

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 516

INTRODUCER: Community Affairs Committee and Senators Ring and Gaetz

SUBJECT: Special Districts

DATE: January 8, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.	Peacock	McVaney	GO	Favorable
3.			ATD	
4.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 516 requires each special district to publish an online version of its budget information on its official website which allows the public to:

- View multiple years of budget, general ledger, and checking account data;
- Review year-over-year spending trends, examine individual accounting entries, and filter data according to categories in the special district’s chart of accounts, including, but not limited to, fund, department, division, program, or activity;
- Download financial data and graphs;
- View data in different graphical formats, including, but not limited to, stacked line, trend line, bar graph, and pie chart;
- View data in tabular formats;
- View information for multiple special district departments, divisions, funds, or financial categories simultaneously; and
- View and compare revenue and expense trends simultaneously on the same graph for any level of financial data.

The bill removes several obsolete provisions relating to a special district that does not operate an official website because a special district is required to operate an official website as of October 1, 2015.

The bill provides that an independent special district that regulates transit or transportation services is subject to the Administrative Procedure Act.

II. Present Situation:

Special Districts

A special district is a unit of local government created for a special purpose, which has jurisdiction to operate within a limited geographical area. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.¹ Special districts are created to provide a wide variety of services, such as mosquito control,² beach and shore preservation districts,³ children's services,⁴ fire control and rescue,⁵ or drainage and water control.⁶

All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 (Act) which was enacted by the Legislature to reform and consolidate laws relating to special districts. The Act also charges the Department of Economic Opportunity (DEO) Special District Accountability Program with a number of duties relating to special districts, including publishing and updating a "Florida Special District Handbook."⁷

According to the DEO, the state currently has 1,662 active special districts and 10 inactive ones, comprised of 635 dependent and 1,027 independent special districts.⁸

Special District Website Requirements

Section 189.016, F.S., requires special districts to comply with certain budget requirements and file certain documents and reports with the Department of Economic Opportunity and other state and local agencies. Section 189.016, F.S., requires special districts to make the following website postings:

- Each special district must post its tentative budget on its official website at least two days before the budget hearing, held pursuant to s. 200.065, F.S., or other law, to consider such budget.⁹

¹ Section 189.012(6), F.S. The term 'special district' does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

² Section 388.021(1), F.S. However, no new independent mosquito control districts may be created except pursuant to s. 125.01, F.S.

³ See ss. 161.25-161.45, F.S.

⁴ Section 125.901(1), F.S.

⁵ See ss 191.001-191.014, F.S., known as the Independent Special Fire Control District Act.

⁶ Section 298.01, F.S.

⁷ Section 189.064(3), F.S.

⁸ Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, (data as of November 5, 2015) available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/StateTotals.cfm> (last visited November 5, 2015).

⁹ Section 189.016(4), F.S.

- Each special district must post its final adopted budget on its official website within 30 days after adoption¹⁰ and must post any budget amendments on its official website within five days after adoption.¹¹
- If a special district does not operate an official website, the special district must transmit the tentative budget,¹² adopted budget,¹³ or budget amendment¹⁴ to the manager or administrator of the local general-purpose government in which it is located. The manager or administrator of the local general-purpose government shall post such information to its website.

Beginning October 1, 2015, or by the end of the first full fiscal year after its creation, each special district is required to maintain an official website containing specific information about the special district.¹⁵ Independent special districts are required to maintain their own website,¹⁶ while only a link to information about dependent special districts must be displayed on the home page of the local general-purpose government that created the district.¹⁷

Hillsborough County Public Transportation Commission

The Hillsborough County Public Transportation Commission (Commission) is an independent special district that regulates transit and transportation services. The Commission was created by a special act.¹⁸ The Commission regulates vehicles for-hire as defined in the special act, and these vehicles include taxicabs, limousines, vans, basic life support ambulances and wrecker services that support government agencies in Hillsborough County and non-consensual towing (private property impounds).¹⁹

The Commission's powers include:

- Regulating the operation of public vehicles on public highways;
- Adopting rules in conformance with ch. 120, F.S., the Administrative Procedures Act;
- Performing duties required by the special act and any rules adopted in accordance with the special act; and
- Fixing or approving taxicab zones, rates, fares, and charges.²⁰

The Administrative Procedure Act

The Administrative Procedure Act (APA) in ch. 120, F.S., sets forth uniform procedures that agencies must follow when exercising rulemaking authority. A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the

¹⁰ *Id.*

¹¹ Section 189.016(7), F.S.

¹² Section 189.016(4), F.S.

¹³ *Id.*

¹⁴ Section 189.016(7), F.S.

¹⁵ Section 189.069(1), F.S.

¹⁶ Section 189.069(1)(a), F.S.

¹⁷ Section 189.069(1)(b), F.S. Dependent special districts may maintain their own webpage but are not required to do so.

¹⁸ Chapter 2001-299, Laws of Fla.

¹⁹ See <http://www.hillsboroughcounty.org/ptc> (last visited on December 22, 2015).

²⁰ Chapter 2001-299, s. 5, Laws of Fla.

procedure and practice requirements of an agency.²¹ Rulemaking authority is delegated by the Legislature²² through statute and authorizes an agency to “adopt, develop, establish, or otherwise create”²³ a rule. Agencies do not have discretion whether to engage in rulemaking.²⁴ To adopt a rule, an agency must have a general grant of authority to implement a specific law through rulemaking.²⁵ The grant of rulemaking authority itself need not be detailed.²⁶ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.²⁷ A delegation of authority to an administrative agency by a law that is vague, uncertain, or so broad as to give no notice of what actions would violate the law, may unconstitutionally allow the agency to make the law.²⁸ Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies but not the authority to determine what should be the law.²⁹

In 1996 the Legislature extensively revised³⁰ agency rulemaking under the Administrative Procedure Act (APA)³¹ to require both an express grant of rulemaking authority and a specific law to be implemented by the rule.

III. Effect of Proposed Changes:

Section 1 amends s. 189.016, F.S., to require each special district to publish an online version of its budget information on its official website which allows the public to:

- View multiple years of budget, general ledger, and checking account data;
- Review year-over-year spending trends, examine individual accounting entries, and filter data according to categories in the special district’s chart of accounts, including, but not limited to, fund, department, division, program, or activity;
- Download financial data and graphs;
- View data in different graphical formats, including, but not limited to, stacked line, trend line, bar graph, and pie chart;
- View data in tabular formats;
- View information for multiple special district departments, divisions, funds, or financial categories simultaneously; and
- View and compare revenue and expense trends simultaneously on the same graph for any level of financial data.

²¹ Section 120.52(16), F.S.; *Florida Dep’t of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

²² *Southwest Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

²³ Section 120.52(17), F.S.

²⁴ Section 120.54(1)(a), F.S.

²⁵ Sections 120.52(8) and 120.536(1), F.S.

²⁶ *Southwest Fla. Water Mgmt. Dist.*, *Supra* at 599.

²⁷ *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008) (internal citations omitted); *Bd. of Trustees of the Internal Improvement Trust Fund v. Day Cruise Assoc., Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

²⁸ *Conner v. Joe Hatton, Inc.*, 216 So.2d 209 (Fla.1968).

²⁹ *Sarasota County. v. Barg*, 302 So.2d 737 (Fla. 1974).

³⁰ Ch. 96-159, Laws of Fla.

³¹ Chapter 120, F.S.

This section is amended to remove the current law provision that requires a special district that does not operate an official website to transmit the tentative budget,³² adopted budget,³³ or budget amendment³⁴ to the manager or administrator of the local general-purpose government in which it is located. These provisions became obsolete because each special district was required to operate an official website beginning October 1, 2015.³⁵

Section 2 creates s. 189.0695, F.S., to provide that an independent special district that regulates transit or transportation services is subject to the APA in ch. 120, F.S.

Section 3 amends s. 120.52, F.S., relating to the governmental entities subject to the APA, to redefine the term “agency” to include an independent special district that regulates transit or transportation services.

Section 4 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

³² Section 189.016(4), F.S.

³³ *Id.*

³⁴ Section 189.016(7), F.S.

³⁵ Section 189.069, F.S.

C. **Government Sector Impact:**

The bill may have an indeterminate negative fiscal impact on special districts relating to the increased data that a special district must provide on its website. Also, the bill may have an indeterminate fiscal impact on transportation special districts that will be subject to the APA.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

The requirement in s. 189.016(4)(b), F.S., that each special district publish an online version of its budget information on its official website does not specify whether the requirement applies to a tentative budget, a final budget, or both the tentative budget and the final budget.

VIII. **Statutes Affected:**

This bill substantially amends the sections 189.016 and 120.52 of the Florida Statutes.

The bill also creates section 189.0695 of the Florida Statutes.

IX. **Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on November 17, 2015:

Provides that an independent special district that regulates transit or transportation services is subject to the Administrative Procedure Act in ch. 120, F.S.

- B. **Amendments:**

None.