

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**Bill #:** CS/HB 1237 Special Districts

**SPONSOR(S):** Local & Federal Affairs Committee, Metz

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	14 Y, 0 N	Miller	Rojas
2) Finance & Tax Subcommittee		Wolfgang	Langston
3) State Affairs Committee			

### SUMMARY ANALYSIS

Special districts are used to create, fund, administer, and oversee provision and delivery of a variety of local services in Florida. Often they are established with the authority to impose ad valorem taxes, fees, and charges. Independent districts are often created by special act and are not subsidiary to local general-purpose governments such as cities or counties. Independent districts have their own governing structure, their governing board members often are elected by the voters within the district, and their budgets are not subject to local government veto. In contrast, a dependent special district usually is created by local ordinance and often one or more of its governing body members in turn sit on the board of an interested local government.

Some types of special districts, such as community development districts, have a separate governing statute, but most special districts, independent and dependent alike, are governed by Ch. 189, F.S. This statute provides guidance and authority for creating, governing, administering, financing, operating, and overseeing special districts.

The bill renumbers sections and subsections in Ch. 189, F.S., makes substantive changes to the oversight and enforcement of special district financial reporting, revises the type of enforcement proceedings which may be brought against noncompliant districts, and increases the notice provided to the legislative presiding officers. The Governor's power to suspend county officers, and the power to suspend and remove certain municipal officers, is extended to permit suspension or removal of special district governing board members.

The bill revises the local government requirements for overseeing and reviewing special districts. Additionally the bill makes conforming changes to a number of related statutes.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Introduction**

A “special district” is “a local unit of special purpose...government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”<sup>1</sup> Special districts are created to provide a variety of services, such as mosquito control, beach facilities, children’s services,<sup>2</sup> fire control and rescue,<sup>3</sup> or drainage control.<sup>4</sup> An “independent special district” is characterized by having a governing board 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.<sup>5</sup> A “dependent special district” is a special district meeting at least one of the following criteria:

- the members of the district governing body are identical to those on the governing body of a county or municipality;
- the members of the governing body are appointed by the governing body of a single county or municipality;
- the members of the district’s governing body may be removed at will by the governing body of a single county or municipality; or
- the district budget is subject to approval or veto by the governing body of a single county or municipality.<sup>6</sup>

The Special District Information Program (SDI Program) in the Department of Economic Opportunity (DEO) is responsible for maintaining a master list of independent and dependent special districts.<sup>7</sup> At present the SDI Program reports the following totals:

- 1,639 total special districts: 1,627 active districts and 12 inactive districts
  - 1,000 total independent districts: 991 active and 9 inactive
  - 639 total dependent districts: 636 active and 3 inactive.<sup>8</sup>

##### **Ch. 189, F.S.: The “Uniform Special District Accountability Act of 1989”<sup>9</sup>**

###### *1. Current Situation*

In 1989 the Legislature restructured and centralized the laws governing special districts. Ch. 189, F.S., applies to the formation, governance, administration, supervision, merger, and dissolution of special districts unless otherwise expressly provided in law.<sup>10</sup> The Act includes an extensive statement of legislative intent emphasizing improved accountability to state and local governments, better communication and coordination in monitoring required reporting of special districts, improved uniformity in special district elections and non-ad valorem assessments, and specifying the elements required in the charter of each new district.<sup>11</sup>

---

<sup>1</sup> Section 189.403(1), F.S.

<sup>2</sup> Section 125.901, F.S.

<sup>3</sup> Section 191.002, F.S.

<sup>4</sup> Section 298.01, F.S.

<sup>5</sup> Section 189.403(3), F.S.

<sup>6</sup> Section 189.403(2), F.S.

<sup>7</sup> Section 189.412(2), F.S.

<sup>8</sup> At <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (accessed 3/23/2014).

<sup>9</sup> Section 189.401, F.S.

<sup>10</sup> For example, the creation of community development districts and their charters is exclusively controlled by Ch. 190, F.S. Section 190.004, F.S.

<sup>11</sup> Section 189.402(2), F.S.

## *2. Effect of Proposed Changes*

The bill reorganizes Ch. 189, F.S., into the following eight new parts:

- Part I: “General Provisions”
- Part II: “Dependent Special Districts”
- Part III: “Independent Special Districts”
- Part IV: “Elections”
- Part V: “Finance”
- Part VI: “Oversight and Accountability”
- Part VII: “Merger and Dissolution”
- Part VIII: “Comprehensive Planning”

The bill extensively renumbers and relocates sections and subsections of the present statutes in order to group them with other related sections under one of the eight parts. As discussed below, some sections are revised extensively and new sections created. The bill also conforms a number of statutes and sections to the revised numbering system.

This portion of the analysis examines the substantive changes proposed in the bill, primarily to those statutes amended or created for inclusion in new Parts III and VI. Except where noted, the revisions of statutes proposed for inclusion in Parts I, II, IV, V, VII, and VIII are primarily conforming and will be described in the Section Directory.

### **Independent Special Districts (Proposed Part III)**

#### **Legislative Intent**

##### *1. Current Situation*

Section 189.402, F.S., includes extensive statements of legislative intent for the adoption of Ch. 189, F.S. Subsections (3), (4), (5), and (8) state the perceived needs for independent special districts to assist with managing and financing basic infrastructure, facilities, and services, and the need for uniformity in managing and operating these districts.

##### *2. Effect of Proposed Changes*

The bill restructures the statements of intent and places them in different Parts to align more closely with the subject matter of specific statutes. The present subsections pertaining to independent special districts are placed in Part III and portions of the statements of intent are deleted.

#### **Mandatory Charter Requirements**

##### *1. Current Situation*

With the exception of community development districts<sup>12</sup> the charter for any new independent special district must include the elements required in s. 189.404(3), F.S.<sup>13</sup> The statute<sup>14</sup> expressly prohibits any special law or general law of local application which:

- (a) Create special districts that do not conform with the minimum requirements for district charters under s. 189.404(3), F.S.;
- (b) Exempt district elections from the requirements of s. 189.405, F.S.;
- (c) Exempt a district from the requirements for bond referenda under s. 189.408, F.S.;

---

<sup>12</sup> Sections 189.4031(2), 190.004, F.S.

<sup>13</sup> Section 189.404(1), F.S.

<sup>14</sup> Section 189.404(2), F.S.

- (d) Exempt a district from the requirements for reporting, notice, or public meetings under ss. 189.4085, 189.415, 189.417, or 189.418, F.S.;
- (e) Create a district for which a statement documenting the following is not submitted to the Legislature:
  - 1. The purpose of the proposed district;
  - 2. The authority of the proposed district;
  - 3. An explanation of why the district is the best alternative; and
  - 4. A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the district is consistent with approved local planning and the local government does not object to creation of the district.

Ch. 189, F.S., was passed by a 3/5 majority in each chamber.<sup>15</sup> Under the Florida Constitution, a law passed with a 3/5 majority vote may be amended or repealed only by another 3/5 majority vote.<sup>16</sup>

## *2. Effect of Proposed Change*

The bill renumbers and relocates ss. 189.405, 189.408, 189.4085, 189.415, 189.417, and 189.418, F.S. The bill thus proposes conforming changes to the statutory references in present s. 189.404(2), F.S. Whether a conforming change to statutory references within a statute originally passed under the 3/5 majority requirement of the Constitution is an “amendment” requiring passage by another 3/5 majority is unclear.

## **Oversight and Accountability (Proposed Part VI)**

### **Special District Financial and Operations Reporting**

#### *1. Current Situation*

##### *a. Annual Financial Reporting*

All special districts are required to file annual financial reports.<sup>17</sup> Each independent special district must file a copy of its annual financial report with the Department of Financial Services (DFS).<sup>18</sup> A dependent special district qualifying as a “component unit” of a local government must provide that entity with financial information necessary to comply with the statutory reporting requirement.<sup>19</sup> A dependent special district that is neither a component unit nor required to file an audit under s. 218.39, F.S., must submit a financial report directly to DFS.<sup>20</sup>

Special districts with revenues or total expenditures and expenses exceeding \$100,000 (or between \$50,000 and \$100,000 if the district has not been audited for the prior two fiscal years) must have a financial audit of accounts and records prepared by an independent certified public accountant.<sup>21</sup> A dependent special district may satisfy this requirement by providing sufficient information for the local government on which the district is dependent to include the district in its own annual audit but an independent district must provide for its own audited report.<sup>22</sup> Audit reports must be filed both with DFS<sup>23</sup> and the Auditor General.<sup>24</sup>

---

<sup>15</sup> Ch. 89-169, s. 67, LOF.

<sup>16</sup> Art. III, s. 11(a)(21), Fla. Const.; *School Board of Escambia Co. v. State*, 353 So. 2d 834, 839 (Fla. 1977). The exact text of Art. III, s. 11(a)(21), Fla. Const., is “SECTION 11. Prohibited special laws.— (a) There shall be no special law or general law of local application pertaining to: ... (21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.”

<sup>17</sup> Section 189.418(9), F.S.

<sup>18</sup> Section 218.32(1)(a), F.S.

<sup>19</sup> Section 218.32(1)(b), F.S.

<sup>20</sup> Section 218.32(1)(e), F.S.

<sup>21</sup> Section 218.39(1)(c), (1)(h), F.S.

<sup>22</sup> Section 218.39(3)(a), F.S.

<sup>23</sup> Section 218.32(1)(d), F.S.

<sup>24</sup> Section 218.39(7), F.S.

DFS must report a special district's failure to file an annual financial report under s. 218.32, F.S., to the Legislative Auditing Committee (LAC)<sup>25</sup> and DEO.<sup>26</sup> The Auditor General must report a special district's failure to file a required financial audit report under s. 218.39, F.S., to the LAC<sup>27</sup> and DEO.<sup>28</sup> On receiving such reports the LAC may conduct a hearing to determine whether the special district should be subject to further action.<sup>29</sup> On finding further action is necessary, the LAC must notify DEO which in turn must proceed either to determine if the special district should be found inactive<sup>30</sup> or to assist the district into compliance.<sup>31</sup>

b. Retirement System Reporting

Special districts participating in, operating, or administering a retirement system or plan for public employees, funded in any part by public funds, must comply with "Florida Protection for Public Employees Retirement Benefits Act."<sup>32</sup> At least every three years each retirement system or plan must have an actuarial report prepared by an enrolled actuary.<sup>33</sup> A copy of the report must be furnished to the Department of Management Services (DMS).<sup>34</sup> DMS must report any failure to file to DEO.<sup>35</sup>

c. Bond Issue Reporting

Special districts authorized to issue bonds<sup>36</sup> must report the following information to the Division of Bond Finance of the State Board of Administration (SBA):

- a complete description of every new general obligation or general revenue bond;
- advance notice of impending sales of new bonds;
- copies of final official statements of bond sales, if prepared;<sup>37</sup>
- specific information on the sale of bonds by public auction<sup>38</sup> or negotiated sale;<sup>39</sup> and
- at the request of SBA, verify the information held by the Division pertaining to the special district's bond obligations.<sup>40</sup>

SBA must report any failure to file the foregoing information to the LAC<sup>41</sup> and DEO.<sup>42</sup>

d. Other Required Reports

Special districts must provide each local general-purpose government in which the district is located with the following information:

---

<sup>25</sup> Section 218.32(1)(f), F.S. The LAC is a standing joint committee authorized by joint rule of the Legislature.

<sup>26</sup> Sections 189.419(5), 218.32(1)(f), F.S.

<sup>27</sup> Section 11.45(7)(a), F.S.

<sup>28</sup> Section 189.419(5), F.S.

<sup>29</sup> Section 11.40(2), F.S.

<sup>30</sup> Section 189.4044, F.S. The PCS makes changes to DEO's authority to find a special district is inactive which are described below in the discussion on inactive districts.

<sup>31</sup> Section 189.421, F.S. DEO's assistive and enforcement authority is discussed under paragraph e in this section of the analysis.

<sup>32</sup> Ch. 112, Part VII, F.S. This requirement is at s. 112.62, F.S.

<sup>33</sup> "'Enrolled actuary' means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries." Section 112.625(3), F.S.

<sup>34</sup> Section 112.63(2), F.S.

<sup>35</sup> Section 189.419(4), F.S.

<sup>36</sup> Section 189.404(3)(b), F.S. Some types of special districts have separate statutes providing bond authority, such as community development districts (s. 190.006(11), F.S.), special fire and rescue districts (s. 191.012, F.S.), and drainage and water control districts (s. 298.47, F.S.).

<sup>37</sup> Section 218.38(1)(a), F.S.

<sup>38</sup> Section 218.38(1)(b), F.S.

<sup>39</sup> Section 218.38(1)(c), F.S.

<sup>40</sup> Section 218.38(2), F.S.

<sup>41</sup> Section 218.38(3), F.S.

<sup>42</sup> Section 189.419(3), F.S.

- an initial report of the district's public facilities and annual reports of changes to those facilities<sup>43</sup>
- a schedule of regular meetings of the governing body of the district, provided either quarterly, semiannually, or annually.

e. Oversight/Enforcement Authority of DEO

On receiving a report from a local government of an independent special district's noncompliance with the statutory reporting requirements,<sup>44</sup> or a report of an independent or dependent special district failure to file a required financial report, DEO is first required to attempt to bring the district into compliance. A certified letter is sent to the district describing the required report, the deadline for submission, contact information if the district needs technical assistance to complete the report, where the report must be filed, providing a 60 day deadline to file the report at the direction of the letter, and explaining the potential consequences for failing to comply.<sup>45</sup>

The district must file the report or respond within the time allowed and state why it cannot meet the deadline.<sup>46</sup> DEO must forward such a response to:

- the LAC, if the report is required under ss. 218.32 or 218.39, F.S.,<sup>47</sup>
- the applicable local governments, if the report pertains to information required under ss. 189.415, 189.416, 189.417, F.S., or financial information requested under s. 189.419(9), F.S.
- DMS, if the report is required under s. 112.63, F.S.

If a special district fails to file a required actuarial review, financial report, or annual audit under s. 112.63, 218.32, or 218.39, F.S., respectively, after the 60 day opportunity provided in the DEO letter, DEO is authorized to seek a writ of certiorari in the circuit court for Leon County, Florida.<sup>48</sup>

## 2. *Effect of Proposed Change*

The bill revises the duty of the LAC to provide notice upon determining the failure of a special district to make certain financial reports requires additional state action. In addition to DEO, the LAC will provide notice to the Speaker of the House of Representatives, the President of the Senate, the standing committees of the Senate and the House charged with special district oversight as determined by the presiding officers of each chamber, and the legislators who represent a portion of the geographical jurisdiction of the special district. The LAC may also request DEO proceed to file legal action against the district.

The bill revises the type of action DEO may bring to enforce the duties of a special district. Instead of seeking certiorari review, DEO will be authorized to file a petition in circuit court seeking declaratory, injunctive, any other equitable relief, or any remedy provided in law. Venue will be in Leon County and the prevailing party will be entitled to an award of costs and reasonable attorney fees.

## **Special District Oversight**

<sup>43</sup> Section 189.415(2), F.S. The statute exempts the Reedy Creek Improvement District from this requirement. Section 189.415(9), F.S.

<sup>44</sup> For the district's failure to report as required under ss. 189.415, 189.416, 189.417, F.S., or provide financial information requested under s. 189.418(9), F.S.

<sup>45</sup> Section 189.421(1)(a), F.S. If a dependent district, a copy of the letter is sent to the chair of the local governing authority on which the district is dependent.

<sup>46</sup> Section 189.421(1)(b), F.S.

<sup>47</sup> Section 189.421(1)(b)1., F.S.

<sup>48</sup> Section 189.421(2), (3), (4), F.S. Generally, a writ of certiorari is a method for the court to review a decision from a lower tribunal when there is not a right to an appeal. Philip J. Padovano, *Appellate Practice*, s. 30:5 "Certiorari" (West Florida Practice Series). The failure to comply is deemed the district's final action and the reporting requirements are deemed essential requirements of law. Section 189.421(2), F.S. Basically, the present statute provides a mechanism for DEO to seek review in circuit court of a special district's "decision" not to file a required report. Other than providing an award of costs and attorney fees to the prevailing party, the statute does not provide any additional remedies for failing to provide a required report.

## 1. *Current Situation*

### a. Local Government Oversight

In conjunction with the local facility reporting process,<sup>49</sup> local general-purpose governments are authorized to review independent special districts within their respective jurisdictions.<sup>50</sup> The purpose for such review includes improving decision making about the future role of the district and improvements in delivering services.<sup>51</sup> The statute provides criteria for such reviews,<sup>52</sup> the opportunity for the district to provide additional information,<sup>53</sup> and requires the reviewing government to provide a copy of the report to the government that created the district.<sup>54</sup> Certain deepwater ports, airport authorities, and special districts created to operate health systems and facilities licensed under Chs. 395, 400, or 429, F.S., are exempt from this review process.<sup>55</sup>

### b. Oversight Role of the Legislature

When in session each house of the Legislature is authorized by the Constitution to compel the attendance of witnesses and production of documents or other evidence on any matter under investigation by that chamber or one of its committees.<sup>56</sup> By general law the powers to investigate, require the attendance of witnesses, and order production of documents and evidence may be conferred upon committees to be exercised when the Legislature is not in session.<sup>57</sup>

By statute,<sup>58</sup> standing and select legislative committees, and their related subcommittees, are authorized to request the appearance of witnesses for the purpose of obtaining information. These committees are authorized and empowered to inspect and investigate books, records, and other information specified in the statute. While the statute provides for the committees to issue subpoenas necessary to compel the attendance of witnesses or the production of certain materials, but such subpoenas may be issued only in accordance with the rules of the of the chamber in which the committee is located.<sup>59</sup>

## 2. *Effect of Proposed Changes*

The bill requires certain notices and information be provided to the Speaker of the House of Representatives, the President of the Senate, the standing committees of the Senate and the House charged with special district oversight as determined by the presiding officers of each chamber, and the legislators who represent a portion of the geographical jurisdiction of the special district.

Certain requirements for the order of local oversight review are deleted, including reporting requirements and the exemption from local oversight review for certain deepwater ports, airports, and health system and facilities districts.

The bill creates s. 189.034, F.S. requiring LAC notice to the Speaker of the House of Representatives, the President of the Senate, the standing committees of the Senate and the House charged with special district oversight as determined by the presiding officers of each chamber, and the legislators who represent a portion of the geographical jurisdiction of the special district, when a district fails to file a required financial report. The LAC is authorized to convene a hearing on the district's noncompliance

---

<sup>49</sup> Section 189.415, F.S.

<sup>50</sup> Section 189.428, F.S.

<sup>51</sup> Section 189.428(1), F.S.

<sup>52</sup> Section 189.428(5), F.S.

<sup>53</sup> Section 189.428(6), F.S.

<sup>54</sup> Section 189.428(7), F.S.

<sup>55</sup> Section 189.428(9), F.S.

<sup>56</sup> Art. III, s. 5, Fla. Const.

<sup>57</sup> Id. This does not include the power to punish contempt or refusal to obey a lawful legislative summons. Contempt of an interim legislative committee is by judicial proceedings when provided in law.

<sup>58</sup> Section 11.143, F.S.

<sup>59</sup> Section 11.143(3)(a), F.S.

as well as general oversight issues at the direction of the Speaker and the President. The statute provides an extensive list of documents and material the LAC may request, and the special district must provide, prior to the hearing.

Section 189.035, F.S., is also created as a parallel provision to s. 189.034, governing oversight of special districts created by local ordinance. Instead of the legislative presiding officers, committees, and certain members, the LAC will provide notice of a district's noncompliance to the chair of the local general-purpose government. The local government may convene a hearing within 6 months and request the same type of documents as separately provided in s. 189.034.

The bill creates s. 112.511, F.S., authorizing the Governor to suspend or remove members of a special district governing body. Those members of a governing body who also exercise the powers and duties of a state or county officer remain subject to the Governor's constitutional suspension power.<sup>60</sup> Those governing body members exercising power and duties other than as a state or county officer are subject to the Governor's statutory power of suspension and removal.<sup>61</sup> The bill requires the Governor and the authority with the power to appoint replacement governing body members ensure a sufficient number of members are maintained to constitute a quorum.

## **Access to Information about Special Districts**

### *1. Current Situation*

DEO, through the SDI Program, maintains the official list of all special districts in the state. The list is available through the DEO website<sup>62</sup> and is sortable based on a variety of factors. Districts are required to submit their status to DEO for proper listing as independent or dependent.<sup>63</sup> If the district's listed status differs from the status submitted to DEO, the district may request a declaratory statement clarifying DEO's conclusion or may seek an amendment to conform its charter to the listed status.<sup>64</sup> The SDI Program is also responsible for collecting and maintaining reports from LAC, the Auditor General, DFS, DMS, and SBA of district noncompliance with financial reporting requirements, publishing the "Florida Special District Handbook," and providing technical assistance.<sup>65</sup>

Other than general references to the financial disclosure, noticing, and reporting requirements included in every special district charter,<sup>66</sup> the statute does not impose an express duty on a special district to make documents, reports, and information available on the internet.

### *2. Effect of Proposed Change*

The bill creates s. 189.069, F.S., requiring each special district to update and maintain an internet website on which the district must publish extensive information. Included are the full legal name of the district, its public purpose, the full text of the district charter, contact information for each member on the district's governing body, a description of the district's boundaries, a listing of all taxes, fees, and charges imposed by the district, the code of ethics applicable to the district, all governmental entities with oversight authority for the district, and the district's annual budget and financial reports. DEO is required to provide separate links to each district website complying with the new provision.

## **DEO Declaration of Inactive Special Districts**

### *1. Current Situation*

---

<sup>60</sup> Art. IV, s. 7(a), Fla. Const.

<sup>61</sup> Section 112.51, F.S.

<sup>62</sup> At <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (accessed 3/29/2014). Web access is required by s. 189.4035(5), F.S. See also Special District Information Program available at <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-information-program> (last visited 3/29/2014).

<sup>63</sup> Section 189.4035(2), F.S.

<sup>64</sup> Section 189.4035(6), F.S.

<sup>65</sup> Section 189.412, F.S.

<sup>66</sup> Section 189.404(3)(h), F.S.



DEO is required to declare a special district inactive under certain circumstances.<sup>67</sup> If the governing body of a district unanimously adopts a resolution declaring the district inactive the district shall be responsible for paying its dissolution expenses.<sup>68</sup> If a district created by special act becomes inactive, DEO is required to notify the Speaker of the House and the President of the Senate of the declaration of inactive status; the declaration is sufficient notice under the Constitution to authorize repeal of any special law establishing the district and its authority.<sup>69</sup>

## *2. Effect of Proposed Change*

The bill clarifies a special district declared inactive on the unanimous vote of its governing body may be dissolved without a referendum. For districts created by special act, DEO must send the declaration of inactive status to the Speaker of the House of Representatives, the President of the Senate, the standing committees of the Senate and the House charged with special district oversight as determined by the presiding officers of each chamber, and the legislators who represent a portion of the geographical jurisdiction of the special district.

The bill prohibits a district declared inactive by DEO from collecting taxes, fees, or assessments unless the declaration is withdrawn or ruled invalid after the district brings a timely challenge to the declaration. The challenge may be brought as an administrative proceeding under Ch. 120, F.S., or by filing an action for declaratory and injunctive relief under Ch. 86, F.S., in the circuit court for the judicial circuit where the majority of the district is located. The prevailing party is entitled to an award of costs and attorney fees. If DEO prevails on the challenge, it may bring a subsequent petition to enforce the prohibitions on collections in the circuit court for Leon County.

## **Repeal of Community Improvement Authority Act**

### *1. Current Situation*

Created in 2000, the Community Improvement Authority Act was intended to facilitate improvement of port areas.<sup>70</sup> Part of the stated purpose was improving existing and developing new facilities in “major downtown areas,” including professional sports facilities, by creating a means to provide comprehensive methods and sources of financing for such projects. The Official List of Special Districts maintained by DEO contains no such districts and the SDI Program has never received a report of any such district being created.<sup>71</sup>

### *2. Effect of Proposed Change*

The bill repeals the Act by repealing ss. 189.430 – 189.444, F.S.

## **B. SECTION DIRECTORY:**

Section 1. Divides Ch. 189, F.S., as amended by the bill, into Parts I – VIII.

Section 2. Amends s. 11.40, F.S., to revise the duty of the Legislative Auditing Committee to give certain notices.

Section 3. Amends s. 112.312(2), F.S., to add “special district” to the definition of “agency.”

Section 4. Creates s. 112.511, F.S., providing for the suspension or removal by the Governor of members of special district governing boards.

---

<sup>67</sup> Section 189.4044, F.S.

<sup>68</sup> Section 189.4044(2)(a)5., F.S.

<sup>69</sup> Section 189.4044(3), F.S.

<sup>70</sup> Ch. 2000-348, LOF.

<sup>71</sup> March 19, 2014 email from Jack Gaskins, Jr., Special District Information Program, in possession of staff of the Local & Federal Affairs Committee.

- Section 5. Makes conforming changes to s. 125.901, F.S., and deletes the power of the chair of a local legislative delegation to appoint a member of the Legislature to the 33 member board of a children's services special district.
- Section 6. Renumbers, transfers, and amends s. 189.401, F.S.
- Section 7. Renumbers and transfers s. 189.402(1), (6), (7), F.S., making conforming changes.
- Section 8. Renumbers and transfers s. 189.402(2), F.S., making conforming changes.
- Section 9. Renumbers and transfers s. 189.402(3), (4), (5), (8), F.S., removing legislative intent, making conforming changes.
- Section 10. Renumbers and transfers s. 189.403, F.S., revising definitions, making conforming changes.
- Section 11. Renumbers and transfers s. 189.4031(1), F.S., and creates a new catchline.
- Section 12. Renumbers and transfers s. 189.4031(2), F.S., making conforming changes.
- Section 13. Renumbers and transfers s. 189.4035, F.S., requiring DEO provide a web link for certain required public information, deleting text on seeking amendments to district charters, and making conforming changes.
- Section 14. Renumbers and transfers s. 189.404, F.S., making conforming changes.
- Section 15. Renumbers and transfers s. 189.40401, F.S.
- Section 16. Renumbers and transfers s. 189.4041, F.S., making conforming changes.
- Section 17. Renumbers and transfers s. 189.4042(1), F.S., making conforming changes.
- Section 18. Renumbers and transfers s. 189.4042(2), F.S., making conforming changes.
- Section 19. Renumbers and transfers s. 189.4042(3), F.S., making conforming changes.
- Section 20. Renumbers and transfers s. 189.4042(4), F.S., making conforming changes.
- Section 21. Renumbers and transfers s. 189.4042(5), F.S., making conforming changes.
- Section 22. Renumbers and transfers s. 189.4042(6), F.S., making conforming changes.
- Section 23. Renumbers and transfers s. 189.4042(7), F.S., making conforming changes.
- Section 24. Renumbers and transfers s. 189.4044, F.S., revising certain proceedings to dissolve a special district, making conforming changes.
- Section 25. Renumbers and transfers s. 189.4045, F.S.
- Section 26. Renumbers and transfers s. 189.4047, F.S.
- Section 27. Renumbers and transfers s. 189.405(1), (2), (3), (4), (6), (7), F.S., making conforming changes.
- Section 28. Renumbers and transfers s. 189.405(5), F.S., making conforming changes.
- Section 29. Renumbers and transfers s. 189.4051, F.S., making conforming changes.
- Section 30. Renumbers and transfers s. 189.4065, F.S.
- Section 31. Renumbers and transfers s. 189.408, F.S.
- Section 32. Renumbers and transfers s. 189.4085, F.S.
- Section 33. Renumbers and transfers s. 189.412, F.S., revising and deleting certain terms, requiring compliance with public bidding requirements if DEO uses third-party vendors to provide certain technical assistance, making conforming changes.
- Section 34. Renumbers and transfers s. 189.413, F.S., making conforming changes.
- Section 35. Renumbers and transfers s. 189.415, F.S.
- Section 36. Renumbers and transfers s. 189.4155, F.S.
- Section 37. Renumbers and transfers s. 189.4156, F.S.
- Section 38. Renumbers and transfers s. 189.416, F.S., making conforming changes.
- Section 39. Renumbers and transfers s. 189.417, F.S., making conforming changes.
- Section 40. Renumbers and transfers s. 189.418, F.S., making conforming changes.
- Section 41. Renumbers and transfers s. 189.419, F.S., adding requirements for notice by the LAC to Legislative presiding officers, committees, and certain members, and to certain local government officials, making conforming changes.
- Section 42. Renumbers and transfers s. 189.420, F.S.

- Section 43. Renumbers and transfers s. 189.421, F.S., authorizing DEO on receiving notice from the LAC to petition for enforcement of certain reporting requirements in circuit court, deleting a provision for DEO to bring enforcement action on receiving notice from DMS, making conforming changes.
- Section 44. Renumbers and transfers s. 189.4221, F.S.
- Section 45. Renumbers and transfers s. 189.423, F.S.
- Section 46. Renumbers and transfers s. 189.425, F.S.
- Section 47. Renumbers and transfers s. 189.427, F.S., making conforming changes.
- Section 48. Renumbers and transfers s. 189.428, F.S., deleting legislative intent and certain oversight review provisions, deleting an exemption for certain ports, airports, and health system and facilities districts, making conforming changes.
- Section 49. Renumbers and transfers s. 189.429, F.S., making conforming changes.
- Section 50. Repeals ss. 189.430 – 189.444, F.S.
- Section 51. Creates s. 189.034, F.S., providing procedures of oversight of special districts created by special act.
- Section 52. Creates s. 189.035, F.S., providing procedures of oversight of special districts created by local ordinance.
- Section 53. Creates s. 189.055, F.S., providing special districts are to be treated as municipalities for purposes of exempting their property from taxation under s. 196.199(1), F.S.
- Section 54. Creates s. 189.069, F.S., requiring special districts as of July 1, 2015, to provide and maintain certain information on an official Internet website.
- Section 55. Creates s. 189.0691, F.S., requiring DEO to report financial reporting violations to the Governor, authorizing suspension or removal of governing body members under s. 112.511, requiring appointment of sufficient members to form a quorum.
- Section 56. Makes conforming changes to s. 11.45, F.S.
- Section 57. Makes conforming changes to s. 100.11(4)(c), F.S.
- Section 58. Makes conforming changes to s. 101.657(1)(f), F.S.
- Section 59. Makes conforming changes to s. 112.061(14)(a), F.S.
- Section 60. Makes conforming changes to s. 112.63(4)(d), F.S.
- Section 61. Makes conforming changes to s. 112.665(1), F.S.
- Section 62. Makes conforming changes to s. 121.021(9), F.S.
- Section 63. Makes conforming changes to s. 121.051(2)(b), F.S.
- Section 64. Makes conforming changes to s. 153.94(1), F.S.
- Section 65. Makes conforming changes to s. 163.08(2)(a), F.S.
- Section 66. Makes conforming changes to s. 165.031(7), F.S.
- Section 67. Makes conforming changes to s. 165.0615(1)(b), (8), (16), F.S.
- Section 68. Makes conforming changes to s. 171.202(3), F.S.
- Section 69. Makes conforming changes to s. 175.032(16), F.S.
- Section 70. Makes conforming changes to s. 190.011(6), F.S.
- Section 71. Makes conforming changes to s. 190.046(8), F.S.
- Section 72. Makes conforming changes to s. 190.049, F.S.
- Section 73. Makes conforming changes to s. 191.003(5), F.S.
- Section 74. Makes conforming changes to s. 191.005(1)(a), (8), F.S.
- Section 75. Makes conforming changes to s. 191.013(2), F.S.
- Section 76. Makes conforming changes to s. 191.014(1), F.S.
- Section 77. Makes conforming changes to s. 191.015, F.S.
- Section 78. Makes conforming changes to s. 200.001(8)(c), (d), (e), F.S.
- Section 79. Makes conforming changes to s. 218.31(1), (5), (6), (7), F.S.
- Section 80. Makes conforming changes to s. 218.32(1)(a), (1)(f), (2), F.S.
- Section 81. Makes conforming changes to s. 218.37(1)(g), F.S.

- Section 82. Makes conforming changes to s. 255.20(1)(j), F.S.  
Section 83. Makes conforming changes to s. 298.225(4), F.S.  
Section 84. Makes conforming changes to s. 343.922(7), F.S.  
Section 85. Makes conforming changes to s. 348.0004(5), F.S.  
Section 86. Makes conforming changes to s. 373.711, F.S.  
Section 87. Makes conforming changes to s. 408.0891(3)(b), F.S.  
Section 88. Makes conforming changes to s. 582.32(1), F.S.  
Section 89. Makes conforming changes to s. 1013.355(a)(3), F.S.  
Section 90. Provides an effective date of July 1, 2014.

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

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

1. Revenues:

None

2. Expenditures:

Apparent minimal compliance costs for DEO to maintain Internet weblinks to special district information.

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

1. Revenues:

None

2. Expenditures:

None

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

None

### **D. FISCAL COMMENTS:**

None

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The bill raises an issue as to whether proposed conforming changes to s. 189.404(2), F.S., require a 3/5 vote of both houses in order to pass.

### **B. RULE-MAKING AUTHORITY:**

None

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

At its meeting of March 27, 2014, the Local & Federal Affairs Committee considered, approved, and reported favorably a Proposed Committee Substitute revising the original bill. This analysis is drawn to the PCS.