

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 Committee on Community Affairs

BILL: SB 4-C

INTRODUCER: Senator Bradley

SUBJECT: Independent Special Districts

DATE: April 19, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hunter	Ryon	CA	Pre-meeting

I. Summary:

SB 4-C dissolves all independent special districts established by a special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts have not been reestablished, re-ratified, or otherwise reconstituted by special act or general law after such date. Such special districts will be dissolved effective June 1, 2023.

The bill allows an independent special district affected by the bill to be re-established on or after June 1, 2023, pursuant to the requirements and limitations of ch. 189 F.S.

The bill takes effect on July 1, 2022.

II. Present Situation:

Special Districts

A “special district” is a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary.¹ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.² Common types of special districts in Florida include community development districts, drainage and water control districts, fire control districts, and community redevelopment districts. Most of these entities perform a single function, but, in some instances, their enabling legislation allows them to provide several, usually related, types of services.³ Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.⁴ A special district has only those powers expressly provided by, or

¹ Section 189.012(6), F.S.

² Florida House of Representatives, Local Government Formation Manual (2020 – 2022) p. 64, available at: <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited Apr. 19, 2022).

³ *Id.*

⁴ See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

reasonably implied from, the authority provided in the district’s charter. Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁵ Like all powers a special district is provided, the method of financing a district must be stated in its charter.

According to the Department of Economic Opportunity, there are 1,844 special districts in the state, in which 1,228 are independent special districts and 616 are dependent districts.⁶

Special districts are governed generally by the Uniform Special District Accountability Act (Act).⁷ The Act, initially passed in 1989,⁸ created ch. 189, F.S., to centralize provisions governing special districts. Chapter 189, F.S. applies to the formation,⁹ governance,¹⁰ administration,¹¹ supervision,¹² merger,¹³ and dissolution¹⁴ of special districts, unless otherwise expressly provided in law.¹⁵ The Act also provided an extensive statement of legislative intent aiming to improve accountability of special districts to state and local governments and providing for more effective communication and coordination in the monitoring of required reporting.¹⁶

Chapter 189, F.S., establishes criteria defining whether a special district is a “dependent special district” or an “independent special district.” As a general rule, dependent special districts are created at the prerogative of the counties and municipalities and independent special districts are created only as authorized by the Legislature.

Dependent Special Districts

A “dependent special district” is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district’s governing body are removable at will by the governing body of a single county or municipality, or the district’s budget is subject to the approval of governing body of a single county or municipality.¹⁷

A county is authorized to create, by ordinance, a dependent special district within the county, subject to the approval of the governing body of the incorporated area affected.¹⁸ Municipalities

⁶ Department of Economic Opportunity, Special District Accountability Program Official List of Special Districts, available at : <http://specialdistrictreports.floridajobs.org/webreports/StateTotals.aspx> (last visited Apr. 18, 2022)

⁷ Section 189.01, F.S., *but see* ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts).

⁸ Ch. 89-169, Laws of Fla.

⁹ *See* s. 189.02, F.S. (creation of dependent special districts), s. 189.031, F.S. (creation of independent special districts).

¹⁰ *See* s. 189.0311, F.S. (charter requirements for independent special districts).

¹¹ *See* s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

¹² *See* s. 189.034, F.S. (oversight for special districts created by special act of the Legislature).

¹³ Sections 189.071, 189.074, F.S.

¹⁴ Sections 189.071, 189.072, F.S.

¹⁵ *See* s. 190.004 (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

¹⁶ Section 189.06, F.S.

¹⁷ Section 189.012(2), F.S.

¹⁸ Section 189.02(2), F.S.

also are authorized to create, by ordinance, a dependent special district within the municipality.¹⁹ Additionally, the Legislature may create a dependent special district by special act at the request or with the consent of the local government upon which the special district will be dependent.²⁰

Independent Special Districts

An “independent special district” is any special district that does not meet the definition of “dependent special district.”²¹ Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely with the borders of a single municipality.

Generally, independent special districts are created by the Legislature through a special act or general law of local application, and must comply with all other criteria mandated by the Florida Constitution, and the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.²²

However, Florida Statutes authorize the creation of certain types of independent special districts without specific action by the Legislature. The Governor and Cabinet, a municipality or county, or a regional combination of cities and counties may initiate the creation of certain special districts in compliance with statutory requirements.²³

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.²⁴

Codification

In 1997, the Legislature passed a comprehensive series of reforms relating to local government oversight that included a provision requiring each special district to codify its special acts into a single act for reenactment by the Legislature no later than December 1, 2001.²⁵ Subsequent legislation extended the deadline for codification to December 1, 2004, and stated the Legislature may adopt a schedule for individual districts to codify their acts.²⁶

¹⁹ Section 189.02(3), F.S.

²⁰ Section 189.02(5), F.S.

²¹ Section 189.012(3), F.S.

²² Section 189.031(1), F.S. The minimum charter requirements for an independent special district are listed in s. 189.031(3), F.S.

²³ *Supra* note 2.

²⁴ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

²⁵ Ch. 97-255, s. 24, Laws of Fla., now codified as s. 189.019, F.S.

²⁶ Ch. 98-320, s. 3, Laws of Fla.

Dissolution of an Independent Special District

An independent special district may be dissolved voluntarily, by the district governing body, or involuntarily by the entity creating the independent special district, such as the Legislature or a county or municipality.²⁷

If the governing body 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 dissolution of an independent special district may be effectuated only by the Legislature unless otherwise provided by general law.²⁸

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 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 body members are elected by landowners, a majority of the landowners voting in the same manner the independent special district's governing body is elected.²⁹

If an independent special district was created by a county or municipality via referendum or other procedure, the county or municipality that created the district may dissolve the district pursuant to the same 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.³⁰

Unless otherwise provided by law or ordinance, when there is dissolution of a special district government, the special district transfers the title to all property owned by the preexisting special district to the local general-purpose government, either a county or municipality, which shall also assume all indebtedness of the preexisting special district.³¹

Local Government Powers

The Florida Constitution grants counties and municipalities broad "home rule" authority that did not exist prior to the ratification of the 1968 Constitution.³² Non-charter county governments

²⁷ Section 189.072 F.S.

²⁸ Section 189.072 (1) F.S.

²⁹ Section 189.072 (2)(a) F.S.

³⁰ Section 189.072 (2)(b) F.S.

³¹ Section 189.076 (2) F.S.³² See Art. VIII, s. 5, Fla. Const. (1885) ("powers, duties[,] and compensation of county commissioners shall be prescribed by law") and Art. VIII, s. 8, Fla. Const. (1885) ("The Legislature shall... prescribe [municipal] jurisdiction and powers[.]" See also *City of Trenton v. State of New Jersey*, 262 U.S. 182, 186 (1923) ("In the absence of state constitutional provisions safeguarding it to them, municipalities have no inherent right of self-government which is beyond the legislative control of the state."), *Bowden v. Ricker*, 70 Fla. 154 (Fla. 1915) ("Under the provision of s. 5 of art. 8 of the [1885] Constitution that powers and duties of county commissioners 'shall be prescribed by law,' the authority of such officials is only such as may be conferred by statutory regulations."))

³² See Art. VIII, s. 5, Fla. Const. (1885) ("powers, duties[,] and compensation of county commissioners shall be prescribed by law") and Art. VIII, s. 8, Fla. Const. (1885) ("The Legislature shall... prescribe [municipal] jurisdiction and powers[.]" See also *City of Trenton v. State of New Jersey*, 262 U.S. 182, 186 (1923) ("In the absence of state constitutional provisions safeguarding it to them, municipalities have no inherent right of self-government which is beyond the legislative control of the state."), *Bowden v. Ricker*, 70 Fla. 154 (Fla. 1915) ("Under the provision of s. 5 of art. 8 of the [1885] Constitution that powers and duties of county commissioners 'shall be prescribed by law,' the authority of such officials is only such as may be conferred by statutory regulations."))

may exercise those powers of self-government that are provided by general or special law.³³ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.³⁴ Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.³⁵

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, it is not mandatory for a special act to provide an independent special district with ad valorem taxing authority.³⁶

III. Effect of Proposed Changes:

Notwithstanding s. 189.072(2), F.S., the bill amends s. 189.0311, F.S., to dissolve all independent special districts established by a special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts have not been reestablished, re-ratified, or otherwise reconstituted by special act or general law after such date. Such special districts will be dissolved effective June 1, 2023.

The bill allows an independent special district affected by the bill to be re-established on or after June 1, 2023, pursuant to the requirements and limitations of ch. 189 F.S.

The following six districts appear to operate pursuant to a charter, which predates the 1968 Florida Constitution and was not reestablished, re-ratified, or otherwise reconstituted by a special act or general law after November 5, 1968:

- Bradford County Development Authority (Bradford County)
- Sunshine Water Control District (Broward County)³⁷
- Eastpoint Water and Sewer District (Franklin County)
- Hamilton County Development Authority (Hamilton County)
- Reedy Creek Improvement District (Orange and Osceola Counties)
- Marion County Law Library (Marion County)

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³³ Art. VIII, s. 1(f), Fla. Const.

³⁴ Art. VIII, s. 1(g), Fla. Const.

³⁵ Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.

³⁶ *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

³⁷ The charter of the Sunshine Drainage District was amended by ch. 2021-255, Laws of Fla., subject to voter approval in a referendum to be held during the 2022 General Election on November 8, 2022.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will have an indeterminate fiscal impact on residents and businesses currently served by a special district dissolved by the bill. Such residents and businesses may experience a change in services previously provided by the special district and related assessments and taxes imposed.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on those local general purpose governments that will assume the assets and indebtedness of an independent special district dissolved by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 189.0311 of the Florida Statutes:

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
