

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/CS/HB 1095 Special Districts  
**SPONSOR(S):** Finance & Tax Council; Military & Local Affairs Policy Committee; Pafford  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1568

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|    | <b>REFERENCE</b>  | <b>ACTION</b>    | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|----|---|------------------|----------------|-----------------------|
| 1) | Military & Local Affairs Policy Committee               | 12 Y, 2 N, As CS | Fudge          | Hoagland              |
| 2) | Finance & Tax Council                                   | 12 Y, 0 N, As CS | Diez-Arguelles | Langston              |
| 3) | Economic Development & Community Affairs Policy Council |                  |                |                       |
| 4) |   |                  |                |                       |
| 5) |   |                  |                |                       |

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**SUMMARY ANALYSIS**

Section 189.4042, F.S., provides the method for merger and dissolution of dependent and independent special districts. Any dependent or independent district created by special act may only be merged or dissolved by the Legislature unless otherwise provided by general law. An independent district created by a county or municipality through a referendum or any other procedure, may be merged or dissolved by the same procedure by which the district was created.

The bill revises the merger and dissolution procedures for independent special districts by requiring a referendum for dissolutions and mergers sought by a municipality or county where the districts' governing board is opposed to the dissolution or merger.

The bill also provides special procedures to be followed for a voluntary merger of two independent special districts. The procedures require a referendum, and the merger will be effective before the legislature enacts a special law.

Inactive special districts may be merged or dissolved by special act without a referendum under certain circumstances.

The bill is effective July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

Unlike units of general-purpose government such as counties and municipalities, special districts are units of special-purpose government, meaning they have authority to do only the things set out in their creation document. A special district may be created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.

There are currently 1,622 special districts in Florida, 1,007 independent and 615 dependent. From January 1, 2005, through December 31, 2009, sixty-one districts were dissolved.

##### Merger and Dissolution Procedures for Special Districts

Article VIII, section 4 of the Florida Constitution governs the transfer of powers between governing bodies and states that

“by law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferee, or as otherwise provided by law.”

Section 189.4042, F.S., provides the method for merger and dissolution of dependent and independent special districts. Any dependent or independent district created by special act may only be merged or dissolved by the Legislature unless otherwise provided by general law. An independent district created by a county or municipality through a referendum or any other procedure, may be merged or dissolved by the same procedure by which the district was created. However, “for any independent district that 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.”

Under certain circumstances, the Department of Community Affairs (DCA) may declare a special district inactive and take steps to dissolve a district. In particular, DCA may take steps to dissolve a district if the district fails to file with the appropriate state agency the following:

- Retirement related reports with the Department of Management Services (DFS)
- Annual Financial Report with the Department of Financial Services
- Annual Financial Audit Report with the Auditor General and DFS
- Bond related reports with the State Board of Administration, Division of Bond Finance

## Effect of Proposed Changes

The bill revises the merger and dissolution procedures for independent special districts. First, the bill deletes current law stating that an independent special district created and operated pursuant to a special act may only be merged or dissolved by the Legislature. The bill then provides three procedures to be used to dissolve or merge an independent special district in three situations.

- If a local general-purpose government seeks to dissolve an independent district operating pursuant to a special act, and the district's board objects to the dissolution, the district may only be dissolved when a special act of the legislature is approved by a majority of the electors or landowners voting in a referendum. This same procedure applies if the district's governing board elects to dissolve the district by less than a supermajority vote of the board.
- If a local general-purpose government seeks to merge an independent special district with another governmental entity, and the district's board objects to the merger, the merger cannot be consummated until a "plan of merger" is approved by the district, the other governmental entity, and the legislature, and by referendums held in the district and the other governmental entity. The "plan of merger" must address transition issues, including the effective date of the merger, governance, administration, powers, pensions, and assumption of assets and liabilities.
- If two independent special districts with similar functions and elected governing boards wish to merge, the following procedures must be followed:
  - Each board must approve a plan of merger and a referendum must be held in each district.
  - If the voters approve the merger, each district will be considered a subunit of the newly-created district, until the legislature approved a "unified charter."
  - Each subunit will operate with the powers that were granted to the special district that is now operating as a subunit.
  - During the period between the effective date of the merger and the next general election, the new district's board will be comprised of the board members of each merged district. At the next general election following the merger a new board consisting of five members will be elected.
  - The effective date of the merger is not contingent on legislative approval, and the merged district is required to submit to the legislature a request for a unified charter for approval and for the repeal of the special acts that created the two merged districts.

The political subdivisions proposing a merger or dissolution that is opposed by the affected districts' board must pay for the required referendums.

Special districts that meet the criteria for being declared inactive, or that have already been declared inactive, pursuant to s. 189.4044, F.S., may be dissolved or merged by special act without a referendum. Also, if the governing body of a special district unanimously adopts a resolution declaring the district inactive, and no appeal is filed, the district may be dissolved without a referendum. In addition, any special district that has been declared inactive may be dissolved by special act without a referendum.

The bill states that it preempts any special act to the contrary unless a specific dissolution date is provided in the special act (creating the district).

Finally, the bill repeals s. 194.014(3), F.S., which sets forth merger procedures for independent special fire control districts.

**B. SECTION DIRECTORY:**

- Section 1: Amends the merger and dissolution procedures for special districts contained in s. 189.4042, F.S.
- Section 2: Amends s. 189.4044, F.S., to authorize the merger or dissolution of inactive special districts by special law without a referendum under certain circumstances.
- Section 3: Repeals s. 191.014(3), F.S.
- Section 4: Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

- 1. Revenues:  
None.
- 2. Expenditures:  
None

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

- 1. Revenues:  
None.
- 2. Expenditures:  
There will be costs associated with the calling of a referendum.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

- 1. Applicability of Municipality/County Mandates Provision:  
Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.
- 2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

Under current law, the legislature may dissolve an independent special district operating under a special act. The bill sets forth procedures to be followed when a local government wishes to merge or dissolve an independent special district and the board of the special district is opposed to the proposal. However, the bill does not provide any procedures to be followed in other situations, e.g., when the legislature, or a local delegation, wishes to dissolve or merge a district.

The bill refers to “when general-purpose government seeks to” dissolve or merge a district. However, the bill does not specify how the determination is made that a local government seeks to dissolve or merge a district.

The bill does not specify what happens if the legislature fails to pass a special act after two districts have undertaken a voluntary merger.

While the bill preempts any special act to the contrary, the provisions of the bill will only affect existing special districts. Special districts created pursuant to a subsequently enacted special law may exempt themselves from this requirement.

Also, a special act passed after the effective date of this act which dissolves a district likely will take precedence over the provisions of this act.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 17, 2010, the Military & Local Affairs Policy Committee adopted an amendment that authorizes the merger or dissolution of inactive special districts without a referendum under certain circumstances.

The bill was reported favorably and the analysis has been updated to reflect the committee substitute.

On April 9, 2010, the Finance and Tax Council adopted an amendment that made numerous changes to the bill. This analysis reflects those changes.