

1 A bill to be entitled

2 An act relating to special districts; amending s.
3 189.404, F.S.; exempting the conversion of certain
4 water control districts into community development
5 districts from specific charter requirements; amending
6 s. 189.412, F.S.; requiring the Department of Economic
7 Opportunity to publish certain information on its
8 website with respect to special districts; authorizing
9 the department to coordinate with the Department of
10 State for certain purposes; amending s. 190.004, F.S.;
11 creating an exception for the conversion of certain
12 water control districts; amending s. 190.005, F.S.;
13 creating an exception for the establishment of a
14 community development district created by the
15 conversion of a water control district; amending s.
16 190.0485, F.S.; requiring districts created by the
17 conversion of water control districts to record a
18 notice of establishment; amending s. 190.049, F.S.;
19 exempting acts creating districts by the conversion of
20 water control districts; creating part II of chapter
21 190, F.S., relating to conversion of water control
22 districts to community development districts;
23 authorizing the popularly elected governing board of a
24 water control district to conduct a referendum on the
25 question of whether the district may convert to a
26 community development district; providing referendum

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 requirements and procedures; providing notice
 28 requirements; providing for special act, upon
 29 referendum approval, to codify special powers in the
 30 charter of the water control district and provide for
 31 conversion of the district to a community development
 32 district; creating a prohibition on enacting special
 33 laws granting additional powers without prior
 34 referendum; amending s. 298.76, F.S.; authorizing the
 35 conversion of a water control district to a community
 36 development district by special or local legislation;
 37 providing an effective date.

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39 Be It Enacted by the Legislature of the State of Florida:

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41 Section 1. Subsection (2) of section 189.404, Florida
 42 Statutes, is amended to read:

43 189.404 Legislative intent for the creation of independent
 44 special districts; special act prohibitions; model elements and
 45 other requirements; general-purpose local government/Governor
 46 and Cabinet creation authorizations.—

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

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

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

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

57 (d) Exempt an independent special district from the
 58 reporting, notice, or public meetings requirements of s.
 59 189.4085, s. 189.415, s. 189.417, or s. 189.418;

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

- 63 1. The purpose of the proposed district;
- 64 2. The authority of the proposed district;
- 65 3. An explanation of why the district is the best
 66 alternative; and
- 67 4. A resolution or official statement of the governing
 68 body or an appropriate administrator of the local jurisdiction
 69 within which the proposed district is located stating that the
 70 creation of the proposed district is consistent with the
 71 approved local government plans of the local governing body and
 72 that the local government has no objection to the creation of
 73 the proposed district;~~;~~

74 (f) The prohibitions of this subsection do not apply to
 75 the conversion of a water control district established under
 76 chapter 298, or established by a special act that incorporates
 77 the powers of chapter 298, to a community development district
 78 under part II of chapter 190.

79 Section 2. Subsection (9) is added to section 189.412,
 80 Florida Statutes, to read:

81 189.412 Special District Information Program; duties and
 82 responsibilities.—The Special District Information Program of
 83 the Department of Economic Opportunity is created and has the
 84 following special duties:

85 (9) The collection and maintenance of the special act,
 86 rule, ordinance, resolution, or other document that provides for
 87 the creation of each special district. The department shall make
 88 such documents available to the public on its website by
 89 December 31, 2014. The department may coordinate with the
 90 Department of State to implement this subsection.

91 Section 3. Subsection (4) of section 190.004, Florida
 92 Statutes, is amended to read:

93 190.004 Preemption; sole authority.—

94 (4) Except for conversions of water control districts
 95 under part II of this chapter, the exclusive charter for a
 96 community development district shall be the uniform community
 97 development district charter as set forth in ss. 190.006-
 98 190.041, including the special powers provided by s. 190.012.

99 Section 4. Subsections (1) and (2) of section 190.005,
 100 Florida Statutes, are amended to read:

101 190.005 Establishment of district.—

102 (1) With the exception of a community development district
 103 established by the conversion of a water control district under
 104 part II of this chapter, the exclusive and uniform method for

105 the establishment of a community development district with a
106 size of 1,000 acres or more shall be pursuant to a rule, adopted
107 under chapter 120 by the Florida Land and Water Adjudicatory
108 Commission, granting a petition for the establishment of a
109 community development district.

110 (a) A petition for the establishment of a community
111 development district shall be filed by the petitioner with the
112 Florida Land and Water Adjudicatory Commission. The petition
113 shall contain:

114 1. A metes and bounds description of the external
115 boundaries of the district. Any real property within the
116 external boundaries of the district which is to be excluded from
117 the district shall be specifically described, and the last known
118 address of all owners of such real property shall be listed. The
119 petition shall also address the impact of the proposed district
120 on any real property within the external boundaries of the
121 district which is to be excluded from the district.

122 2. The written consent to the establishment of the
123 district by all landowners whose real property is to be included
124 in the district or documentation demonstrating that the
125 petitioner has control by deed, trust agreement, contract, or
126 option of 100 percent of the real property to be included in the
127 district, and when real property to be included in the district
128 is owned by a governmental entity and subject to a ground lease
129 as described in s. 190.003(14), the written consent by such
130 governmental entity.

131 3. A designation of five persons to be the initial members
 132 of the board of supervisors, who shall serve in that office
 133 until replaced by elected members as provided in s. 190.006.

134 4. The proposed name of the district.

135 5. A map of the proposed district showing current major
 136 trunk water mains and sewer interceptors and outfalls if in
 137 existence.

138 6. Based upon available data, the proposed timetable for
 139 construction of the district services and the estimated cost of
 140 constructing the proposed services. These estimates shall be
 141 submitted in good faith but are not binding and may be subject
 142 to change.

143 7. A designation of the future general distribution,
 144 location, and extent of public and private uses of land proposed
 145 for the area within the district by the future land use plan
 146 element of the effective local government comprehensive plan of
 147 which all mandatory elements have been adopted by the applicable
 148 general-purpose local government in compliance with the
 149 Community Planning Act.

150 8. A statement of estimated regulatory costs in accordance
 151 with the requirements of s. 120.541.

152 (b) Prior to filing the petition, the petitioner shall:

153 1. Pay a filing fee of \$15,000 to the county, if located
 154 within an unincorporated area, or to the municipality, if
 155 located within an incorporated area, and to each municipality
 156 the boundaries of which are contiguous with, or contain all or a

157 | portion of the land within, the external boundaries of the
158 | district.

159 | 2. Submit a copy of the petition to the county, if located
160 | within an unincorporated area, or to the municipality, if
161 | located within an incorporated area, and to each municipality
162 | the boundaries of which are contiguous with, or contain all or a
163 | portion of, the land within the external boundaries of the
164 | district.

165 | 3. If land to be included within a district is located
166 | partially within the unincorporated area of one or more counties
167 | and partially within a municipality or within two or more
168 | municipalities, pay a \$15,000 filing fee to each entity.
169 | Districts established across county boundaries shall be required
170 | to maintain records, hold meetings and hearings, and publish
171 | notices only in the county where the majority of the acreage
172 | within the district lies.

173 | (c) Such county and each such municipality required by law
174 | to receive a petition may conduct a public hearing to consider
175 | the relationship of the petition to the factors specified in
176 | paragraph (e). The public hearing shall be concluded within 45
177 | days after the date the petition is filed unless an extension of
178 | time is requested by the petitioner and granted by the county or
179 | municipality. The county or municipality holding such public
180 | hearing may by resolution express its support of, or objection
181 | to the granting of, the petition by the Florida Land and Water
182 | Adjudicatory Commission. A resolution must base any objection to

183 the granting of the petition upon the factors specified in
184 paragraph (e). Such county or municipality may present its
185 resolution of support or objection at the Florida Land and Water
186 Adjudicatory Commission hearing and shall be afforded an
187 opportunity to present relevant information in support of its
188 resolution.

189 (d) A local public hearing on the petition shall be
190 conducted by a hearing officer in conformance with the
191 applicable requirements and procedures of the Administrative
192 Procedure Act. The hearing shall include oral and written
193 comments on the petition pertinent to the factors specified in
194 paragraph (e). The hearing shall be held at an accessible
195 location in the county in which the community development
196 district is to be located. The petitioner shall cause a notice
197 of the hearing to be published in a newspaper at least once a
198 week for the 4 successive weeks immediately prior to the
199 hearing. Such notice shall give the time and place for the
200 hearing, a description of the area to be included in the
201 district, which description shall include a map showing clearly
202 the area to be covered by the district, and any other relevant
203 information which the establishing governing bodies may require.
204 The advertisement shall not be placed in that portion of the
205 newspaper where legal notices and classified advertisements
206 appear. The advertisement shall be published in a newspaper of
207 general paid circulation in the county and of general interest
208 and readership in the community, not one of limited subject

209 matter, pursuant to chapter 50. Whenever possible, the
210 advertisement shall appear in a newspaper that is published at
211 least 5 days a week, unless the only newspaper in the community
212 is published fewer than 5 days a week. In addition to being
213 published in the newspaper, the map referenced above must be
214 part of the online advertisement required pursuant to s.
215 50.0211. All affected units of general-purpose local government
216 and the general public shall be given an opportunity to appear
217 at the hearing and present oral or written comments on the
218 petition.

219 (e) The Florida Land and Water Adjudicatory Commission
220 shall consider the entire record of the local hearing, the
221 transcript of the hearing, resolutions adopted by local general-
222 purpose governments as provided in paragraph (c), and the
223 following factors and make a determination to grant or deny a
224 petition for the establishment of a community development
225 district:

226 1. Whether all statements contained within the petition
227 have been found to be true and correct.

228 2. Whether the establishment of the district is
229 inconsistent with any applicable element or portion of the state
230 comprehensive plan or of the effective local government
231 comprehensive plan.

232 3. Whether the area of land within the proposed district
233 is of sufficient size, is sufficiently compact, and is
234 sufficiently contiguous to be developable as one functional

235 interrelated community.

236 4. Whether the district is the best alternative available
 237 for delivering community development services and facilities to
 238 the area that will be served by the district.

239 5. Whether the community development services and
 240 facilities of the district will be incompatible with the
 241 capacity and uses of existing local and regional community
 242 development services and facilities.

243 6. Whether the area that will be served by the district is
 244 amenable to separate special-district government.

245 (f) The Florida Land and Water Adjudicatory Commission
 246 shall not adopt any rule which would expand, modify, or delete
 247 any provision of the uniform community development district
 248 charter as set forth in ss. 190.006-190.041, except as provided
 249 in s. 190.012. A rule establishing a community development
 250 district shall only contain the following:

251 1. A metes and bounds description of the external
 252 boundaries of the district and any real property within the
 253 external boundaries of the district which is to be excluded.

254 2. The names of five persons designated to be the initial
 255 members of the board of supervisors.

256 3. The name of the district.

257 (g) The Florida Land and Water Adjudicatory Commission may
 258 adopt rules setting forth its procedures for considering
 259 petitions to establish, expand, modify, or delete uniform
 260 community development districts or portions thereof consistent

261 with the provisions of this section.

262 (2) With the exception of a community development district
263 established by the conversion of a water control district under
264 part II of this chapter, the exclusive and uniform method for
265 the establishment of a community development district of less
266 than 1,000 acres in size shall be pursuant to an ordinance
267 adopted by the county commission of the county having
268 jurisdiction over the majority of land in the area in which the
269 district is to be located granting a petition for the
270 establishment of a community development district as follows:

271 (a) A petition for the establishment of a community
272 development district shall be filed by the petitioner with the
273 county commission. The petition shall contain the same
274 information as required in paragraph (1) (a).

275 (b) A public hearing on the petition shall be conducted by
276 the county commission in accordance with the requirements and
277 procedures of paragraph (1) (d).

278 (c) The county commission shall consider the record of the
279 public hearing and the factors set forth in paragraph (1) (e) in
280 making its determination to grant or deny a petition for the
281 establishment of a community development district.

282 (d) The county commission shall not adopt any ordinance
283 which would expand, modify, or delete any provision of the
284 uniform community development district charter as set forth in
285 ss. 190.006-190.041. An ordinance establishing a community
286 development district shall only include the matters provided for

287 in paragraph (1)(f) unless the commission consents to any of the
288 optional powers under s. 190.012(2) at the request of the
289 petitioner.

290 (e) If all of the land in the area for the proposed
291 district is within the territorial jurisdiction of a municipal
292 corporation, then the petition requesting establishment of a
293 community development district under this act shall be filed by
294 the petitioner with that particular municipal corporation. In
295 such event, the duties of the county, hereinabove described, in
296 action upon the petition shall be the duties of the municipal
297 corporation. If any of the land area of a proposed district is
298 within the land area of a municipality, the county commission
299 may not create the district without municipal approval. If all
300 of the land in the area for the proposed district, even if less
301 than 1,000 acres, is within the territorial jurisdiction of two
302 or more municipalities, the petition shall be filed with the
303 Florida Land and Water Adjudicatory Commission and proceed in
304 accordance with subsection (1).

305 (f) Notwithstanding any other provision of this
306 subsection, within 90 days after a petition for the
307 establishment of a community development district has been filed
308 pursuant to this subsection, the governing body of the county or
309 municipal corporation may transfer the petition to the Florida
310 Land and Water Adjudicatory Commission, which shall make the
311 determination to grant or deny the petition as provided in
312 subsection (1). A county or municipal corporation shall have no

313 right or power to grant or deny a petition that has been
 314 transferred to the Florida Land and Water Adjudicatory
 315 Commission.

316 Section 5. Section 190.0485, Florida Statutes, is amended
 317 to read:

318 190.0485 Notice of establishment.—Within 30 days after the
 319 effective date of a rule or ordinance under this part or a
 320 special law or general law of local application under part II of
 321 this chapter establishing a community development district under
 322 this chapter ~~act~~, the district shall cause to be recorded in the
 323 property records in the county in which it is located a "Notice
 324 of Establishment of the Community Development
 325 District." The notice shall, at a minimum, include the legal
 326 description of the district and a copy of the disclosure
 327 statement specified in s. 190.048.

328 Section 6. Section 190.049, Florida Statutes, is amended
 329 to read:

330 190.049 Special acts prohibited.—Pursuant to s. 11(a)(21),
 331 Art. III of the State Constitution, there shall be no special
 332 law or general law of local application creating an independent
 333 special district which has the powers enumerated in two or more
 334 of the paragraphs contained in s. 190.012, unless such district
 335 is created pursuant to the provisions of s. 189.404. This
 336 section does not prohibit a special or local law that codifies
 337 special powers approved by referendum in the charter of a water
 338 control district existing under chapter 298 and that

339 reestablishes such district as a community development district
 340 under part II of this chapter.

341 Section 7. Chapter 190, Florida Statutes, consisting of
 342 sections 190.001 through 190.049, is designated as part I of
 343 that chapter, and part II, consisting of sections 190.10 through
 344 190.14, is created to read:

345 PART II

346 CONVERSION OF WATER CONTROL DISTRICTS

347 190.10 Special powers; authorization for water control
 348 district to conduct referendum.—

349 (1) The popularly elected governing board of a water
 350 control district established under chapter 298, or established
 351 by special act that incorporates the powers of chapter 298, that
 352 has been granted additional authority, powers, rights, or
 353 privileges by special law or general law of local application
 354 before July 1, 2014, may conduct a referendum on the question of
 355 whether the district should be converted to a community
 356 development district under this part in order to exercise one or
 357 more of the special powers of a community development district
 358 relating to public improvements and community facilities
 359 authorized by s. 190.012. The governing board of a water control
 360 district shall initiate a referendum under this section by
 361 adopting a resolution at a regularly scheduled board meeting
 362 called to determine whether to conduct the referendum. The
 363 resolution must establish the date of the referendum, state that
 364 the purpose of such referendum is to consider whether the

365 district should be converted to a community development district
 366 under this part, and specify the special powers that the
 367 governing board requests authorization to exercise.

368 (2) The referendum election shall be conducted by the
 369 supervisor of elections pursuant to ss. 101.6101-101.6107 by
 370 mail ballot of the registered electors residing in the district.
 371 The costs of the election shall be paid by the district
 372 conducting the referendum.

373 190.11 Referendum requirements and procedures.-

374 (1) Each referendum question shall be in substantially the
 375 following form:

377 REFERENDUM AUTHORIZING THE ...(district name)... WATER CONTROL
 378 DISTRICT TO EXERCISE CERTAIN SPECIAL POWERS

380 Shall the ...(district name)... water control district
 381 be authorized to exercise the following special powers
 382 within the jurisdiction of the district:

384 ...(List special powers to be exercised)....

386 Yes.... No....

388 (2) Before conducting a referendum, the governing board of
 389 the water control district must provide public notice of the
 390 referendum in a newspaper of general circulation in the county

391 in which the district is located. If the district is located in
392 more than one county, the notice shall be provided in a
393 newspaper of general circulation in each county in which the
394 district is located. The notice shall be published twice, once
395 in the fifth week and once in the second week before the
396 referendum election.

397 190.12 Effect of referendum.—

398 (1) If a majority of the electors voting approve the
399 referendum question, following certification of the referendum
400 results, the governing board of the water control district shall
401 prepare at its own expense proposed legislation codifying the
402 approved powers together with all special acts comprising the
403 district's charter in a single act to create one, integrated
404 district charter. The charter must reestablish the district as a
405 community development district and must comply with the
406 requirements of s. 189.429.

407 (2) If a majority of the electors voting disapprove the
408 referendum question, the governing board may not exercise the
409 requested special powers and is prohibited from calling a
410 subsequent referendum on the question of exercising those
411 special powers for 5 years after the date of the referendum.

412 190.13 Codification; conversion to community development
413 district.—At the next regular session of the Legislature after
414 approval of a referendum authorizing a water control district to
415 exercise special powers of a community development district, the
416 district shall submit the local bill required by s. 190.12 to

417 the Legislature. Upon the effective date of such special act or
418 general law of local application of the Legislature, the water
419 control district is converted to a community development
420 district, may begin exercising all additional authority, powers,
421 rights, or privileges granted by the Legislature, and shall be
422 governed by this part, the district's special act, and all
423 provisions of part I of this chapter not inconsistent with this
424 part or the district's special act.

425 190.14 Special and general acts of local application
426 prohibited.-Pursuant to s. 11(a)(21), Art. III of the State
427 Constitution, there shall be no special law or general law of
428 local application granting additional authority, powers, rights,
429 or privileges to a district converted to a community development
430 district under s. 190.13, unless the special law or general law
431 of local application codifies additional powers approved by a
432 majority of the qualified electors within the district in a
433 referendum as provided for in this part.

434 Section 8. Subsection (1) of section 298.76, Florida
435 Statutes, is amended to read:

436 298.76 Special or local legislation; effect.-

437 (1) This chapter is amended to provide that, pursuant to
438 the authority granted the Legislature in s. 11(a)(21), Art. III
439 of the State Constitution, there shall be no special law or
440 general law of local application granting additional authority,
441 powers, rights, or privileges to any water control district
442 formed pursuant to this chapter. However, this subsection shall

443 not prohibit special or local legislation which:

444 (a) Amends an existing special act which provides for the
445 levy of an annual maintenance tax of a district;

446 (b) Extends the corporate life of a district;

447 (c) Consolidates adjacent districts; or

448 (d) Authorizes the construction or maintenance of roads
449 for agricultural purposes as outlined in this chapter.

450 (e) Authorizes the conversion of a water control district
451 to a community development district, as authorized by part II of
452 chapter 190.

453 Section 9. This act shall take effect July 1, 2014.