

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2456

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee and Senator Rossin

SUBJECT: Special Districts

DATE: April 12, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>FR</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The Committee Substitute (CS) includes numerous revisions to chapter 190, F.S., regarding community development districts (CDDs) including: financial disclosure requirements; the imposition and collection of special assessments; revising bidding and contracting procedures; providing additional functions authorized for CDDs; requiring training for new board members; and making it easier to alter district boundaries. In addition, the CS would amend a section of chapter 190 that, having been adopted by a three-fifths vote pursuant to s. 11(a)(21), Article III of the State Constitution, prohibits the creation of certain types of special districts. Hence, any amendment to that section requires a three-fifths vote of both houses of the Legislature in order to become law.

The CS is effective upon becoming law.

This bill substantially amends sections 190.004, 190.005, 190.006, 190.009, 190.011, 190.012, 190.021, 190.022, 190.033, 190.046, 190.048, 190.049, 189.4031, 189.405, and creates s. 190.0485, F.S.

II. Present Situation:

Community Development Districts are a type of special purpose unit of government designed to provide infrastructure and services to a specific geographical area which is usually a planned community development. According to the Office of Special Districts of the Department of Community Affairs, there are 97 CDDs in Florida. While independent special districts usually only perform one type of service or function, CDDs usually perform multiple urban services, such as water and sewer, streets, lighting, recreation, etc. A community development district is defined by s. 190.003, F.S., as a local unit of special-purpose government that is created pursuant to chapter 190 and meets the following criteria:

- performs only those specialized function authorized by ch. 190:

- the boundaries are contained within a single county;
- the governing head is a body created and organized by the act to deliver urban community development services; and
- the formation, powers, governing body, operation, duration, accountability, disclosure requirements and termination procedures are specified by general law.

There are two methods of creating community development districts. For districts that exceed 1,000 acres in size, the district is created by the adoption of an administrative rule by the Florida Land and Water Adjudicatory Commission. The process is initiated with a petition filed with the commission. If the proposed CDD is less than 1,000 acres in size, the board of county commissioners of the county where the district is located grants a petition for the establishment of the district following a public hearing. The county has the option of transferring the petition for creation of the CDD to the Florida Land and Water Adjudicatory Commission. The initial creation of a CDD requires the approval of 100% of the owners of property within the district.

Each CDD contains an elected five member board of supervisors. Supervisors are initially elected based on one-acre, one-vote election. If the board proposed to levy ad valorem taxes, the supervisors are elected by qualified electors, defined as legal residents of Florida and the district that are registered to vote. For all CDDs, the supervisors are to be elected by qualified electors after certain time periods, and population thresholds have been met.

The board of supervisors is granted general managerial duties, including the authority to hire and fix the compensation of a general manager. The board may also exercise general governmental powers including the right to contract, participate in the state retirement system, borrow money, adopt administrative rules pursuant to chapter 120 and the power of eminent domain.

CDDs have the authority to finance, fund, plan, and construct the following basic infrastructure:

- ▶ water management and control for lands within the districts;
- ▶ water supply, sewer, wastewater management, reclamation and reuse;
- ▶ bridges and culverts;
- ▶ roads and street lights;
- ▶ any other project within or without the boundaries of the district when a development order issued pursuant to ss. 380.06 or 380.061, F.S., requires the construction or funding of the project by the CDD.

In addition, after the board of supervisors has obtained the approval of the general-purpose local government, the CDD may provide recreational facilities and parks, firefighting services, school buildings and related structures, security, waste collection and disposal and mosquito control.

Community Development Districts have the authority to levy ad valorem taxes and special assessments to provide the financing for infrastructure construction and operation. The levy of an ad valorem tax shall not exceed 3 mills unless a district authorized by a local general purpose government to provide certain services may levy an additional 2 mills for this purpose. The board of supervisors may also levy benefit and maintenance special assessments.

CDDs are authorized to issue certificates of indebtedness against the revenues collected through special assessments in addition to revenue bonds secured by: the revenues to be derived from any project; from rates and fees charged for services; and from special assessments. In addition, a CDD may issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds.

Chapter 190 provides procedures for the termination of a CDD. The board of supervisors may petition to contract or expand the boundaries of the CDD by petition to the body that originally authorized the district. In addition, the CDD may merge with other CDDs or the local general-purpose government may adopt an ordinance providing for a plan of transfer from the district to the local general purpose government. Such a transfer must provide for the assumption of debt and demonstration of ability to provide the service or services subject to the merger. These changes to district boundaries both require the approval of 100% of the landowners within the district. Finally, when the population standards contained in s. 165.061, F.S., are met by the population of the district, the district must hold a referendum on the question of whether to incorporate.

Section 190.049, F.S., provides that, pursuant to s. 11(a)(21), Art. III of the State Constitution, there should not be a special act or general act of local application creating an independent special district that grants the district more than two of the special functions which a CDD may perform.

III. Effect of Proposed Changes:

The bill contains a number of clarifying changes to chapter 190.

Section 1 amends s. 189.4031, F.S., regarding the charter requirements for special districts to grandfather the charters of CDDs established after July 1, 1980 whose charters were not statutory charters provided by chapter 190, F.S.

Section 2 requires newly elected or appointed members of special district boards to complete at least 6 hours of elected officials training during the first year of their term. Special district governing board members who are also governing board members of local general-purpose governments, members of the judiciary, or nonvoting appointees are not required to comply with these education requirements. The course must be conducted by the Florida Association of Special Districts with the assistance of the Department of Community Affairs and cover ethics, government in the sunshine, the Public Records Act, public finance and parliamentary procedure. Each new district board member must certify to the clerk or secretary of the district that they have completed the education program. A board member who fails to comply with these educational requirements cannot vote on district matters until the requirement is satisfied. The district board may pay for the education of its members.

Section 3 provides that the Special District Information Program of the Department of Community Affairs is authorized to assist with an annual conference sponsored by the Florida Association of Special Districts.

Section 4 provides that the exclusive charter for a CDD is the uniform development district charter that is described in the chapter.

Section 5 provides that where an existing independent special district petitions to reestablish the district as a CDD, the petition does not have to include the written consent of 100 percent of the owners of property in the district and the \$15,000 application fee is not required.

Section 6 requires that the record book for the Board of Supervisors may be kept within the boundaries of a development of regional impact or a Florida Quality Development that includes the district.

Section 7 limits the requirement that each prospective purchaser of property within the district be provided with a financial disclosure statement to the initial purchaser of the property.

Section 8 permits the board of supervisors to maintain an office within the boundaries of a DRI or FQD that includes the district, even if the location falls outside of a county where the district is located.

Section 9 allows CDDs, as one of their enumerated special powers, to provide buses, trolleys, transit shelters, ridesharing facilities, parking, conservation areas, mitigation areas, and wildlife habitat.

Section 10 clarifies that the special assessments which CDDs are authorized to assess are considered non-ad valorem assessments as defined in s. 197.3632, F.S. In addition, the bill provides that special assessments levied by the CDD constitute a lien on the property against property coequal with the liens of state, county, municipal, and school district taxes that may be collected by the tax collector pursuant to ch. 197, F.S.

Section 11 provides that chapter 197, F.S., may be used, in addition to chapter 170, as the procedure for levying special assessments. The number of installments in which district assessments may be paid is lengthened from 20 to 30 installments.

Section 12 conforms bidding requirements for CDDs with state contracting procedures. The district cannot let a contract without bidding that exceeds the \$60,000 threshold provided in s. 287.017, F.S., for category four. The construction or building of public structure by the district must comply with the bidding requirements imposed on other general and special purpose local governments imposed by s. 255.20, F.S.

Section 13 provides that in the situation where a CDD wants to expand, the written consent of the landowners already within the CDD is not required. For districts initially established by county or municipal ordinance the proposed expansion can be no more than a cumulative total of 50 percent of the land of the initial district or more than 500 acres. Where a CDD desires to merge

with another CDD, the approval of the merger agreement by the board of supervisors constitutes the consent of the landowners of the district.

Section 14 revises the contents of the disclosure statement that is required when a person purchases property or a residential unit to the initial sale of a parcel of real property and each contract for the initial sale of a residential unit.

Section 15 creates a new s.190.0485, F.S., that requires a notice to be recorded in the property records where a CDD is created a notice of the creation of the CDD that includes the legal description of the district and the disclosure statement.

Section 16 requires each CDD in existence on the effective date of the bill to file the notice of establishment.

Section 17 provides an exception to the prohibition of the creation of an independent special district with two or more of the functions authorized for CDDs where the district is created which meets the minimum requirements for the creation of special districts set forth in s. 189.404, F.S. This section does not become effective unless the bill passes by a three-fifths vote of each house of the Legislature.

Section 18 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Pursuant to s. 11(a)(21), Art. III of the State Constitution, the amendment of s. 190.049, F.S., requires a three-fifths vote of the membership of each house for the provision to become law. This is because the original prohibition set forth in s. 190.049, F.S., against special acts or general laws that grant independent special districts the authority to perform more than two of the functions provided by CDDs, was enacted by a three-fifths vote of both houses of the Legislature.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Community Affairs would incur the cost of presenting a public officials course to new CDD board of supervisors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
