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**HOUSE OF REPRESENTATIVES
AS REVISED BY THE
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS**

BILL #: HB 1827 (PCB LGVA 01-01)
RELATING TO: Special Districts
SPONSOR(S): Committee on Local Government & Veterans Affairs and Representative Sorensen
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 12 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that an inactive independent special district that was created by a county or municipality through a referendum, but which does not have ad valorem taxing powers, may be merged or dissolved by the county or municipality after publication of notice declaring the inactive status of the district once a week for 2 weeks, rather than the 4 weeks, as is provided in current law. This bill provides the effect of the reenactment of existing law pursuant to the required codification of a special district charter. This bill also removes certain special district reporting requirements and streamlines audit compliance processes.

This bill does not impact State funds.

On April 4, 2001, the Council for Smarter Government considered HB 1827, adopted 2 amendments, and unanimously passed the bill. The amendments, which are traveling with the bill, are explained in this bill analysis. (See section V. "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:").

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

N/A

B. PRESENT SITUATION:

Chapter 189, Florida Statutes, defines a "special district" as a local unit of special purpose, as opposed to general-purpose, government within a limited boundary. Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. Special districts' services range from providing for roads, drainage and water systems to fire control, housing and urban development, health facilities, juvenile welfare, libraries, jails, ports and airports, mosquito control, and beach preservation. Section 189.403, Florida Statutes, provides the criteria for designating a special district as either dependent or independent. According to the most recent report of the Department of Community Affairs' Special District Information Program (SDIP), there were 511 dependent and 527 independent special districts in the State of Florida as of October 1, 2000.

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes, to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. Section 189.429, Florida Statutes (1997), also required that no changes be made to a district's charter, as it existed on October 1, 1997. However, the 1998 Legislature amended section 189.429, Florida Statutes, to: (1) extend the codification deadline to December 1, 2004; (2) allow for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs; (3) remove the prohibition of substantive amendments in a district's codification bill; and (4) remove the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.

Schedule of Submittals of Special Districts' Charters

Special Districts with less than 2 special acts	1999 Legislative Session
Special Districts with 3 - 4 special acts	2000 Legislative Session
Special Districts with 5 - 7 special acts	2001 Legislative Session
Special Districts with 8 - 12 special acts	2002 Legislative Session
Special Districts with more than 12 special acts	2003 Legislative Session
Special Fire Control Districts	2004 Legislative Session

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 89 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, Florida Statutes, is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

Last summer, a letter was sent to the special districts that should have codified pursuant to the Legislature's schedule, but had failed to do so. One response received from legal counsel representing two independent special districts in Franklin County stated that the Board of County Commissioners had instructed him to dissolve the districts, which have never been active and have no special acts or charters, but no statutory way exists to dissolve an inactive district that is not cumbersome and expensive. After consultation with the Department of Community Affairs (department) and additional research, it was discovered that the failure by some special districts to file a draft codified charter was symptomatic of a larger problem. Some of the special districts are inactive and non-compliant with the department's annual fee and reporting requirements. A listing of the special districts so situated has been compiled by the department's SDIP and is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

Merger and Dissolution Procedures

Currently, section 189.4042, Florida Statutes, provides that if a county or municipality creates an independent district, the county or municipality that creates the special district may merge or dissolve the district. Under a 1998 amendment to section 189.4042, Florida Statutes, independent districts created by counties or municipalities with ad valorem taxing powers are required to follow the same procedure used to grant independent districts taxing power (approval by electorate) to dissolve or merge the district. See chapter 98-320, Laws of Florida. However, section 189.4042, Florida Statutes, as amended, appears to require a referendum election in order to effectuate dissolution of a special district that was created with a concomitant referendum election even when the special district has never had ad valorem taxation powers.

In addition, for those special districts that were not created by referendum, the notice procedure set forth in section 189.4044(2), Florida Statutes, creates a significant burden for county or municipal government desiring to dissolve special districts that are not active, needed, or desired. Since the notice requirements in section 189.4044(2), Florida Statutes, provide that the notice to dissolve must be published once a week for 4 weeks, this procedure can greatly increase the time required to dissolve an inactive special district, and the publication costs can be in excess of \$5,000 in some urban areas. Often when independent special districts without ad valorem taxing powers become inactive, they lack the financial resources to comply with the current statutory merger and

dissolution procedures in spite of the policy contained in section 189.402(2)(b), Florida Statutes, which states, "It is in the public interest that an independent special district created pursuant to state law not outlive its usefulness."

Special District Reports and Audits

A performance audit report issued by the Financial, Compliance, and Operational Audit Division of the Office of the Auditor General on December 21, 2000, includes suggestions for changes pertaining to special districts. The findings of this audit, contained in the report entitled, State of Florida Local Government Financial Reporting System Performance Audit (Report No. 01-075), disclose that many special districts had not filed documents required by law with their local governing authorities. Similar findings were previously noted in audit report No. 13083, paragraph 110.

The Department of Community Affairs' Special District Program has made efforts to ensure compliance with special district reporting requirements. These efforts have included: (1) correspondence sent to special districts summarizing the reporting requirements; (2) reminders in the Official List of Special Districts published annually by the department; (3) summary of reporting requirements in the *Florida Special District Handbook*; (4) discussions of the reporting requirements at Special District Conferences; and (5) enlisting the assistance of professional associations such as the Florida Government Finance Officers Association, Florida Association of Counties, Florida League of Cities, Inc., and the Florida Association of Special Districts in making special districts aware of the various reporting requirements and local governing authorities aware of their responsibility to report noncompliance with those reporting requirements. Although these efforts have helped, as disclosed by the Auditor General's audit test results, a significant number of special districts continue to be in noncompliance with the various requirements to file reports and information with local governing authorities.

A survey conducted by the Auditor General of local governing authorities that receive reports and information from special districts disclosed that 63 percent of the respondents indicated that they did not find such reports or information useful. It therefore appears that most local governing authorities are not using the reports or information. As such, the requirements for special districts to file these reports and information with their local governing authorities imposed by various sections of law appears to be, for many special districts, an unnecessary requirement that is resulting in the unnecessary use of special district resources.

The Office of the Auditor General recommends that the Legislature eliminate the various sections of law that require special districts to file copies of certain financial reports and other information with their local governing authorities. Those local governing authorities wishing to receive the reports and information from special districts under their jurisdiction can require such by local law.

Special District Financial Matters

Dependent special districts may be budgeted separately from the governmental entity upon which the special district is dependent. If a dependent special district is budgeted separately, the certification of compliance with audit requirements made by the local governing authority on its own behalf will not apply to the dependent special district. The local governing authority must separately certify that the dependent special district is in compliance with audit requirements.

The proposed budget of an independent special district located solely within one county must be filed with the clerk of the circuit court of that county regardless of whether the county wants the proposed budget report or finds the report useful.

Effect of Reenacting Existing Law

The Department of Environmental Protection, the Florida Association of Independent Special Districts, and individual bond attorneys have expressed concerns and uncertainty about the effect of existing law reenacted pursuant to the required codification of a special district's charter under section 189.429, Florida Statutes. These interested parties have requested clarification that the mere reenactment of existing law as part of the codification process, which simply compiles the various components of a special district's charter into a single special act, does not grant additional authority, supersede authority, or affect obligations of any special district with respect to bonded indebtedness.

C. EFFECT OF PROPOSED CHANGES:

This bill provides that an independent special district that was created by a county or municipality through a referendum, but which does not have ad valorem taxing powers, may be merged or dissolved by the county or municipality after publication of notice declaring the inactive status of the district once a week for 2 weeks, rather than the current 4 weeks, as is provided in current law. This bill provides that the reenactment of existing law pursuant to the required codification of a special district charter does not grant additional authority, supersede authority, or affect obligations of any district with respect to bonded indebtedness. This bill also removes certain special district reporting requirements and streamlines audit compliance processes.

This bill supports reduced bureaucracy, promotes fiscal responsibility, and maintains a sensible approach to removing districts no longer performing, and in some cases, having never performed, functions.

D. SECTION-BY-SECTION ANALYSIS:

- Section 1:** Amends section 189.4042(2), Florida Statutes, to provide that an independent special district that was created by a county or municipality through a referendum may be merged or dissolved by the county or municipality after publication of notice as required for the declaration of the inactive status of a special district.
- Section 2:** Amends section 189.4044(1)(b), Florida Statutes, to reduce the number of weeks that notice of declaration of inactive status must be published.
- Section 3:** Repeals sections 189.418(3) and 189.418(4), Florida Statutes, which require each special district to file certain reports, information, and audits with the local governing authority.
- Section 4:** Amends section 189.419, Florida Statutes, to conform this section with the changes initiated by amending section 218.34, Florida Statutes.
- Section 5:** Amends section 189.429, Florida Statutes, to provide that the reenactment of existing law pursuant to the required codification of a special district charter does not grant additional authority, supersede authority, or affect obligations of any district with respect to bonded indebtedness.
- Section 6:** Amends section 218.34, Florida Statutes, to delete a provision that allows a proposed budget of a dependent special district to be budgeted separately and deleting a requirement that the proposed budget of an independent special district located solely within one county be filed with the county.

Section 7: Provides that this bill takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The statutory changes contained in this bill will ease some financial and administrative burdens for the Department of Community Affairs' Special District Information Program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The changes contained in this proposed committee bill will save scarce financial resources at the local level by making it easier for special districts, which are not active, needed, or desired, to be merged or dissolved.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities or counties to spend money or take action that requires expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the total aggregate city or county percentage share of a state tax.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 4, 2001, the Council for Smarter Government considered HB 1827, adopted 2 amendments, and unanimously passed the bill. The amendments, which are traveling with the bill, are as follows:

- Amendment 1 clarifies the merger procedure of special districts and provides that an inactive independent special district may be dissolved after publishing the prescribed notice.
- Amendment 2 provides that, with the concurrence of the local governing authority, a dependent special district may be budgeted separately from the local governing authority.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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