HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1095   Special Districts
SPONSOR(S): Pafford
TIED BILLS: **IDEN./SIM. BILLS:** SB 1568

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Fudge	Hoagland
2)	Finance & Tax Council			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

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 specifying when a referendum is required and preempts any special acts to the contrary. The bill also requires a determination of the proper allocation of indebtedness and the transfer of title.

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 for them to accomplish 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. Unless otherwise provided by general law, an independent special district created by special act may only be dissolved by the Legislature and a referendum of the resident electors of the district, if the district contains resident electors.

An independent special district, created by special act, may only be merged with another political subdivision by the Legislature and a referendum of the resident electors of the political subdivision and of the district, provided the political subdivision and the district contain resident electors.

The bill also clarifies that independent special districts created by a county or municipality by referendum may also be merged or dissolved by referendum. Likewise, any independent special district with ad valorem taxation powers, created by a county or municipality by referendum or any other procedure, may be merged or dissolved by the procedure by which it was granted that taxing authority.

The bill also provides that the government formed as a result of a merger shall assume all indebtedness of, and receive title to all property owned by, the preexisting independent special district or districts. The proposed charter shall determine the proper allocation of the indebtedness and the manner in which the debt shall be retired. When an independent special district is dissolved, all title to property owned by the district shall be transferred to the county, which shall assume all indebtedness of the district, unless otherwise provided in the dissolution plan.

B. SECTION DIRECTORY:

Section 1:   Amends the merger and dissolution procedures for special districts contained in s. 189.4042, F.S.

Section 2:   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:

   The Department of Community Affairs has expressed concern that rather than dissolve through a referendum, local governments may simply abandon the special district. When districts become inactive the Department of Community Affairs, the Auditor General, and the Department of Financial Services must conduct several inquiries before the special district can be declared inactive necessitating dissolution. If special districts are simply abandoned instead of dissolved, these agencies may see an increased workload.

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:

The mandates provision appears to apply because the bill requires counties or municipalities to take an action, the calling of a referendum, requiring the expenditure of funds; however, the amount of the expenditures is insignificant, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill refers to a "proposed charter" which determines the proper allocation of the indebtedness assumed by the government formed by the merger. This term is not defined. Likewise, subsection (4) refers to a dissolution plan, which is not defined.

The bill does not specify which entity is responsible for calling the referendum and the costs of the referendum.

While the bill preempts any special act to the contrary, this provision would only affect existing special districts. Special districts created pursuant to a subsequently enacted special law may exempt itself from this requirement.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES