

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 Rules

BILL: CS/SB 1052

INTRODUCER: Community Affairs and Senator Hutson

SUBJECT: Inactive Special Districts

DATE: February 13, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Twogood</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1052 dissolves the following special districts created by special act, which have been declared inactive by the Department of Commerce, and repeals their enabling laws:

- Calhoun County Transportation Authority.
- Dead Lakes Water Management District.
- Highland View Water and Sewer District.
- West Orange Airport Authority.

The bill also dissolves the Sunny Isles Reclamation and Water Control Board and repeals the judicial order establishing the district.

The bill takes effect July 1, 2024.

II. 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.¹ Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.² A special district has only those powers expressly provided by, or reasonably implied from, the authority provided

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

² See sections 189.02(1), 189.031(3), and 190.005(1), F.S. See generally section 189.012(6), F.S.

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.³

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 the 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.⁴

A district is classified as “independent” if it does not meet one of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.⁵

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 a 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.⁶

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.⁷ This list includes all active special districts, as well as a separate list of those districts declared inactive.⁸

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.⁹

³ 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 24, 2024).

⁴ Section 189.012(2), F.S.

⁵ Section 189.012(3), F.S.

⁶ Art. VII, s. 9(a), Fla. Const.

⁷ Section 189.061, F.S.

⁸ Sections 189.061 and 189.062(6), F.S.

⁹ Section 189.062(1)(a)1.-3., F.S.

- The department determines the district failed to file certain specified reports,¹⁰ including required financial reports.¹¹
- The district has not had a registered office or agent on file with the department for one or more years.¹²
- The governing body of the district provides documentation to the department that it has unanimously adopted a resolution declaring the district inactive.¹³

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.¹⁴ 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.,¹⁵ within 21 days after the publication date. If no objection is filed within the 21-day period, the department declares the district inactive.¹⁶

After declaring a special district inactive, the department must send written notice of the declaration to the authorities that created the district.¹⁷ This notification is intended to facilitate the process of dissolving districts that have been declared inactive.¹⁸ For districts created by special act, the declaration of inactive status fulfills the constitutional notice requirement for the repeal of those special acts.¹⁹ Current law also provides that the special acts creating or amending the charter of an inactive special district may be repealed by general law.²⁰

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.²¹ Any property and assets of a special district declared inactive must first be used to pay any debts of the district,²² 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.

¹⁰ Section 189.066, F.S.

¹¹ Section 189.062(1)(a)4., F.S. *See also* sections 189.016(9), 218.32, and 218.39, F.S.

¹² Section 189.062(1)(a)5., F.S.

¹³ Section 189.062(1)(a)6., F.S.

¹⁴ Section 189.062(1)(b), F.S.

¹⁵ Chapter 120, F.S., is the Administrative Procedure Act.

¹⁶ Section 189.062(1)(c), F.S.

¹⁷ Section 189.062(3), F.S.

¹⁸ *See* sections 189.071(3) and 189.072(3), F.S.

¹⁹ Section 189.062(3)(a), F.S.

²⁰ *Id.*

²¹ Section 189.062(5), F.S.

²² Section 189.062(2), F.S.

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.²³

Water Control Districts

Chapter 298, F.S., governs the creation and operation of water control districts (WCD). A WCD has authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.²⁴ Prior to July 1, 1980, the authority to create a WCD was delegated to circuit courts by statute, with WCDs created by the submission of a petition signed by a majority of the landowners in the area of the proposed district to the circuit court that had jurisdiction over the area.²⁵ Today, WCDs may be created only by special act or county ordinance.²⁶ The charter of a district that predates July 1, 1980, may only be modified by special act.²⁷

III. Effect of Proposed Changes:

The bill dissolves the following special districts created by special act, which have been declared inactive by the department, and repeals their enabling laws:

- Calhoun County Transportation Authority.²⁸
- Dead Lakes Water Management District.²⁹
- Highland View Water and Sewer District.³⁰
- West Orange Airport Authority.³¹

Notwithstanding s. 189.072(3), F.S., the bill dissolves the Sunny Isles Reclamation and Water Control Board and repeals the judicial order establishing the district.³² This district was initially created pursuant to authority delegated to circuit courts to create WCDs. As a district created by the petition process, which process was repealed in 1980, the charter of the district would otherwise only be subject to revision by special act.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²³ Section 189.062(4), F.S.

²⁴ Section 298.22, F.S.

²⁵ See section 298.01, F.S. (authorizing “water control districts established prior to July 1, 1980, pursuant to the process formerly contained in this section and former ss. 298.02 and 298.03, may continue to operate as outlined in this chapter.”) See also section 298.01, F.S. (1980) and ch. 79-5, ss. 1-3, Laws of Fla. Originally, the Board of Drainage Commissioners for the State also had authority to prepare and file a petition to form a drainage district. See ch. 6458, s. 1, Laws of Fla. (1913).

²⁶ Section 298.01, F.S.

²⁷ See section 298.76(5), F.S.

²⁸ Ch. 76-341, Laws of Fla.

²⁹ Ch. 57-1115, Laws of Fla.

³⁰ Chs. 61-2212 and 85-417, Laws of Fla.

³¹ Chs. 99-482 and 2007-305, Laws of Fla.

³² Decree 66C-7402, entered by the circuit court in and for the Eleventh Circuit Court.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following sections of the Laws of Florida: 1976-341, 1957-1115, 1990-412, 2001-346, 1961-2212, 1985-417, 1999-482, 2007-305.

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 on January 29, 2024:

The CS removes the Emerald Coast Bridge Authority from the list of special districts to be dissolved.

- B. **Amendments:**

None.