SB 192 by **Bennett**; (Similar to CS/CS/CS/H 0107) Special Districts

119586	D	S	RCS	BFT, Gardiner	Delete everything after	02/01 11:11 AM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BUDGET SUBCOMMITTEE ON FINANCE AND TAX
Senator Bogdanoff, Chair
Senator Altman, Vice Chair

MEETING DATE: Wednesday, February 1, 2012
TIME: 10:15 —11:15 a.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Bogdanoff, Chair; Senator Altman, Vice Chair; Senators Alexander, Gardiner, Margolis, Norman, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 192** Bennett (Similar CS/CS/H 107)	Special Districts; Revising provisions relating to merger and dissolution procedures for special districts; requiring the merger or dissolution of dependent special districts created by a special act to be effectuated by the Legislature; providing for the merger or dissolution of inactive special districts by special act without referenda; requiring involuntary dissolution procedures for independent special districts to include referenda; providing for the merger of certain independent special districts by the Legislature; providing procedures and requirements for the voluntary merger of contiguous independent special districts; revising criteria by which special districts are declared inactive by a governing body, etc. CA 10/19/2011 Favorable BFT 02/01/2012 Fav/CS BC	Fav/CS Yeas 5 Nays 0
2	**SB 1274** Latvala (Identical H 1015)	Tourist Development Tax; Providing for the proceeds of the tourist development tax to be used for the benefit of certain aquariums, etc. CM 01/19/2012 Favorable BFT 02/01/2012 Favorable BC	Favorable Yeas 5 Nays 1
3	**SB 2068** Budget Subcommittee on Finance and Tax (Compare H 5701)	Taxation; Providing for the collection of allowances of the amount of tax due by persons who file returns only by electronic means and pay the amount due on such returns only by electronic means; deleting provisions that provide for the collection of such allowances by persons who file paper returns; adopting the 2012 version of the Internal Revenue Code for purposes of ch. 220, F.S.; specifying the date by which estimated tax payments must be made when the due date is a Saturday, Sunday, or legal holiday, etc. BFT 02/01/2012 Fav/CS BC	Fav/CS Yeas 5 Nays 0
4	Other Related Meeting Documents		

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 Budget Subcommittee on Finance and Tax

BILL:	CS/SB 192
INTRODUCER:	Senator Bennett
SUBJECT:	Special Districts
DATE:	February 1, 2012
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.	Babin	Diez-Arguelles	BFT	**Fav/CS**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This committee substitute ("the bill") significantly amends statutory provisions relating to the dissolution and merger of special districts, both voluntarily and involuntarily.

Dependent Special Districts – This bill provides that a merger or dissolution of a dependent district may be accomplished by ordinance of the general-purpose local government where the district is located, but that mergers or dissolutions of dependent special districts operating pursuant to a special act can only be accomplished by further legislative action.

Independent Special Districts –Dissolutions– This bill provides that for voluntary dissolutions of independent special districts operating pursuant to a special act, the dissolution may be effectuated only by the Legislature. For all other dissolutions of independent special districts operating pursuant to a special act, a special act dissolving the district must be approved by a referendum. The bill provides, however, that if the district meets the requirements for being considered "inactive," no referendum is needed.

Independent Special Districts –Mergers– This bill creates a new procedure that allows two or more contiguous independent special districts with similar functions and governing bodies that were created by special act of the Legislature to voluntarily merge prior to a special act merging them. The bill allows merger proceedings to be initiated either by joint resolution of the governing bodies of each district or by a petition signed by 40 percent or more of the qualified electors in each district. The bill requires independent special districts that are merging to adopt a merger plan that outlines the specific components for the proposed merger which shall be subject to a public hearing and a voter referendum.

The bill states that a voluntary merger under the new procedure preempts any special act to the contrary, but that the procedure does not apply to independent special districts whose governing bodies are elected by district landowners voting the acreage owned within the district.

The bill also repeals current statutory provisions addressing the merger of independent special fire control districts. In addition, it allows the Department of Economic Opportunity to declare a special district inactive if the district's governing body unanimously adopts a resolution declaring inactivity.

This bill substantially amends sections 189.4042, 191.014, and 189.4044 of the Florida Statutes.

II. Present Situation:

Special Districts

Special Districts are governed by the Uniform Special District Accountability Act of 1989 in Chapter 189, F.S.[1] A "special district" is a confined local government unit established for a special purpose.[2] A special district can be created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.[3] A special district does not include:

- A school district,
- A community college district,
- A special improvement district (Seminole and Miccosukee Tribes under s. 285.17, F.S.),
- A municipal service taxing or benefit unit (MSTU/MSBU), or
- A political subdivision board of a municipality providing electrical service.[4]

Special districts have similar governing powers and restrictions as counties and municipalities.[5] Like other forms of local government, special districts operate through a governing board and can "enter contracts, employ workers . . . issue debt, impose taxes, levy assessments and . . .

[1] Ch. 189, F.S., *see* s. 189.401, F.S.
[2] Section 189.403(1), F.S.
[3] *Id.*
[4] *Id.*
[5] Mizany, Kimia and April Manatt, WHAT'S SO SPECIAL ABOUT SPECIAL DISTRICTS? CITIZENS GUIDE TO SPECIAL DISTRICTS IN CALIFORNIA, 3rd ed., 2 (Feb. 2002).

charge fees for their services."[6] Special districts are held accountable to the public and are therefore subject to public sunshine laws and financial reporting requirements.[7]

There are two types of special districts in Florida: dependent special districts and independent special districts. With some exceptions, dependent special districts are districts created by individual counties and municipalities. Dependent special districts must meet at least one of the following classifications:

- The membership of its governing body is identical to the governing body of a single county or municipality.
- All members of its governing body are appointed by the governing body of a single county or municipality.
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or municipality.
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or municipality.[8]

An independent special district is a district that does not meet any of the statutory classifications of a dependent special district.[9] Independent special districts may encompass more than one county.[10] The public policy behind special districts is to provide an alternative governing method to "manage, own, operate, construct and finance basic capital infrastructure, facilities and services."[11]

The Special District Information Program

The Special District Information Program (SDIP), administered by the Division of Community Development in the Department of Economic Opportunity (DEO or Department), is designed to collect, update, and share detailed information on Florida's special districts with state and local agencies.[12] The Department also maintains an official master list of the individual functions and status of all the dependent and independent special districts throughout the state.[13] As of January 2012, there were 1,636 special districts in the state of Florida: 630 dependent districts and 1,006 independent districts.[14] Examples of special districts in Florida include, but are not limited to,

---

[6] *Id.* (alteration to original) (citation omitted).
[7] Presentation by Jack Gaskins Jr., from the Division of Community Development in the Department of Economic Opportunity, SPECIAL DISTRICT BASICS PRESENTATION (October 4, 2011) (on file with the Senate Committee on Community Affairs). *See also* ss. 189.417 and 189.418, F.S.
[8] Section 189.403(2)(a)-(d), F.S.
[9] Section 189.403(3), F.S.
[10] *Id.*
[11] Section 189.402(4)(a), F.S.
[12] Florida Department of Economic Opportunity, *Special Districts Information Program* (available online at http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-information-program) (last visited on January 19, 2011).
[13] Sections 189.412(2) and 189.4035, F.S. *See also* Florida Department of Economic Opportunity, *Official List of Special Districts Online*, (*available online at* http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm) (last visited on January 25, 2011).
[14] Florida Department of Economic Opportunity, *Special Districts Information Program* (available online at http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/StateTotals.cfm) (last visited on January 25, 2012).

water management districts, community development districts, housing authority districts, fire control and rescue districts, mosquito control districts, and transportation districts.[15]

Current Merger and Dissolution Procedures

Section 189.4042, F.S., specifies the requirements for the merger or dissolution of a special district. This section provides that the merger or dissolution of a special district "created and operating pursuant to a special act may only be effectuated by the Legislature unless otherwise provided by general law."[16] Florida Statutes currently do not provide statutory guidelines to facilitate the merger of independent special districts prior to a Legislative Act.

An independent special district that is created by a county or municipality can be merged or dissolved by the county or municipality that created the special district pursuant to the same procedures in which the special district was created. "However, for any independent special district that has ad valorem taxation powers, the same procedure required to grant such independent special district ad valorem taxation powers shall also be required to dissolve or merge the district."[17]

An independent special district created by a county or municipality through a referendum that has been declared inactive, may be dissolved by the creating county or municipality after publishing notice pursuant to s. 189.4044, F.S.[18]

Inactive Special Districts

Section 189.4044, F.S., outlines special procedures for inactive special districts. Paragraph (1)(a), of this section requires DEO to declare a special district to be inactive if it meets at least one of the following four criteria:

1) The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has taken no action for 2 or more years;
2) Following an inquiry from the department, the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has not had a governing board or a sufficient number of governing board members to constitute a quorum for 2 or more years or the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government fails to respond to the department's inquiry within 21 days;
3) The department determines, pursuant to s. 189.421, F.S., that the district has failed to file any of the reports listed in s. 189.419, F.S.; or
4) The district has not had a registered office and agent on file with the department for 1 or more years.[19]

[15] *Id.*
[16] Section 189.4042(2), F.S.
[17] *Id.*
[18] *Id.*
[19] Section 189.4044(1)(a), F.S.

After proposing a special district to be inactive, DEO, the special district, or the local general-purpose government must publish a notice of the proposed declaration of inactive status in a newspaper of general circulation in the county or municipality where the territory of the special district is located.[20] The entity must allow 21 days from the date of publication for administrative appeals to be filed.[21] Thereafter, the entity that created the special district declared to be inactive must dissolve the special district by repealing its enabling laws or by other appropriate means.[22]

If the inactive special district was created by a special act of the Legislature, then DEO must send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate, and the notice must reference each special act creating or amending the charter of any special district declared to be inactive. This notice shall constitute sufficient notice under Article III, section 10, of the Florida Constitution, authorizing the Legislature to repeal any special laws so reported in the notice of declaration of inactive status.[23]

Oversight Review Process

Section 189.428, F.S., provides a process for the review of special districts ("oversight review process"). The oversight review process is performed in conjunction with the special district's public facilities report and the local governmental evaluation and appraisal report prescribed in ss. 189.415(2) and 163.3191, F.S.[24] Depending upon whether the independent special district is a single- or multi-county district, the oversight review may be conducted by the county or municipality where the special district is located, or by the government that created the special district.[25]

During the oversight review process, the reviewing authority evaluates the special district, considering, at a minimum, the following criteria:

- The degree to which current services are essential or contribute to the well-being of the community;
- The extent of continuing need for current services;
- Current or possible municipal annexation or incorporation and its impact on the delivery of district services;
- Whether there is a less costly alternative method of delivering the services that would adequately provide district services to district residents; and
- Whether the transfer of services would jeopardize the district's existing contracts.[26]

The reviewing authority's final oversight report must be filed with the government that created the district, and serves as a basis for any modification, dissolution or merger of the district.[27] If a

[20] Section 189.4044(1)(b), F.S.
[21] Section 189.4044(1)(c), F.S.
[22] Section 189.4044(4), F.S.
[23] Section 189.4044(3), F.S.
[24] Section 189.428(2), F.S.
[25] Section 189.428(3), F.S. Note: dependent special districts are reviewed by the local government entity that they are dependent upon, *see* s. 189.428(3) (a), F.S.
[26] *See* s. 189.428(5) (a)-(i), F.S., for a full list of the statutory criteria that is evaluated during the oversight review process.
[27] Section 189.428(7), F.S.

legislative dissolution or merger is proposed in the final report, subsection (8) of s. 189.428, F.S., further provides that:

> (8) . . . the reviewing government shall also propose a plan for the merger or dissolution, and the plan shall address the following factors in evaluating the proposed merger or dissolution:
> a) Whether, in light of independent fiscal analysis, level-of-service implications, and other public policy considerations, the proposed merger or dissolution is the best alternative for delivering services and facilities to the affected area.
> b) Whether the services and facilities to be provided pursuant to the merger or dissolution will be compatible with the capacity and uses of existing local services and facilities.
> c) Whether the merger or dissolution is consistent with applicable provisions of the state comprehensive plan, the strategic regional policy plan, and the local government comprehensive plans of the affected area.
> d) Whether the proposed merger adequately provides for the assumption of all indebtedness.[28]

The final report must also be considered at a public hearing in the affected jurisdiction and adopted by the governing board.[29] Thereafter, the adopted plan for merger or dissolution can be filed as an attachment to the economic impact statement regarding the proposed special act or general act of local application dissolving a district.[30] The oversight review process does not apply to deepwater ports, airport authorities, or healthcare districts operating in compliance with other master plan requirements under Florida Statutes.[31]

Senate Interim Project, *Interim Report 2011-210*

The Senate Committee on Community Affairs conducted an interim report on the merger of independent special districts in 2010.[32] The purpose of this interim report was to explore potential statutory guidelines for voluntary independent special district mergers and consolidations. The report reviewed current Florida law and existing merger and consolidation laws in three other states and discussed previous merger attempts that have failed in Florida. Senate staff provided criteria for the Legislature to consider should it choose to adopt statutory guidelines that would allow independent special districts formed under special law to voluntarily merge prior to a Legislative Act.

Staff recommended that any adopted statutory criteria should:

- Discuss how mergers can be initiated, i.e. by resolution, voters, etc.;
- State the required statutory thresholds to approve or petition a merger;

[28] Section 189.428(8), F.S.
[29] Section 189.428(8), F.S. (flush language)
[30] *Id.*
[31] Section 189.428(9), F.S. (Discussing deepwater ports operating in compliance with a port master plan under s. 163.3178(2)(k), airport authorities operating in compliance with the Federal Aviation Administration approved master plan, and special districts organized to provide health systems and facilities licensed under chapters 395, 400, and 429, F.S.).
[32] Comm. on Community Affairs, The Florida Senate, *The Merger of Independent Special Districts* (Interim Report 2011-210) (Oct. 2010).

- Require special districts to adopt a merger plan that evaluates how personnel and governing board changes will be made, how assets and liabilities will be apportioned, and how to standardize varying pay levels and benefits;
- Only apply to voluntary special district mergers; and
- Preclude special districts from exceeding the powers granted to them in their existing special acts until a unified charter is adopted by the Legislature.[33]

III. Effect of Proposed Changes:

Section 1 amends s. 189.4042, F.S., to provide definitions, and to reorganize the provisions relating to dissolutions and mergers of special districts.

The bill maintains current law with regard to the merger and dissolution of dependent special districts. The bill provides that a merger or dissolution of a dependent district may be accomplished by ordinance of the general-purpose local government where the district is located, but that mergers or dissolutions of dependent special districts operating pursuant to a special act can only be accomplished by further legislative action.[34]

Currently, s. 189.4042, F.S., provides that the process to merge or dissolve an independent special district depends upon the process used to create the district; districts that were created by special act are merged or dissolved by further legislative action, while districts that were created by a county or municipality are generally merged or dissolved by the same process used to create the district.[35] This bill amends and reorganizes these provisions to distinguish provisions relating to voluntary mergers and dissolutions from the provisions relating to other mergers and dissolutions.

With respect to voluntary dissolutions of independent special districts, the bill retains the current statutory standard providing that an independent special district created and operating pursuant to a special act may be dissolved only by the Legislature.

With respect to other-than-voluntary dissolutions of independent special districts operating pursuant to a special act, the bill provides that a special act dissolving the district must be approved in a referendum in the same manner in which the governing body of the district is elected. For other-than-voluntary dissolutions of independent special districts created by a county or municipality, the county or municipality that created the district may dissolve the district by the same procedure used to create the district.

With respect to voluntary mergers, the bill creates a new subsection (5) in order to:

- Allow two or more contiguous independent special districts with similar functions and governing bodies that were created by the Legislature to voluntarily merge prior to a special act.
- Allow merger proceedings to be initiated either by joint resolution of the governing bodies of each district or by qualified elector initiative.

[33] *Id.*
[34] Section 189.4042(1), F.S.
[35] Section 189.4042(2), F.S.

- Require independent special districts to adopt a merger plan that outlines the specific components for the proposed merger.
- Require the proposed merger plan to be subject to a public hearing and voter referendum, consistent with certain notice requirements under Florida Statutes.
- Provide election procedures and require a proposed merger to be approved by the majority of votes cast in each independent special district in order for merger to take effect.
- Treat each component independent special district of the merger as a subunit of the merged independent special district until such time as the Legislature formally approves the unified charter of the new merged district pursuant to special act.
    - During such time, the individual subunits shall be limited to the powers and financing capabilities of each subunit as they previously existed prior to merger.[36]
- Provide for the transfer of assets, debts and liabilities of each component independent special district to the merged independent special district.
- Provide that in any action or proceeding pending on the effective date of merger to which a component independent special district is a party, the merged independent special district shall be substituted in its place.
- Provide that ch. 171, F.S., shall continue to apply to all annexations by a city within the component independent special district's boundaries after merger occurs. Outline the effect of merger on current employees and governing bodies of each component independent special district participating in the merger proposal.
- Provide that the merged independent special district is authorized to continue or conclude property tax procedures under chapter 200 on behalf of the component districts. Furthermore, the bill provides that all property tax calculations required by chapter 200 must be calculated separately for each component district.
- Provide that the provisions addressing voluntary independent special district mergers do not apply to independent special districts whose governing bodies are elected by district landowners voting the acreage owned within the district. Provide that the new statutory provisions relating to voluntary mergers of independent special districts preempt any special act to the contrary.

With respect to involuntary mergers of independent special districts, the bill provides that the merger of districts created by special act is not effective until a special act of the Legislature is approved at separate referenda of the affected local governments, and that districts created by county or municipality can be merged by referendum or other procedure by which the districts were created.

The bill provides that inactive districts can be dissolved by special act without referenda, and also makes clarifying amendments to current law.

Section 2 amends s. 191.014, F.S., to delete current subsection (3), which provides specific merger procedures for independent special fire control districts.

[36] Art. VII, section 2 of the Florida Constitution provides that all ad valorem taxation shall be at a uniform rate within each taxing unit. Limiting the powers of subunits to those powers existing prior to a voluntary merger maintains this uniformity.

Section 3 amends s. 189.4044, F.S., to allow DEO to declare a special district inactive if the district's governing body unanimously adopts a resolution declaring inactivity. The district may then be dissolved without a referendum.

Section 4 provides that this act shall take effect July 1, 2012.

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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

As a result of this bill, qualified electors residing in an independent special district that is created by a special act of the Legislature will be permitted to initiate voluntary merger proceedings with one or more independent special district(s) by filing a petition with the governing body of each independent special district proposing to be merged.

C. Government Sector Impact:

As a result of this bill, the governing body of an independent special district that is created by a special act of the Legislature will be authorized to initiate voluntary merger proceedings with one or more independent special district(s) through a joint resolution that is approved by a majority of the governing board members of each independent special district proposing to be merged.

This bill may affect how districts are reported under the Special District Information Program within DEO.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Budget Subcommittee on Finance and Tax on February 1, 2012:

- Provides that after a merger, the merged independent special district may continue chapter 200 procedures on behalf of the component districts and that property tax calculations under chapter 200 are to be made separately for each component district.
- Clarifies the provisions of the bill dealing with procedures for other-than-voluntary dissolutions and mergers.

B. Amendments:

None.

119586

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax (Gardiner) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

189.4042 Merger and dissolution procedures.—

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

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

district of which it is now a part.

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

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

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

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

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

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


119586

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

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

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

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

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

(a) The merger or dissolution of a dependent special district ~~districts~~ may be effectuated by an ordinance of the general-purpose local governmental entity wherein the geographical area of the district or districts is located.

However, a county may not dissolve a special district that is dependent to a municipality or vice versa, or a dependent district created by special act.

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

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

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

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

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

(b) *Other dissolutions.*—

1. In order for the Legislature to dissolve an active independent special district created and operating pursuant to a special act, the special act dissolving the active independent special district must be approved by a majority of the resident electors of the district or, for districts in which a majority

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

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

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

119586

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

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

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

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

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

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

2. A qualified elector initiative.

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

1. The proposed joint merger plan must specify:

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

b. The name of the proposed merged independent district;

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

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

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

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

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

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

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

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

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

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

119586

and

m. The effective date of the proposed merger.

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

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

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

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

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

119586

independent special districts at least once each week for 4 successive weeks.

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

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

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

5. After the final public hearing, the governing bodies

119586

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

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

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

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

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

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

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

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

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

119586

form:

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

YES

NO"

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

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

YES

NO"

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

f. The merger may not take effect unless a majority of the

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

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

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

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

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

119586

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

PETITION FOR INDEPENDENT SPECIAL DISTRICT MERGER

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

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

Date Name (print under signature) Home Address

_____

_____

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

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

statement must be in substantially the following form:

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

Date Signature of Witness

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

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

Date Signature of Witness

c. An alteration or correction of information appearing on

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

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

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

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

b. The name of the proposed merged independent district;

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

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

e. The governmental organization of the proposed merged

119586

independent district insofar as it concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials;

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

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

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

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

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

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

l. The effective date of the proposed merger.

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

5. Within 5 business days after the governing bodies of each component independent special district approve the proposed

119586

elector-initiated merger plan, the governing bodies shall:

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

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

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

6. The governing body of each component independent special district shall set a time and place for one or more public hearings on the proposed elector-initiated merger plan. Each public hearing shall be held on a weekday at least 7 business days after the day the first advertisement is published on the proposed elector-initiated merger plan. The hearing or hearings may be held jointly or separately by the governing bodies of the

119586

component independent special districts. Any interested person residing in the respective district shall be given a reasonable opportunity to be heard on any aspect of the proposed merger at the public hearing.

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

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

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

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

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

merger plan;

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

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

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

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

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

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

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

YES

NO"

d. If the component independent special districts proposing to merge have disparate millage rates, the ballot question in the referendum placed before the qualified electors of each

component independent special district must be in substantially the following form:

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

YES

NO"

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

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

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

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

119586

years after the date of the referendum.

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

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

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

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

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

1. During the transition period, the merged independent district is limited in its powers and financing capabilities within each subunit to those powers that existed within the boundaries of each subunit which were previously granted to the

component independent special district in its existing charter before the merger. The merged independent district may not, solely by reason of the merger, increase its powers or financing capability.

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

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

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

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

4. The intent of this section is to preserve and transfer

119586

to the merged independent district all authority that exists within each subunit and was previously granted by the Legislature and, if applicable, by referendum.

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

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

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

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

4. Upon the effective date of the merger, the joint merger plan or elector-initiated merger plan, as appropriate, is subordinate in all respects to the contract rights of all


119586

holders of any securities or obligations of the component independent special districts outstanding at the effective date of the merger.

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

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

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

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

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

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

3. In general elections thereafter, all governing body

members shall serve 4-year terms.

(h) *Effect on employees.*—Except as otherwise provided by law and except for those officials and employees protected by tenure of office, civil service provisions, or a collective bargaining agreement, upon the effective date of merger, all appointive offices and positions existing in all component independent special districts involved in the merger are subject to the terms of the joint merger plan or elector-initiated merger plan, as appropriate. Such plan may provide for instances in which there are duplications of positions and for other matters such as varying lengths of employee contracts, varying pay levels or benefits, different civil service regulations in the constituent entities, and differing ranks and position classifications for similar positions. For those employees who are members of a bargaining unit certified by the Public Employees Relations Commission, the requirements of chapter 447 apply.

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

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

2. The rights of creditors and all liens upon the property

119586

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

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

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

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

(l) *Effect on millage calculations.*—The merged independent special district is authorized to continue or conclude procedures under chapter 200 on behalf of the component independent special districts. The merged independent special

district shall make the calculations required by chapter 200 for each component individual special district separately.

(m) *Determination of rights.*—If any right, title, interest, or claim arises out of a merger or by reason thereof which is not determinable by reference to this subsection, the joint merger plan or elector-initiated merger plan, as appropriate, or otherwise under the laws of this state, the governing body of the merged independent district may provide therefor in a manner conforming to law.

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

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

(6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—

(a) *Independent special districts created by special act.*—In order for the Legislature to merge an active independent special district or districts created and operating pursuant to a special act, the special act merging the active independent special district or districts must be approved at separate referenda of the impacted local governments by a majority of the resident electors or, for districts in which a majority of governing board members are elected by landowners, a majority of the landowners voting in the same manner by which each independent special district’s governing body is elected. The special act merging the districts must include a plan of merger that addresses transition issues such as the effective date of the merger, governance, administration, powers, pensions, and


119586

assumption of all assets and liabilities. If a local general-purpose government passes an ordinance or resolution in support of the merger of an active independent special district, the local general-purpose government must pay any expenses associated with the referendum required under this paragraph.

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

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

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

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

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

(1) New districts may be created only by the Legislature

119586

under s. 189.404.

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

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

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

189.4044 Special procedures for inactive districts.—

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

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

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

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

or more years or the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government fails to respond to the department's inquiry within 21 days;

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

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

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

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

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

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to special districts; amending s. 189.4042, F.S.; revising provisions relating to merger and dissolution procedures for special districts;

providing definitions; requiring the merger or dissolution of dependent special districts created by a special act to be effectuated by the Legislature; providing for the merger or dissolution of inactive special districts by special act without referenda; providing dissolution procedures for active independent special districts by special acts and referenda; providing for the dissolution of inactive independent special districts by special act; providing for local governments to assume indebtedness of, and receive title to property owned by, special districts under certain circumstances; providing for the merger of certain independent special districts by the Legislature; providing procedures and requirements for the voluntary merger of contiguous independent special districts; limiting the authority of the merged district to levy and collect revenue until a unified charter is approved by the Legislature; providing for the effect of the merger on employees, legal liabilities, obligations, proceedings, and annexation; providing for the determination of certain rights by the governing body of the merged district; providing that such provisions preempt certain special acts; providing procedures and requirements for the involuntary merger of independent special districts; providing exemptions from merger and dissolution procedures; amending s. 191.014, F.S.; deleting a provision relating to the conditions under which the merger of independent special districts or dependent

fire control districts with other special districts is effective and the conditions under which a merged district is authorized to increase ad valorem taxes; amending s. 189.4044, F.S.; revising criteria by which special districts are declared inactive by a governing body; authorizing such districts to be dissolved without a referendum; providing an effective date.

By Senator Bennett

21-00285-12 2012192__

A bill to be entitled

An act relating to special districts; amending s. 189.4042, F.S.; revising provisions relating to merger and dissolution procedures for special districts; providing definitions; requiring the merger or dissolution of dependent special districts created by a special act to be effectuated by the Legislature; providing for the merger or dissolution of inactive special districts by special act without referenda; requiring involuntary dissolution procedures for independent special districts to include referenda; providing for the dissolution of inactive independent special districts by special act; providing for local governments to assume indebtedness of, and receive title to property owned by, special districts under certain circumstances; providing for the merger of certain independent special districts by the Legislature; providing procedures and requirements for the voluntary merger of contiguous independent special districts; limiting the authority of the merged district to levy and collect revenue until a unified charter is approved by the Legislature; providing for the effect of the merger on employees, legal liabilities, obligations, proceedings, and annexation; providing for the determination of certain rights by the governing body of the merged district; providing that such provisions preempt certain special acts; providing procedures and requirements for the involuntary merger of independent special districts;

21-00285-12 2012192__

providing exemptions from merger and dissolution procedures; amending s. 191.014, F.S.; deleting a provision relating to the conditions under which the merger of independent special districts or dependent fire control districts with other special districts is effective and the conditions under which a merged district is authorized to increase ad valorem taxes; amending s. 189.4044, F.S.; revising criteria by which special districts are declared inactive by a governing body; authorizing such districts to be dissolved without a referendum; providing an effective date.

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

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

189.4042 Merger and dissolution procedures.—

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

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

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

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

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

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

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

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

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

(i) "Proposed elector-initiated merger plan" means a written document that contains the terms and information regarding the merger of two or more independent special districts and that accompanies the petition initiated by the

qualified electors of the districts but that is not yet finalized and approved by the governing bodies of each component independent special district pursuant to this section.

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

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

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

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

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

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

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

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

(a) *Voluntary dissolution.*—The voluntary ~~merger or~~ dissolution of an independent special district ~~or a dependent district~~ created and operating pursuant to a special act may ~~only~~ be effectuated only by the Legislature unless otherwise provided by general law.

(b) *Involuntary dissolution.*—If a local general-purpose government seeks to dissolve an active independent special district created and operating pursuant to a special act whose governing body objects by resolution to the dissolution, the dissolution of the active independent special district is not effective until a special act of the Legislature is approved by a majority of the resident electors of the district or landowners voting in the same manner by which the independent special district's governing body is elected. This paragraph also applies if an independent special district's governing body elects to dissolve the district by less than a supermajority vote of the governing body. The political subdivisions proposing the involuntary dissolution of an active independent special district shall be responsible for payment of any expenses associated with the referendum required under this paragraph.

(c) *Inactive independent special districts.*—An independent special district that meets any criteria for being declared inactive, or that has already been declared inactive, pursuant to s. 189.4044 may be dissolved by special act without a referendum. If an inactive independent special district was created by a county or municipality through a referendum, the county or municipality that created the district may dissolve the district after publishing notice as described in s. 189.4044. If an independent special district was created by a county or municipality by referendum or any other procedure, the county or municipality that created the district may merge or dissolve the district pursuant to a referendum or any other ~~the same~~ procedure by which the independent district was created. However, if the ~~for any~~ independent special district ~~that~~ has ad valorem taxation powers, the same procedure required to grant the ~~such~~ independent district ad valorem taxation powers is ~~shall also be~~ required to dissolve ~~or merge~~ the district.

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

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

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

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

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

2. A qualified elector initiative.

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

1. The proposed joint merger plan must specify:

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

b. The name of the proposed merged independent district;

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

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

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

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

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

h. Each component independent special district's

liabilities and indebtedness, bonded and otherwise, and the current value thereof;

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

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

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

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

m. The effective date of the proposed merger.

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

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

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

independent special district has fewer than three public places, in which case the plan must be accessible for inspection in all public places within the component independent special district;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

_____YES

_____NO"

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

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

_____YES

_____NO"

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

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

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

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

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

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

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

PETITION FOR INDEPENDENT SPECIAL DISTRICT MERGER

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

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

Date Name (print under signature) Home Address

_____

_____

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

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

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

Date Signature of Witness

b. A statement that is signed by a notary public or another

person authorized to take acknowledgements must be in substantially the following form:

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

Date Signature of Witness

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

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

3. Upon verification by the supervisors of elections of the counties within which component independent special district lands are located that 40 percent of the qualified electors have

petitioned for merger and that all such petitions have been executed within 1 year after the date of the initiation of the qualified-elector merger process, the governing bodies of each component independent special district shall meet within 30 business days to prepare and approve by resolution a proposed elector-initiated merger plan. The proposed plan must include:

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

b. The name of the proposed merged independent district;

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

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

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

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

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

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

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

proportions;

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

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

l. The effective date of the proposed merger.

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

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

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

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

municipality in which the districts are located; and

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

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

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

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

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

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

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

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

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

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

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

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

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

c. The ballot question in such referendum placed before the

qualified electors of each component independent special district to be merged must be in substantially the following form:

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

_____YES

_____NO"

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

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

_____YES

_____NO"

e. In any referendum held pursuant to this paragraph, the ballots shall be counted, returns made and canvassed, and results certified in the same manner as other elections or

referenda for the component independent special districts.

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

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

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

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

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

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

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

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

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

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

a. The merged independent district may not, solely by reason of the merger, increase ad valorem taxes on property within the original limits of a subunit beyond the maximum ad valorem rate approved by the electors of the component

independent special district. For purposes of s. 2, Art. VII of the State Constitution, each subunit may be considered a separate taxing unit. The merged independent district may levy an ad valorem millage rate within a subunit, if applicable, only up to the millage rate that was previously approved by the electors of the component independent special district unless an increase in the millage rate is approved pursuant to general law.

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

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

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

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

1. All rights, privileges, and franchises of each component independent special district and all assets, real and personal property, books, records, papers, seals, and equipment, as well

as other things in action, belonging to each component independent special district before the merger shall be deemed as transferred to and vested in the merged independent district without further act or deed.

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

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

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

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

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

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

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

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

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

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

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

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

pay levels or benefits, different civil service regulations in the constituent entities, and differing ranks and position classifications for similar positions. For those employees who are members of a bargaining unit certified by the Public Employees Relations Commission, the requirements of chapter 447 apply.

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

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

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

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

(j) *Effect on actions and proceedings.*—In any action or

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

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

(l) *Determination of rights.*—If any right, title, interest, or claim arises out of a merger or by reason thereof which is not determinable by reference to this subsection, the joint merger plan or elector-initiated merger plan, as appropriate, or otherwise under the laws of this state, the governing body of the merged independent district may provide therefor in a manner conforming to law.

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

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

(6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—If a local general-purpose government seeks to merge an active

independent special district or districts created and operating pursuant to a special act whose governing body or governing bodies object by resolution to the merger, the merger of the active independent special district or districts is not effective until the special act of the Legislature is approved at separate referenda of the impacted local governments by a majority of the resident electors or landowners voting in the same manner by which each independent special district's governing body is elected. The special act shall include a plan of merger that addresses transition issues such as the effective date of the merger, governance, administration, powers, pensions, and assumption of all assets and liabilities.

(a) The political subdivisions proposing the involuntary merger of an active independent special district shall be responsible for payment of any expenses associated with the referendum required under this subsection.

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

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

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

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

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

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

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

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

189.4044 Special procedures for inactive districts.—

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

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

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

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

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

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

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/12
Meeting Date

Topic Special Districts

Bill Number SB 192 *(if applicable)*

Name Chris Lyon

Amendment Barcode _____ *(if applicable)*

Job Title Attorney

Address 315 S. Calhoun St., Ste. 315
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850/222-5702

E-mail clyon@flus-law.com

Speaking: ☑ For ☐ Against ☐ Information

Representing Florida Association of Special Districts

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

FEB. 1, 2012
Meeting Date

Topic SPECIAL DISTRICTS Bill Number SB 192 *(if applicable)*

Name PHILIP SINGLETON Amendment Barcode *(if applicable)*

Job Title LEGISLATIVE DIRECTOR, PITTMAN LAW GROUP

Address 1028 EAST PARK AVENUE *Street* Phone 850·216·1002

TALLAHASSEE, FL 32301 *City* *State* *Zip* E-mail PHILIP@PITTMAN·LAW·COM

Speaking: [X] For [ ] Against [ ] Information

Representing CITY OF PORT ORANGE

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: SB 301 **Case:** **Type:**
Caption: Senate Budget Subcommittee on Finance and Tax **Judge:**

Started: 2/1/2012 10:17:26 AM
Ends: 2/1/2012 10:29:41 AM Length: 00:12:16

10:17:28 AM Sen. Bogdanoff - Meeting called to order
10:17:31 AM roll call
10:17:46 AM SB 192 -Sen. Bogdanoff recognizes Sen. Bennett
10:17:52 AM Sen. Bennett presents SB 192
10:18:22 AM Sen. Bogdanoff - Strike-all amendment 119586
10:18:27 AM Sen. Bennett - strike-all amendment
10:18:50 AM Sen. Bogdanoff - recognizes Sen. Norman introduces late filled amendment
10:19:10 AM Sen. Bogdanoff - questions on strike-all amendment 119586
10:19:16 AM Sen. Margolis
10:19:22 AM Sen. Bennett
10:19:24 AM Sen. Margolis
10:19:27 AM Sen. Bennett
10:19:28 AM Sen. Bogdanoff
10:19:36 AM Sen. Bennett
10:19:50 AM Sen. Bogdanoff- strike-all amendment approved; recognizes Philip Singleton, City of Port Orange
10:20:27 AM Sen. Bogdanoff recognizes Chris Lyon, Attorney, Florida Association of Special Districts
10:20:30 AM Chris Lyon, Attorney, Florida Association of Special Districts waives in support
10:20:36 AM Sen. Bogdanoff
10:20:37 AM Sen Sachs
10:21:06 AM Sen. Bogdanoff
10:21:16 AM Sen. Bogdanoff - Sen. Sachs moves for a Committee Substitute
10:21:22 AM roll call on SB 192
10:21:33 AM Sen. Bogdanoff - SB 192 reported favorably as a committee substitute
10:21:50 AM Sen. Bogdanoff recognizes Sen. Latvala to present SB 1274
10:22:10 AM SB 1274 - Sen. Latvala
10:22:25 AM Sen. Bogdanoff
10:22:27 AM Sen. Gardiner
10:22:36 AM Sen. Latvala
10:22:45 AM Sen. Bogdanoff
10:22:50 AM Sen. Sachs
10:23:08 AM Sen. Latvala
10:23:43 AM Sen. Sachs
10:23:51 AM Sen. Latvala
10:24:13 AM Sen. Bogdanoff
10:24:25 AM Sen. Gardiner
10:24:59 AM Sen. Bogdanoff
10:25:01 AM Sen. Sachs
10:25:45 AM Sen. Bogdanoff
10:25:50 AM Sen. Latvala
10:25:51 AM Sen. Bogdanoff
10:25:55 AM roll call on SB 1274
10:26:04 AM Sen. Bogdanoff - SB 1274 reported favorably
10:26:19 AM Sen. Altman precides as chair and recognizes Sen. Bogdanoff to present SB 2068
10:26:29 AM Sen. Bogdanoff presents SB 2068
10:26:49 AM Sen. Altman - Amendment 798864
10:26:52 AM Sen.Bogdanoff
10:27:09 AM Sen. Altman - amendment 798864 passes
10:27:16 AM Sen. Altman - Amendment 821662 by Sen. Bogdanoff
10:27:18 AM Sen. Bogdanoff explains Amendment 821662
10:27:41 AM Sen. Altman - amendment 821662 adopted
10:27:58 AM Vicki Weber, Attorney, Hopping Green & Sams, P.A., Florida Chamber of Commerce waives in support
10:28:02 AM Sen. Altman

10:28:20 AM Sen. Sachs
10:28:48 AM Sen. Altman
10:29:11 AM Sen. Altman - Motion by Sen. Bogdanoff to report SB 2068 as a committee substitute
10:29:15 AM roll call on SB 2068
10:29:26 AM Sen. Altman - SB 2068 reported favorably as a committee substitute
10:29:33 AM Sen. Bogdanoff - back as chair; meeting adjourned