

1 A bill to be entitled
2 An act relating to special districts; amending s.
3 189.4042, F.S.; revising provisions relating to merger
4 and dissolution procedures for special districts;
5 providing definitions; requiring the merger or
6 dissolution of dependent special districts created by
7 a special act to be effectuated by the Legislature;
8 providing for the merger or dissolution of inactive
9 special districts by special act without referenda;
10 requiring involuntary dissolution procedures for
11 independent special districts to include referenda;
12 providing for the dissolution of inactive independent
13 special districts by special act; providing for local
14 governments to assume indebtedness of, and receive
15 title to property owned by, special districts under
16 certain circumstances; providing for the merger of
17 certain independent special districts by the
18 Legislature; providing procedures and requirements for
19 the voluntary merger of contiguous independent special
20 districts; limiting the authority of the merged
21 district to levy and collect revenue until a unified
22 charter is approved by the Legislature; providing for
23 the effect of the merger on employees, legal
24 liabilities, obligations, proceedings, and annexation;
25 providing for the determination of certain rights by
26 the governing body of the merged district; providing
27 that such provisions preempt certain special acts;
28 providing procedures and requirements for the

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

41 |

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

43 |

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

46 | 189.4042 Merger and dissolution procedures.—

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

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

53 | (b) "Elector-initiated merger plan" means the merger plan
 54 | of two or more independent special districts, a majority of
 55 | whose qualified electors have elected to merge, which outlines
 56 | the terms and agreements for the official merger of the

57 districts and is finalized and approved by the governing bodies
58 of the districts pursuant to this section.

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

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

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

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

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

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

84 (i) "Proposed elector-initiated merger plan" means a

85 written document that contains the terms and information
 86 regarding the merger of two or more independent special
 87 districts and that accompanies the petition initiated by the
 88 qualified electors of the districts but that is not yet
 89 finalized and approved by the governing bodies of each component
 90 independent special district pursuant to this section.

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

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

104 (2)(1) MERGER OR DISSOLUTION OF A DEPENDENT SPECIAL
 105 DISTRICT.—

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

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

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

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

125 (3) ~~(2)~~ DISSOLUTION OF AN INDEPENDENT SPECIAL DISTRICT.—

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

131 (b) Involuntary dissolution.—If a local general-purpose
 132 government seeks to dissolve an active independent special
 133 district created and operating pursuant to a special act whose
 134 governing body objects by resolution to the dissolution, the
 135 dissolution of the active independent special district is not
 136 effective until a special act of the Legislature is approved by
 137 a majority of the resident electors of the district or
 138 landowners voting in the same manner by which the independent
 139 special district's governing body is elected. This paragraph
 140 also applies if an independent special district's governing body

141 elects to dissolve the district by less than a supermajority
 142 vote of the governing body. The political subdivisions proposing
 143 the involuntary dissolution of an active independent special
 144 district shall be responsible for payment of any expenses
 145 associated with the referendum required under this paragraph.

146 (c) Inactive independent special districts.—An independent
 147 special district that meets any criteria for being declared
 148 inactive, or that has already been declared inactive, pursuant
 149 to s. 189.4044 may be dissolved by special act without a
 150 referendum. If an inactive independent special district was
 151 created by a county or municipality through a referendum, the
 152 county or municipality that created the district may dissolve
 153 the district after publishing notice as described in s.
 154 189.4044. If an independent special district was created by a
 155 county or municipality by referendum or any other procedure, the
 156 county or municipality that created the district may merge or
 157 dissolve the district pursuant to a referendum or any other the
 158 same procedure by which the independent district was created.
 159 However, if the for any independent special district that has ad
 160 valorem taxation powers, the same procedure required to grant
 161 the such independent district ad valorem taxation powers is
 162 shall also be required to dissolve or merge the district.

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

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

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

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

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

179 2. A qualified elector initiative.

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

185 1. The proposed joint merger plan must specify:

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

188 b. The name of the proposed merged independent district;

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

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

193 e. The governmental organization of the proposed merged
194 independent district insofar as it concerns elected and

195 appointed officials and public employees, along with a

196 transitional plan and schedule for elections and appointments of

HB 107

2012

197 officials;

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

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

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

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

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

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

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

219 m. The effective date of the proposed merger.

220 2. The resolution endorsing the proposed joint merger plan
221 must be approved by a majority vote of the governing bodies of
222 each component independent special district and adopted at least
223 60 business days before any general or special election on the
224 proposed joint merger plan.

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

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

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

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

249 4. The governing body of each component independent
250 special district shall set a time and place for one or more
251 public hearings on the proposed joint merger plan. Each public
252 hearing shall be held on a weekday at least 7 business days

253 after the day the first advertisement is published on the
254 proposed joint merger plan. The hearing or hearings may be held
255 jointly or separately by the governing bodies of the component
256 independent special districts. Any interested person residing in
257 the respective district shall be given a reasonable opportunity
258 to be heard on any aspect of the proposed merger at the public
259 hearing.

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

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

275 5. After the final public hearing, the governing bodies
276 shall notify the supervisors of elections of the applicable
277 counties in which district lands are located of the adoption of
278 the resolution by each governing body. The supervisors of
279 elections shall schedule a separate referendum for each
280 component independent special district. The referenda may be

281 held in each district on the same day, or on different days, but
 282 no more than 20 days apart.

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

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

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

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

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

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

298 b. The referenda must be held in accordance with the
 299 Florida Election Code and may be held pursuant to ss. 101.6101-
 300 101.6107. All costs associated with the referenda shall be borne
 301 by the respective component independent special district.

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

307 "Shall (...name of component independent special
 308 district...) and (...name of component independent special

309 district or districts... be merged into (...name of newly
 310 merged independent district...)?

311 YES

312 NO"

313
 314 d. If the component independent special districts
 315 proposing to merge have disparate millage rates, the ballot
 316 question in the referendum placed before the qualified electors
 317 of each component independent special district must be in
 318 substantially the following form:

319
 320 "Shall (...name of component independent special
 321 district...) and (...name of component independent special
 322 district or districts...) be merged into (...name of newly
 323 merged independent district...) if the voter-approved maximum
 324 millage rate within each independent special district will not
 325 increase absent a subsequent referendum?

326 YES

327 NO"

328
 329 e. In any referendum held pursuant to this subsection, the
 330 ballots shall be counted, returns made and canvassed, and
 331 results certified in the same manner as other elections or
 332 referenda for the component independent special districts.

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

HB 107

2012

337 not take effect.

338 g. If the merger is approved by a majority of the votes
339 cast in each component independent special district, the merged
340 independent district is created. Upon approval, the merged
341 independent district shall notify the Special District
342 Information Program pursuant to s. 189.418(2) and the local
343 general-purpose governments in which any part of the component
344 independent special districts is situated pursuant to s.
345 189.418(7).

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

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

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

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

365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392

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.

<u>Date</u>	<u>Name (print under signature)</u>	<u>Home Address</u>
-------------	-------------------------------------	---------------------

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:

393
 394 "I, (...name of witness...), state that I am a duly
 395 qualified voter of (...name of independent special district...).
 396 Each of the (...insert number...) persons who have signed this
 397 petition sheet has signed his or her name in my presence on the
 398 dates indicated above and identified himself or herself to be
 399 the same person who signed the sheet. I understand that this
 400 statement will be accepted for all purposes as the equivalent of
 401 an affidavit and, if it contains a materially false statement,
 402 shall subject me to the penalties of perjury."

403
 404 Date Signature of Witness

405
 406 b. A statement that is signed by a notary public or
 407 another person authorized to take acknowledgements must be in
 408 substantially the following form:

409
 410 "On the date indicated above before me personally came each
 411 of the (...insert number...) electors and legal voters whose
 412 signatures appear on this petition sheet, who signed the
 413 petition in my presence and who, being by me duly sworn, each
 414 for himself or herself, identified himself or herself as the
 415 same person who signed the petition, and I declare that the
 416 foregoing information they provided was true."

417
 418 Date Signature of Witness

419
 420 c. An alteration or correction of information appearing on

HB 107

2012

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

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

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

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

445 b. The name of the proposed merged independent district;

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

448 d. The territorial boundaries of the proposed merged

HB 107

2012

449 independent district;

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

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

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

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

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

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

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

472 1. The effective date of the proposed merger.

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

477 special election on the proposed elector-initiated plan.

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

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

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

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

502 6. The governing body of each component independent
503 special district shall set a time and place for one or more
504 public hearings on the proposed elector-initiated merger plan.

505 Each public hearing shall be held on a weekday at least 7
506 business days after the day the first advertisement is published
507 on the proposed elector-initiated merger plan. The hearing or
508 hearings may be held jointly or separately by the governing
509 bodies of the component independent special districts. Any
510 interested person residing in the respective district shall be
511 given a reasonable opportunity to be heard on any aspect of the
512 proposed merger at the public hearing.

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

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

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

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

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

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

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

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

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

548 b. The referenda must be held in accordance with the
 549 Florida Election Code and may be held pursuant to ss. 101.6101-
 550 101.6107. All costs associated with the referenda shall be borne
 551 by the respective component independent special district.

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

556
 557 "Shall (...name of component independent special
 558 district...) and (...name of component independent special
 559 district or districts...) be merged into (...name of newly
 560 merged independent district...)?

561 YES

562 NO"

563

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

569

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

576 YES

577 NO"

578

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

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

588 g. If the merger is approved by a majority of the votes

HB 107

2012

589 cast in each component independent special district, the merged
590 district shall notify the Special District Information Program
591 pursuant to s. 189.418(2) and the local general-purpose
592 governments in which any part of the component independent
593 special districts is situated pursuant to s. 189.418(7).

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

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

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

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

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

616 (e) Restrictions during transition period.—Until the

HB 107

2012

617 Legislature formally approves the unified charter pursuant to a
618 special act, each component independent special district is
619 considered a subunit of the merged independent district subject
620 to the following restrictions:

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

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

636 a. The merged independent district may not, solely by
637 reason of the merger, increase ad valorem taxes on property
638 within the original limits of a subunit beyond the maximum ad
639 valorem rate approved by the electors of the component
640 independent special district. For purposes of s. 2, Art. VII of
641 the State Constitution, each subunit may be considered a
642 separate taxing unit. The merged independent district may levy
643 an ad valorem millage rate within a subunit, if applicable, only
644 up to the millage rate that was previously approved by the

645 electors of the component independent special district unless an
646 increase in the millage rate is approved pursuant to general
647 law.

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

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

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

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

667 1. All rights, privileges, and franchises of each
668 component independent special district and all assets, real and
669 personal property, books, records, papers, seals, and equipment,
670 as well as other things in action, belonging to each component
671 independent special district before the merger shall be deemed
672 as transferred to and vested in the merged independent district

673 without further act or deed.

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

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

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

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

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

698 1. From the effective date of the merger until the next
699 general election, the governing body of the merged independent
700 district shall be comprised of the governing body members of

HB 107

2012

701 each component independent special district, with such members
702 serving until the governing body members elected at the next
703 general election take office.

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

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

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

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

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

729 the constituent entities, and differing ranks and position
 730 classifications for similar positions. For those employees who
 731 are members of a bargaining unit certified by the Public
 732 Employees Relations Commission, the requirements of chapter 447
 733 apply.

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

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

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

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

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

HB 107

2012

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

764 (k) Effect on annexation.—Chapter 171 continues to apply
765 to all annexations by a city within the component independent
766 special districts' boundaries after merger occurs. Any moneys
767 owed to a component independent special district pursuant to s.
768 171.093, or any interlocal service boundary agreement as a
769 result of annexation predating the merger, shall be paid to the
770 merged independent district after merger.

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

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

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

784 (6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—

785 If a local general-purpose government seeks to merge an active
 786 independent special district or districts created and operating
 787 pursuant to a special act whose governing body or governing
 788 bodies object by resolution to the merger, the merger of the
 789 active independent special district or districts is not
 790 effective until the special act of the Legislature is approved
 791 at separate referenda of the impacted local governments by a
 792 majority of the resident electors or landowners voting in the
 793 same manner by which each independent special district's
 794 governing body is elected. The special act shall include a plan
 795 of merger that addresses transition issues such as the effective
 796 date of the merger, governance, administration, powers,
 797 pensions, and assumption of all assets and liabilities.

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

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

806 (7)-(3) EXEMPTIONS. The provisions of This section does
 807 shall not apply to community development districts implemented
 808 pursuant to chapter 190 or to water management districts created
 809 and operated pursuant to chapter 373.

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

812 191.014 District creation and, expansion, ~~and merger.~~

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

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

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

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

828 189.4044 Special procedures for inactive districts.-

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

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

833 1. The registered agent of the district, the chair of the
834 governing body of the district, or the governing body of the
835 appropriate local general-purpose government notifies the
836 department in writing that the district has taken no action for
837 2 or more years;

838 2. Following an inquiry from the department, the
839 registered agent of the district, the chair of the governing
840 body of the district, or the governing body of the appropriate

HB 107

2012

841 local general-purpose government notifies the department in
842 writing that the district has not had a governing board or a
843 sufficient number of governing board members to constitute a
844 quorum for 2 or more years or the registered agent of the
845 district, the chair of the governing body of the district, or
846 the governing body of the appropriate local general-purpose
847 government fails to respond to the department's inquiry within
848 21 days;

849 3. The department determines, pursuant to s. 189.421, that
850 the district has failed to file any of the reports listed in s.
851 189.419; ~~or~~

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

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

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

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