

<sup>77</sup> S. 189.066, F.S.

<sup>78</sup> S. 189.062(1)(a)4., F.S. See ss. 189.016(9), 218.32, and 218.39, F.S.

<sup>79</sup> S. 189.062(1)(a)5., F.S.

<sup>80</sup> S. 189.062(1)(a)6., F.S.

<sup>81</sup> S. 189.062(1)(b), F.S.

<sup>82</sup> Chapter 120, F.S., is the Administrative Procedure Act.

<sup>83</sup> S. 189.062(1)(c), F.S.

<sup>84</sup> S. 163.3756(2)(a), F.S.

the governing body of the county or municipality that created the CRA. Upon receipt of the declaration, the governing body of the CRA has 30 days to seek to invalidate the declaration by filing a petition for administrative hearing or filing for declaratory and injunctive relief in the circuit court.<sup>85</sup> A CRA that has been declared inactive may expend funds from the redevelopment trust fund only as necessary to service outstanding bond debt.<sup>86</sup>

After declaring a special district inactive, the department must send written notice of the declaration to the authorities that created the district.<sup>87</sup> This notification is intended to facilitate the process of dissolving districts that have been declared inactive.<sup>88</sup> For districts created by special act, the declaration of inactive status fulfills the constitutional notice requirement for the repeal of those special acts.<sup>89</sup> Current law also provides that the special acts creating or amending the charter of an inactive special district may be repealed by general law.<sup>90</sup>

A district declared inactive may not collect taxes, fees, or assessments until the declaration of invalid status is withdrawn, revoked by the department, or invalidated in an administrative proceeding or civil action.<sup>91</sup> Any property and assets of a special district declared inactive must first be used to pay any debts of the district,<sup>92</sup> and any remaining property or assets then escheat to the county or municipality in which the district is located. If the district's property or assets are insufficient to pay its outstanding debts, the county or municipality in which the district was located may assess and levy taxes within the territory of the inactive district as necessary to pay the remaining debt.

Declaring a special district 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 or the county or municipality that created the district.<sup>93</sup>

#### Local Government Financial Reports and Audits

Florida law requires all units of local government, including special districts,<sup>94</sup> to complete annual financial reports and annual financial audit reports. Each district must submit its annual financial report to the Department of Financial Services (DFS) within nine months of the completion of its fiscal year.<sup>95</sup> If a district fails to file a completed annual financial report within the required period, DFS must notify the Legislative Auditing Committee and the Special District Accountability Program.<sup>96</sup>

Special districts with revenues or total expenditures and expenses exceeding \$100,000 must have an annual financial audit prepared by an independent certified public accountant, unless the district has been notified before the start of the fiscal year that the Auditor General will conduct a financial audit for that year.<sup>97</sup> Special districts with revenues (or a total of expenditures and expenses) between \$50,000 and \$100,000 are required to conduct a financial audit every three years.<sup>98</sup> The financial audit must be performed according to specific statutory criteria and the rules of the Auditor General.<sup>99</sup> The audit report for a dependent special district, except for a CRA with revenues (or a total of expenditures and

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<sup>85</sup> S. 163.3756(2)(b), F.S.

<sup>86</sup> S. 163.3756(3), F.S.

<sup>87</sup> S. 189.062(3), F.S.

<sup>88</sup> See ss. 189.071(3) and 189.072(3), F.S.

<sup>89</sup> S. 189.062(3)(a), F.S.

<sup>90</sup> *Id.*

<sup>91</sup> S. 189.062(5), F.S.

<sup>92</sup> S. 189.062(2), F.S.

<sup>93</sup> S. 189.062(4), F.S.

<sup>94</sup> Section 189.016(9), F.S., requires all special districts to complete annual financial reports and annual financial audit reports.

<sup>95</sup> A district that is required to complete a financial audit report must submit both reports within 45 days of the completion of the audit report, but still no later than nine months after the completion of the fiscal year. S. 218.32(1)(d), F.S.

<sup>96</sup> S. 218.32(1)(f), F.S.

<sup>97</sup> S. 218.39(1), F.S.

<sup>98</sup> S. 218.39(1)(h), F.S.

<sup>99</sup> S. 218.39(2)-(7), F.S. See ch. 10.550, Local Governmental Entity Audits (9-30-2023), [https://flauditor.gov/pages/pdf\\_files/10\\_550.pdf](https://flauditor.gov/pages/pdf_files/10_550.pdf) (last visited Jan. 18, 2024).

expenses) in excess of \$100,000, may be included in the annual financial audit report of the county or municipality on which it is dependent. The audit report must be filed with the Auditor General within 45 days of its receipt by the district, but no later than nine months after the end of the fiscal year.<sup>100</sup>

The annual financial report and audit financial report for all special districts must specify separately:

- The total number of district employees compensated in the last pay period of the fiscal year being reported.
- The total number of independent contractors who received non-employee compensation during the last month of the fiscal year being reported.
- All compensation earned by or awarded to employees, whether paid or accrued, regardless of contingency.
- All compensation earned by or awarded to non-employee independent contractors, whether paid or accrued, regardless of contingency.
- Each construction project with a total cost of at least \$65,000 approved by the district to begin after October 1 of the fiscal year being reported and the total expenditures for the project.
- A budget variance report<sup>101</sup> showing how district spending compared to the original budget for the year.<sup>102</sup>

The annual financial report and annual financial audit report of each independent special district that levies ad valorem taxes or non-ad valorem special assessments must include the rates of such levies, the total amount collected by the levies, and the total amount of all outstanding bonds issued by the district and the terms of such bonds.<sup>103</sup>

### Municipal Conversion of Independent Special Districts

Current law provides a process for an independent special district to convert to a municipality.<sup>104</sup> The electors of an independent special district can petition the governing body of the district to commence a municipal conversion if the independent special district is:

- Created by special act of the Legislature.
- Designated as an improvement district, created pursuant to ch. 298, F.S., or is designated as a stewardship district, created pursuant to s. 189.031, F.S.
- Governed by an elected board that agrees to the conversion.
- Provides at least four of the following municipal services: water, sewer, solid waste, drainage, roads, transportation, public works, fire and rescue, street lighting, parks and recreation, or library or cultural facilities.
- Contains no territory located within the jurisdictional limits of an existing municipality.<sup>105</sup>

The petition must follow a statutorily-specified format and be signed by at least 40 percent of the qualified electors of the district no later than one year after the start of the qualified elector-initiated municipal conversion proceeding.<sup>106</sup> The petition must be filed with the governing body of the district and submitted to the supervisor of elections in the county where the district is located.<sup>107</sup> The supervisor of elections must certify to the governing body of the district the number of signatures by qualified electors within 30 business days of receipt.

Upon receiving a petition with a sufficient number of signatures, the governing body of the district must meet within 30 business days to prepare and adopt a proposed elector-initiated combined conversion and incorporation plan containing:

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<sup>100</sup> S. 218.39(7), F.S.

<sup>101</sup> A budget variance report sets out the difference between the budgeted amounts and actual expenses and revenues.

<sup>102</sup> S. 218.32(1)(e)2. and 3., F.S.

<sup>103</sup> S. 218.31(1)(e)4. and 5., F.S.

<sup>104</sup> S. 165.0615, F.S.

<sup>105</sup> S. 165.0615(1), F.S.

<sup>106</sup> S. 165.0615(2), F.S.

<sup>107</sup> S. 165.0615(3), F.S.

- The name of the independent special district to be converted to a municipality.
- The name of the municipality to be created.
- The conversion schedule.
- Certification by a licensed surveyor that the boundaries of the proposed municipality do not overlap with any other municipal boundary and are contained within a single county.
- The rights, duties, and obligations of the municipality, and a feasibility study that contains the requirements under the municipal incorporation statutes, except certain population thresholds usually required for municipal incorporation do not apply if the buildout of the land use allowed under the current county-approved comprehensive plan and zoning designations will meet the population and density requirements of the statute.<sup>108</sup>
- The territorial boundaries of the proposed municipality.
- The governmental organization of the proposed municipality and independent special district as the organization concerning elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials.
- An accounting of the independent special district's assets, including, but not limited to, real and personal property, and the current value of the property.
- An accounting of the independent special district's liabilities and indebtedness, bonded and otherwise, and the current value of the liabilities and indebtedness.
- Terms for addressing the ownership and obligations related to existing assets, liabilities, and indebtedness of the independent special district.
- Terms for the common administration and uniform enforcement of existing laws within the proposed municipality.
- An estimated date for final payment of any bonded indebtedness of the independent special district, and if maintained by the district after incorporation, the estimated date of automatic dissolution of the independent special district.
- The time and place for a public hearing on the proposed incorporation.
- The effective date of the proposed incorporation.<sup>109</sup>

Within five business days after adopting the plan, the governing body of the district must:

- Provide a copy of the plan, as well as a descriptive summary, for public inspection in at least three public places within the district.
- Publish a copy of the plan, as well as a descriptive summary, to the district's website or a website maintained by the county in which the district is located.
- Arrange for the publication of the descriptive summary and the list of locations where the plan may be reviewed in a newspaper of general circulation within the district at least once each week for four successive weeks.<sup>110</sup>

The district must conduct at least one public hearing on the plan.<sup>111</sup> All public hearings on the plan must be held on weekdays and may not occur until at least seven business days after the first advertisement about the plan is published. The district must also conduct a final public hearing and provide notice at least seven days before the hearing in a newspaper of general circulation.<sup>112</sup> The notice for the final public hearing must contain the descriptive summary of the plan and the list of locations where the plan may be reviewed.

Revisions to the plan made after the final hearing may only occur if those revisions comply with notice and public hearing requirements.<sup>113</sup> The governing body of the district must approve a final version

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<sup>108</sup> See s. 165.061(1)(b) and (d), F.S. [requiring an area proposed for municipal incorporation to have a population of at least 1,500 in counties with a population of 75,000 or less (at least 5,000 in counties with a population of more than 75,000), an average population density of 1.5 persons per acre, and a minimum distance of at least two miles from any existing municipality in the same county].

<sup>109</sup> S. 165.0615(4), F.S.

<sup>110</sup> S. 165.0615(6), F.S.

<sup>111</sup> S. 165.0615(7), F.S.

<sup>112</sup> S. 165.0615(8), F.S.

<sup>113</sup> S. 165.0615(9), F.S.

within 60 business days after the final hearing. After the final hearing, the governing body of the district notifies the supervisor of elections, who schedules a date for the conversion referendum.<sup>114</sup> There must be at least 60 business days between the district's adoption of the plan and the referendum.<sup>115</sup>

The district must publish notice 30 days prior to the referendum.<sup>116</sup> The notice must be published at least twice, in the fifth and third weeks before the referendum. The notice must contain:

- A brief summary of the resolution and plan.
- A statement as to where the plan may be reviewed.
- The name of the district to be converted and a description of the territory included in the plan;
- The time and place where the referendum will be held.
- Other matters necessary to call, provide for, and give notice of the referendum to provide for its conduct and the canvassing of the returns.<sup>117</sup>

If the referendum is approved, the district is governed as before until the effective date specified in the plan, at which point the new municipality is created.<sup>118</sup> If the referendum fails, the conversion process may not be re-initiated for at least two years after the date of the referendum.<sup>119</sup>

### Performance Reviews

Current law requires certain special districts to conduct performance reviews to evaluate the programs, activities, and functions of those districts, including:

- The purpose and goals as stated in the district's charter.
- The district's goals and objectives for each program and activity, the problem or need that the program or activity was designed to address, the expected benefits of each program and activity, and the performance measures and standards used by the special district to determine if the program or activity achieves the district's goals and objectives.
- The delivery of services by the district, including alternative methods of providing those services that would reduce costs and improve performance.
- A comparison of similar services provided by the county and municipal governments located wholly or partially within its boundaries, including similarities and differences in services, relative costs and efficiencies, and possible service consolidations.
- The revenues and costs of programs and activities of the district, using data from the current year and the previous three fiscal years.
- The extent to which the district's goals and objectives have been achieved.
- Any performance measures and standards of the district's program and activities using data from the current year and the previous three fiscal years.
- Factors that have contributed to any failure to meet the district's performance measures and standards or achieve the district's goals and objectives.
- Recommendations for statutory or budgetary changes to improve the district's program operations, reduce costs, or reduce duplication.<sup>120</sup>

All independent special fire control districts and each hospital governed by the governing body of a special district or the board of trustees of a public health trust must conduct a performance review every five years beginning October 1, 2022, and October 1, 2023, respectively.<sup>121</sup>

All fire control districts not located within a rural area of opportunity and all hospital districts must contract with an independent entity to conduct the performance review, while the Office of Program

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<sup>114</sup> S. 165.0615(10), F.S.

<sup>115</sup> S. 165.0615(5), F.S.

<sup>116</sup> Ss. 100.342 and 165.0615(11), F.S.

<sup>117</sup> S. 165.0615(11), F.S.

<sup>118</sup> S. 165.0615(18), F.S.

<sup>119</sup> S. 165.0615(17), F.S.

<sup>120</sup> S. 189.0695(1), F.S.

<sup>121</sup> S. 189.0695(2), F.S.

Policy Analysis and Government Accountability (OPPAGA) must conduct a performance review of each fire control district located within a rural area of opportunity. The completed performance review must be filed with the governing body of the district, the Auditor General, the President of the Senate, and the Speaker of the House of Representatives no later than nine months from the beginning of the fiscal year in which the report is due.

OPPAGA has also been directed to conduct performance reviews of all independent MCDs and soil and water conservation districts.<sup>122</sup> These reviews must be submitted to the President of the Senate and the Speaker of the House of Representatives by September 30, 2023, and September 30, 2024, respectively.

## **Effect of the Bill**

### Term Limits

The bill establishes a term limit of 12 years for members of a popularly elected body governing an independent special district, unless the district's charter provides for more restrictive terms of office. Any term of office that commenced before November 5, 2024, does not count toward the limitation created by the bill. This provision does not apply to the governing body of a CDD or any independent special district created by special act that provides any amendment to ch. 190, F.S., to grant additional powers constitutes a power of the district, and does not require an independent special district governed by an appointed governing body to convert to an elected body.

### Special District Boundaries

The bill provides that the boundaries of an independent special district may only be changed by general law or a special act. This provision does not apply to CDDs. The bill also makes a conforming change to provisions concerning the boundaries of MCDs.

### Inactive Special Districts

The bill revises the criteria for declaring a special district inactive to include:

- Any independent special district or CRA that has reported no revenue, no expenditures, and no debt pursuant to current reporting requirements<sup>123</sup> for at least five consecutive fiscal years beginning no earlier than October 1, 2018;<sup>124</sup> or
- For MCDs, any district for which the department has received notice from DACS that the district has failed to file a tentative work plan and tentative detailed work plan budget.

For a dependent special district with a governing body that is not identical to a single county or municipality, the bill requires the department to provide notice by certified mail of the proposed declaration of inactive status to the governing body of the county or municipality of which the district is dependent.

The bill extends the period to file an objection pursuant to ch. 120, F.S., to a proposed declaration from 21 days to 30 days and provides that the objection may include that the special district has outstanding debt obligations that are not included in the annual financial report or annual financial audit report.

The bill provides that a special district declared inactive may only expend funds as necessary to service outstanding debt and to meet the requirements of existing bond covenants and contractual obligations.

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<sup>122</sup> S. 189.0695(3), F.S.

<sup>123</sup> See ss. 189.016 and 215.32, F.S.

<sup>124</sup> This provision does not apply to CDDs or any independent special district created by special act that provides any amendment to ch. 190, F.S., to grant additional powers constitutes a power of the district.

The bill repeals s. 163.3756, F.S., to make provisions concerning CRAs consistent with those that apply to other types of special districts.

#### Municipal Conversion of Certain Special Districts

The bill repeals ss. 165.0615 and 190.047, F.S., which allow independent special districts and CDDs, respectively, to convert to a municipality without legislative approval.

#### Performance Measures and Standards

The bill requires each special district to establish goals and objectives for each program and activity undertaken by the district, as well as performance measures and standards to determine if the district's goals and objectives are being achieved by October 1, 2024, or the end of the first full fiscal year after its creation, whichever is later. Each district is required to prepare an annual report by December 1 of each year thereafter describing the goals and objectives achieved by the district, as well as performance measures and standards used by the district to make this determination, and any goals or objectives the district failed to achieve.

#### Independent Special Fire Control Districts

By October 1 of each year, the bill requires all independent special fire control districts to report to the Division of State Fire Marshal whether each district's volunteer firefighters have completed the required training and certifications establish by the division.

#### Mosquito Control Districts

The bill reduces the maximum ad valorem millage rate that may be levied by an MCD from 10 mills to one mill, but allows an MCD to increase the ad valorem millage rate to two mills if such increase is approved by a referendum held at a general election.

The bill requires all MCDs to perform the prerequisites for approval for the receipt of state funds for arthropod control from DACS by filing a tentative work plan and tentative detailed work plan budget. If the district fails to submit a tentative work plan and tentative detailed work plan budget, DACS must send notice of such failure to the department within 30 days.

#### Neighborhood Improvement Districts

The bill prohibits the creation of new NIDs effective July 1, 2024, and provides that NIDs created before this date may continue to operate as provided by current law.

The bill directs OPPAGA to conduct a performance review of NIDs to be completed by September 30, 2025.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

The bill will have an indeterminate, but likely insignificant, negative fiscal impact on the department to the extent there are costs associated with declaring additional special districts inactive under the provisions of the bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference did not estimate the potential revenue impacts of the bill on local government revenues. Staff estimates that there is no impact on local government revenues because it appears no MCD currently levies ad valorem taxes in excess of one mill.

2. Expenditures:

The bill may have a negative fiscal impact on special districts if expenditures are incurred to hire and train additional staff in order to comply with additional reporting requirements created by the bill.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

OPPAGA will incur expenditures related to conducting performance reviews of NIDs.