Community Redevelopment Agency

Florida Statute 189

Palmetto, Florida

JBurton@Palmettofl.org

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THE CITY OF PALMETTO

INCORPORATED 1897

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PALMETTO

Community Redevelopment Agency

Palmetto Community Redevelopment Agency

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Mark Barnebey

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Jeff Burton

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189.401 Short title.—

This chapter may be cited as the "Uniform Special District Accountability Act of 1989."

History.—s. 1, ch. 89-169.

189.402 Statement of legislative purpose and intent.—

(1) It is the intent of the Legislature through the adoption of this chapter to provide general provisions for the definition, creation, and operation of special districts. It is the specific intent of the Legislature that dependent special districts shall be created at the prerogative of the counties and municipalities and that independent special districts shall only be created by legislative authorization as provided herein.

(2) It is the intent of the Legislature through the adoption of this chapter to have one centralized location for all legislation governing special districts and to:

(a) Improve the enforcement of statutes currently in place that help ensure the accountability of special districts to state and local governments.

(b) Improve communication and coordination between state agencies with respect to required special district reporting and state monitoring.

(c) Improve communication and coordination between special districts and other local entities with respect to ad valorem taxation, non-ad valorem assessment collection, special district elections, and local government comprehensive planning.

(d) Move toward greater uniformity in special district elections and non-ad valorem assessment collection procedures at the local level without hampering the efficiency and effectiveness of the current procedures.

(e) Clarify special district definitions and creation methods in order to ensure consistent application of those definitions and creation methods across all levels of government.

(f) Specify in general law the essential components of any new type of special district.

(g) Specify in general law the essential components of a charter for a new special district.

(h) Encourage the creation of municipal service taxing units and municipal service benefit units for providing municipal services in unincorporated areas of each county.

(3) The Legislature finds that:

(a) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, powers, operation, and duration of

independent special districts to manage and finance basic capital infrastructure, facilities, and services; and that, based upon a proper and fair determination of applicable facts, an independent special district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a means of solving the state's planning, management, and financing needs for delivery of capital infrastructure, facilities, and services in order to provide for projected growth without overburdening other governments and their taxpayers.

(b) It is in the public interest that any independent special district created pursuant to state law not outlive its usefulness and that the operation of such a district and the exercise by the district of its powers be consistent with applicable due process, disclosure, accountability, ethics, and government-in-the-sunshine requirements which apply both to governmental entities and to their elected and appointed officials.

(c) It is in the public interest that long-range planning, management, and financing and long-term maintenance, upkeep, and operation of basic services by independent special districts be uniform.

(4) It is the policy of this state:

(a) That independent special districts are a legitimate alternative method available for use by the private and public sectors, as authorized by state law, to manage, own, operate, construct, and finance basic capital infrastructure, facilities, and services.

(b) That the exercise by any independent special district of its powers, as set forth by uniform general law comply with all applicable governmental comprehensive planning laws, rules, and regulations.

(5) It is the legislative intent and purpose, based upon, and consistent with, its findings of fact and declarations of policy, to authorize a uniform procedure by general law to create an independent special district as an alternative method to manage and finance basic capital infrastructure, facilities, and services. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent special district.

(6) The Legislature finds that special districts serve a necessary and useful function by providing services to residents and property in the state. The Legislature finds further that special districts operate to serve a public purpose and that this is best secured by certain minimum standards of accountability designed to inform the public and appropriate general-purpose local governments of the status and activities of special districts. It is the intent of the Legislature that this public trust be secured by requiring each independent special district in the state to register and report its financial and other activities. The Legislature further finds that failure of an independent special district to comply with the minimum disclosure requirements set forth in this chapter may result in action against officers of such district board.

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(7) Realizing that special districts are created to serve special purposes, the Legislature intends through the adoption of this chapter that special districts cooperate and coordinate their activities with the units of general-purpose local government in which they are located. The reporting requirements set forth in this chapter shall be the minimum level of cooperation necessary to provide services to the citizens of this state in an efficient and equitable fashion.

(8) The Legislature finds and declares that:

(a) Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit of government can plan or implement policies to deal with these issues without affecting other units of government.

(b) The provision of capital infrastructure, facilities, and services for the preservation and enhancement of the quality of life of the people of this state may require the creation of multicounty and multijurisdictional districts.

History.—s. 2, ch. 89-169.

189.403 Definitions.—As used in this chapter, the term:

(1) "Special district" means a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers. For the purpose of s. 196.199(1), special districts shall be treated as municipalities. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

(2) "Dependent special district" means a special district that meets at least one of the following criteria:

(a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.

(b) All members of its governing body are appointed by the governing body of a single county or a single municipality.

(c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.

(d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

This subsection is for purposes of definition only. Nothing in this subsection confers additional authority upon local governments not otherwise authorized by the provisions of the special acts or general acts of local application creating each special district, as amended.

(3) "Independent special district" means a special district that is not a dependent special district as defined in subsection (2). A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

(4) "Department" means the Department of Economic Opportunity.

(5) "Local governing authority" means the governing body of a unit of local general-purpose government. However, if the special district is a political subdivision of a municipality, "local governing authority" means the municipality.

(6) "Water management district" for purposes of this chapter means a special taxing district which is a regional water management district created and operated pursuant to chapter 373 or chapter 61-691, Laws of Florida, or a flood control district created and operated pursuant to chapter 25270, Laws of Florida, 1949, as modified by s. 373.149.

(7) "Public facilities" means major capital improvements, including, but not limited to, transportation facilities, sanitary sewer facilities, solid waste facilities, water management and control facilities, potable water facilities, alternative water systems, educational facilities, parks and recreational facilities, health systems and facilities, and, except for spoil disposal by those ports listed in s. 311.09(1), spoil disposal sites for maintenance dredging in waters of the state.

History.—s. 3, ch. 89-169; s. 1, ch. 92-314; s. 4, ch. 97-255; s. 64, ch. 2011-142.

189.4031 Special districts; creation, dissolution, and reporting requirements; charter requirements.—

(1) All special districts, regardless of the existence of other, more specific provisions of applicable law, shall comply with the creation, dissolution, and reporting requirements set forth in this chapter.

(2) Notwithstanding any general law, special act, or ordinance of a local government to the contrary, any independent special district charter enacted after the effective date of this section shall contain the information required by s. 189.404(3). Recognizing that the exclusive charter for a community development district is the statutory charter contained in ss. 190.006-190.041, community development districts established after July 1, 1980, pursuant to the provisions of chapter 190 shall be deemed in compliance with this requirement.

History.—s. 4, ch. 89-169; s. 5, ch. 97-255; s. 30, ch. 99-378.

189.4035 Preparation of official list of special districts.—

(1) The Department of Economic Opportunity shall compile the official list of special districts. The official list of special districts shall include all special districts in this state and shall indicate the independent or dependent status of each district. All special districts in the list shall be sorted by county. The definitions in s. 189.403 shall be the criteria for determination of the independent or dependent status of each special district on the official list. The status of community development districts shall be independent on the official list of special districts.

(2) The official list shall be produced by the department after the department has notified each special district that is currently reporting to the department, the Department of Financial Services pursuant to s. 218.32, or the Auditor General pursuant to s. 218.39. Upon notification, each special district shall submit, within 60 days, its determination of its status. The determination submitted by a special district shall be consistent with the status reported in the most recent local government audit of district activities submitted to the Auditor General pursuant to s. 218.39.

(3) The Department of Financial Services shall provide the department with a list of dependent special districts reporting pursuant to s. 218.32 for inclusion on the official list of special districts.

(4) If a special district does not submit its status to the department within the required time period, then the department shall have the authority to determine the status of said district. After such determination of status is completed, the department shall render the determination to an agent of the special district.

(5) The official list of special districts shall be available on the department's website.

(6) Preparation of the official list of special districts or the determination of status does not constitute final agency action pursuant to chapter 120. If the status of a special district on the official list is inconsistent with the status submitted by the district, the district may request the department to issue a declaratory statement setting forth the requirements necessary to resolve the inconsistency. If necessary, upon issuance of a declaratory statement by the department which is not appealed pursuant to chapter 120, the governing board of any special district receiving such a declaratory statement shall apply to the entity which originally established the district for an amendment to its charter correcting the specified defects in its original charter. This amendment shall be for the sole purpose of resolving inconsistencies between a district charter and the status of a district as it appears on the official list. Such application shall occur as follows:

> (a) In the event a special district was created by a local general-purpose government or state agency and applies for an amendment to its charter to confirm its independence, said application shall be granted as a matter of right. If application by an independent district is not made within 6 months of rendition of a declaratory statement, the district shall be deemed dependent and become a political subdivision of the governing body which originally established it by operation of law.
>
> (b) If the Legislature created a special district, the district shall request, by resolution, an amendment to its charter by the Legislature. Failure to apply to the Legislature for an amendment to its charter during the next regular legislative session following rendition of a declaratory statement or failure of the Legislature to pass a special act shall render the district dependent.

History.—s. 5, ch. 89-169; s. 78, ch. 92-279; s. 55, ch. 92-326; s. 9, ch. 96-324; s. 44, ch. 2001-266; s. 167, ch. 2003-261; s. 47, ch. 2010-102; s. 69, ch. 2011-142.

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189.404 Legislative intent for the creation of independent special districts; special act prohibitions; model elements and other requirements; general-purpose local government/Governor and Cabinet creation authorizations.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature that, after September 30, 1989, at a minimum, the requirements of subsection (3) must be satisfied when an independent special district is created.

(2) SPECIAL ACTS PROHIBITED.—Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:

(a) Create independent special districts that do not, at a minimum, conform to the minimum requirements in subsection (3);

(b) Exempt independent special district elections from the appropriate requirements in s. 189.405;

(c) Exempt an independent special district from the requirements for bond referenda in s. 189.408;

(d) Exempt an independent special district from the reporting, notice, or public meetings requirements of s. 189.4085, s. 189.415, s. 189.417, or s. 189.418;

(e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:

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 of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

(3) MINIMUM REQUIREMENTS.—General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following in their charters:

(a) The purpose of the district.

(b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements.

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(c) The methods for establishing the district.

(d) The method for amending the charter of the district.

(e) The membership and organization of the governing board of the district. If a district created after September 30, 1989, uses a one-acre/one-vote election principle, it shall provide for a governing board consisting of five members. Three members shall constitute a quorum.

(f) The maximum compensation of a governing board member.

(g) The administrative duties of the governing board of the district.

(h) The applicable financial disclosure, noticing, and reporting requirements.

(i) If a district has authority to issue bonds, the procedures and requirements for issuing bonds.

(j) The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district.

(k) The methods for financing the district.

(l) If an independent special district has the authority to levy ad valorem taxes, other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the millage rate that is authorized.

(m) The method or methods for collecting non-ad valorem assessments, fees, or service charges.

(n) Planning requirements.

(o) Geographic boundary limitations.

(4) LOCAL GOVERNMENT/GOVERNOR AND CABINET CREATION AUTHORIZATIONS.—Except as otherwise authorized by general law, only the Legislature may create independent special districts.

(a) A municipality may create an independent special district which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized in general law.

(b) A county may create an independent special district which shall be adopted by a charter in accordance with s. 125.901 or s. 154.331 or chapter 155, or which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized by general law.

(c) The Governor and Cabinet may create an independent special district which shall be established by rule in accordance with s. 190.005 or as otherwise authorized in general law. The Governor and Cabinet may also approve the establishment of a charter for the creation

of an independent special district which shall be in accordance with s. 373.713, or as otherwise authorized in general law.

(d)

1. Any combination of two or more counties may create a regional special district which shall be established in accordance with s. 950.001, or as otherwise authorized in general law.

2. Any combination of two or more counties or municipalities may create a regional special district which shall be established in accordance with s. 373.713, or as otherwise authorized by general law.

3. Any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district in accordance with s. 163.567, or as otherwise authorized in general law.

(5) STATUS STATEMENT.—After October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

History.—s. 6, ch. 89-169; s. 106, ch. 90-136; s. 6, ch. 97-255; s. 6, ch. 2010-205.

189.40401 Independent special district services in disproportionally affected county; rate reduction for providers providing economic benefits.—

If the governing body of an independent special district that provides water, wastewater, and sanitation services in a disproportionally affected county, as defined in s. 288.106(8), determines that a new user or the expansion of an existing user of one or more of its utility systems will provide a significant benefit to the community in terms of increased job opportunities, economies of scale, or economic development in the area, the governing body may authorize a reduction of its rates, fees, or charges for that user for a specified period of time. A governing body that exercises this power must do so by resolution that states the anticipated economic benefit justifying the reduction as well as the period of time that the reduction will remain in place.

History.—s. 8, ch. 2012-127.

189.4041 Dependent special districts.—

(1) A charter for the creation of a dependent special district created after September 30, 1989, shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected.

(2) A county is authorized to create dependent special districts within the boundary lines of the county, subject to the approval of the governing body of the incorporated area affected.

(3) A municipality is authorized to create dependent special districts within the boundary lines of the municipality.

(4) Dependent special districts created by a county or municipality shall be created by adoption of an ordinance that includes:

(a) The purpose, powers, functions, and duties of the district.

(b) The geographic boundary limitations of the district.

(c) The authority of the district.

(d) An explanation of why the district is the best alternative.

(e) The membership, organization, compensation, and administrative duties of the governing board.

(f) The applicable financial disclosure, noticing, and reporting requirements.

(g) The methods for financing the district.

(h) A declaration that the creation of the district is consistent with the approved local government comprehensive plans.

History.—s. 7, ch. 89-169; s. 7, ch. 97-255.

189.4042 Merger and dissolution procedures.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Component independent special district" means an independent special district that proposes to be merged into a merged independent district, or an independent special district as it existed before its merger into the merged independent district of which it is now a part.

(b) "Elector-initiated merger plan" means the merger plan of two or more independent special districts, a majority of whose qualified electors have elected to merge, which outlines the terms and agreements for the official merger of the districts and is finalized and approved by the governing bodies of the districts pursuant to this section.

(c) "Governing body" means the governing body of the independent special district in which the general legislative, governmental, or public powers of the district are vested and by authority of which the official business of the district is conducted.

(d) "Initiative" means the filing of a petition containing a proposal for a referendum to be placed on the ballot for election.

(e) "Joint merger plan" means the merger plan that is adopted by resolution of the governing bodies of two or more independent special districts that outlines the terms and

agreements for the official merger of the districts and that is finalized and approved by the governing bodies pursuant to this section.

(f) "Merged independent district" means a single independent special district that results from a successful merger of two or more independent special districts pursuant to this section.

(g) "Merger" means the combination of two or more contiguous independent special districts resulting in a newly created merged independent district that assumes jurisdiction over all of the component independent special districts.

(h) "Merger plan" means a written document that contains the terms, agreements, and information regarding the merger of two or more independent special districts.

(i) "Proposed elector-initiated merger plan" means a written document that contains the terms and information regarding the merger of two or more independent special districts and that accompanies the petition initiated by the qualified electors of the districts but that is not yet finalized and approved by the governing bodies of each component independent special district pursuant to this section.

(j) "Proposed joint merger plan" means a written document that contains the terms and information regarding the merger of two or more independent special districts and that has been prepared pursuant to a resolution of the governing bodies of the districts but that is not yet finalized and approved by the governing bodies of each component independent special district pursuant to this section.

(k) "Qualified elector" means an individual at least 18 years of age who is a citizen of the United States, a permanent resident of this state, and a resident of the district who registers with the supervisor of elections of a county within which the district lands are located when the registration books are open.

(2) MERGER OR DISSOLUTION OF A DEPENDENT SPECIAL DISTRICT.—

(a) The merger or dissolution of a dependent special district may be effectuated by an ordinance of the general-purpose local governmental entity wherein the geographical area of the district or districts is located. However, a county may not dissolve a special district that is dependent to a municipality or vice versa, or a dependent district created by special act.

(b) The merger or dissolution of a dependent special district created and operating pursuant to a special act may be effectuated only by further act of the Legislature unless otherwise provided by general law.

(c) A dependent special district that meets any criteria for being declared inactive, or that has already been declared inactive, pursuant to s. 189.4044 may be dissolved or merged by special act without a referendum.

(d) A copy of any ordinance and of any changes to a charter affecting the status or boundaries of one or more special districts shall be filed with the Special District Information Program within 30 days after such activity.

(3) DISSOLUTION OF AN INDEPENDENT SPECIAL DISTRICT.—

(a) Voluntary dissolution.—If the governing board of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to dissolve the district, the voluntary dissolution of an independent special district created and operating pursuant to a special act may be effectuated only by the Legislature unless otherwise provided by general law.

(b) Other dissolutions.—

1. In order for the Legislature to dissolve an active independent special district created and operating pursuant to a special act, the special act dissolving the active independent special district must be approved by a majority of the resident electors of the district or, for districts in which a majority of governing board members are elected by landowners, a majority of the landowners voting in the same manner by which the independent special district's governing body is elected. If a local general-purpose government passes an ordinance or resolution in support of the dissolution, the local general-purpose government must pay any expenses associated with the referendum required under this subparagraph.

2. If an independent special district was created by a county or municipality by referendum or any other procedure, the county or municipality that created the district may dissolve the district pursuant to a referendum or any other procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to dissolve the district.

(c) Inactive independent special districts.—An independent special district that meets any criteria for being declared inactive, or that has already been declared inactive, pursuant to s. 189.4044 may be dissolved by special act without a referendum. If an inactive independent special district was created by a county or municipality through a referendum, the county or municipality that created the district may dissolve the district after publishing notice as described in s. 189.4044.

(d) Debts and assets.—Financial allocations of the assets and indebtedness of a dissolved independent special district shall be pursuant to s. 189.4045.

(4) LEGISLATIVE MERGER OF INDEPENDENT SPECIAL DISTRICTS.—The Legislature, by special act, may merge independent special districts created and operating pursuant to special act.

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(5) VOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—Two or more contiguous independent special districts created by special act which have similar functions and elected governing bodies may elect to merge into a single independent district through the act of merging the component independent special districts.

(a) Initiation.—Merger proceedings may commence by:

1. A joint resolution of the governing bodies of each independent special district which endorses a proposed joint merger plan; or

2. A qualified elector initiative.

(b) Joint merger plan by resolution.—The governing bodies of two or more contiguous independent special districts may, by joint resolution, endorse a proposed joint merger plan to commence proceedings to merge the districts pursuant to this subsection.

1. The proposed joint merger plan must specify:

a. The name of each component independent special district to be merged;

b. The name of the proposed merged independent district;

c. The rights, duties, and obligations of the proposed merged independent district;

d. The territorial boundaries of the proposed merged independent district;

e. The governmental organization of the proposed merged independent district insofar as it concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials;

f. A fiscal estimate of the potential cost or savings as a result of the merger;

g. Each component independent special district's assets, including, but not limited to, real and personal property, and the current value thereof;

h. Each component independent special district's liabilities and indebtedness, bonded and otherwise, and the current value thereof;

i. Terms for the assumption and disposition of existing assets, liabilities, and indebtedness of each component independent special district jointly, separately, or in defined proportions;

j. Terms for the common administration and uniform enforcement of existing laws within the proposed merged independent district;

k. The times and places for public hearings on the proposed joint merger plan;

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l. The times and places for a referendum in each component independent special district on the proposed joint merger plan, along with the referendum language to be presented for approval; and

m. The effective date of the proposed merger.

2. The resolution endorsing the proposed joint merger plan must be approved by a majority vote of the governing bodies of each component independent special district and adopted at least 60 business days before any general or special election on the proposed joint merger plan.

3. Within 5 business days after the governing bodies approve the resolution endorsing the proposed joint merger plan, the governing bodies must:

a. Cause a copy of the proposed joint merger plan, along with a descriptive summary of the plan, to be displayed and be readily accessible to the public for inspection in at least three public places within the territorial limits of each component independent special district, unless a component independent special district has fewer than three public places, in which case the plan must be accessible for inspection in all public places within the component independent special district;

b. If applicable, cause the proposed joint merger plan, along with a descriptive summary of the plan and a reference to the public places within each component independent special district where a copy of the merger plan may be examined, to be displayed on a website maintained by each district or on a website maintained by the county or municipality in which the districts are located; and

c. Arrange for a descriptive summary of the proposed joint merger plan, and a reference to the public places within the district where a copy may be examined, to be published in a newspaper of general circulation within the component independent special districts at least once each week for 4 successive weeks.

4. The governing body of each component independent special district shall set a time and place for one or more public hearings on the proposed joint merger plan. Each public hearing shall be held on a weekday at least 7 business days after the day the first advertisement is published on the proposed joint merger plan. The hearing or hearings may be held jointly or separately by the governing bodies of the component independent special districts. Any interested person residing in the respective district shall be given a reasonable opportunity to be heard on any aspect of the proposed merger at the public hearing.

a. Notice of the public hearing addressing the resolution for the proposed joint merger plan must be published pursuant to the notice requirements in

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s. 189.417 and must provide a descriptive summary of the proposed joint merger plan and a reference to the public places within the component independent special districts where a copy of the plan may be examined.

b. After the final public hearing, the governing bodies of each component independent special district may amend the proposed joint merger plan if the amended version complies with the notice and public hearing requirements provided in this subsection. Thereafter, the governing bodies may approve a final version of the joint merger plan or decline to proceed further with the merger. Approval by the governing bodies of the final version of the joint merger plan must occur within 60 business days after the final hearing.

5. After the final public hearing, the governing bodies shall notify the supervisors of elections of the applicable counties in which district lands are located of the adoption of the resolution by each governing body. The supervisors of elections shall schedule a separate referendum for each component independent special district. The referenda may be held in each district on the same day, or on different days, but no more than 20 days apart.

a. Notice of a referendum on the merger of independent special districts must be provided pursuant to the notice requirements in s. 100.342. At a minimum, the notice must include:

(I) A brief summary of the resolution and joint merger plan;

(II) A statement as to where a copy of the resolution and joint merger plan may be examined;

(III) The names of the component independent special districts to be merged and a description of their territory;

(IV) The times and places at which the referendum will be held; and

(V) Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct thereof and the canvass of the returns.

b. The referenda must be held in accordance with the Florida Election Code and may be held pursuant to ss. 101.6101-101.6107. All costs associated with the referenda shall be borne by the respective component independent special district.

c. The ballot question in such referendum placed before the qualified electors of each component independent special district to be merged must be in substantially the following form:

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"Shall (name of component independent special district) and (name of component independent special district or districts) be merged into (name of newly merged independent district) ?

YES

NO"

d. If the component independent special districts proposing to merge have disparate millage rates, the ballot question in the referendum placed before the qualified electors of each component independent special district must be in substantially the following form:

"Shall (name of component independent special district) and (name of component independent special district or districts) be merged into (name of newly merged independent district) if the voter-approved maximum millage rate within each independent special district will not increase absent a subsequent referendum?

YES

NO"

e. In any referendum held pursuant to this subsection, the ballots shall be counted, returns made and canvassed, and results certified in the same manner as other elections or referenda for the component independent special districts.

f. The merger may not take effect unless a majority of the votes cast in each component independent special district are in favor of the merger. If one of the component districts does not obtain a majority vote, the referendum fails, and merger does not take effect.

g. If the merger is approved by a majority of the votes cast in each component independent special district, the merged independent district is created. Upon approval, the merged independent district shall notify the Special District Information Program pursuant to s. 189.418(2) and the local general-purpose governments in which any part of the component independent special districts is situated pursuant to s. 189.418(7).

h. If the referendum fails, the merger process under this paragraph may not be initiated for the same purpose within 2 years after the date of the referendum.

6. Component independent special districts merged pursuant to a joint merger plan by resolution shall continue to be governed as before the merger until the effective date specified in the adopted joint merger plan.

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(c) Qualified elector-initiated merger plan.—The qualified electors of two or more contiguous independent special districts may commence a merger proceeding by each filing a petition with the governing body of their respective independent special district proposing to be merged. The petition must contain the signatures of at least 40 percent of the qualified electors of each component independent special district and must be submitted to the appropriate component independent special district governing body no later than 1 year after the start of the qualified elector-initiated merger process.

1. The petition must comply with, and be circulated in, the following form:

PETITION FOR
INDEPENDENT SPECIAL DISTRICT MERGER

We, the undersigned electors and legal voters of (name of independent special district) , qualified to vote at the next general or special election, respectfully petition that there be submitted to the electors and legal voters of (name of independent special district or districts proposed to be merged) , for their approval or rejection at a referendum held for that purpose, a proposal to merge (name of component independent special district) and (name of component independent special district or districts) .

In witness thereof, we have signed our names on the date indicated next to our signatures.

Date Name Home Address

(print under signature)

2. The petition must be validated by a signed statement by a witness who is a duly qualified elector of one of the component independent special districts, a notary public, or another person authorized to take acknowledgments.

a. A statement that is signed by a witness who is a duly qualified elector of the respective district shall be accepted for all purposes as the equivalent of an affidavit. Such statement must be in substantially the following form:

"I, (name of witness) , state that I am a duly qualified voter of (name of independent special district) . Each of the (insert number) persons who have signed this petition sheet has signed his or her name in my presence on the dates indicated above and identified himself or herself to be the same person who signed the sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a materially false statement, shall subject me to the penalties of perjury."

Date Signature of Witness

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b. A statement that is signed by a notary public or another person authorized to take acknowledgments must be in substantially the following form:

"On the date indicated above before me personally came each of the (insert number) electors and legal voters whose signatures appear on this petition sheet, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the same person who signed the petition, and I declare that the foregoing information they provided was true."

Date Signature of Witness

c. An alteration or correction of information appearing on a petition's signature line, other than an uninitialed signature and date, does not invalidate such signature. In matters of form, this paragraph shall be liberally construed, not inconsistent with substantial compliance thereto and the prevention of fraud.

d. The appropriately signed petition must be filed with the governing body of each component independent special district. The petition must be submitted to the supervisors of elections of the counties in which the district lands are located. The supervisors shall, within 30 business days after receipt of the petitions, certify to the governing bodies the number of signatures of qualified electors contained on the petitions.

3. Upon verification by the supervisors of elections of the counties within which component independent special district lands are located that 40 percent of the qualified electors have petitioned for merger and that all such petitions have been executed within 1 year after the date of the initiation of the qualified-elector merger process, the governing bodies of each component independent special district shall meet within 30 business days to prepare and approve by resolution a proposed elector-initiated merger plan. The proposed plan must include:

a. The name of each component independent special district to be merged;

b. The name of the proposed merged independent district;

c. The rights, duties, and obligations of the merged independent district;

d. The territorial boundaries of the proposed merged independent district;

e. The governmental organization of the proposed merged independent district insofar as it concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials;

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f. A fiscal estimate of the potential cost or savings as a result of the merger;

g. Each component independent special district's assets, including, but not limited to, real and personal property, and the current value thereof;

h. Each component independent special district's liabilities and indebtedness, bonded and otherwise, and the current value thereof;

i. Terms for the assumption and disposition of existing assets, liabilities, and indebtedness of each component independent special district, jointly, separately, or in defined proportions;

j. Terms for the common administration and uniform enforcement of existing laws within the proposed merged independent district;

k. The times and places for public hearings on the proposed joint merger plan; and

l. The effective date of the proposed merger.

4. The resolution endorsing the proposed elector-initiated merger plan must be approved by a majority vote of the governing bodies of each component independent special district and must be adopted at least 60 business days before any general or special election on the proposed elector-initiated plan.

5. Within 5 business days after the governing bodies of each component independent special district approve the proposed elector-initiated merger plan, the governing bodies shall:

a. Cause a copy of the proposed elector-initiated merger plan, along with a descriptive summary of the plan, to be displayed and be readily accessible to the public for inspection in at least three public places within the territorial limits of each component independent special district, unless a component independent special district has fewer than three public places, in which case the plan must be accessible for inspection in all public places within the component independent special district;

b. If applicable, cause the proposed elector-initiated merger plan, along with a descriptive summary of the plan and a reference to the public places within each component independent special district where a copy of the merger plan may be examined, to be displayed on a website maintained by each district or otherwise on a website maintained by the county or municipality in which the districts are located; and

c. Arrange for a descriptive summary of the proposed elector-initiated merger plan, and a reference to the public places within the district where a copy may be examined, to be published in a newspaper of general

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circulation within the component independent special districts at least once each week for 4 successive weeks.

6. The governing body of each component independent special district shall set a time and place for one or more public hearings on the proposed elector-initiated merger plan. Each public hearing shall be held on a weekday at least 7 business days after the day the first advertisement is published on the proposed elector-initiated merger plan. The hearing or hearings may be held jointly or separately by the governing bodies of the component independent special districts. Any interested person residing in the respective district shall be given a reasonable opportunity to be heard on any aspect of the proposed merger at the public hearing.

a. Notice of the public hearing on the proposed elector-initiated merger plan must be published pursuant to the notice requirements in s. 189.417 and must provide a descriptive summary of the elector-initiated merger plan and a reference to the public places within the component independent special districts where a copy of the plan may be examined.

b. After the final public hearing, the governing bodies of each component independent special district may amend the proposed elector-initiated merger plan if the amended version complies with the notice and public hearing requirements provided in this subsection. The governing bodies must approve a final version of the merger plan within 60 business days after the final hearing.

7. After the final public hearing, the governing bodies shall notify the supervisors of elections of the applicable counties in which district lands are located of the adoption of the resolution by each governing body. The supervisors of elections shall schedule a date for the separate referenda for each district. The referenda may be held in each district on the same day, or on different days, but no more than 20 days apart.

a. Notice of a referendum on the merger of the component independent special districts must be provided pursuant to the notice requirements in s. 100.342. At a minimum, the notice must include:

(I) A brief summary of the resolution and elector-initiated merger plan;

(II) A statement as to where a copy of the resolution and petition for merger may be examined;

(III) The names of the component independent special districts to be merged and a description of their territory;

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(IV) The times and places at which the referendum will be held; and

(V) Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct thereof and the canvass of the returns.

b. The referenda must be held in accordance with the Florida Election Code and may be held pursuant to ss. 101.6101-101.6107. All costs associated with the referenda shall be borne by the respective component independent special district.

c. The ballot question in such referendum placed before the qualified electors of each component independent special district to be merged must be in substantially the following form:

"Shall (name of component independent special district) and (name of component independent special district or districts) be merged into (name of newly merged independent district) ?

YES

NO"

d. If the component independent special districts proposing to merge have disparate millage rates, the ballot question in the referendum placed before the qualified electors of each component independent special district must be in substantially the following form:

"Shall (name of component independent special district) and (name of component independent special district or districts) be merged into (name of newly merged independent district) if the voter-approved maximum millage rate within each independent special district will not increase absent a subsequent referendum?

YES

NO"

e. In any referendum held pursuant to this subsection, the ballots shall be counted, returns made and canvassed, and results certified in the same manner as other elections or referenda for the component independent special districts.

f. The merger may not take effect unless a majority of the votes cast in each component independent special district are in favor of the merger. If one of

the component independent special districts does not obtain a majority vote, the referendum fails, and merger does not take effect.

g. If the merger is approved by a majority of the votes cast in each component independent special district, the merged district shall notify the Special District Information Program pursuant to s. 189.418(2) and the local general-purpose governments in which any part of the component independent special districts is situated pursuant to s. 189.418(7).

h. If the referendum fails, the merger process under this paragraph may not be initiated for the same purpose within 2 years after the date of the referendum.

8. Component independent special districts merged pursuant to an elector-initiated merger plan shall continue to be governed as before the merger until the effective date specified in the adopted elector-initiated merger plan.

(d) Effective date.—The effective date of the merger shall be as provided in the joint merger plan or elector-initiated merger plan, as appropriate, and is not contingent upon the future act of the Legislature.

1. However, as soon as practicable, the merged independent district shall, at its own expense, submit a unified charter for the merged district to the Legislature for approval. The unified charter must make the powers of the district consistent within the merged independent district and repeal the special acts of the districts which existed before the merger.

2. Within 30 business days after the effective date of the merger, the merged independent district's governing body, as indicated in this subsection, shall hold an organizational meeting to implement the provisions of the joint merger plan or elector-initiated merger plan, as appropriate.

(e) Restrictions during transition period.—Until the Legislature formally approves the unified charter pursuant to a special act, each component independent special district is considered a subunit of the merged independent district subject to the following restrictions:

1. During the transition period, the merged independent district is limited in its powers and financing capabilities within each subunit to those powers that existed within the boundaries of each subunit which were previously granted to the component independent special district in its existing charter before the merger. The merged independent district may not, solely by reason of the merger, increase its powers or financing capability.

2. During the transition period, the merged independent district shall exercise only the legislative authority to levy and collect revenues within the boundaries of

each subunit which was previously granted to the component independent special district by its existing charter before the merger, including the authority to levy ad valorem taxes, non-ad valorem assessments, impact fees, and charges.

a. The merged independent district may not, solely by reason of the merger or the legislatively approved unified charter, increase ad valorem taxes on property within the original limits of a subunit beyond the maximum millage rate approved by the electors of the component independent special district unless the electors of such subunit approve an increase at a subsequent referendum of the subunit's electors. Each subunit may be considered a separate taxing unit.

b. The merged independent district may not, solely by reason of the merger, charge non-ad valorem assessments, impact fees, or other new fees within a subunit which were not otherwise previously authorized to be charged.

3. During the transition period, each component independent special district of the merged independent district must continue to file all information and reports required under this chapter as subunits until the Legislature formally approves the unified charter pursuant to a special act.

4. The intent of this section is to preserve and transfer to the merged independent district all authority that exists within each subunit and was previously granted by the Legislature and, if applicable, by referendum.

(f) Effect of merger, generally.—On and after the effective date of the merger, the merged independent district shall be treated and considered for all purposes as one entity under the name and on the terms and conditions set forth in the joint merger plan or elector-initiated merger plan, as appropriate.

1. All rights, privileges, and franchises of each component independent special district and all assets, real and personal property, books, records, papers, seals, and equipment, as well as other things in action, belonging to each component independent special district before the merger shall be deemed as transferred to and vested in the merged independent district without further act or deed.

2. All property, rights-of-way, and other interests are as effectually the property of the merged independent district as they were of the component independent special district before the merger. The title to real estate, by deed or otherwise, under the laws of this state vested in any component independent special district before the merger may not be deemed to revert or be in any way impaired by reason of the merger.

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3. The merged independent district is in all respects subject to all obligations and liabilities imposed and possesses all the rights, powers, and privileges vested by law in other similar entities.

4. Upon the effective date of the merger, the joint merger plan or elector-initiated merger plan, as appropriate, is subordinate in all respects to the contract rights of all holders of any securities or obligations of the component independent special districts outstanding at the effective date of the merger.

5. The new registration of electors is not necessary as a result of the merger, but all elector registrations of the component independent special districts shall be transferred to the proper registration books of the merged independent district, and new registrations shall be made as provided by law as if no merger had taken place.

(g) Governing body of merged independent district.—

1. From the effective date of the merger until the next general election, the governing body of the merged independent district shall be comprised of the governing body members of each component independent special district, with such members serving until the governing body members elected at the next general election take office.

2. Beginning with the next general election following the effective date of merger, the governing body of the merged independent district shall be comprised of five members. The office of each governing body member shall be designated by seat, which shall be distinguished from other body member seats by an assigned numeral: 1, 2, 3, 4, or 5. The governing body members that are elected in this initial election following the merger shall serve unequal terms of 2 and 4 years in order to create staggered membership of the governing body, with:

a. Member seats 1, 3, and 5 being designated for 4-year terms; and

b. Member seats 2 and 4 being designated for 2-year terms.

3. In general elections thereafter, all governing body members shall serve 4-year terms.

(h) Effect on employees.—Except as otherwise provided by law and except for those officials and employees protected by tenure of office, civil service provisions, or a collective bargaining agreement, upon the effective date of merger, all appointive offices and positions existing in all component independent special districts involved in the merger are subject to the terms of the joint merger plan or elector-initiated merger plan, as appropriate. Such plan may provide for instances in which there are duplications of positions and for other matters such as varying lengths of employee contracts, varying pay levels or benefits, different civil service regulations in the constituent entities, and differing ranks and position classifications for similar positions. For those employees who are members of a bargaining

unit certified by the Public Employees Relations Commission, the requirements of chapter 447 apply.

(i) Effect on debts, liabilities, and obligations.—

1. All valid and lawful debts and liabilities existing against a merged independent district, or which may arise or accrue against the merged independent district, which but for merger would be valid and lawful debts or liabilities against one or more of the component independent special districts, are debts against or liabilities of the merged independent district and accordingly shall be defrayed and answered to by the merged independent district to the same extent, and no further than, the component independent special districts would have been bound if a merger had not taken place.

2. The rights of creditors and all liens upon the property of any of the component independent special districts shall be preserved unimpaired. The respective component districts shall be deemed to continue in existence to preserve such rights and liens, and all debts, liabilities, and duties of any of the component districts attach to the merged independent district.

3. All bonds, contracts, and obligations of the component independent special districts which exist as legal obligations are obligations of the merged independent district, and all such obligations shall be issued or entered into by and in the name of the merged independent district.

(j) Effect on actions and proceedings.—In any action or proceeding pending on the effective date of merger to which a component independent special district is a party, the merged independent district may be substituted in its place, and the action or proceeding may be prosecuted to judgment as if merger had not taken place. Suits may be brought and maintained against a merged independent district in any state court in the same manner as against any other independent special district.

(k) Effect on annexation.—Chapter 171 continues to apply to all annexations by a city within the component independent special districts' boundaries after merger occurs. Any moneys owed to a component independent special district pursuant to s. 171.093, or any interlocal service boundary agreement as a result of annexation predating the merger, shall be paid to the merged independent district after merger.

(l) Effect on millage calculations.—The merged independent special district is authorized to continue or conclude procedures under chapter 200 on behalf of the component independent special districts. The merged independent special district shall make the calculations required by chapter 200 for each component individual special district separately.

(m) Determination of rights.—If any right, title, interest, or claim arises out of a merger or by reason thereof which is not determinable by reference to this subsection, the joint

merger plan or elector-initiated merger plan, as appropriate, or otherwise under the laws of this state, the governing body of the merged independent district may provide therefor in a manner conforming to law.

(n) Exemption.—This subsection does not apply to independent special districts whose governing bodies are elected by district landowners voting the acreage owned within the district.

(o) Preemption.—This subsection preempts any special act to the contrary.

(6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—

(a) Independent special districts created by special act.—In order for the Legislature to merge an active independent special district or districts created and operating pursuant to a special act, the special act merging the active independent special district or districts must be approved at separate referenda of the impacted local governments by a majority of the resident electors or, for districts in which a majority of governing board members are elected by landowners, a majority of the landowners voting in the same manner by which each independent special district's governing body is elected. The special act merging the districts must include a plan of merger that addresses transition issues such as the effective date of the merger, governance, administration, powers, pensions, and assumption of all assets and liabilities. If a local general-purpose government passes an ordinance or resolution in support of the merger of an active independent special district, the local general-purpose government must pay any expenses associated with the referendum required under this paragraph.

(b) Independent special districts created by a county or municipality.—A county or municipality may merge an independent special district created by the county or municipality pursuant to a referendum or any other procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to merge the district. The political subdivisions proposing the involuntary merger of an active independent special district must pay any expenses associated with the referendum required under this paragraph.

(c) Inactive independent special districts.—An independent special district that meets any criteria for being declared inactive, or that has already been declared inactive, pursuant to s. 189.4044 may by merged by special act without a referendum.

(7) EXEMPTIONS.—

This section does not apply to community development districts implemented pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

History.—s. 8, ch. 89-169; s. 8, ch. 97-255; s. 1, ch. 98-320; s. 142, ch. 2001-266; s. 1, ch. 2012-16.

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189.4044 Special procedures for inactive districts.—

(1) The department shall declare inactive any special district in this state by documenting that:

(a) The special district meets one of the following criteria:

1. The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has taken no action for 2 or more years;

2. Following an inquiry from the department, the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has not had a governing board or a sufficient number of governing board members to constitute a quorum for 2 or more years or the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government fails to respond to the department's inquiry within 21 days;

3. The department determines, pursuant to s. 189.421, that the district has failed to file any of the reports listed in s. 189.419;

4. The district has not had a registered office and agent on file with the department for 1 or more years; or

5. The governing body of a special district provides documentation to the department that it has unanimously adopted a resolution declaring the special district inactive. The special district shall be responsible for payment of any expenses associated with its dissolution.

(b) The department, special district, or local general-purpose government published a notice of proposed declaration of inactive status in a newspaper of general circulation in the county or municipality in which the territory of the special district is located and sent a copy of such notice by certified mail to the registered agent or chair of the board, if any. Such notice must include the name of the special district, the law under which it was organized and operating, a general description of the territory included in the special district, and a statement that any objections must be filed pursuant to chapter 120 within 21 days after the publication date; and

(c) Twenty-one days have elapsed from the publication date of the notice of proposed declaration of inactive status and no administrative appeals were filed.

(2) If any special district is declared inactive pursuant to this section, the property or assets of the special district are subject to legal process for payment of any debts of the district. After the payment of all the debts of said inactive special district, the remainder of its property or assets shall escheat to the county or municipality wherein located. If, however, it shall be necessary, in order to

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pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive special district, the same may be assessed and levied by order of the local general-purpose government wherein the same is situated and shall be assessed by the county property appraiser and collected by the county tax collector.

(3) In the case of a district created by special act of the Legislature, the department shall send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate. The notice of declaration of inactive status shall reference each known special act creating or amending the charter of any special district declared to be inactive under this section. The declaration of inactive status shall be sufficient notice as required by s. 10, Art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported. In the case of a district created by one or more local general-purpose governments, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government that created the district. In the case of a district created by interlocal agreement, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government which entered into the interlocal agreement.

(4) The entity that created a special district declared inactive under this section must dissolve the special district by repealing its enabling laws or by other appropriate means. Any special district declared inactive pursuant to subparagraph (1)(a)5. may be dissolved without a referendum.

History.—s. 10, ch. 89-169; s. 10, ch. 97-255; s. 143, ch. 2001-266; s. 17, ch. 2004-305; s. 12, ch. 2011-144; s. 3, ch. 2012-16.

189.4045 Financial allocations.—

(1) The government formed by merger of existing special districts shall assume all indebtedness of, and receive title to all property owned by, the preexisting special districts. The proposed charter shall provide for the determination of the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired.

(2) Unless otherwise provided by law or ordinance, the dissolution of a special district government shall transfer the title to all property owned by the preexisting special district government to the local general-purpose government, which shall also assume all indebtedness of the preexisting special district.

(3) The provisions of this section shall not apply to community development districts established pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

History.—s. 11, ch. 89-169; s. 11, ch. 97-255.

189.4047 Refund of certain special assessments.—

If a dependent special district has levied assessments for an improvement or specialized function for which it was created; no bonds have been issued against which the special assessments are pledged; and the county or municipality which created the special district determines that the

demand for the improvement or function no longer exists or the majority of the land against which the special assessments were authorized has been purchased by a tax-exempt governmental agency to be preserved for environmental purposes and which cannot receive the benefit for which the assessments were levied, unspent and unobligated moneys collected as assessments, along with any interest collected thereon, shall be refunded to the original payors of the assessments when the costs of distributing the refund do not exceed the amount available for refund. This section shall operate retroactively to January 1, 1987.

History.—s. 12, ch. 97-255.

189.405 Elections; general requirements and procedures; education programs.—

(1) If a dependent special district has an elected governing board, elections shall be conducted by the supervisor of elections of the county wherein the district is located in accordance with the Florida Election Code, chapters 97-106.

(2)

(a) Any independent special district located entirely in a single county may provide for the conduct of district elections by the supervisor of elections for that county. Any independent special district that conducts its elections through the office of the supervisor shall make election procedures consistent with the Florida Election Code.

(b) Any independent special district not conducting district elections through the supervisor of elections shall report to the supervisor in a timely manner the purpose, date, authorization, procedures, and results of each election conducted by the district.

(c) A candidate for a position on a governing board of a single-county special district that has its elections conducted by the supervisor of elections shall qualify for the office with the county supervisor of elections in whose jurisdiction the district is located. Elections for governing board members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a district's charter. Candidates shall qualify as directed by chapter 99. The qualifying fee shall be remitted to the general revenue fund of the qualifying officer to help defray the cost of the election.

(3)

(a) If a multicounty special district has a popularly elected governing board, elections for the purpose of electing members to such board shall conform to the Florida Election Code, chapters 97-106.

(b) With the exception of those districts conducting elections on a one-acre/one-vote basis, qualifying for multicounty special district governing board positions shall be coordinated by the Department of State. Elections for governing board members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a

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district's charter. Candidates shall qualify as directed by chapter 99. The qualifying fee shall be remitted to the Department of State.

(4) With the exception of elections of special district governing board members conducted on a one-acre/one-vote basis, in any election conducted in a special district the decision made by a majority of those voting shall prevail, except as otherwise specified by law.

(5)

(a) The department may provide, contract for, or assist in conducting education programs, as its budget permits, for all newly elected or appointed members of district boards. The education programs shall include, but are not limited to, courses on the code of ethics for public officers and employees, public meetings and public records requirements, public finance, and parliamentary procedure. Course content may be offered by means of the following: videotapes, live seminars, workshops, conferences, teleconferences, computer-based training, multimedia presentations, or other available instructional methods.

(b) An individual district board, at its discretion, may bear the costs associated with educating its members. Board members of districts which have qualified for a zero annual fee for the most recent invoicing period pursuant to s. 189.427 shall not be required to pay a fee for any education program the department provides, contracts for, or assists in conducting.

(6) The provisions of this section shall not apply to community development districts established pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

(7) Nothing in this act requires that a special district governed by an appointed board convert to an elected governing board.

History.—s. 12, ch. 89-169; s. 13, ch. 97-255; s. 2, ch. 98-320; s. 31, ch. 99-378; s. 52, ch. 2007-30.

189.4051 Elections; special requirements and procedures for districts with governing boards elected on a one-acre/one-vote basis.—

(1) DEFINITIONS.—As used in this section:

(a) "Qualified elector" means any person at least 18 years of age who is a citizen of the United States, a permanent resident of Florida, and a freeholder or freeholder's spouse and resident of the district who registers with the supervisor of elections of a county within which the district lands are located when the registration books are open.

(b) "Urban area" means a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a

minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas shall be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district.

(c) "Governing board member" means any duly elected member of the governing board of a special district elected pursuant to this section, provided that any board member elected by popular vote shall be a qualified district elector and any board member elected on a one-acre/one-vote basis shall meet the requirements of s. 298.11 for election to the board.

(d) "Contiguous developed urban area" means any reasonably compact urban area located entirely within a special district. The separation of urban areas by a publicly owned park, right-of-way, highway, road, railroad, canal, utility, body of water, watercourse, or other minor geographical division of a similar nature shall not prevent such areas from being defined as urban areas.

(2) POPULAR ELECTIONS; REFERENDUM; DESIGNATION OF URBAN AREAS.—

(a) Referendum.—

1. A referendum shall be called by the governing board of a special district where the board is elected on a one-acre/one-vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided each of the following conditions has been satisfied at least 60 days prior to the general or special election at which the referendum is to be held:

a. The district shall have a total population, according to the latest official state census, a special census, or a population estimate, of at least 500 qualified electors.

b. A petition signed by 10 percent of the qualified electors of the district shall have been filed with the governing board of the district. The petition shall be submitted to the supervisor of elections of the county or counties in which the lands are located. The supervisor shall, within 30 days after the receipt of the petitions, certify to the governing board the number of signatures of qualified electors contained on the petition.

2. Upon verification by the supervisor or supervisors of elections of the county or counties within which district lands are located that 10 percent of the qualified electors of the district have petitioned the governing board, a referendum election shall be called by the governing board at the next regularly scheduled election of governing board members occurring at least 30 days after verification of the petition or within 6 months of verification, whichever is earlier.

3. If the qualified electors approve the election procedure described in this subsection, the governing board of the district shall be increased to five members and elections shall be held pursuant to the criteria described in this subsection beginning with the next regularly scheduled election of governing board members

or at a special election called within 6 months following the referendum and final unappealed approval of district urban area maps as provided in paragraph (b), whichever is earlier.

4. If the qualified electors of the district disapprove the election procedure described in this subsection, elections of the members of the governing board shall continue as described by s. 298.12 or the enabling legislation for the district. No further referendum on the question shall be held for a minimum period of 2 years following the referendum.

(b) Designation of urban areas.—

1. Within 30 days after approval of the election process described in this subsection by qualified electors of the district, the governing board shall direct the district staff to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)(b).

2. Within 60 days after approval of the election process described in this subsection by qualified electors of the district, the maps describing urban areas within the district shall be presented to the governing board.

3. Any district landowner or elector may contest the accuracy of the urban area maps prepared by the district staff within 30 days after submission to the governing board. Upon notice of objection to the maps, the governing board shall request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)(b). Within 30 days after the governing board request, the county engineer shall present the maps to the governing board.

4. Upon presentation of the maps by the county engineer, the governing board shall compare the maps submitted by both the district staff and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing board may amend and shall adopt the official maps at a regularly scheduled board meeting.

5. Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the board within 30 days after adoption by petition to the circuit court with jurisdiction over the district. Accuracy shall be determined pursuant to paragraph (1)(b). Any petitions so filed shall be heard expeditiously, and the maps shall either be approved or approved with necessary amendments to render the maps accurate and shall be certified to the board.

6. Upon adoption by the board or certification by the court, the district urban area maps shall serve as the official maps for determination of the extent of urban area

within the district and the number of governing board members to be elected by qualified electors and by the one-acre/one-vote principle at the next regularly scheduled election of governing board members.

7. Upon a determination of the percentage of urban area within the district as compared with total area within the district, the governing board shall order elections in accordance with the percentages pursuant to paragraph (3)(a). The landowners' meeting date shall be designated by the governing board.

8. The maps shall be updated and readopted every 5 years or sooner in the discretion of the governing board.

(3) GOVERNING BOARD.—

(a) Composition of board.—

1. Members of the governing board of the district shall be elected in accordance with the following determinations of urban area:

a. If urban areas constitute 25 percent or less of the district, one governing board member shall be elected by the qualified electors and four governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

b. If urban areas constitute 26 percent to 50 percent of the district, two governing board members shall be elected by the qualified electors and three governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

c. If urban areas constitute 51 percent to 70 percent of the district, three governing board members shall be elected by the qualified electors and two governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

d. If urban areas constitute 71 percent to 90 percent of the district, four governing board members shall be elected by the qualified electors and one governing board member shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

e. If urban areas constitute 91 percent or more of the district, all governing board members shall be elected by the qualified electors.

2. All governing board members elected by qualified electors shall be elected at large.

(b) Term of office.—All governing board members elected by qualified electors shall have a term of 4 years except for governing board members elected at the first election and the first landowners' meeting following the referendum prescribed in paragraph (2)(a). Governing board members elected at the first election and the first landowners' meeting following the referendum shall serve as follows:

1. If one governing board member is elected by the qualified electors and four are elected on a one-acre/one-vote basis, the governing board member elected by the qualified electors shall be elected for a period of 4 years. Governing board members elected on a one-acre/one-vote basis shall be elected for periods of 1, 2, 3, and 4 years, respectively, as prescribed by ss. 298.11 and 298.12.

2. If two governing board members are elected by the qualified electors and three are elected on a one-acre/one-vote basis, the governing board members elected by the electors shall be elected for a period of 4 years. Governing board members elected on a one-acre/one-vote basis shall be elected for periods of 1, 2, and 3 years, respectively, as prescribed by ss. 298.11 and 298.12.

3. If three governing board members are elected by the qualified electors and two are elected on a one-acre/one-vote basis, two of the governing board members elected by the electors shall be elected for a term of 4 years and the other governing board member elected by the electors shall be elected for a term of 2 years. Governing board members elected on a one-acre/one-vote basis shall be elected for terms of 1 and 2 years, respectively, as prescribed by ss. 298.11 and 298.12.

4. If four governing board members are elected by the qualified electors and one is elected on a one-acre/one-vote basis, two of the governing board members elected by the electors shall be elected for a term of 2 years and the other two for a term of 4 years. The governing board member elected on a one-acre/one-vote basis shall be elected for a term of 1 year as prescribed by ss. 298.11 and 298.12.

5. If five governing board members are elected by the qualified electors, three shall be elected for a term of 4 years and two for a term of 2 years.

6. If any vacancy occurs in a seat occupied by a governing board member elected by the qualified electors, the remaining members of the governing board shall, within 45 days after the vacancy occurs, appoint a person who would be eligible to hold the office to the unexpired term.

(c) Landowners' meetings.—

1. An annual landowners' meeting shall be held pursuant to s. 298.11 and at least one governing board member shall be elected on a one-acre/one-vote basis pursuant to s. 298.12 for so long as 10 percent or more of the district is not contained in an urban area. In the event all district governing board members are elected by qualified electors, there shall be no further landowners' meetings.

2. At any landowners' meeting called pursuant to this section, 50 percent of the district acreage shall not be required to constitute a quorum and each governing board member shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

3. All landowners' meetings of districts operating pursuant to this section shall be set by the board within the month preceding the month of the election of the governing board members by the electors.

4. Vacancies on the board shall be filled pursuant to s. 298.12 except as otherwise provided in subparagraph (b)6.

(4) QUALIFICATIONS.—Elections for governing board members elected by qualified electors shall be nonpartisan. Qualifications shall be pursuant to the Florida Election Code and shall occur during the qualifying period established by s. 99.061. Qualification requirements shall only apply to those governing board member candidates elected by qualified electors. Following the first election pursuant to this section, elections to the governing board by qualified electors shall occur at the next regularly scheduled election closest in time to the expiration date of the term of the elected governing board member. If the next regularly scheduled election is beyond the normal expiration time for the term of an elected governing board member, the governing board member shall hold office until the election of a successor.

(5) Those districts established as single-purpose water control districts, and which continue to act as single-purpose water control districts, pursuant to chapter 298, pursuant to a special act, pursuant to a local government ordinance, or pursuant to a judicial decree, shall be exempt from the provisions of this section. All other independent special districts with governing boards elected on a one-acre/one-vote basis shall be subject to the provisions of this section.

(6) The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

History.—s. 13, ch. 89-169; s. 14, ch. 97-255.

189.4065 Collection of non-ad valorem assessments.—

Community development districts may and other special districts shall provide for the collection of annual non-ad valorem assessments in accordance with chapter 197 or monthly non-ad valorem assessments in accordance with chapter 170.

History.—s. 14, ch. 89-169.

189.408 Special district bond referenda.—

Where required by the State Constitution or general law, special district bond referenda shall be conducted according to ss. 100.211 and 100.221. The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

History.—s. 15, ch. 89-169.

189.4085 Bond issuance.—

If a referendum is not required, the district shall ensure that, at the time of the closing, the bonds met at least one of the following criteria:

(1) The bonds were rated in one of the highest four ratings by a nationally recognized rating service;

(2) The bonds were privately placed with or otherwise sold to accredited investors;

(3) The bonds were backed by a letter of credit from a bank, savings and loan association, or other creditworthy guarantor, or by bond insurance, guaranteeing payment of principal and interest on the bonds; or

(4) The bonds were accompanied by an independent financial advisory opinion stating that estimates of debt service coverage and probability of debt repayment are reasonable, which opinion was provided by an independent financial advisory, consulting, or accounting firm registered where professional registration is required by law and which is in good standing with the state and in conformance with all applicable professional standards for such opinions.

History.—s. 16, ch. 89-169; s. 10, ch. 96-324.

189.412 Special District Information Program; duties and responsibilities.—

The Special District Information Program of the Department of Economic Opportunity is created and has the following special duties:

(1) The collection and maintenance of special district noncompliance status reports from the Department of Management Services, the Department of Financial Services, the Division of Bond Finance of the State Board of Administration, the Auditor General, and the Legislative Auditing Committee, for the reporting required in ss. 112.63, 218.32, 218.38, and 218.39. The noncompliance reports must list those special districts that did not comply with the statutory reporting requirements.

(2) The maintenance of a master list of independent and dependent special districts which shall be available on the department's website.

(3) The publishing and updating of a "Florida Special District Handbook" that contains, at a minimum:

(a) A section that specifies definitions of special districts and status distinctions in the statutes.

(b) A section or sections that specify current statutory provisions for special district creation, implementation, modification, dissolution, and operating procedures.

(c) A section that summarizes the reporting requirements applicable to all types of special districts as provided in ss. 189.417 and 189.418.

(4) When feasible, securing and maintaining access to special district information collected by all state agencies in existing or newly created state computer systems.

(5) The facilitation of coordination and communication among state agencies regarding special district information.

(6) The conduct of studies relevant to special districts.

(7) The provision of assistance related to and appropriate in the performance of requirements specified in this chapter, including assisting with an annual conference sponsored by the Florida Association of Special Districts or its successor.

(8) Providing assistance to local general-purpose governments and certain state agencies in collecting delinquent reports or information, helping special districts comply with reporting requirements, declaring special districts inactive when appropriate, and, when directed by the Legislative Auditing Committee, initiating enforcement provisions as provided in ss. 189.4044, 189.419, and 189.421.

History.—s. 18, ch. 89-169; s. 15, ch. 90-502; s. 79, ch. 92-279; s. 55, ch. 92-326; s. 15, ch. 95-154; ss. 3, 17, ch. 95-272; ss. 11, 12, ch. 96-324; s. 15, ch. 97-255; s. 3, ch. 97-287; s. 69, ch. 99-255; s. 32, ch. 99-378; s. 45, ch. 2001-266; s. 25, ch. 2002-1; s. 168, ch. 2003-261; s. 18, ch. 2004-305; s. 48, ch. 2010-102; s. 65, ch. 2011-142; s. 13, ch. 2011-144.

189.413 Special districts; oversight of state funds use.—

Any state agency administering funding programs for which special districts are eligible shall be responsible for oversight of the use of such funds by special districts. The oversight responsibilities shall include, but not be limited to:

(1) Reporting the existence of the program to the Special District Information Program of the department.

(2) Submitting annually a list of special districts participating in a state funding program to the Special District Information Program of the department. This list must indicate the special districts, if any, that are not in compliance with state funding program requirements.

History.—s. 19, ch. 89-169; s. 66, ch. 2011-142.

189.415 Special district public facilities report.—

(1) It is declared to be the policy of this state to foster coordination between special districts and local general-purpose governments as those local general-purpose governments develop comprehensive plans under the Community Planning Act, pursuant to part II of chapter 163.

(2) Each independent special district shall submit to each local general-purpose government in which it is located a public facilities report and an annual notice of any changes. The public facilities report shall specify the following information:

(a) A description of existing public facilities owned or operated by the special district, and each public facility that is operated by another entity, except a local general-purpose government, through a lease or other agreement with the special district. This description shall include the current capacity of the facility, the current demands placed upon it, and its location. This information shall be required in the initial report and updated every 7 years at least 12 months before the submission date of the evaluation and appraisal notification letter of the appropriate local government required by s. 163.3191. The department shall post a schedule on its website, based on the evaluation and appraisal notification schedule prepared pursuant to s. 163.3191(5), for use by a special district to determine when its public facilities report and updates to that report are due to the local general-purpose governments in which the special district is located.

(b) A description of each public facility the district is building, improving, or expanding, or is currently proposing to build, improve, or expand within at least the next 7 years, including any facilities that the district is assisting another entity, except a local general-purpose government, to build, improve, or expand through a lease or other agreement with the district. For each public facility identified, the report shall describe how the district currently proposes to finance the facility.

(c) If the special district currently proposes to replace any facilities identified in paragraph (a) or paragraph (b) within the next 10 years, the date when such facility will be replaced.

(d) The anticipated time the construction, improvement, or expansion of each facility will be completed.

(e) The anticipated capacity of and demands on each public facility when completed. In the case of an improvement or expansion of a public facility, both the existing and anticipated capacity must be listed.

(3) A special district proposing to build, improve, or expand a public facility which requires a certificate of need pursuant to chapter 408 shall elect to notify the appropriate local general-purpose government of its plans either in its 7-year plan or at the time the letter of intent is filed with the Agency for Health Care Administration pursuant to s. 408.039.

(4) Those special districts building, improving, or expanding public facilities addressed by a development order issued to the developer pursuant to s. 380.06 may use the most recent annual report required by s. 380.06(15) and (18) and submitted by the developer, to the extent the annual report provides the information required by subsection (2).

(5) The facilities report shall be prepared and submitted within 1 year after the district's creation.

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(6) For purposes of the preparation or revision of local government comprehensive plans required pursuant to s. 163.3161, a special district public facilities report may be used and relied upon by the local general-purpose government or governments within which the special district is located.

(7) Any special district that has completed the construction of its public facilities, improvements to its facilities, or its development is not required to submit a public facilities report, but must submit the information required by paragraph (2)(a).

(8) A special district plan of reclamation required pursuant to general law or special act, including, but not limited to, a plan prepared pursuant to chapter 298 which complies with the requirements of subsection (2), shall satisfy the requirement for a public facilities report. A water management and control plan adopted pursuant to s. 190.013, which complies with the requirements of subsection (2), satisfies the requirement for a public facilities report for the facilities the plan addresses.

(9) The Reedy Creek Improvement District is not required to provide the public facilities report as specified in subsection (2).

(10) Each deepwater port listed in s. 403.021(9)(b) shall satisfy the requirements of subsection (2) by submitting to the appropriate local government a comprehensive master plan as required by s. 163.3178(2)(k). All other ports shall submit a public facilities report as required in subsection (2).

History.—s. 20, ch. 89-169; s. 26, ch. 95-280; s. 16, ch. 97-255; s. 17, ch. 99-8; s. 38, ch. 2011-139; s. 15, ch. 2012-99.

189.4155 Activities of special districts; local government comprehensive planning.—

(1) Construction or expansion of a public facility, or major alteration which affects the quantity or quality of the level of service of a public facility, which is undertaken or initiated by a special district or through some other entity shall be consistent with the applicable local government comprehensive plan adopted pursuant to part II of chapter 163; provided, however, the local government comprehensive plan shall not:

> (a) Require an independent special district to construct, expand, or perform a major alteration of any public facility; or
>
> (b) Require any special district to construct, expand, or perform a major alteration of any public facility which would result in an impairment of covenants and agreements relating to bonds validated or issued by the special district.

(2) When a local government has issued a development order which approves the construction of public facilities or has issued a development order pursuant to chapter 380, the local government shall not use the requirements of this section to limit or modify the right of an independent special

district to construct, modify, operate, or maintain public facilities authorized by the development order.

(3) The provisions of this section shall not apply to water management districts created pursuant to s. 373.069, to regional water supply authorities created pursuant to s. 373.713, or to spoil disposal sites owned or used by the Federal Government.

(4) Ports listed in s. 403.021(9)(b) which operate in compliance with a port master plan which has been incorporated into the appropriate local government comprehensive plan pursuant to s. 163.3178(2)(k) shall be deemed to be in compliance with the requirements of this section.

(5) Nothing in this section shall create or alter the respective rights of local governments or special districts to provide public facilities or services to a particular geographic area or location, nor shall this section alter or affect the police powers of any local government or the authority or requirements under chapter 163.

(6) Any independent district created under a special act or general law, including, but not limited to, this chapter, chapter 190, chapter 191, or chapter 298, for the purpose of providing urban infrastructure or services may provide housing and housing assistance for its employed personnel whose total annual household income does not exceed 140 percent of the area median income, adjusted for family size.

History.—s. 21, ch. 89-169; s. 17, ch. 97-255; s. 6, ch. 2006-69; s. 12, ch. 2007-5; s. 7, ch. 2010-205.

189.4156 Water management district technical assistance; local government comprehensive planning.—

Water management districts shall assist local governments in the development of local government comprehensive plan elements related to water resource issues as required by s. 373.711.

History.—s. 22, ch. 89-169; s. 8, ch. 2010-205.

189.416 Designation of registered office and agent.—

(1) Within 30 days after the first meeting of its governing board, each special district in the state shall designate a registered office and a registered agent and file such information with the local governing authority or authorities and with the department. The registered agent shall be an agent of the district upon whom any process, notice, or demand required or permitted by law to be served upon the district may be served. A registered agent shall be an individual resident of this state whose business address is identical with the registered office of the district. The registered office may be, but need not be, the same as the place of business of the special district.

(2) The district may change its registered office or change its registered agent, or both, upon filing such information with the local governing authority or authorities and with the department.

History.—s. 10, ch. 79-183; s. 15, ch. 81-167; s. 23, ch. 89-169; s. 18, ch. 97-255.

Note.—Former s. 189.004.

189.417 Meetings; notice; required reports.—

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually in a newspaper of general paid circulation in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days prior to such meeting, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the board. No approval of the annual budget shall be granted at an emergency meeting. The advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week. The newspaper selected must be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50. Any other provision of law to the contrary notwithstanding, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication in a newspaper of general paid circulation in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.

(2) All meetings of the governing body of the special district shall be open to the public and governed by the provisions of chapter 286.

(3) Meetings of the governing body of the special district shall be held in a public building when available within the district, in a county courthouse of a county in which the district is located, or in a building in the county accessible to the public.

History.—s. 10, ch. 79-183; s. 78, ch. 81-259; s. 24, ch. 89-169; s. 19, ch. 97-255; s. 33, ch. 99-378.

Note.—Former s. 189.005.

189.418 Reports; budgets; audits.—

(1) When a new special district is created, the district must forward to the department, within 30 days after the adoption of the special act, rule, ordinance, resolution, or other document that provides for the creation of the district, a copy of the document and a written statement that includes a reference to the status of the special district as dependent or independent and the basis for such classification. In addition to the document or documents that create the district, the district must also submit a map of the district, showing any municipal boundaries that cross the district's boundaries, and any county lines if the district is located in more than one county. The department must notify the local government or other entity and the district within 30 days after receipt of the document or documents that create the district as to whether the district has been determined to be dependent or independent.

(2) Any amendment, modification, or update of the document by which the district was created, including changes in boundaries, must be filed with the department within 30 days after adoption. The department may initiate proceedings against special districts as provided in s. 189.421 for failure to file the information required by this subsection. However, for the purposes of this section and s. 175.101(1), the boundaries of a district shall be deemed to include an area that has been annexed until the completion of the 4-year period specified in s. 171.093(4) or other mutually agreed upon extension, or when a district is providing services pursuant to an interlocal agreement entered into pursuant to s. 171.093(3).

(3) The governing body of each special district shall adopt a budget by resolution each fiscal year. The total amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total of appropriations for expenditures and reserves. At a minimum, the adopted budget must show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit which are at least at the level of detail required for the annual financial report under s. 218.32(1). The adopted budget must regulate expenditures of the special district, and an officer of a special district may not expend or contract for expenditures in any fiscal year except pursuant to the adopted budget.

(4) The tentative budget must be posted on the special district's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget. The final adopted budget must be posted on the special district's official website within 30 days after adoption. If the special district does not operate an official website, the special district must, within a reasonable period of time as established by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the tentative budget or final budget to the manager or administrator of the local general-purpose government or the local governing authority. The manager or administrator shall post the tentative budget or final budget on the website of the local general-purpose government or governing authority. This subsection and subsection (3) do not apply to water management districts as defined in s. 373.019.

(5) The proposed budget of a dependent special district must be contained within the general budget of the local governing authority to which it is dependent and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately. The dependent district must provide any budget information requested by the local governing authority at the time and place designated by the local governing authority.

(6) The governing body of each special district at any time within a fiscal year or within 60 days following the end of the fiscal year may amend a budget for that year as follows:

> (a) Appropriations for expenditures within a fund may be decreased or increased by motion recorded in the minutes if the total appropriations of the fund do not increase.
>
> (b) The governing body may establish procedures by which the designated budget officer may authorize certain amendments if the total appropriations of the fund do not increase.

(c) If a budget amendment is required for a purpose not specifically authorized in paragraph (a) or paragraph (b), the budget amendment must be adopted by resolution.

(7) If the governing body of a special district amends the budget pursuant to paragraph (6)(c), the adopted amendment must be posted on the official website of the special district within 5 days after adoption. If the special district does not operate an official website, the special district must, within a reasonable period of time as established by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the adopted amendment to the manager or administrator of the local general-purpose government or governing authority. The manager or administrator shall post the adopted amendment on the website of the local general-purpose government or governing authority.

(8) A local general-purpose government may review the budget or tax levy of any special district located solely within its boundaries.

(9) All special districts must comply with the financial reporting requirements of ss. 218.32 and 218.39. A local general-purpose government or governing authority may request, from any special district located solely within its boundaries, financial information in order to comply with its reporting requirements under ss. 218.32 and 218.39. The special district must cooperate with such request and provide the financial information at the time and place designated by the local general-purpose government or governing authority.

(10) All reports or information required to be filed with a local general-purpose government or governing authority under ss. 189.415, 189.416, and 189.417 and subsection (8) must:

(a) If the local general-purpose government or governing authority is a county, be filed with the clerk of the board of county commissioners.

(b) If the district is a multicounty district, be filed with the clerk of the county commission in each county.

(c) If the local general-purpose government or governing authority is a municipality, be filed at the place designated by the municipal governing body.

History.—s. 10, ch. 79-183; s. 16, ch. 81-167; s. 25, ch. 89-169; s. 13, ch. 96-324; s. 144, ch. 2001-266; s. 26, ch. 2002-1; s. 19, ch. 2004-305; s. 2, ch. 2009-217; s. 14, ch. 2011-144.

Note.—Former s. 189.006.

189.419 Effect of failure to file certain reports or information.—

(1) If an independent special district fails to file the reports or information required under s. 189.415, s. 189.416, s. 189.417, or s. 189.418(9) with the local general-purpose government or governments in which it is located, the person authorized to receive and read the reports or information or the local general-purpose government shall notify the district's registered agent. If requested by the district, the local general-purpose government shall grant an extension of up to 30

days for filing the required reports or information. If the governing body of the local general-purpose government or governments determines that there has been an unjustified failure to file these reports or information, it may notify the department, and the department may proceed pursuant to s. 189.421(1).

(2) If a dependent special district fails to file the reports or information required under s. 189.416, s. 189.417, or s. 189.418(9) with the local governing authority to which it is dependent, the local governing authority shall take whatever steps it deems necessary to enforce the special district's accountability. Such steps may include, as authorized, withholding funds, removing governing board members at will, vetoing the special district's budget, conducting the oversight review process set forth in s. 189.428, or amending, merging, or dissolving the special district in accordance with the provisions contained in the ordinance that created the dependent special district.

(3) If a special district fails to file the reports or information required under s. 218.38 with the appropriate state agency, the agency shall notify the department, and the department shall send a certified technical assistance letter to the special district which summarizes the requirements and encourages the special district to take steps to prevent the noncompliance from reoccurring.

(4) If a special district fails to file the reports or information required under s. 112.63 with the appropriate state agency, the agency shall notify the department and the department shall proceed pursuant to s. 189.421(1).

(5) If a special district fails to file the reports or information required under s. 218.32 or s. 218.39 with the appropriate state agency or office, the state agency or office shall, and the Legislative Auditing Committee may, notify the department and the department shall proceed pursuant to s. 189.421.

History.—s. 10, ch. 79-183; s. 26, ch. 89-169; s. 14, ch. 96-324; s. 145, ch. 2001-266; s. 20, ch. 2004-305; s. 15, ch. 2011-144.

Note.—Former s. 189.007.

189.420 Assessments levied on facilities regulated under chapter 513.—

When an independent or dependent special district levies an assessment on a facility regulated under chapter 513, the assessment shall not be based on the assertion that the facility is comprised of residential units. Instead, facilities regulated under chapter 513 shall be assessed in the same manner as a hotel, motel, or other similar facility.

History.—s. 9, ch. 2000-355.

189.421 Failure of district to disclose financial reports.—

(1)

(a) If notified pursuant to s. 189.419(1), (4), or (5), the department shall attempt to assist a special district in complying with its financial reporting requirements by sending a

certified letter to the special district, and, if the special district is dependent, sending a copy of that letter to the chair of the local governing authority. The letter must include a description of the required report, including statutory submission deadlines, a contact telephone number for technical assistance to help the special district comply, a 60-day deadline for filing the required report with the appropriate entity, the address where the report must be filed, and an explanation of the penalties for noncompliance.

(b) A special district that is unable to meet the 60-day reporting deadline must provide written notice to the department before the expiration of the deadline stating the reason the special district is unable to comply with the deadline, the steps the special district is taking to prevent the noncompliance from reoccurring, and the estimated date that the special district will file the report with the appropriate agency. The district's written response does not constitute an extension by the department; however, the department shall forward the written response to:

1. If the written response refers to the reports required under s. 218.32 or s. 218.39, the Legislative Auditing Committee for its consideration in determining whether the special district should be subject to further state action in accordance with s. 11.40(2)(b).

2. If the written response refers to the reports or information requirements listed in s. 189.419(1), the local general-purpose government or governments for their consideration in determining whether the oversight review process set forth in s. 189.428 should be undertaken.

3. If the written response refers to the reports or information required under s. 112.63, the Department of Management Services for its consideration in determining whether the special district should be subject to further state action in accordance with s. 112.63(4)(d)2.

(2) Failure of a special district to comply with the actuarial and financial reporting requirements under s. 112.63, s. 218.32, or s. 218.39 after the procedures of subsection (1) are exhausted shall be deemed final action of the special district. The actuarial and financial reporting requirements are declared to be essential requirements of law. Remedy for noncompliance shall be by writ of certiorari as set forth in subsection (4).

(3) Pursuant to s. 11.40(2)(b), the Legislative Auditing Committee shall notify the department of those districts that fail to file the required reports. If the procedures described in subsection (1) have not yet been initiated, the department shall initiate such procedures upon receiving the notice from the Legislative Auditing Committee. Otherwise, within 60 days after receiving such notice, or within 60 days after the expiration of the 60-day deadline provided in subsection (1), whichever occurs later, the department, notwithstanding the provisions of chapter 120, shall file a petition for writ of certiorari with the circuit court. Venue for all actions pursuant to this subsection is in Leon County. The court shall award the prevailing party attorney's fees and costs unless affirmatively waived by all parties. A writ of certiorari shall be issued unless a respondent establishes that the

notification of the Legislative Auditing Committee was issued as a result of material error. Proceedings under this subsection are otherwise governed by the Rules of Appellate Procedure.

(4) Pursuant to s. 112.63(4)(d)2., the Department of Management Services may notify the department of those special districts that have failed to file the required adjustments, additional information, or report or statement after the procedures of subsection (1) have been exhausted. Within 60 days after receiving such notice or within 60 days after the 60-day deadline provided in subsection (1), whichever occurs later, the department, notwithstanding chapter 120, shall file a petition for writ of certiorari with the circuit court. Venue for all actions pursuant to this subsection is in Leon County. The court shall award the prevailing party attorney's fees and costs unless affirmatively waived by all parties. A writ of certiorari shall be issued unless a respondent establishes that the notification of the Department of Management Services was issued as a result of material error. Proceedings under this subsection are otherwise governed by the Rules of Appellate Procedure.

History.—s. 10, ch. 79-183; s. 79, ch. 81-259; s. 27, ch. 89-169; s. 80, ch. 92-279; s. 55, ch. 92-326; s. 961, ch. 95-147; s. 32, ch. 96-410; s. 20, ch. 97-255; s. 21, ch. 2004-305; s. 23, ch. 2011-34; s. 16, ch. 2011-144; s. 19, ch. 2012-5.

Note.—Former s. 189.008.

189.4221 Purchases from purchasing agreements of special districts, municipalities, or counties.—

Special districts may purchase commodities and contractual services, other than services the acquisition of which is governed by s. 287.055, from the purchasing agreements of other special districts, municipalities, or counties which have been procured pursuant to competitive bid, requests for proposals, requests for qualifications, competitive selection, or competitive negotiations, and which are otherwise in compliance with general law if the purchasing agreement of the other special district, municipality, or county was procured by a process that would have met the procurement requirements of the purchasing special district.

History.—s. 1, ch. 2009-217.

189.423 Purchase, sale, or privatization of water, sewer, or wastewater reuse utility by special district.—

No dependent or independent special district may purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility until the governing body of the district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the district shall consider, at a minimum, the following:

(1) The most recent available income and expense statement for the utility;

(2) The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;

(3) A statement of the existing rate base of the utility for regulatory purposes;

(4) The physical condition of the utility facilities being purchased, sold, or subject to wastewater facility privatization contract;

(5) The reasonableness of the purchase, sale, or wastewater facility privatization contract price and terms;

(6) The impacts of the purchase, sale, or wastewater facility privatization contract on utility customers, both positive and negative;

(7)

(a) Any additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make that investment, whether the purchaser is the special district or the entity purchasing the utility from the special district;

(b) In the case of a wastewater facility privatization contract, the terms and conditions on which the private firm will provide capital investment and financing or a combination thereof for contemplated capital replacements, additions, expansions, and repairs. The special district shall give significant weight to this criteria.

(8) The alternatives to the purchase, sale, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made;

(9)

(a) The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the special district or the entity purchasing the utility from the special district;

(b) In the case of a wastewater facility privatization contract, the special district shall give significant weight to the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract; and

(10) All moneys paid by a private firm to a special district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting property taxes, wastewater service rates, or debt reduction or making infrastructure

improvements or capital asset expenditures or other public purpose; provided, however, nothing herein shall preclude the special district from using all or part of the moneys for the purpose of the special district's qualification for relief from the repayment of federal grant awards associated with the wastewater system as may be required by federal law or regulation.

The special district shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service, whether the purchaser or private firm is the special district or the entity purchasing the utility from the special district. The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

History.—s. 4, ch. 84-84; s. 29, ch. 89-169; s. 7, ch. 93-51; s. 8, ch. 96-202.

Note.—Former s. 189.30.

189.425 Rulemaking authority.—

The department may adopt rules to implement the provisions of this chapter.

History.—s. 59, ch. 89-169; s. 22, ch. 97-255; s. 67, ch. 2011-142.

189.427 Fee schedule; Grants and Donations Trust Fund.—

The Department of Economic Opportunity, by rule, shall establish a schedule of fees to pay one-half of the costs incurred by the department in administering this act, except that the fee may not exceed $175 per district per year. The fees collected under this section shall be deposited in the Grants and Donations Trust Fund, which shall be administered by the Department of Economic Opportunity. Any fee rule must consider factors such as the dependent and independent status of the district and district revenues for the most recent fiscal year as reported to the Department of Financial Services. The department may assess fines of not more than $25, with an aggregate total not to exceed $50, as penalties against special districts that fail to remit required fees to the department. It is the intent of the Legislature that general revenue funds will be made available to the department to pay one-half of the cost of administering this act.

History.—s. 64, ch. 89-169; s. 41, ch. 93-120; s. 15, ch. 96-324; s. 3, ch. 2000-118; s. 31, ch. 2000-151; s. 169, ch. 2003-261; s. 68, ch. 2011-142.

189.428 Special districts; oversight review process.—

(1) The Legislature finds it to be in the public interest to establish an oversight review process for special districts wherein each special district in the state may be reviewed by the local general-purpose government in which the district exists. The Legislature further finds and determines that such law fulfills an important state interest. It is the intent of the Legislature that the oversight review process shall contribute to informed decisionmaking. These decisions may involve the continuing existence or dissolution of a district, the appropriate future role and focus of a district,

improvements in the functioning or delivery of services by a district, and the need for any transition, adjustment, or special implementation periods or provisions. Any final recommendations from the oversight review process that are adopted and implemented by the appropriate level of government shall not be implemented in a manner that would impair the obligation of contracts.

(2) It is the intent of the Legislature that any oversight review process be conducted in conjunction with special district public facilities reporting and the local government evaluation and appraisal report process described in s. 189.415(2).

(3) The order in which special districts may be subject to oversight review shall be determined by the reviewer and shall occur as follows:

(a) All dependent special districts may be reviewed by the general-purpose local government to which they are dependent.

(b) All single-county independent special districts may be reviewed by a county or municipality in which they are located or the government that created the district. Any single-county independent district that serves an area greater than the boundaries of one general-purpose local government may only be reviewed by the county on the county's own initiative or upon receipt of a request from any municipality served by the special district.

(c) All multicounty independent special districts may be reviewed by the government that created the district. Any general-purpose local governments within the boundaries of a multicounty district may prepare a preliminary review of a multicounty special district for possible reference or inclusion in the full review report.

(d) Upon request by the reviewer, any special district within all or a portion of the same county as the special district being reviewed may prepare a preliminary review of the district for possible reference or inclusion in the full oversight review report.

(4) All special districts, governmental entities, and state agencies shall cooperate with the Legislature and with any general-purpose local government seeking information or assistance with the oversight review process and with the preparation of an oversight review report.

(5) Those conducting the oversight review process shall, at a minimum, consider the listed criteria for evaluating the special district, but may also consider any additional factors relating to the district and its performance. If any of the listed criteria does not apply to the special district being reviewed, it need not be considered. The criteria to be considered by the reviewer include:

(a) The degree to which the service or services offered by the special district are essential or contribute to the well-being of the community.

(b) The extent of continuing need for the service or services currently provided by the special district.

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(c) The extent of municipal annexation or incorporation activity occurring or likely to occur within the boundaries of the special district and its impact on the delivery of services by the special district.

(d) Whether there is a less costly alternative method of delivering the service or services that would adequately provide the district residents with the services provided by the district.

(e) Whether transfer of the responsibility for delivery of the service or services to an entity other than the special district being reviewed could be accomplished without jeopardizing the district's existing contracts, bonds, or outstanding indebtedness.

(f) Whether the Auditor General has notified the Legislative Auditing Committee that the special district's audit report, reviewed pursuant to s. 11.45(7), indicates that the district has met any of the conditions specified in s. 218.503(1) or that a deteriorating financial condition exists that may cause a condition described in s. 218.503(1) to occur if actions are not taken to address such condition.

(g) Whether the district is inactive according to the official list of special districts, and whether the district is meeting and discharging its responsibilities as required by its charter, as well as projected increases or decreases in district activity.

(h) Whether the special district has failed to comply with any of the reporting requirements in this chapter, including preparation of the public facilities report.

(i) Whether the special district has designated a registered office and agent as required by s. 189.416, and has complied with all open public records and meeting requirements.

(6) Any special district may at any time provide the Legislature and the general-purpose local government conducting the review or making decisions based upon the final oversight review report with written responses to any questions, concerns, preliminary reports, draft reports, or final reports relating to the district.

(7) The final report of a reviewing government shall be filed with the government that created the district and shall serve as the basis for any modification to the district charter or dissolution or merger of the district.

(8) If legislative dissolution or merger of a district is proposed in the final report, the reviewing government shall also propose a plan for the merger or dissolution, and the plan shall address the following factors in evaluating the proposed merger or dissolution:

(a) Whether, in light of independent fiscal analysis, level-of-service implications, and other public policy considerations, the proposed merger or dissolution is the best alternative for delivering services and facilities to the affected area.

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(b) Whether the services and facilities to be provided pursuant to the merger or dissolution will be compatible with the capacity and uses of existing local services and facilities.

(c) Whether the merger or dissolution is consistent with applicable provisions of the state comprehensive plan, the strategic regional policy plan, and the local government comprehensive plans of the affected area.

(d) Whether the proposed merger adequately provides for the assumption of all indebtedness.

The reviewing government shall consider the report in a public hearing held within the jurisdiction of the district. If adopted by the governing board of the reviewing government, the request for legislative merger or dissolution of the district may proceed. The adopted plan shall be filed as an attachment to the economic impact statement regarding the proposed special act or general act of local application dissolving a district.

(9) This section does not apply to a deepwater port listed in s. 311.09(1) which is in compliance with a port master plan adopted pursuant to s. 163.3178(2)(k), or to an airport authority operating in compliance with an airport master plan approved by the Federal Aviation Administration, or to any special district organized to operate health systems and facilities licensed under chapter 395, chapter 400, or chapter 429.

History.—s. 23, ch. 97-255; s. 46, ch. 2001-266; s. 22, ch. 2004-305; s. 6, ch. 2006-197.

189.429 Codification.—

(1) Each district, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.418(2).

(2) The reenactment of existing law under this section shall not be construed as a grant of additional authority nor to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this section shall continue to apply.

(3) The reenactment of existing law under this section shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law under this section shall be construed to affect the ability of any district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

History.—s. 24, ch. 97-255; s. 3, ch. 98-320; s. 146, ch. 2001-266.

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189.430 Community Improvement Authority Act; short title.—This act may be cited as the "Community Improvement Authority Act."

History.—s. 1, ch. 2000-348.

189.431 Legislative findings; intent.—

(1) The Legislature finds that certain counties in the state have the need for enhancement of areas surrounding major downtown areas through the improvement of existing facilities and the development of facilities and other attractions, including professional sports facilities, and other related amenities and infrastructure. The Legislature also finds that these projects serve a paramount public purpose and that there is a need to provide a comprehensive method and funding sources for providing for the development and operation of facilities and other attractions, including professional sports facilities, and other related amenities and infrastructure.

(2) It is declared to be the intent of the Legislature to prescribe a uniform procedure for establishing independent authorities for the purpose of planning, financing, constructing, renovating, developing, operating, and maintaining facilities and other attractions, including professional sports facilities and other related amenities and infrastructure within highly populated counties of the state and within counties contiguous therewith.

(3) It is the intent of the Legislature that each authority shall take all steps reasonable, necessary, or advisable to generate local support for the development of projects, including professional sports facilities and related amenities and infrastructure, to serve as an intermediary and facilitate negotiations with and among private interests, community organizations, and governmental authorities in connection with the construction or development of such projects, to explore, research, and analyze financing and related alternatives for the construction or development of such projects, and to present findings and recommendations to the appropriate governmental entities with respect to the construction or development of such projects.

(4) Because the independent authorities so created shall be empowered to exercise certain substantial powers and authority in more than one county, it is declared to be the intent of the Legislature that the Community Improvement Authority Act be construed for all purposes as a general law that relates to more than one county and that the independent authorities so created not be deemed to have jurisdiction lying wholly within any one county within the meaning of any constitutional, statutory, or charter provision.

History.—s. 2, ch. 2000-348.

189.432 Definitions; Community Improvement Authority Act.—

As used in this act, the term:

(1) "Authority" means an authority created under this act.

(2) "Board" or "board of supervisors" means the governing body of an authority.

(3) "Bond" means any general obligation bond, revenue bond, refunding bond, note, or other debt obligation authorized under this act.

(4) "Department" means the Department of Revenue.

(5) "Eligible county" means any county within the state which simultaneously satisfies the following criteria:

(a) At least two professional sports facilities exist in the county, and

(b) The county has a population of not less than 1.5 million according to the most recent annual publication of County Population Estimates of the U.S. Bureau of the Census. Once a governing body has been appointed for an authority in an eligible county, that county is considered an eligible county for all purposes of this act, notwithstanding subsequent reductions in population.

(6) "Professional sports facility" means a ballpark, stadium, arena, coliseum, or similar facility intended for use by a professional sports franchise that exists within the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.

(7) "Project" means facilities, attractions, and other improvements authorized by this act, including professional sports facilities, related amenities and infrastructure, and systems, facilities, and services determined by an authority to be beneficial to the development, ownership, and operation of any of the foregoing, including the acquisition of land and any interest therein.

(8) "Refunding bonds" means bonds issued to retire or refinance outstanding bonds of an authority and the interest and redemption premium thereon.

(9) "Revenue bonds" means obligations of an authority or other governmental body which are payable from revenues or other funds derived from sources other than ad valorem taxes on real or tangible personal property.

History.—s. 3, ch. 2000-348.

189.433 Creation of a community improvement authority; charter.—

(1) A community improvement authority is established within each eligible county with all of the powers, authority, duties, and limitations set forth in this act, including the powers set forth in this act to undertake certain activities in counties contiguous with such eligible county. This act constitutes the charter of each such authority, and this act may be amended in the same manner as any other general law of the state. Each authority shall be designated " County Community Improvement Trust," with the blank space being completed by inserting the name of the eligible county in which the authority is located. Notwithstanding the foregoing, in any eligible county in which an independent port district was abolished with support of the majority of electors of that county voting in a referendum held within 10 years immediately preceding the effective date of this act, an authority shall not be established and no authority shall have jurisdiction or exercise any powers within such county without an approving ordinance adopted by such county's governing body.

(2) Each authority is a body politic and corporate, a public instrumentality, and an independent special district within the meaning of this chapter, the jurisdiction of which encompasses the applicable eligible county and each county contiguous therewith, except as expressly provided herein.

History.—s. 4, ch. 2000-348.

189.434 Board of supervisors.—

(1) A board of supervisors shall govern each authority.

(2) The board shall be composed of nine members. Not sooner than 60 days after the authority is established, the Governor shall appoint two members to the board; the county commission of the eligible county shall appoint three members to the board; the mayor of the eligible county shall appoint one member to the board; the city commission with the largest population shall appoint two members to the board; and the mayor of such city shall appoint one member to the board. In the event that within 30 days after the Governor has made two appointments to the board, all nine members shall not have been appointed, then the members of the board of such authority who shall have been appointed shall select by majority vote among them at the organizational meeting of the board, without regard to the presence of a quorum, the remaining members of the board. Each appointing authority shall appoint members of the board to succeed those whose terms are expiring not less than 60 days before the expiration of such term. All members of the board must have expertise in one or more of the following areas: public finance, private finance, public accounting, commercial law, commercial real estate, real estate development, general contracting, architecture, and administration of professional sports team operations. A member of the board may not, at the time of appointment, hold an elected public office in the state.

(3) The organizational meeting of the board shall be held not less than 30 days and not more than 45 days after the Governor has made two appointments to the board. Appointed members of the board shall hold office for a term of 4 years or until their successors take office, except that the two initial members appointed by the Governor, one of the initial members appointed by the commission of the eligible county, and one of the initial members appointed by the mayor of the eligible county shall be appointed to terms of 3 years. In the event that initial members are appointed by the board, the board shall designate which, if any, of the initial members appointed by the board shall hold office for a term of 3 years, such that four of the nine initial members of the board shall be designated to hold office for terms of 3 years. If during a member's term of office a vacancy occurs, the Governor shall fill the vacancy by appointment for the remainder of the term.

(4) The members of the board must be residents of the eligible county in which the authority is located.

(5) Five members of the board shall constitute a quorum, and the affirmative vote of a majority of the members present and voting is necessary to take any official action.

(6) The members of the board shall serve without compensation but are entitled to reimbursement for travel and per diem expenses in accordance with s. 112.061.

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(7) The board shall at the time of organizing, and annually thereafter, elect a chair for a term of 1 year or until a successor is elected or the chair is removed, with or without cause, by the board. The chair shall preside at all meetings of the board. If the chair is absent or disqualified at any meeting, any member of the board may be designated chair pro tempore for that meeting.

History.—s. 5, ch. 2000-348.

189.435 Executive director.—

The board may appoint and fix the salary of an executive director to carry out the day-to-day activities of the authority and to administer the policies of the board.

History.—s. 6, ch. 2000-348.

189.436 Chief financial officer and other officers; financial records; fiscal year.—

(1) The board may appoint and fix the salary of a chief financial officer of the authority, who is responsible for the funds and finances of the authority. Funds may be disbursed only at the direction of the board signed by the persons designated by the board. The board may give the chief financial officer additional powers and duties.

(2) The board or the executive director upon authority delegated by the board may appoint or employ other officers or employees of the authority and give them appropriate powers and duties.

(3) The financial records of the authority shall be audited by an independent certified public accountant at least once each year.

(4) The fiscal year of the authority begins October 1 of each year and ends September 30 of the following year.

History.—s. 7, ch. 2000-348.

189.437 Budgets.—

On or before June 30 of each year, the executive director of the authority shall prepare a proposed budget, including an estimate of all revenues and anticipated expenditures, for the following fiscal year to be submitted to the board for approval or modification. The budget must be adopted before October 1 of each year.

History.—s. 8, ch. 2000-348.

189.438 Powers and duties.—

(1) Each authority has, and the board may exercise the power to take all steps reasonable, necessary, or advisable to generate local support for the development of projects, including professional sports facilities and related amenities and infrastructure, to serve as an intermediary and facilitate negotiations with and among private interests, community organizations, and governmental authorities in connection with the construction or development of such projects, and

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to explore, research, and analyze financing and related alternatives for the construction or development of such projects.

(2) As appropriate, the authority shall present findings and make recommendations to the applicable governmental entity necessary to secure support or action with respect to such recommendations and to secure sources of financing and other funding alternatives for the construction or development of such projects.

(3) In the event an appropriate governmental authority, acting upon the recommendations of the authority, has approved a source or sources of funding to finance the construction or development of a project and such source or sources of funding, if consisting of revenues to be derived from a new tax, assessment, surcharge or levy, or from an increase to an existing tax, assessment, surcharge or levy, have been approved by a majority of the qualified electors within the jurisdiction of such governmental authority voting in a duly held referendum, the board may exercise the power to:

(a) Either alone or in cooperation with the eligible county or other governmental body, finance, refinance, acquire, plan, design, develop, construct, own, lease, operate, maintain, manage, renovate, improve, and promote any project located in the eligible county or any county contiguous therewith consisting of one or more facilities and other attractions and related amenities and infrastructure, including: professional sports facilities and recreational, commercial, cultural, and educational facilities; civic, multi-purpose meeting facilities; and all forms of media communication, transmission, and production systems and facilities.

1. During the 24-month period following establishment of an authority, the only project an authority may initiate is a professional sports facility and related amenities and infrastructure, which initiation must be evidenced by adoption of a resolution setting forth the authority's commitment to initiate and promptly implement a professional sports facility project;

2. A professional sports facility may not be constructed outside the eligible county that is intended to accommodate regular season games of a professional sports franchise that exists within the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League; and

3. No other project may be constructed outside the eligible county unless the authority and the county in which such facility will be located have entered into an interlocal agreement with respect to such project.

(b) Finance, refinance, acquire, plan, design, develop, construct, own, lease, operate, maintain, manage, renovate, improve, and promote any facilities and infrastructure within the authority's jurisdictional boundaries that are reasonably ancillary, incidental, or supporting of projects, including, but not limited to, roads, bridges, parking, and other transportation facilities.

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(4) In addition, the board may exercise the power to:

(a) Provide for the protection of persons using the facilities of the authority by contracting to provide police protection, emergency medical services, and fire protection related to the facilities only with the prior consent of the county or municipality that provides these services at the time of the establishment of the authority.

(b) Sue and be sued in the name of the authority.

(c) Adopt and use a seal and authorize the use of a facsimile thereof.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) Employ staff and contract for the services of such independent consultants, professionals, managers, and operators as the board finds necessary and convenient.

(f) Maintain offices as the board finds necessary.

(g) Adopt procedures for the conduct of the authority's affairs, the conduct of its business, and the administration of this act.

(h) Accept gifts; apply for and use grants or loans of money or other property from the United States or any department, agency, or unit of local government thereof, the state or any of its subdivisions or agencies, any other state or any subdivision or agency thereof, or any person for authority purposes and enter into any agreements required in connection therewith; and hold, use, and dispose of money or property for any authority purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(i) Hold, control, and acquire by donation or purchase, and dispose of, any real or personal property, or any estate therein, within or outside the authority's boundaries, for any authority purpose.

(j) Lease as lessor or lessee to or from any person, public or private, any projects of the type that the authority is authorized to undertake and facilities or property of any nature for the use of the authority to carry out any of the purposes authorized by this act.

(k) Borrow money and issue bonds or other evidence of indebtedness as otherwise provided in this act.

(l) Fix, collect, and enforce fees, rates, or other user charges for any service, program, or facility provided by the authority.

(m) Cooperate and contract with other governmental entities and, under an interlocal agreement with such an entity, undertake any project authorized in this act or that the contracting governmental entity is authorized to undertake and that furthers an authority purpose.

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(n) Invest moneys received by the authority as is permitted by law or as provided in any resolution adopted by the board.

(o) Procure necessary insurance or self-insure.

(p) Establish such independent entities or affiliated entities, whether in the form of a not-for-profit corporation or other legal entity, for such purposes as the board considers necessary or appropriate to carry out its projects or to administer projects or funds for the benefit of all or any portion of the eligible county or any county contiguous therewith.

(q) Make grants of authority funds to the eligible county or any county contiguous therewith or to any municipality, or any other governmental unit in any such county if the grant furthers any purpose of the authority.

(r) Exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

History.—s. 9, ch. 2000-348.

189.439 Bonds.—

(1) AUTHORIZATION AND FORM OF BONDS.—

(a) The authority may issue and sell bonds for any purpose for which the authority has the power to expend money, including, without limitation, the power to obtain working capital loans to finance the costs of any project and to refund any bonds or other indebtedness at the time outstanding at or before maturity. Bonds may be sold in the manner provided in s. 218.385 and may be authorized by resolution of the board.

(b) Bonds of the authority may reflect and evidence any form of financing structure that may become marketable from time to time, including, but not limited to, taxable or tax-exempt bonds; bonds that bear current interest, whether fixed or variable; bonds issued at an original issue discount or premium; capital appreciation bonds; bonds that are convertible, whether or not at the option of the holder, into a form of bonds differing from that in which they were originally issued; bonds that allow the holder to tender the bonds to the authority or its agent; bonds that are issued with separate call-option rights that may be sold by the authority at the time of issuance of the bonds or thereafter; and bonds of any type issued in connection with interest-rate swaps or other derivative products. Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at the same time.

(c) The board may, by resolution, fix the aggregate maximum amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom may be expended, including, but not limited to, payment of costs of one or more projects; the rates of interest; the denominations of the bonds; whether or not the bonds are to be issued in one or more series; the dates of maturity, which may not exceed 40 years from the respective date of issuance; the medium of payment; the places within or outside the state where payment

must be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any other terms, covenants, and conditions thereof and the establishment of revenue or other funds. The authorizing resolution may further provide for the contracts authorized by s. 159.825(1)(f) and (g), regardless of the tax treatment of the bonds being authorized. The authorizing resolution may further provide for an electronic-book-entry system of registration, or for certificated bonds. The seal of the authority may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on the bonds.

(d) Any issue of bonds may be secured by a trust agreement by and between the authority and corporate trustees, which may be any trust company or bank having the powers of a trust company within or outside the state. Any provisions regarding the details or terms of any bonds that are required or permitted to be set forth in a resolution of the board may be set forth in a trust agreement with the same effect as if the provisions were set forth in a resolution of the board. The resolution authorizing the issuance of the bonds or the trust agreement may pledge any legally available revenues of the authority, including, without limitation, the proceeds of rental payments received by the authority, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board approves, including, without limitation, covenants authorized under subsection (4) and covenants setting forth the duties of the authority in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys, and may contain provisions for the employment of engineers, accountants, and other consultants in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It is lawful for any bank or trust company within or outside the state to act as a depository of the proceeds of bonds or of revenues and to furnish such indemnifying bonds or to pledge such securities as are required by the authority. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual rights of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to any officer, board, or depository that it designates for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it establishes. All expenses incurred in carrying out the provisions of the resolution or trust agreement may be treated as part of the cost of a project to which the trust agreement pertains or as part of the cost of the operation of the project.

(e) Bonds may be delivered by the authority as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board determines.

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(f) Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary notes or bonds, in a form and with such provisions as the board establishes, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds that become mutilated, lost, or destroyed.

(g) All bonds issued on behalf of the authority must state on the face thereof that they are payable, both as to principal and interest, solely from assets of the authority pledged therefor and do not constitute an obligation, either general or special, of the state or of any local government.

(2) NEGOTIABILITY OF BONDS.—Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, is fully negotiable and constitutes a negotiable instrument within the meaning and for all proposes of the law merchant and the laws of the state.

(3) BONDS AS LEGAL INVESTMENT OR SECURITY.—

(a) Notwithstanding any other law to the contrary, all bonds issued under this act constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state.

(b) Any bonds issued by the authority are incontestable in the hands of bona fide purchasers or holders for value and are not invalid because of any irregularity or defect in the proceedings for the issue and sale thereof or because of any initiative or referendum taking place after the bonds are issued.

(4) COVENANTS.—Any resolution authorizing the issuance of bonds may contain any covenants the board finds advisable. All the covenants constitute valid and legally binding and enforceable contracts between the authority and the bondholders, regardless of the time of issuance thereof.

(5) ACT FURNISHES FULL AUTHORITY FOR ISSUANCE OF BONDS.—This act constitutes full authority for the issuance of bonds and the exercise of the powers of the authority. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officers, commission, department, agency, or instrumentality of the authority, other than those required by this act, are required to perform anything under this act, except that the issuance or sale of bonds under this act must comply with the general-law requirements applicable to the issuance or sale of bonds by the authority, including, but not limited to, s. 189.4085.

(6) PLEDGE BY THE STATE TO THE BONDHOLDERS OF THE AUTHORITY.—The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the authority to own, acquire, construct or reconstruct, improve, maintain, operate, or furnish the projects provided for in this act or hereafter and to fulfill the terms of any agreement made with the

holders of the bonds or other obligations and that it will not in any way impair the rights or remedies of the holders.

History.—s. 10, ch. 2000-348; s. 23, ch. 2004-305.

189.440 Tax exemption.—

The bonds and other obligations issued under this act, their transfer, and the income therefrom, including any profit made on the sale thereof, and all notes, mortgages, security agreements, letters of credit, or other instruments that arise from or are given to secure the repayment of bonds or other obligations issued under this act, are at all times free from taxation by the state or any unit of local government, political subdivision, or other instrumentality of the state. For purposes of excise taxes on documents, the provisions of s. 201.24 apply. The exemption granted by this section does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 11, ch. 2000-348.

189.441 Contracts.—

Contracts for the construction of projects and for any other purpose of the authority may be awarded by the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served thereby, the authority may award or cause to be awarded contracts for the construction of any project, including design-build contracts, or any part thereof, or for any other purpose of the authority upon a negotiated basis as determined by the authority. Each contractor doing business with the authority and required to be licensed by the state or local general-purpose governments must maintain the license during the term of the contract with the authority. The authority may prescribe bid security requirements and other procedures in connection with the award of contracts which protect the public interest. The authority may, and in the case of a new professional sports franchise must, by written contract engage the services of the operator, lessee, sublessee, or purchaser, or prospective operator, lessee, sublessee, or purchaser, of any project in the construction of the project and may, and in the case of a new professional sports franchise must, provide in the contract that the lessee, sublessee, purchaser, or prospective lessee, sublessee, or purchaser, may act as an agent of, or an independent contractor for, the authority for the performance of the functions described therein, subject to the conditions and requirements prescribed in the contract, including functions such as the acquisition of the site and other real property for the project; the preparation of plans, specifications, financing, and contract documents; the award of construction and other contracts upon a competitive or negotiated basis; the construction of the project, or any part thereof, directly by the lessee, purchaser, or prospective lessee or purchaser; the inspection and supervision of construction; the employment of engineers, architects, builders, and other contractors; and the provision of money to pay the cost thereof pending reimbursement by the authority. Any such contract may, and in the case of a new professional sports franchise must, allow the authority to make advances to or reimburse the lessee, sublessee, or purchaser, or prospective lessee, sublessee, or purchaser for its costs incurred in the performance of those functions, and must set forth the supporting documents required to be

submitted to the authority and the reviews, examinations, and audits that are required in connection therewith to assure compliance with the contract.

History.—s. 12, ch. 2000-348; s. 59, ch. 2002-20.

189.442 Sale or lease of property.—

The authority may sell or lease property of the authority or grant operating agreements for any project of the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served, the authority may sell or lease property of the authority upon a negotiated basis or for no or nominal consideration. Notwithstanding any other law, the authority may sell or lease property of the authority in a transaction in which the authority leases the property back from its purchaser or lessee. To facilitate the development of a project by an authority, any governmental entity or other unit of local government may sell or lease its property to an authority upon a negotiated basis, without competitive bid, and for no or nominal consideration, and an authority may resell or sublease or grant an operating agreement for the property to a professional sports franchise in the same manner.

History.—s. 13, ch. 2000-348.

189.443 Damages arising out of tort.—

Any suit or action brought or maintained against the authority for damages arising out of tort are subject to the limitations provided in s. 768.28, and any claim must be presented in writing to the board.

History.—s. 14, ch. 2000-348.

189.444 Dissolution.—

(1) Once an authority has been established, its existence is not affected by any subsequent reduction in population in the eligible county. Subject to subsection (2), an authority may be dissolved only by unanimous resolution of the board and approval of the resolution by the Governor or in the manner provided in this chapter; provided, however, that an authority shall be dissolved automatically upon the fifth anniversary of the date it was established in the event that construction has not commenced on any project, including a professional sports facility or other related amenities and infrastructure.

(2) A dissolution may not become effective unless arrangements have been made for the full assumption of all governmental services then being provided by the authority, and for the transfer and allocation of revenue, property, and indebtedness of the authority. If any bonds or other obligations of the authority are outstanding, any act of the Legislature dissolving the authority shall set forth the proposed arrangements under which holders of the outstanding obligations will be immediately paid or will continue to be paid, which arrangements must be consistent with the terms of the outstanding obligations. Any resolution of the board or legislative act dissolving the authority must specify the effective date of the dissolution. Neither the consent of the eligible county nor the consent of any county contiguous therewith is required to dissolve an authority.

History.—s. 15, ch. 2000-348.

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