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2012 Legislature

1
2 An act relating to special districts; amending s.
3 189.4042, F.S.; revising provisions relating to merger
4 and dissolution procedures for special districts;
5 providing definitions; requiring the merger or
6 dissolution of dependent special districts created by
7 a special act to be effectuated by the Legislature;
8 providing for the merger or dissolution of inactive
9 special districts by special act without referenda;
10 providing dissolution procedures for active
11 independent special districts by special acts and
12 referenda; providing for the dissolution of inactive
13 independent special districts by special act;
14 providing for local governments to assume indebtedness
15 of, and receive title to property owned by, special
16 districts under certain circumstances; providing for
17 the merger of certain independent special districts by
18 the Legislature; providing procedures and requirements
19 for the voluntary merger of contiguous independent
20 special districts; limiting the authority of the
21 merged district to levy and collect revenue until a
22 unified charter is approved by the Legislature;
23 providing for the effect of the merger on employees,
24 legal liabilities, obligations, proceedings,
25 annexation, and millage calculations; providing for
26 the determination of certain rights by the governing
27 body of the merged district; providing that such
28 provisions preempt certain special acts; providing

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29 | procedures and requirements for the involuntary merger
 30 | of independent special districts; providing exemptions
 31 | from merger and dissolution procedures; amending s.
 32 | 191.014, F.S.; deleting a provision relating to the
 33 | conditions under which the merger of independent
 34 | special districts or dependent fire control districts
 35 | with other special districts is effective and the
 36 | conditions under which a merged district is authorized
 37 | to increase ad valorem taxes; amending s. 189.4044,
 38 | F.S.; revising criteria by which special districts are
 39 | declared inactive by a governing body; authorizing
 40 | such districts to be dissolved without a referendum;
 41 | providing an effective date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

45 | Section 1. Section 189.4042, Florida Statutes, is amended
 46 | to read:

47 | 189.4042 Merger and dissolution procedures.—

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

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

54 | (b) "Elector-initiated merger plan" means the merger plan
 55 | of two or more independent special districts, a majority of
 56 | whose qualified electors have elected to merge, which outlines

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57 the terms and agreements for the official merger of the
58 districts and is finalized and approved by the governing bodies
59 of the districts pursuant to this section.

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

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

68 (e) "Joint merger plan" means the merger plan that is
69 adopted by resolution of the governing bodies of two or more
70 independent special districts that outlines the terms and
71 agreements for the official merger of the districts and that is
72 finalized and approved by the governing bodies pursuant to this
73 section.

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

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

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

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

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

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

105 (2) ~~(1)~~ MERGER OR DISSOLUTION OF A DEPENDENT SPECIAL
 106 DISTRICT.—

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

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113 district created by special act.

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

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

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

126 (3)~~(2)~~ DISSOLUTION OF AN INDEPENDENT SPECIAL DISTRICT.—

127 (a) Voluntary dissolution.—If the governing board of an
128 independent special district created and operating pursuant to a
129 special act elects, by a majority vote plus one, to dissolve the
130 district, the voluntary merger or dissolution of an independent
131 special district or a dependent district created and operating
132 pursuant to a special act may ~~only~~ be effectuated only by the
133 Legislature unless otherwise provided by general law.

134 (b) Other dissolutions.—

135 1. In order for the Legislature to dissolve an active
136 independent special district created and operating pursuant to a
137 special act, the special act dissolving the active independent
138 special district must be approved by a majority of the resident
139 electors of the district or, for districts in which a majority
140 of governing board members are elected by landowners, a majority

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141 of the landowners voting in the same manner by which the
 142 independent special district's governing body is elected. If a
 143 local general-purpose government passes an ordinance or
 144 resolution in support of the dissolution, the local general-
 145 purpose government must pay any expenses associated with the
 146 referendum required under this subparagraph.

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

156 (c) Inactive independent special districts.—An independent
 157 special district that meets any criteria for being declared
 158 inactive, or that has already been declared inactive, pursuant
 159 to s. 189.4044 may be dissolved by special act without a
 160 referendum. If an inactive independent special district was
 161 created by a county or municipality through a referendum, the
 162 county or municipality that created the district may dissolve
 163 the district after publishing notice as described in s.
 164 189.4044. If an independent district was created by a county or
 165 municipality by referendum or any other procedure, the county or
 166 municipality that created the district may merge or dissolve the
 167 district pursuant to the same procedure by which the independent
 168 district was created. However, for any independent district that

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169 ~~has ad valorem taxation powers, the same procedure required to~~
170 ~~grant such independent district ad valorem taxation powers shall~~
171 ~~also be required to dissolve or merge the district.~~

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

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

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

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

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

188 2. A qualified elector initiative.

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

194 1. The proposed joint merger plan must specify:

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

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- 197 b. The name of the proposed merged independent district;
- 198 c. The rights, duties, and obligations of the proposed
- 199 merged independent district;
- 200 d. The territorial boundaries of the proposed merged
- 201 independent district;
- 202 e. The governmental organization of the proposed merged
- 203 independent district insofar as it concerns elected and
- 204 appointed officials and public employees, along with a
- 205 transitional plan and schedule for elections and appointments of
- 206 officials;
- 207 f. A fiscal estimate of the potential cost or savings as a
- 208 result of the merger;
- 209 g. Each component independent special district's assets,
- 210 including, but not limited to, real and personal property, and
- 211 the current value thereof;
- 212 h. Each component independent special district's
- 213 liabilities and indebtedness, bonded and otherwise, and the
- 214 current value thereof;
- 215 i. Terms for the assumption and disposition of existing
- 216 assets, liabilities, and indebtedness of each component
- 217 independent special district jointly, separately, or in defined
- 218 proportions;
- 219 j. Terms for the common administration and uniform
- 220 enforcement of existing laws within the proposed merged
- 221 independent district;
- 222 k. The times and places for public hearings on the
- 223 proposed joint merger plan;
- 224 l. The times and places for a referendum in each component

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225 independent special district on the proposed joint merger plan,
226 along with the referendum language to be presented for approval;
227 and

228 m. The effective date of the proposed merger.

229 2. The resolution endorsing the proposed joint merger plan
230 must be approved by a majority vote of the governing bodies of
231 each component independent special district and adopted at least
232 60 business days before any general or special election on the
233 proposed joint merger plan.

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

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

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

252 c. Arrange for a descriptive summary of the proposed joint

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253 merger plan, and a reference to the public places within the
254 district where a copy may be examined, to be published in a
255 newspaper of general circulation within the component
256 independent special districts at least once each week for 4
257 successive weeks.

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

269 a. Notice of the public hearing addressing the resolution
270 for the proposed joint merger plan must be published pursuant to
271 the notice requirements in s. 189.417 and must provide a
272 descriptive summary of the proposed joint merger plan and a
273 reference to the public places within the component independent
274 special districts where a copy of the plan may be examined.

275 b. After the final public hearing, the governing bodies of
276 each component independent special district may amend the
277 proposed joint merger plan if the amended version complies with
278 the notice and public hearing requirements provided in this
279 subsection. Thereafter, the governing bodies may approve a final
280 version of the joint merger plan or decline to proceed further

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281 with the merger. Approval by the governing bodies of the final
282 version of the joint merger plan must occur within 60 business
283 days after the final hearing.

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

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

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

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

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

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

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

307 b. The referenda must be held in accordance with the
308 Florida Election Code and may be held pursuant to ss. 101.6101-

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309 101.6107. All costs associated with the referenda shall be borne
310 by the respective component independent special district.

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

315
316 "Shall (...name of component independent special
317 district...) and (...name of component independent special
318 district or districts...) be merged into (...name of newly
319 merged independent district...)?

320 YES

321 NO"

322
323 d. If the component independent special districts
324 proposing to merge have disparate millage rates, the ballot
325 question in the referendum placed before the qualified electors
326 of each component independent special district must be in
327 substantially the following form:

328
329 "Shall (...name of component independent special
330 district...) and (...name of component independent special
331 district or districts...) be merged into (...name of newly
332 merged independent district...) if the voter-approved maximum
333 millage rate within each independent special district will not
334 increase absent a subsequent referendum?

335 YES

336 NO"

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337
338 e. In any referendum held pursuant to this subsection, the
339 ballots shall be counted, returns made and canvassed, and
340 results certified in the same manner as other elections or
341 referenda for the component independent special districts.

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

347 g. If the merger is approved by a majority of the votes
348 cast in each component independent special district, the merged
349 independent district is created. Upon approval, the merged
350 independent district shall notify the Special District
351 Information Program pursuant to s. 189.418(2) and the local
352 general-purpose governments in which any part of the component
353 independent special districts is situated pursuant to s.
354 189.418(7).

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

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

362 (c) Qualified elector-initiated merger plan.—The qualified
363 electors of two or more contiguous independent special districts
364 may commence a merger proceeding by each filing a petition with

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365 the governing body of their respective independent special
 366 district proposing to be merged. The petition must contain the
 367 signatures of at least 40 percent of the qualified electors of
 368 each component independent special district and must be
 369 submitted to the appropriate component independent special
 370 district governing body no later than 1 year after the start of
 371 the qualified elector-initiated merger process.

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

374

375 PETITION FOR INDEPENDENT SPECIAL DISTRICT MERGER

376

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

386

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

389

390 Date Name (print under signature) Home Address

391

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393
394 2. The petition must be validated by a signed statement by
395 a witness who is a duly qualified elector of one of the
396 component independent special districts, a notary public, or
397 another person authorized to take acknowledgements.

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

402
403 "I, (...name of witness...), state that I am a duly
404 qualified voter of (...name of independent special district...).
405 Each of the (...insert number...) persons who have signed this
406 petition sheet has signed his or her name in my presence on the
407 dates indicated above and identified himself or herself to be
408 the same person who signed the sheet. I understand that this
409 statement will be accepted for all purposes as the equivalent of
410 an affidavit and, if it contains a materially false statement,
411 shall subject me to the penalties of perjury."

412
413 Date Signature of Witness

414
415 b. A statement that is signed by a notary public or
416 another person authorized to take acknowledgements must be in
417 substantially the following form:

418
419 "On the date indicated above before me personally came each
420 of the (...insert number...) electors and legal voters whose

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421 signatures appear on this petition sheet, who signed the
 422 petition in my presence and who, being by me duly sworn, each
 423 for himself or herself, identified himself or herself as the
 424 same person who signed the petition, and I declare that the
 425 foregoing information they provided was true."

427 Date Signature of Witness

428
 429 c. An alteration or correction of information appearing on
 430 a petition's signature line, other than an uninitialed signature
 431 and date, does not invalidate such signature. In matters of
 432 form, this paragraph shall be liberally construed, not
 433 inconsistent with substantial compliance thereto and the
 434 prevention of fraud.

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

443 3. Upon verification by the supervisors of elections of
 444 the counties within which component independent special district
 445 lands are located that 40 percent of the qualified electors have
 446 petitioned for merger and that all such petitions have been
 447 executed within 1 year after the date of the initiation of the
 448 qualified-electors merger process, the governing bodies of each

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449 component independent special district shall meet within 30
450 business days to prepare and approve by resolution a proposed
451 elector-initiated merger plan. The proposed plan must include:
452 a. The name of each component independent special district
453 to be merged;
454 b. The name of the proposed merged independent district;
455 c. The rights, duties, and obligations of the merged
456 independent district;
457 d. The territorial boundaries of the proposed merged
458 independent district;
459 e. The governmental organization of the proposed merged
460 independent district insofar as it concerns elected and
461 appointed officials and public employees, along with a
462 transitional plan and schedule for elections and appointments of
463 officials;
464 f. A fiscal estimate of the potential cost or savings as a
465 result of the merger;
466 g. Each component independent special district's assets,
467 including, but not limited to, real and personal property, and
468 the current value thereof;
469 h. Each component independent special district's
470 liabilities and indebtedness, bonded and otherwise, and the
471 current value thereof;
472 i. Terms for the assumption and disposition of existing
473 assets, liabilities, and indebtedness of each component
474 independent special district, jointly, separately, or in defined
475 proportions;
476 j. Terms for the common administration and uniform

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477 enforcement of existing laws within the proposed merged
 478 independent district;
 479 k. The times and places for public hearings on the
 480 proposed joint merger plan; and
 481 1. The effective date of the proposed merger.
 482 4. The resolution endorsing the proposed elector-initiated
 483 merger plan must be approved by a majority vote of the governing
 484 bodies of each component independent special district and must
 485 be adopted at least 60 business days before any general or
 486 special election on the proposed elector-initiated plan.
 487 5. Within 5 business days after the governing bodies of
 488 each component independent special district approve the proposed
 489 elector-initiated merger plan, the governing bodies shall:
 490 a. Cause a copy of the proposed elector-initiated merger
 491 plan, along with a descriptive summary of the plan, to be
 492 displayed and be readily accessible to the public for inspection
 493 in at least three public places within the territorial limits of
 494 each component independent special district, unless a component
 495 independent special district has fewer than three public places,
 496 in which case the plan must be accessible for inspection in all
 497 public places within the component independent special district;
 498 b. If applicable, cause the proposed elector-initiated
 499 merger plan, along with a descriptive summary of the plan and a
 500 reference to the public places within each component independent
 501 special district where a copy of the merger plan may be
 502 examined, to be displayed on a website maintained by each
 503 district or otherwise on a website maintained by the county or
 504 municipality in which the districts are located; and

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

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

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

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

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533 final version of the merger plan within 60 business days after
534 the final hearing.

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

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

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

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

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

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

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

557 b. The referenda must be held in accordance with the
558 Florida Election Code and may be held pursuant to ss. 101.6101-
559 101.6107. All costs associated with the referenda shall be borne
560 by the respective component independent special district.

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

565
 566 "Shall (...name of component independent special
 567 district...) and (...name of component independent special
 568 district or districts...) be merged into (...name of newly
 569 merged independent district...)?

570 YES

571 NO"

572
 573 d. If the component independent special districts
 574 proposing to merge have disparate millage rates, the ballot
 575 question in the referendum placed before the qualified electors
 576 of each component independent special district must be in
 577 substantially the following form:

578
 579 "Shall (...name of component independent special
 580 district...) and (...name of component independent special
 581 district or districts...) be merged into (...name of newly
 582 merged independent district...) if the voter-approved maximum
 583 millage rate within each independent special district will not
 584 increase absent a subsequent referendum?

585 YES

586 NO"

587
 588 e. In any referendum held pursuant to this subsection, the

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589 ballots shall be counted, returns made and canvassed, and
590 results certified in the same manner as other elections or
591 referenda for the component independent special districts.

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

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

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

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

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

614 1. However, as soon as practicable, the merged independent
615 district shall, at its own expense, submit a unified charter for
616 the merged district to the Legislature for approval. The unified

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617 charter must make the powers of the district consistent within
618 the merged independent district and repeal the special acts of
619 the districts which existed before the merger.

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

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

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

638 2. During the transition period, the merged independent
639 district shall exercise only the legislative authority to levy
640 and collect revenues within the boundaries of each subunit which
641 was previously granted to the component independent special
642 district by its existing charter before the merger, including
643 the authority to levy ad valorem taxes, non-ad valorem
644 assessments, impact fees, and charges.

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

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

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

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

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

672 1. All rights, privileges, and franchises of each

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673 component independent special district and all assets, real and
674 personal property, books, records, papers, seals, and equipment,
675 as well as other things in action, belonging to each component
676 independent special district before the merger shall be deemed
677 as transferred to and vested in the merged independent district
678 without further act or deed.

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

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

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

696 5. The new registration of electors is not necessary as a
697 result of the merger, but all elector registrations of the
698 component independent special districts shall be transferred to
699 the proper registration books of the merged independent
700 district, and new registrations shall be made as provided by law

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701 as if no merger had taken place.

702 (g) Governing body of merged independent district.—

703 1. From the effective date of the merger until the next

704 general election, the governing body of the merged independent

705 district shall be comprised of the governing body members of

706 each component independent special district, with such members

707 serving until the governing body members elected at the next

708 general election take office.

709 2. Beginning with the next general election following the

710 effective date of merger, the governing body of the merged

711 independent district shall be comprised of five members. The

712 office of each governing body member shall be designated by

713 seat, which shall be distinguished from other body member seats

714 by an assigned numeral: 1, 2, 3, 4, or 5. The governing body

715 members that are elected in this initial election following the

716 merger shall serve unequal terms of 2 and 4 years in order to

717 create staggered membership of the governing body, with:

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

719 terms; and

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

721 3. In general elections thereafter, all governing body

722 members shall serve 4-year terms.

723 (h) Effect on employees.—Except as otherwise provided by

724 law and except for those officials and employees protected by

725 tenure of office, civil service provisions, or a collective

726 bargaining agreement, upon the effective date of merger, all

727 appointive offices and positions existing in all component

728 independent special districts involved in the merger are subject

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729 to the terms of the joint merger plan or elector-initiated
 730 merger plan, as appropriate. Such plan may provide for instances
 731 in which there are duplications of positions and for other
 732 matters such as varying lengths of employee contracts, varying
 733 pay levels or benefits, different civil service regulations in
 734 the constituent entities, and differing ranks and position
 735 classifications for similar positions. For those employees who
 736 are members of a bargaining unit certified by the Public
 737 Employees Relations Commission, the requirements of chapter 447
 738 apply.

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

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

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

756 3. All bonds, contracts, and obligations of the component

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757 independent special districts which exist as legal obligations
758 are obligations of the merged independent district, and all such
759 obligations shall be issued or entered into by and in the name
760 of the merged independent district.

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

769 (k) Effect on annexation.—Chapter 171 continues to apply
770 to all annexations by a city within the component independent
771 special districts' boundaries after merger occurs. Any moneys
772 owed to a component independent special district pursuant to s.
773 171.093, or any interlocal service boundary agreement as a
774 result of annexation predating the merger, shall be paid to the
775 merged independent district after merger.

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

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

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

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

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

795 (6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—

796 (a) Independent special districts created by special act.—

797 In order for the Legislature to merge an active independent
 798 special district or districts created and operating pursuant to
 799 a special act, the special act merging the active independent
 800 special district or districts must be approved at separate
 801 referenda of the impacted local governments by a majority of the
 802 resident electors or, for districts in which a majority of
 803 governing board members are elected by landowners, a majority of
 804 the landowners voting in the same manner by which each
 805 independent special district's governing body is elected. The
 806 special act merging the districts must include a plan of merger
 807 that addresses transition issues such as the effective date of
 808 the merger, governance, administration, powers, pensions, and
 809 assumption of all assets and liabilities. If a local general-
 810 purpose government passes an ordinance or resolution in support
 811 of the merger of an active independent special district, the
 812 local general-purpose government must pay any expenses

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813 associated with the referendum required under this paragraph.

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

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

830 (7) (3) EXEMPTIONS.—The provisions of This section does
 831 shall not apply to community development districts implemented
 832 pursuant to chapter 190 or to water management districts created
 833 and operated pursuant to chapter 373.

834 Section 2. Section 191.014, Florida Statutes, is amended
 835 to read:

836 191.014 District creation and, expansion, ~~and merger.~~—

837 (1) New districts may be created only by the Legislature
 838 under s. 189.404.

839 (2) The boundaries of a district may be modified,
 840 extended, or enlarged upon approval or ratification by the

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842 ~~(3) The merger of a district with all or portions of other~~
 843 ~~independent special districts or dependent fire control~~
 844 ~~districts is effective only upon ratification by the~~
 845 ~~Legislature. A district may not, solely by reason of a merger~~
 846 ~~with another governmental entity, increase ad valorem taxes on~~
 847 ~~property within the original limits of the district beyond the~~
 848 ~~maximum established by the district's enabling legislation,~~
 849 ~~unless approved by the electors of the district by referendum.~~

850 Section 3. Paragraph (a) of subsection (1) and subsection
 851 (4) of section 189.4044, Florida Statutes, are amended to read:

852 189.4044 Special procedures for inactive districts.—

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

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

857 1. The registered agent of the district, the chair of the
 858 governing body of the district, or the governing body of the
 859 appropriate local general-purpose government notifies the
 860 department in writing that the district has taken no action for
 861 2 or more years;

862 2. Following an inquiry from the department, the
 863 registered agent of the district, the chair of the governing
 864 body of the district, or the governing body of the appropriate
 865 local general-purpose government notifies the department in
 866 writing that the district has not had a governing board or a
 867 sufficient number of governing board members to constitute a
 868 quorum for 2 or more years or the registered agent of the

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869 district, the chair of the governing body of the district, or
870 the governing body of the appropriate local general-purpose
871 government fails to respond to the department's inquiry within
872 21 days;

873 3. The department determines, pursuant to s. 189.421, that
874 the district has failed to file any of the reports listed in s.
875 189.419; ~~or~~

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

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

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

888 Section 4. This act shall take effect July 1, 2012.