CHAPTER 97-255

Committee Substitute for House Bill No. 1683

An act relating to local government; amending s. 11.45, F.S.; revising provisions which provide requirements for annual financial audits of local governmental entities by independent certified public accountants; requiring the auditor to notify each member of the governing body of such an entity of certain deteriorating financial conditions; providing duties of the Auditor General upon identification of information in an audit report that indicates a local governmental entity may be in a state of financial emergency; amending s. 125.901, F.S.; correcting a reference; amending s. 165.041, F.S., relating to merger of local government entities, to conform; amending s. 189.403, F.S.; redefining "dependent special district" and defining "public facilities" under the Uniform Special District Accountability Act of 1989; providing that, for purposes of the ad valorem tax exemption for governmental units, special districts shall be treated as municipalities; providing for retroactive effect; amending s. 189.4031, F.S.; removing provisions relating to applicability to certain dependent special districts; requiring independent special district charters to contain certain information; amending s. 189.404, F.S.; deleting a requirement that the law creating an independent special district provide a method for dissolving the district; specifying that only the Legislature may create an independent special district, except as otherwise authorized by law; requiring a status statement in a district charter; amending s. 189.4041, F.S.; providing requirements for creation of dependent special districts by county or municipal ordinance; amending s. 189.4042, F.S.; providing merger and dissolution requirements for special districts; repealing s. 189.4043, F.S., which provides special district dissolution procedures; amending s. 189.4044, F.S.; providing procedures and requirements for declaration that a district is inactive; amending s. 189.4045, F.S.; revising provisions relating to financial allocations upon merger or dissolution; creating s. 189.4047, F.S.; providing for refund of special assessments levied by a dependent special district under certain conditions; providing for retroactive effect; amending s. 189.405, F.S.; revising election procedures and requirements for special districts; providing method of qualifying and providing for fees; amending s. 189.4051, F.S.; revising the special requirements and procedures for elections for districts with governing boards elected on a one-acre/one-vote basis; amending s. 189.412, F.S.; revising provisions relating to the duties of the Special District Information Program; removing the requirement for organization of a biennial conference; amending s. 189.415, F.S.; revising requirements relating to special districts' public facilities reports and providing for annual notice of changes thereto; amending s. 189.4155, F.S.; revising requirements relating to consistency of special district facilities with local government comprehensive plans and providing that such requirements do not apply to certain spoil disposal sites; providing that certain ports are deemed to be in compliance with

said section; amending s. 189.416, F.S.; revising the time for designation of a registered office and agent; amending s. 189.417, F.S.; requiring publication of special district meeting schedules and revising requirements for filing such schedules; amending s. 189.421, F.S.; revising provisions relating to initiation of enforcement proceedings against districts that fail to file certain reports; amending s. 189.422, F.S.; revising provisions which authorize department action if a district is determined to be inactive or if failure to file reports is determined to be volitional; amending s. 189.425, F.S.; revising provisions relating to rulemaking authority; creating s. 189.428, F.S.; establishing an oversight review process for special districts and providing requirements with respect thereto; specifying who should carry out the review; providing review criteria; providing for a final report and providing requirements for a plan for merger or dissolution of a district under review; providing exemptions; requiring districts to submit a draft codified charter so that their special acts may be codified by the Legislature; amending s. 196.012, F.S.; revising provisions which specify when a governmental, municipal, or public purpose is deemed to be served by a lessee of government property for ad valorem tax exemption purposes; specifying additional activities that are deemed to serve such purposes; amending s. 200.069, F.S.; authorizing inclusion in the notice of proposed property taxes of a notice of adopted non-ad valorem assessments and providing requirements with respect thereto; providing effective dates.

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

Section 1. Paragraph (a) of subsection (3) of section 11.45, Florida Statutes, 1996 Supplement, is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)(a)1. The Auditor General shall annually make financial audits of the accounts and records of all state agencies, as defined in this section, of all district school boards, and of all district boards of trustees of community colleges. This section does not limit the Auditor General's discretionary authority to conduct performance audits of these governmental entities as authorized in subparagraph 2. A district school board may select an independent auditor to perform a financial audit as defined in paragraph (1)(b) notwithstanding the notification provisions of this section. In addition, a district school board may employ an internal auditor to perform ongoing financial verification of the financial records of a school district who must report directly to the district school board or its designee.

2. The Auditor General may at any time make financial audits and performance audits of the accounts and records of all governmental entities created pursuant to law. The audits referred to in this subparagraph must be made whenever determined by the Auditor General, whenever directed by the Legislative Auditing Committee, or whenever otherwise required by law or concurrent resolution. A district school board, expressway authority,

or bridge authority may require that the annual financial audit of its accounts and records be completed within 12 months after the end of its fiscal year. If the Auditor General is unable to meet that requirement, the Auditor General shall notify the school board, the expressway authority, or the bridge authority pursuant to subparagraph 4.

3. The Office of Program Policy Analysis and Government Accountability within the Office of the Auditor General shall maintain a schedule of performance audits of state programs. In conducting a performance audit of a state program, the Office of Program Policy Analysis and Government Accountability, when appropriate, shall identify and comment upon alternatives for accomplishing the goals of the program being audited. Such alternatives may include funding techniques and, if appropriate, must describe how other states or governmental units accomplish similar goals.

4. If by July 1 in any fiscal year a district school board or local governmental entity has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to subparagraph 2., each municipality with either revenues or expenditures of more than $100,000, each special district with either revenues or expenditures of more than $50,000, and each county agency shall, and each district school board may, require that an annual financial audit of its accounts and records be completed, within 12 months after the end of its respective fiscal year, by an independent certified public accountant retained by it and paid from its public funds. An independent certified public accountant who is selected to perform an annual financial audit of a school district must report directly to the district school board or its designee. A management letter must be prepared and included as a part of each financial audit report. Each local government finance commission, board, or council, and each municipal power corporation, created as a separate legal or administrative entity by interlocal agreement under s. 163.01(7), shall provide the Auditor General, within 12 months after the end of its fiscal year, with an annual financial audit report of its accounts and records and a written statement or explanation or rebuttal concerning the auditor's comments, including corrective action to be taken. The county audit shall be one document that includes a separate audit of each county agency. The county audit must include an audit of the deposits into and expenditures from the Public Records Modernization Trust Fund. The Auditor General shall tabulate the results of the audits of the Public Records Modernization Trust Fund and report a summary of the audits to the Legislature annually.

5. The governing body of a municipality or a special district must establish an auditor selection committee and competitive auditor selection procedures. The governing board may elect to use its own competitive auditor selection procedures or the procedures outlined in subparagraph 6.

6. The governing body of a noncharter county or district school board that elects to use a certified public accountant other than the Auditor General is responsible for selecting an independent certified public accountant to audit the county agencies of the county or district school board according to the following procedure:

a. For each noncharter county, an auditor selection committee must be established, consisting of the county officers elected pursuant to s. 1(d), Art. VIII of the State Constitution, and one member of the board of county commissioners or its designee.

b. The committee shall publicly announce, in a uniform and consistent manner, each occasion when auditing services are required to be purchased. Public notice must include a general description of the audit and must indicate how interested certified public accountants can apply for consideration.

c. The committee shall encourage firms engaged in the lawful practice of public accounting who desire to provide professional services to submit annually a statement of qualifications and performance data.

d. Any certified public accountant desiring to provide auditing services must first be qualified pursuant to law. The committee shall make a finding that the firm or individual to be employed is fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

e. The committee shall adopt procedures for the evaluation of professional services, including, but not limited to, capabilities, adequacy of personnel, past record, experience, results of recent external quality control reviews, and such other factors as may be determined by the committee to be applicable to its particular requirements.

f. The public must not be excluded from the proceedings under this subparagraph.

g. The committee shall evaluate current statements of qualifications and performance data on file with the committee, together with those that may be submitted by other firms regarding the proposed audit, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the audit, and ability to furnish the required services.

h. The committee shall select no fewer than three firms deemed to be the most highly qualified to perform the required services after considering such factors as the ability of professional personnel; past performance; willingness to meet time requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. If fewer than three firms desire to perform the services, the committee shall recommend such firms as it determines to be qualified.

i. If the governing board receives more than one proposal for the same engagement, the board may rank, in order of preference, the firms to perform the engagement. The firm ranked first may then negotiate a contract

with the board giving, among other things, a basis of its fee for that engagement. If the board is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the board shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The board, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. The board shall also negotiate on the scope and quality of services. In making such determination, the board shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For contracts over $50,000, the board shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that the rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Such certificate shall also contain a description and disclosure of any understanding that places a limit on current or future years' audit contract fees, including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting or auditing issues are encountered. Such certificate shall also contain a description of any services rendered by the certified public accountant or firm of certified public accountants at rates or terms that are not customary. Any auditing service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the board determines the contract price was increased due to inaccurate or incomplete factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract.

j. If the board is unable to negotiate a satisfactory contract with any of the selected firms, the committee shall select additional firms, and the board shall continue negotiations in accordance with this subsection until an agreement is reached.

7. At the conclusion of the audit field work, the independent certified public accountant shall discuss with the head of each local governmental entity or the chair's designee or with the chair of the district school board or the chair's designee, as appropriate, all of the auditor's comments that will be included in the audit report. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his or her office. <u>The auditor shall notify each member of the governing body of a local governmental entity for which deteriorating financial conditions exist which may cause a condition described in s. 218.503(1) to occur if actions are not taken to address such conditions.</u>

8. The officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, must be filed with the governing body of the local governmental entity or district school board within 30 days after the delivery of the financial audit report.

9. The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all local governmental entity audits. The rules must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Government Financial Emergencies Act as stated in s. 218.501.

10. Any local governmental entity or district school board financial audit report required under subparagraph 4. and the officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, must be submitted to the Auditor General within 45 days after delivery of the audit report to the local governmental entity or district school board but no later than 12 months after the end of the fiscal year. If the Auditor General does not receive the financial audit report within the prescribed period, he or she must notify the Legislative Auditing Committee that the governmental entity has not complied with this subparagraph. Following notification of failure to submit the required audit report or items required by rule adopted by the Auditor General, a hearing must be scheduled by rule of the committee. After the hearing, the committee shall determine which local governmental entities will be subjected to further state action. If it finds that one or more local governmental entities should be subjected to further state action, the committee shall:

a. In the case of a local governmental entity, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity until the required financial audit is received by the Auditor General.

b. In the case of a special district, notify the Department of Community Affairs that the special district has failed to provide the required audits. Upon receipt of notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

11.a. The Auditor General, in consultation with the Board of Accountancy, shall review all audit reports submitted by local governmental entities pursuant to subparagraph 9. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the Auditor General does not receive the requested items, he shall notify the Joint Legislative Auditing Committee.

b. The Auditor General shall notify the Governor and the Joint Legislative Auditing Committee of any audit report reviewed by the Auditor General which contains a statement that the local governmental entity is in a state of financial emergency as provided in s. 218.503. <u>If the Auditor General, in reviewing any audit report, identifies additional information which indicates that the local governmental entity may be in a state of financial emergency as provided in s. 218.503, the Auditor General shall request appropriate clarification from the local governmental entity. The requested clarification must be provided within 45 days after the date of the request. If the Auditor General does not receive the requested clarification, he or she shall notify the Joint Legislative Auditing Committee. If, after obtaining the requested clarification, the Auditor General determines that the local governmental entity is in a state of financial emergency as provided in s.</u>

218.503, he or she shall notify the Governor and the Joint Legislative Auditing Committee.

12. In conducting a performance audit of any agency, the Auditor General shall use the Agency Strategic Plan of the agency in evaluating the performance of the agency.

Section 2. Subsection (4) of section 125.901, Florida Statutes, is amended to read:

125.901 Children's services; independent special district; council; powers, duties, and functions.—

(4) Any district created pursuant to the provisions of this section may be dissolved by a special act of the Legislature, or the county governing body may by ordinance dissolve the district subject to the approval of the electorate. If any district is dissolved pursuant to the provisions of this subsection, each county shall first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes as provided for under s. 9, Art. VII of the State Constitution. Any district may also be dissolved pursuant to the provisions of s. 189.4042 ~~189.4043 or s. 189.4044~~.

Section 3. Section 165.041, Florida Statutes, 1996 Supplement, is amended to read:

165.041 Incorporation; merger.—

(1)(a) A charter for incorporation of a municipality, except in case of a merger which is adopted as otherwise provided in subsections (2) and~~,~~ (3), ~~and (4),~~ shall be adopted only by a special act of the Legislature upon determination that the standards herein provided have been met.

(b) To inform the Legislature on the feasibility of a proposed incorporation of a municipality, a feasibility study shall be completed and submitted to the Legislature in conjunction with a proposed special act for the enactment of the municipal charter. Such feasibility study shall contain the following:

1. Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.

2. Evaluation of the alternatives available to the area to address its policy concerns.

3. Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061.

(c) In counties that have adopted a municipal overlay for municipal incorporation pursuant to s. 163.3217, such information shall be submitted to the Legislature in conjunction with any proposed municipal incorporation in the

county. This information should be used to evaluate the feasibility of a proposed municipal incorporation in the geographic area.

(2)(a) A charter for merger of two or more municipalities and associated unincorporated areas may also be adopted by passage of a concurrent ordinance by the governing bodies of each municipality affected, approved by a vote of the qualified voters in each area affected.

(b) The ordinance shall provide for:

1. The charter and its effective date.

2. The financial or other adjustments required.

3. A referendum for separate majorities by each unit or area to be affected.

4. The date of election, which should be the next regularly scheduled election or a special election held prior to such election, if approved by a majority of the members of the governing body of each governmental unit affected, but no sooner than 30 days after passage of the ordinance.

(c) Notice of the election shall be published at least once each week for 2 consecutive weeks immediately prior to the election, in a newspaper of general circulation in the area to be affected. Such notice shall give the time and places for the election and a general description of the area to be included in the municipality, which shall be in the form of a map to show clearly the area to be covered by the municipality.

~~(3) The merger of one or more municipalities or counties with special districts, or of two or more special districts, may also be adopted by passage of a concurrent ordinance or, in the case of special districts, resolution by the governing bodies of each unit to be affected.~~

(3)~~(4)~~(a) Initiation of procedures for municipal incorporation by merger as described in subsection ~~subsections~~ (2) ~~and (3)~~ may be done either by adoption of a resolution by the governing body of an area to be affected or by a petition of 10 percent of the qualified voters in the area.

(b) If a petition has been filed with the clerks of the governing bodies concerned, the governing bodies shall immediately undertake a study of the feasibility of the formation proposal and shall, within 6 months, either adopt an ordinance under subsection (2) ~~or subsection (3)~~ or reject the petition, specifically stating the facts upon which the rejection is based.

(c) The purpose of this subsection is to provide broad citizen involvement in both initiating and developing their local government; therefore, establishment of appropriate citizen advisory committees, as well as other mechanisms for citizen involvement, by the governing bodies of the units affected is specifically authorized and encouraged.

Section 4. (1) Subsections (1) and (2) of section 189.403, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

189.403 Definitions.—As used in this chapter, the term:

(1) "Special district" means a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers. For the purpose of s. 196.199(1), special districts shall be treated as municipalities. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

(2) "Dependent special district" means a special district that meets at least one of the following criteria:

(a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.

(b) All members of its governing body are appointed by the governing body of a single county or a single municipality.

(c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.

(d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

This subsection is for purposes of definition only. Nothing in this subsection confers additional authority upon local governments not otherwise authorized by the provisions of the special acts or general acts of local application creating each special district, as amended.

(7) "Public facilities" means major capital improvements, including, but not limited to, transportation facilities, sanitary sewer facilities, solid waste facilities, water management and control facilities, potable water facilities, alternative water systems, educational facilities, parks and recreational facilities, health systems and facilities, and, except for spoil disposal by those ports listed in s. 311.09(1), spoil disposal sites for maintenance dredging in waters of the state.

(2) The amendment to s. 189.403(1), Florida Statutes, by this section shall take effect upon this act becoming a law and shall apply to the 1995 tax rolls and thereafter.

Section 5. Section 189.4031, Florida Statutes, is amended to read:

189.4031 Special districts; requirements; charter requirements.—

(1) All special districts, regardless of the existence of other, more specific provisions of applicable law, shall comply with the creation, dissolution, and

reporting requirements set forth in this chapter. ~~For a dependent special district created by special act prior to October 1, 1989, nothing herein is intended to confer new power upon the general-purpose local government, nor reduce the powers of the dependent special district, relating to budget development or approval in contradiction to the provisions of the special act.~~

(2) Notwithstanding any general law, special act, or ordinance of a local government to the contrary, any independent special district charter enacted after the effective date of this section shall contain the information required by s. 189.404(3).

Section 6. Paragraph (c) of subsection (3) and subsection (4) of section 189.404, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

189.404 Legislative intent for the creation of independent special districts; special act prohibitions; model elements and other requirements; general-purpose local government/Governor and Cabinet creation authorizations.—

(3) MINIMUM REQUIREMENTS.—General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following in their charters:

(c) The methods for establishing ~~and dissolving~~ the district.

(4) LOCAL GOVERNMENT/GOVERNOR AND CABINET CREATION AUTHORIZATIONS.—Except as otherwise authorized by general law, only the Legislature may create independent special districts.

(a) A municipality may create an independent special district which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized in general law.

(b) A county may create an independent special district which shall be adopted by a charter in accordance with s. 125.901 or s. 154.331 or chapter 155, or which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized by general law.

(c) The Governor and Cabinet may create an independent special district which shall be established by rule in accordance with s. 190.005~~, in accordance with s. 374.075,~~ or as otherwise authorized in general law. The Governor and Cabinet may also approve the establishment of a charter for the creation of an independent special district which shall be in accordance with s. 373.1962, or as otherwise authorized in general law.

(d)1. Any combination of two or more counties may create a regional special district which shall be established in accordance with s. 950.001, or as otherwise authorized in general law.

2. Any combination of two or more counties or municipalities may create a regional special district which shall be established in accordance with s. 373.1962, or as otherwise authorized by general law.

3. Any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district in accordance with s. 163.567, or as otherwise authorized in general law.

(5) STATUS STATEMENT.—After October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

Section 7. Section 189.4041, Florida Statutes, is amended to read:

189.4041 Dependent special districts ~~created after September 30, 1989~~.—

(1) A charter for the creation of a dependent special district created after September 30, 1989, shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected.

(2) A county is authorized to create dependent special districts within the boundary lines of the county, subject to the approval of the governing body of the incorporated area affected.

(3) A municipality is authorized to create dependent special districts within the boundary lines of the municipality.

(4) Dependent special districts created by a county or municipality shall be created by adoption of an ordinance that includes:

(a) The purpose, powers, functions, and duties of the district.

(b) The geographic boundary limitations of the district.

(c) The authority of the district.

(d) An explanation of why the district is the best alternative.

(e) The membership, organization, compensation, and administrative duties of the governing board.

(f) The applicable financial disclosure, noticing, and reporting requirements.

(g) The methods for financing the district.

(h) A declaration that the creation of the district is consistent with the approved local government comprehensive plans.

Section 8. Section 189.4042, Florida Statutes, is amended to read:

189.4042 Merger and dissolution procedures.—

(1)(a) The merger or dissolution of dependent ~~one or more municipalities or counties with~~ special districts~~,~~ may be effectuated by an ordinance of the

general-purpose local governmental entity wherein the geographical area of the district or districts is located ~~or the merger of two or more special districts, may be adopted by passage of a concurrent ordinance or, in the case of special districts, resolution by the governing bodies of each unit to be affected~~. However, a county may not dissolve a special district that is dependent to a municipality or vice versa, or a dependent district created by special act.

~~(2)(a) Initiation of procedures for merger of special districts as described in subsection (1) may be done either by adoption of a resolution by the governing body of an area to be affected or by a petition of 10 percent of the qualified voters in the area.~~

~~(b) If a petition has been filed with the governing bodies concerned, the governing bodies shall immediately undertake a study of the feasibility of the merger proposal and shall, within 6 months, either adopt a resolution under subsection (1) or reject the petition, specifically stating the facts upon which the rejection is based.~~

(b)~~(c)~~ A copy of any ordinance and of any changes to a ~~the proposed~~ charter affecting the status or boundaries of one or more special districts ~~or merger agreement~~ shall be filed with the Special District Information Program within 30 days ~~after the effective date~~ of such activity ~~the merger with the Special District Information Program and each local general-purpose government within which the district is located~~.

~~(d) The purpose of this subsection is to provide broad citizen involvement in both initiating and developing special districts; therefore, establishment of appropriate citizen advisory committees, as well as other mechanisms for citizen involvement, by the governing bodies of the units affected is specifically authorized and encouraged.~~

(2) The merger or dissolution of an independent special district or a dependent district created and operating pursuant to a special act may only be effectuated by the Legislature unless otherwise provided by general law. If an independent district was created by a county or municipality, the county or municipality that created the district may merge or dissolve the district.

(3) The provisions of this section shall not apply to community development districts implemented pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

Section 9. Section 189.4043, Florida Statutes, is hereby repealed.

Section 10. Section 189.4044, Florida Statutes, is amended to read:

189.4044 Special ~~dissolution~~ procedures for inactive districts.—

(1) The department ~~Secretary of State by proclamation~~ shall declare inactive any special district in this state by filing ~~upon~~ a report with the Speaker of the House of Representatives and the President of the Senate ~~being filed by the department~~ which shows that such special district is no

longer active. The inactive status of the special district must be~~,~~ based upon a finding:

(a) That the special district meets one of the following criteria: ~~has not had appointed or elected a governing body within the 4 years immediately preceding or as otherwise provided by law or has not operated within the 2 years immediately preceding;~~

1. The district has taken no action for 2 calendar years;

2. The district has not had a governing board or a sufficient number of governing board members to constitute a quorum for 18 or more months;

3. The district has failed to file or make a good faith effort to file any of the reports listed in s. 189.419; or

4. The district has failed, for 2 consecutive fiscal years, to pay fees assessed by the Special District Information Program pursuant to this chapter.

(b) That a notice of the proposed declaration ~~proclamation~~ has been published once a week for 4 weeks in a newspaper of general circulation within the county or municipality wherein the territory of the special district is located, stating the name of said special district, the law under which it was organized and operating, a general description of the territory included in said special district, and stating that any objections to the proposed declaration ~~proclamation~~ or to any claims against the assets ~~debts~~ of said special district shall be filed not later than 60 days following the date of last publication with the department; and

(c) That 60 days have elapsed from the last publication date of the notice of proposed declaration ~~proclamation~~ and no sustained objections have been filed.

~~(2) The state agency charged with collecting financial information from special districts shall report to the Department of State and the Department of Community Affairs any special district which has failed to file a report within the time set by law.~~

(2)~~(3)~~ If any special district is declared inactive pursuant to this section ~~owes any debt at the time of proclamation~~, the ~~any~~ property or assets of the special district are ~~such unit, or which belonged thereto at the time of such proclamation, shall be~~ subject to legal process for payment of any debts of the district ~~such debt~~. After the payment of all the debts of said inactive special district, the remainder of its property or assets shall escheat to the county or municipality wherein located. If, however, it shall be necessary, in order to pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive special district, the same may be assessed and levied by order of the local general-purpose government wherein the same is situated and shall be assessed by the county property appraiser and collected by the county tax collector.

(3)~~(4)~~ The department shall notify the Speaker of the House of Representatives and the President of the Senate of each ~~Any~~ special act creating or

amending the charter of any special district declared to be ~~proclaimed~~ inactive under this section ~~hereunder shall be reported by the Governor to the presiding officers of both houses of the Legislature~~. The declaration ~~proclamation~~ of inactive status shall be sufficient notice as required by s. 10, Art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported.

(4) A special district declared inactive under this section must be dissolved by repeal of its enabling laws.

Section 11. Subsections (1) and (2) of section 189.4045, Florida Statutes, are amended to read:

189.4045 Financial allocations.—

(1) The government formed by merger of existing special districts shall assume all indebtedness of, and receive title to all property owned by, the preexisting special districts. The proposed charter ~~or merger agreement~~ shall provide for the determination of the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired.

(2) Unless otherwise provided by law or ordinance, the dissolution of a special district government shall transfer the title to all property owned by the preexisting special district government to the local general-purpose government, which shall also assume all indebtedness of the preexisting special district~~, unless otherwise provided in the dissolution plan~~.

Section 12. Effective upon this act becoming a law, section 189.4047, Florida Statutes, is created to read:

189.4047 Refund of certain special assessments.—If a dependent special district has levied assessments for an improvement or specialized function for which it was created; no bonds have been issued against which the special assessments are pledged; and the county or municipality which created the special district determines that the demand for the improvement or function no longer exists or the majority of the land against which the special assessments were authorized has been purchased by a tax exempt governmental agency to be preserved for environmental purposes and which cannot receive the benefit for which the assessments were levied, unspent and unobligated moneys collected as assessments, along with any interest collected thereon, shall be refunded to the original payors of the assessments when the costs of distributing the refund do not exceed the amount available for refund. This section shall operate retroactively to January 1, 1987.

Section 13. Effective January 1, 1998, subsections (2), (3), and (4) of section 189.405, Florida Statutes, are amended to read:

189.405 Elections; general requirements and procedures.—

(2)(a) Any independent special district located entirely in a single county may provide for the conduct of district elections by the supervisor of elections for that county. Any independent special district that conducts its elections through the office of the supervisor shall make election procedures consist-

ent with the Florida Election Code. ~~, chapters 97 through 106, for the following:~~

~~1. Qualifying periods, in accordance with s. 99.061;~~

~~2. Petition format, in accordance with rules adopted by the Division of Elections;~~

~~3. Canvassing of returns, in accordance with ss. 101.5614 and 102.151;~~

~~4. Noticing special district elections, in accordance with chapter 100; and~~

~~5. Polling hours, in accordance with s. 100.011.~~

(b) Any independent special district not conducting district elections through the supervisor of elections shall report to the supervisor in a timely manner the purpose, date, authorization, procedures, and results of each election conducted by the district.

(c) A candidate for a position on a governing board of a single-county special district that has its elections conducted by the supervisor of elections shall qualify for the office with the county supervisor of elections in whose jurisdiction the district is located. Elections for governing board members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a district's charter. Candidates may qualify by paying a filing fee of $25 or by submitting a petition that contains the signatures of at least 3 percent of the district's registered electors. No election or party assessment shall be levied if the election is nonpartisan. The qualifying fee shall be remitted to the general revenue fund of the qualifying officer to help defray the cost of the election. The petition form shall be submitted and checked in the same manner as those for nonpartisan judicial candidates pursuant to s. 105.035.

(3)(a) If a multicounty special district has a popularly elected governing board, elections for the purpose of electing members to such board shall conform to the Florida Election Code, chapters 97 through 106.

(b) With the exception of those districts conducting elections on a one-acre/one-vote basis, qualifying for multicounty special district governing board positions shall be coordinated by the Department of State ~~supervisors of elections for each of the counties within the district~~. Elections for governing board members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a district's charter. Candidates may qualify by paying a filing fee of $25 or by submitting a petition that contains the signatures of at least 3 percent of the district's registered electors. No election or party assessment shall be levied if the election is nonpartisan. The qualifying fee shall be remitted to the Department of State. The petition form shall be submitted and checked in the same manner as those for nonpartisan judicial candidates pursuant to s. 105.035.

(4) With the exception of elections of special district governing board members conducted on a one-acre/one-vote basis, in any election conducted in a special district the decision made by a majority of those voting shall prevail, except as otherwise specified by law.

Section 14. Section 189.4051, Florida Statutes, is amended to read:

189.4051 Elections; special requirements and procedures for districts with governing boards elected on a one-acre/one-vote basis.—

~~(1) ELECTION PROVISIONS FOR SPECIAL DISTRICTS WITH GOVERNING BOARDS ELECTED ON A ONE-ACRE/ONE-VOTE BASIS.—~~

~~(a) With the exception of those districts established as single-purpose water control districts, and which continue to act as single-purpose water control districts, pursuant to chapter 298, pursuant to a special act, pursuant to a local government ordinance, or pursuant to a judicial decree, if a special district has a governing board elected on the basis of one vote for each acre of land owned and:~~

~~1. Has a total resident population of more than 2,500 according to the latest census or population estimate;~~

~~2. Has more than 2,000 registered voters; and~~

~~3. Submits a petition signed by more than 70 percent of the registered voters requesting conversion from a one-acre/one-vote to a one-person/one-vote election principle to the supervisor of elections in the county in which all or most of the area of the district land is located,~~

~~it may proceed in accordance with the provisions of subsection (3) at any time following the effective date of this act.~~

~~(b) With the exception of those districts established as single-purpose water control districts, and which continue to act as single-purpose water control districts, pursuant to chapter 298, pursuant to a special act, pursuant to a local government ordinance, or pursuant to a judicial decree, the governing board of any special district where the board is elected on a one-acre/one-vote basis may request the local legislative delegation which represents the area within the district to modify the district charter by special act to provide for a more equitable basis of election for governing board members than the present election procedure. If such request is enacted into law during the 1989 or 1990 Regular Session of the Florida Legislature, such law shall be the election charter for election of governing board members within said district and shall exempt said district from the election provisions of this section.~~

(1)~~(2)~~ DEFINITIONS.—As used in this section~~, the term~~:

(a) "Qualified elector" means any person at least 18 years of age who is a citizen of the United States, a permanent resident of Florida, and a freeholder or freeholder's spouse and resident of the district who registers with the supervisor of elections of a ~~the~~ county within which the district lands are located when the registration books are open.

(b) "Urban area" means a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special

census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas shall be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district.

(c) "Governing board member" means any duly elected member of the governing board of a special district elected pursuant to this section, provided that any board member elected by popular vote shall be a qualified district elector and any board member elected on a one-acre/one-vote basis shall meet the requirements of s. 298.11 for election to the board.

(d) "Contiguous developed urban area" means any reasonably compact urban area located entirely within a special district. The separation of urban areas by a publicly owned park, right-of-way, highway, road, railroad, canal, utility, body of water, watercourse, or other minor geographical division of a similar nature shall not prevent such areas from being defined as urban areas.

(2)~~(3)~~ POPULAR ELECTIONS; REFERENDUM; DESIGNATION OF URBAN AREAS.—

(a) Referendum.—

1. A referendum shall be called by the governing board of a special district where the board is elected on a one-acre/one-vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided each of the following conditions has been ~~is~~ satisfied at least 60 days prior to the general or special election at which the referendum is to be held:

a. The district shall have a total population, according to the latest official state census, a special census, or a population estimate, of at least 500 qualified electors.

b. A petition signed by 10 percent of the qualified electors of the district shall have been ~~be~~ filed with the governing board of the district. The petition shall be submitted to the supervisor of elections of the county or counties in which the lands are located. The supervisor shall, within 30 days after the receipt of the petitions, certify to the governing board the number of signatures of qualified electors contained on the petition.

2. Upon verification by the supervisor or supervisors of elections of the county or counties within which district lands are located that 10 percent of the qualified electors of the district have petitioned the governing board, a referendum election shall be called by the governing board at the next regularly scheduled election of governing board members occurring at least 30 days after verification of the petition or within 6 months of verification, whichever is earlier.

3. If the qualified electors approve the election procedure described in this subsection, the governing board of the district shall be increased to five

members and elections shall be held pursuant to the criteria described in this subsection beginning with the next regularly scheduled election of governing board members or at a special election called within 6 months following the referendum and final unappealed approval of district urban area maps as provided in paragraph (b), whichever is earlier.

4. If the qualified electors of the district disapprove the election procedure described in this subsection, elections of the members of the governing board shall continue as described by s. 298.12 or the enabling legislation for the district. No further referendum on the question shall be held for a minimum period of 2 years following the referendum.

(b) Designation of urban areas.—

1. Within 30 days after approval of the election process described in this subsection by qualified electors of the district, the governing board shall direct the district staff ~~engineer~~ to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)~~(2)~~(b).

2. Within 60 days after approval of the election process described in this subsection by qualified electors of the district, the maps describing urban areas within the district shall be presented to the governing board.

3. Any district landowner or elector may contest the accuracy of the urban area maps prepared by the district staff ~~engineer~~ within 30 days after submission to the governing board. Upon notice of objection to the maps, the governing board shall request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)~~(2)~~(b). Within 30 days after the governing board request, the county engineer shall present the maps to the governing board.

4. Upon presentation of the maps by the county engineer, the governing board shall compare the maps submitted by both the district staff ~~engineer~~ and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing board may amend and shall adopt the official maps at a regularly scheduled board meeting.

5. Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the board within 30 days after adoption by petition to the circuit court with jurisdiction over the district. Accuracy shall be determined pursuant to paragraph (1)~~(2)~~(b). Any petitions ~~petition~~ so filed shall be heard expeditiously ~~disposed of by summary proceeding of the court~~, and the maps shall either be approved or approved with necessary amendments to render the maps accurate and shall be certified to the board ~~with amendments, if necessary~~.

6. Upon adoption by the board or certification by the court, the district urban area maps shall serve as the official maps for determination of the

extent of urban area within the district and the number of governing board members to be elected by qualified electors and by the one-acre/one-vote principle at the next regularly scheduled election of governing board members.

7. Upon a determination of the percentage of urban area within the district as compared with total area within the district, the governing board shall order elections in accordance with the ~~changed~~ percentages pursuant to paragraph (3)~~(4)~~(a). The landowners' meeting date shall be designated by the governing board.

8. The maps shall be updated and readopted every 5 years or sooner in the discretion of the governing board.

(3)~~(4)~~ GOVERNING BOARD.—

(a) Composition of board.—

1. Members of the governing board of the district shall be elected in accordance with the following determinations of urban area:

a. If urban areas constitute 25 percent or less of the district, one governing board member shall be elected by the qualified electors and four governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

b. If urban areas constitute 26 percent to 50 percent of the district, two governing board members shall be elected by the qualified electors and three governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

c. If urban areas constitute 51 percent to 70 percent of the district, three governing board members shall be elected by the qualified electors and two governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

d. If urban areas constitute 71 percent to 90 percent of the district, four governing board members shall be elected by the qualified electors and one governing board member shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

e. If urban areas constitute 91 percent or more of the district, all governing board members shall be elected by the qualified electors.

2. All governing board members elected by qualified electors shall be elected at large.

(b) Term of office.—All governing board members elected by qualified electors shall have a term of 4 years except for governing board members elected at the first election and the first landowners' meeting following the referendum prescribed in paragraph (2)~~(3)~~(a). Governing board members

elected at the first election and the first landowners' meeting following the referendum shall serve as follows:

1. If one governing board member is elected by the qualified electors and four are elected on a one-acre/one-vote basis, the governing board member elected by the qualified electors shall be elected for a period of 4 years. Governing board members elected on a one-acre/one-vote basis shall be elected for periods of 1, 2, 3, and 4 years, respectively, as prescribed by ss. 298.11 and 298.12.

2. If two governing board members are elected by the qualified electors and three are elected on a one-acre/one-vote basis, the governing board members elected by the electors shall be elected for a period of 4 years. Governing board members elected on a one-acre/one-vote basis shall be elected for periods of 1, 2, and 3 years, respectively, as prescribed by ss. 298.11 and 298.12.

3. If three governing board members are elected by the qualified electors and two are elected on a one-acre/one-vote basis, two of the governing board members elected by the electors shall be elected for a term of 4 years and the other governing board member elected by the electors shall be elected for a term of 2 years. Governing board members elected on a one-acre/one-vote basis shall be elected for terms of 1 and 2 years, respectively, as prescribed by ss. 298.11 and 298.12.

4. If four governing board members are elected by the qualified electors and one is elected on a one-acre/one-vote basis, two of the governing board members elected by the electors shall be elected for a term of 2 years and the other two for a term of 4 years. The governing board member elected on a one-acre/one-vote basis shall be elected for a term of 1 year as prescribed by ss. 298.11 and 298.12.

5. If five governing board members are elected by the qualified electors, three shall be elected for a term of 4 years and two for a term of 2 years.

6. If any vacancy occurs in a seat occupied by a governing board member elected by the qualified electors, the remaining members of the governing board shall, within 45 days after the vacancy occurs ~~of receipt of a resignation~~, appoint a person who would be eligible to hold the office to the unexpired term ~~of the resigning member~~.

(c) Landowners' meetings.—

1. An annual landowners' meeting shall be held pursuant to s. 298.11 and at least one governing board member shall be elected on a one-acre/one-vote basis pursuant to s. 298.12 for so long as 10 percent or more of the district is not contained in an urban area. In the event all district governing board members are elected by qualified electors, there shall be no further landowners' meetings.

2. At any landowners' meeting called pursuant to this section, 50 percent of the district acreage shall not be required to constitute a quorum and each governing board member shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

3. All landowners' meetings of districts operating pursuant to this section shall be set by the board within the month preceding the month of the election of the governing board members by the electors.

4. Vacancies on the board shall be filled pursuant to s. 298.12 except as otherwise provided in subparagraph (b)6.

(4)~~(5)~~ QUALIFICATIONS.—Elections for governing board members elected by qualified electors shall be nonpartisan. Qualifications shall be pursuant to the Florida Election Code and shall occur during the qualifying period established by s. 99.061. Qualification requirements shall only apply to those governing board member candidates elected by qualified electors. Following the first election pursuant to this section, elections to the governing board by qualified electors shall occur at the next regularly scheduled election closest in time to the expiration date of the term of the elected governing board member. If the next regularly scheduled election is beyond the normal expiration time for the term of an elected governing board member, the governing board member shall hold office until the election of a successor.

(5)~~(6)~~ Those districts established as single-purpose water control districts, and which continue to act as single-purpose water control districts, pursuant to chapter 298, pursuant to a special act, pursuant to a local government ordinance, or pursuant to a judicial decree, shall be exempt from the provisions of this section. All other independent special districts with governing boards elected on a one-acre/one-vote basis shall be subject to the provisions of this section.

(6)~~(7)~~ The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

Section 15. Section 189.412, Florida Statutes, 1996 Supplement, as amended by section 12 of chapter 96-324, Laws of Florida, is amended to read:

189.412 Special District Information Program; duties and responsibilities.—The Special District Information Program of the Department of Community Affairs is created and has the following special duties:

(1) The collection and maintenance of special district compliance status reports from the Auditor General, the Department of Banking and Finance, the Division of Bond Finance of the State Board of Administration, the Division of Retirement, the Division of Ad Valorem Tax of the Department of Revenue, and the Commission on Ethics for the reporting required in ss. 11.45, 112.3144, 112.3145, 112.3148, 112.3149, 112.63, 200.068, 218.32, 218.34, ~~and~~ 218.38, and 280.17 and chapter 121 and from state agencies administering programs that distribute money to special districts. The special district compliance status reports must consist of a list of special districts used in that state agency and a list of ~~information indicating~~ which special districts did not comply with the reporting statutorily required by that agency.

(2) The maintenance of a master list of independent and dependent special districts which shall be annually updated and distributed to the appropriate officials in state and local governments.

~~(3) The organization and sponsorship of a biennial conference, which may include, but need not be limited to, any of the following purposes:~~

~~(a) Explaining special district reporting requirements prescribed by general law.~~

~~(b) Describing general statutory provisions that affect special districts in the state.~~

~~(c) Conducting training sessions in budget preparation, bond issuance, and other financial matters.~~

~~(d) Examining all aspects of special district reporting requirements in order to develop more efficient submission and use of the reports.~~

(3)~~(4)~~ The publishing and updating of a "Florida Special District Handbook" that contains, at a minimum:

(a) A section that specifies definitions of special districts and status distinctions in the statutes.

(b) A section or sections that specify current statutory provisions for special district creation, implementation, modification, dissolution, and operating procedures.

(c) A section that summarizes the reporting requirements applicable to all types of special districts as provided in ss. 189.417 and 189.418.

(4)~~(5)~~ When feasible, securing and maintaining access to special district information collected by all state agencies in existing or newly created state computer systems.

(5)~~(6)~~ The facilitation of coordination and communication among state agencies regarding special district information.

(6)~~(7)~~ The conduct of studies relevant to special districts.

(7)~~(8)~~ The provision of assistance related to and appropriate in the performance of requirements specified in this chapter.

Section 16. Subsections (2) and (5) of section 189.415, Florida Statutes, are amended to read:

189.415 Special district public facilities report.—

(2) ~~Beginning March 1, 1991,~~ Each independent special district shall submit ~~annually~~ to each local general-purpose government in which it is located a public facilities report and an annual notice of any changes. The public facilities report shall specify the following information:

(a) A description of existing public facilities owned or ~~and~~ operated by the special district, and each public facility that is operated by another entity, except a local general purpose government, through a lease or other agreement with the special district. This description shall include the current

capacity of the facility, the current demands placed upon it, and its location. This information shall be required in the initial report and updated every 5 years at least 12 months prior to the submission date of the evaluation and appraisal report of the appropriate local government required by s. 163.3191. At least 12 months prior to the date on which each special district's first updated report is due, the department shall notify each independent district on the official list of special districts compiled ~~by the department~~ pursuant to s. 189.4035 of the schedule for submission of the evaluation and appraisal report by each local government within the special district's jurisdiction.

(b) A description of each public facility the district is building, improving, or expanding, or is currently proposing to build, improve, or expand within at least the next 5 years, including any facilities that the district is assisting another entity, except a local general-purpose government, to build, improve, or expand through a lease or other agreement with the district. For each public facility identified, the report shall describe how the district currently proposes to finance the facility.

(c) If the special district currently proposes to replace any facilities identified in paragraph (a) or paragraph (b) within the next 10 years, the date when such facility will be replaced.

(d) The anticipated time the construction, improvement, or expansion of each facility will be completed.

(e) The anticipated capacity of and demands on each public facility when completed. In the case of an improvement or expansion of a public facility, both the existing and anticipated capacity must be listed.

(5) ~~For each special district created after March 1, 1990,~~ The facilities report shall be prepared and submitted within 1 year after the district's creation.

Section 17. Subsections (1) and (3) of section 189.4155, Florida Statutes, are amended, subsection (4) is renumbered as subsection (5), and a new subsection (4) is added to said section, to read:

189.4155 Activities of special districts; local government comprehensive planning.—

(1) Construction or expansion of a public facility, or major alteration which affects the quantity or quality of the level of service of a public facility, which is undertaken or initiated by a special district or through some other entity shall be consistent with the applicable local government comprehensive plan adopted pursuant to part II of chapter 163; provided, however, the local government comprehensive plan shall not:

(a) Require an independent special district to construct, expand, or perform a major alteration of any public facility; or

(b) Require any special district to construct, expand, or perform a major alteration of any public facility which would result in an impairment of

covenants and agreements relating to bonds validated or issued by the special district.

(3) The provisions of this section shall not apply to water management districts created pursuant to s. 373.069, ~~or~~ to regional water supply authorities created pursuant to s. 373.1962, or to spoil disposal sites owned or used by the Federal Government.

(4) Ports listed in s. 403.021(9)(b) which operate in compliance with a port master plan which has been incorporated into the appropriate local government comprehensive plan pursuant to s. 163.3178(2)(k) shall be deemed to be in compliance with the requirements of this section.

Section 18. Subsection (1) of section 189.416, Florida Statutes, is amended to read:

189.416 Designation of registered office and agent.—

(1) Within 30 days after the first meeting of its governing board ~~Prior to October 1, 1979, or no later than 1 year subsequent to its creation~~, each special district in the state shall designate a registered office and a registered agent and file such information with the local governing authority or authorities and with the department. The registered agent shall be an agent of the district upon whom any process, notice, or demand required or permitted by law to be served upon the district may be served. A registered agent shall be an individual resident of this state whose business address is identical with the registered office of the district. The registered office may be, but need not be, the same as the place of business of the special district.

Section 19. Subsection (1) of section 189.417, Florida Statutes, is amended to read:

189.417 Meetings; notice; required reports.—

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually in a newspaper of general paid circulation in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days prior to such meeting, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the board. No approval of the annual budget shall be granted at an emergency meeting. The advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. ~~It is the legislative intent that, whenever possible,~~ The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week. ~~It is further~~

~~the legislative intent that~~ The newspaper selected must be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50.

Section 20. Subsection (3) of section 189.421, Florida Statutes, 1996 Supplement, is amended to read:

189.421 Failure of district to disclose financial reports.—

(3) If the department determines that a good faith effort has not been made to file the report or that a reasonable time has passed since notice was delivered to the district pursuant to s. 189.419(1), and the reports have not been forthcoming, it may file a petition for hearing, pursuant to ss. 120.569 and 120.57, on the question of the inactivity of the district. The proceedings and hearings required by ss. 189.416-189.422 shall be conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services and shall be governed by the provisions of the Administrative Procedure Act. Such hearing shall be held in the county in which the district is located, pursuant to all the applicable provisions of chapter 120. Notice of the hearing shall be served on the district's registered agent and published at least once a week for 2 successive weeks prior to the hearing in a newspaper of general circulation in the area affected. The notice shall state the time, place, and nature of the hearing and that all interested parties may appear and be heard. Within 30 days of the hearing, the administrative law judge shall file a report with the department in the manner provided in chapter 120.

Section 21. Section 189.422, Florida Statutes, 1996 Supplement, is amended to read:

189.422 Action of the department.—

(1) If the department determines, after receipt of the report from the administrative law judge, that there is an inactive district under the criteria established in s. 189.4044, it shall notify the Speaker of the House of Representatives and the President of the Senate ~~file such determination with the Secretary of State pursuant to s. 189.4044~~.

(2) If the department determines that the failure to file the reports is a result of the volitional refusal of the members of the governing body of the district, it shall seek a money judgment against the district in the amount of the assessed fine. When appropriate, the department may also seek an injunction or writ of mandamus to compel production of the reports in the circuit court.

Section 22. Section 189.425, Florida Statutes, is amended to read:

189.425 Rulemaking authority.—~~Effective July 1, 1989,~~ The Department of Community Affairs may ~~shall~~ adopt rules to implement the provisions of this chapter.

Section 23. Section 189.428, Florida Statutes, is created to read:

189.428 Special districts; oversight review process.—

(1) The Legislature finds it to be in the public interest to establish an oversight review process for special districts wherein each special district in the state may be reviewed by the local general purpose government in which the district exists. The Legislature further finds and determines that such law fulfills an important state interest. It is the intent of the Legislature that the oversight review process shall contribute to informed decisionmaking. These decisions may involve the continuing existence or dissolution of a district, the appropriate future role and focus of a district, improvements in the functioning or delivery of services by a district, and the need for any transition, adjustment, or special implementation periods or provisions. Any final recommendations from the oversight review process that are adopted and implemented by the appropriate level of government shall not be implemented in a manner that would impair the obligation of contracts.

(2) It is the intent of the Legislature that any oversight review process be conducted in conjunction with special district public facilities reporting and the local government evaluation and appraisal report process described in s. 189.415(2).

(3) The order in which special districts may be subject to oversight review shall be determined by the reviewer and shall occur as follows:

(a) All dependent special districts may be reviewed by the general purpose local government to which they are dependent.

(b) All single-county independent special districts may be reviewed by a county or municipality in which they are located or the government that created the district. Any single-county independent district that serves an area greater than the boundaries of one general-purpose local government may only be reviewed by the county on the county's own initiative or upon receipt of a request from any municipality served by the special district.

(c) All multicounty independent special districts may be reviewed by the government that created the district. Any general purpose local governments within the boundaries of a multicounty district may prepare a preliminary review of a multicounty special district for possible reference or inclusion in the full review report.

(d) Upon request by the reviewer, any special district within all or a portion of the same county as the special district being reviewed may prepare a preliminary review of the district for possible reference or inclusion in the full oversight review report.

(4) All special districts, governmental entities, and state agencies shall cooperate with the Legislature and with any general-purpose local government seeking information or assistance with the oversight review process and with the preparation of an oversight review report.

(5) Those conducting the oversight review process shall, at a minimum, consider the listed criteria for evaluating the special district, but may also consider any additional factors relating to the district and its performance.

If any of the listed criteria do not apply to the special district being reviewed, they need not be considered. The criteria to be considered by the reviewer include:

(a) The degree to which the service or services offered by the special district are essential or contribute to the well-being of the community.

(b) The extent of continuing need for the service or services currently provided by the special district.

(c) The extent of municipal annexation or incorporation activity occurring or likely to occur within the boundaries of the special district and its impact on the delivery of services by the special district.

(d) Whether there is a less costly alternative method of delivering the service or services that would adequately provide the district residents with the services provided by the district.

(e) Whether transfer of the responsibility for delivery of the service or services to an entity other than the special district being reviewed could be accomplished without jeopardizing the district's existing contracts, bonds, or outstanding indebtedness.

(f) Whether the Auditor General has determined that the special district is or may be in a state of financial emergency or has been experiencing financial difficulty during any of the last 3 fiscal years for which data are available.

(g) Whether the Auditor General failed to receive an audit report and has made a determination that the special district was required or may have been required to file an audit report during any of the last 3 fiscal years for which the data are available.

(h) Whether the district is inactive according to the official list of special districts, and whether the district is meeting and discharging its responsibilities as required by its charter, as well as projected increases or decreases in district activity.

(i) Whether the special district has failed to comply with any of the reporting requirements in this chapter, including preparation of the public facilities report.

(j) Whether the special district has designated a registered office and agent as required by s. 189.416, and has complied with all open public records and meeting requirements.

(6) Any special district may at any time provide the Legislature and the general purpose local government conducting the review or making decisions based upon the final oversight review report with written responses to any questions, concerns, preliminary reports, draft reports, or final reports relating to the district.

(7) The final report of a reviewing government shall be filed with the government that created the district and shall serve as the basis for any modification to the district charter or dissolution or merger of the district.

(8) If legislative dissolution or merger of a district is proposed in the final report, the reviewing government shall also propose a plan for the merger or dissolution, and the plan shall address the following factors in evaluating the proposed merger or dissolution:

(a) Whether, in light of independent fiscal analysis, level-of-service implications, and other public policy considerations, the proposed merger or dissolution is the best alternative for delivering services and facilities to the affected area.

(b) Whether the services and facilities to be provided pursuant to the merger or dissolution will be compatible with the capacity and uses of existing local services and facilities.

(c) Whether the merger or dissolution is consistent with applicable provisions of the state comprehensive plan, the strategic regional policy plan, and the local government comprehensive plans of the affected area.

(d) Whether the proposed merger adequately provides for the assumption of all indebtedness.

The reviewing government shall consider the report in a public hearing held within the jurisdiction of the district. If adopted by the governing board of the reviewing government, the request for legislative merger or dissolution of the district may proceed. The adopted plan shall be filed as an attachment to the economic impact statement regarding the proposed special act or general act of local application dissolving a district.

(9) This section does not apply to a deepwater port listed in s. 311.09(1) which is in compliance with a port master plan adopted pursuant to s. 163.3178(2)(k), or to an airport authority operating in compliance with an airport master plan approved by the Federal Aviation Administration, or to any special district organized to operate health systems and facilities licensed under chapter 395 or chapter 400.

Section 24. Codification.—Each district, by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever is first, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. No changes may be made to a district's charter as it exists on October 1, 1997, in the legislation codifying its special acts. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.418(2), Florida Statutes.

Section 25. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, or which are located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation or airport or maritime or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program. Real property and tangible personal property owned by the Federal Government and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration.

For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee.

Section 26. Section 200.069, Florida Statutes, is amended to read:

200.069 Notice of proposed property taxes and adopted non-ad valorem assessments.—Pursuant to s. 200.065(2)(b), the property appraiser, in the name of the taxing authorities and local governing boards levying non-ad valorem assessments within his or her jurisdiction and at the expense of the county, shall prepare and deliver by first-class mail to each taxpayer to be listed on the current year's assessment roll a notice of proposed property taxes, which notice shall be in substantially the following form. Notwithstanding the provisions of s. 195.022, no county officer shall use a form other than that provided by the department for this purpose, except as provided in subsection (11) and s. 200.065(13).

(1) The notice shall read:

NOTICE OF PROPOSED PROPERTY TAXES
DO NOT PAY—THIS IS NOT A BILL

The taxing authorities which levy property taxes against your property will soon hold PUBLIC HEARINGS to adopt budgets and tax rates for the next year.

The purpose of these PUBLIC HEARINGS is to receive opinions from the general public and to answer questions on the proposed tax change and budget PRIOR TO TAKING FINAL ACTION.

Each taxing authority may AMEND OR ALTER its proposals at the hearing.

(2) The notice shall further contain information applicable to the specific parcel in question. The information shall be in columnar form. There shall be five column headings which shall read: "Taxing Authority," "Your Property Taxes Last Year," "Your Taxes This Year IF PROPOSED Budget Change is Made," "A Public Hearing on the Proposed Taxes and Budget Will be Held:", and "Your Taxes This Year IF NO Budget Change is Made."

(3) There shall be under each column heading an entry for the county; the school district levy required pursuant to s. 236.02(6); other operating school levies; the municipality or municipal service taxing unit or units in which the parcel lies, if any; the water management district levying pursuant to s. 373.503; a single entry for other independent special districts in which the parcel lies, if any, except as provided in subsection (11); and a single entry for all voted levies for debt service applicable to the parcel, if any.

(4) For each entry listed in subsection (3), there shall appear on the notice the following:

(a) In the first column, a brief, commonly used name for the taxing authority or its governing body. The entry in the first column for the levy

required pursuant to s. 236.02(6) shall be "By State Law." The entry for other operating school district levies shall be "By Local Board." Both school levy entries shall be indented and preceded by the notation "Public Schools:". The entry in the first column for independent special districts other than the water management district shall be "Independent Special Districts," except as provided in subsection (11). For voted levies for debt service, the entry shall be "Voter Approved Debt Payments."

(b) In the second column, the gross amount of ad valorem taxes levied against the parcel in the previous year. If the parcel did not exist in the previous year, the second column shall be blank.

(c) In the third column, the gross amount of ad valorem taxes proposed to be levied in the current year, which amount shall be based on the proposed millage rates provided to the property appraiser pursuant to s. 200.065(2)(b) or, in the case of voted levies for debt service, the millage rate previously authorized by referendum, and the taxable value of the parcel as shown on the current year's assessment roll.

(d) In the fourth column, the date, the time, and a brief description of the location of the public hearing required pursuant to s. 200.065(2)(c). However:

1. No entry shall be made in the fourth column for the line showing independent special districts other than water management districts if that line represents more than one district;

2. For the line showing voted levies for debt service pursuant to paragraph (a), the following statement shall appear: "Includes debt of ...(list of brief, commonly used names for each taxing authority whose debt service levy is included on this line)..."; and

3. For the line showing totals, the following statement shall appear: "For details on independent special districts and voter-approved debt, contact your Tax Collector at ...(phone number)...." If the option in subsection (11) is utilized, the phrase "independent special districts and" shall be deleted.

(e) In the fifth column, the gross amount of ad valorem taxes which would apply to the parcel in the current year if each taxing authority were to levy the rolled-back rate computed pursuant to s. 200.065(1) or, in the case of voted levies for debt service, the amount previously authorized by referendum.

(f) For special assessments collected utilizing the ad valorem method pursuant to s. 197.363, the previous year's assessment amount shall be added to the ad valorem taxes shown in the second and fifth columns, and the amount proposed to be imposed for the current year shall be added to the ad valorem taxes shown in the third column.

(5) The amounts shown on each line preceding the entry for voted levies for debt service shall include the sum of all ad valorem levies of the applicable unit of local government for operating purposes, including those of dependent special districts (except for municipal service taxing units, which

shall be listed on the line for municipalities), and all nonvoted or nondebt service special assessments imposed by the applicable unit of local government to be collected utilizing the ad valorem method. Voted levies for debt service for all units of local government shall be combined and shown on a single line, including voter-approved special assessments for debt service if collected utilizing the ad valorem method.

(6) Following the entries for each taxing authority, a final entry shall show: in the first column, the words "Total Property Taxes:" and in the second, third, and fifth columns, the sum of the entries for each of the individual taxing authorities. The second, third, and fifth columns shall, immediately below said entries, be labeled Column 1, Column 2, and Column 3, respectively. Below these labels shall appear, in boldfaced type, the statement: SEE REVERSE SIDE FOR EXPLANATION.

(7) The notice shall further show a brief legal description of the property and the name and mailing address of the owner of record.

(8) The notice shall further read:

	Market Value	Assessed Value	Exemptions	Taxable Value
Your Property Value Last Year	$	$	$	$ . . . . .
Your Property Value This Year	$	$	$	$ . . . . .

If you feel that the market value of your property is inaccurate or does not reflect fair market value, contact your county property appraiser at ...(phone number)... or ...(location)....

If the property appraiser's office is unable to resolve the matter as to market value, you may file a petition for adjustment with the Value Adjustment Board. Petition forms are available from the county property appraiser and must be filed ON OR BEFORE ...(date)....

(9) The reverse side of the form shall read:

EXPLANATION

*COLUMN 1—"YOUR PROPERTY TAXES LAST YEAR"

This column shows the taxes that applied last year to your property. These amounts were based on budgets adopted last year and your property's previous taxable value.

*COLUMN 2—"YOUR TAXES IF PROPOSED BUDGET CHANGE IS MADE"

This column shows what your taxes will be this year under the BUDGET ACTUALLY PROPOSED by each local taxing authority. The proposal is NOT final and may be amended at the public hearings shown on the front side of this notice.

*COLUMN 3—"YOUR TAXES IF NO BUDGET CHANGE IS MADE"

This column shows what your taxes will be this year IF EACH TAXING AUTHORITY DOES NOT INCREASE ITS PROPERTY TAX LEVY. These amounts are based on last year's budgets and your current assessment. The difference between columns 2 and 3 is the tax change proposed by each local taxing authority and is NOT the result of higher assessments.

ASSESSED VALUE means:

For homestead property: value as limited by the State Constitution;

For agricultural and similarly assessed property: classified use value;

For all other property: market value.

*Note: Amounts shown on this form do NOT reflect early payment discounts you may have received or may be eligible to receive. (Discounts are a maximum of 4 percent of the amounts shown on this form.)

(10) The front side of the form required pursuant to this section shall approximate in all essential respects the facsimile set forth in this subsection as it appears in s. 26, chapter 80-274, Laws of Florida, except for amendments subsequent to 1980.

(11) If authorized by resolution of the governing body of the county prior to July 1, and with the written concurrence of the property appraiser, the notice specified in this section shall contain a separate line entry for each independent special taxing district in the jurisdiction of which the parcel lies. Each such district shall be identified by name. The form used for this purpose shall be identical to that supplied by the department and shall be delivered to the property appraiser not later than July 31, except that a larger space shall be provided for listing the columnar information specified in subsections (2), (3), (4), and (5). If the executive director of the department grants written permission, the form may be printed only on one side. The governing body of the county shall bear the expense of procuring such form.

(12) The bottom portion of the notice shall further read in bold, conspicuous print:

"Your final tax bill may contain non-ad valorem assessments which may not be reflected on this notice such as assessments for roads, fire, garbage, lighting, drainage, water, sewer, or other governmental services and facilities which may be levied by your county, city, or any special district."

(13)(a) If requested by the local governing board levying non-ad valorem assessments and agreed to by the property appraiser, the notice specified in this section may contain a notice of adopted non-ad valorem assessments. If so agreed, the notice shall be titled:

NOTICE OF PROPOSED PROPERTY TAXES AND
ADOPTED NON-AD VALOREM ASSESSMENTS
DO NOT PAY—THIS IS NOT A BILL

There must be a clear partition between the notice of proposed property

taxes and the notice of adopted non-ad valorem assessments. The partition must be a bold, horizontal line approximately 1/8-inch thick. By rule, the department shall provide a format for the form of the notice of adopted non-ad valorem assessments which meets the following minimum requirements:

1. There must be subheading for columns listing the levying local governing board, with corresponding assessment rates expressed in dollars and cents per unit of assessment, and the associated assessment amount.

2. The purpose of each assessment must also be listed in the column listing the levying local governing board if the purpose is not clearly indicated by the name of the board.

3. Each non-ad valorem assessment for each levying local governing board must be listed separately.

4. If a county has too many municipal service benefit units or assessments to be listed separately, it shall combine them by function.

5. A brief statement outlining the responsibility of the tax collector and each levying local governing board as to any non-ad valorem assessment must be provided on the form, accompanied by directions as to which office to contact for particular questions or problems.

(b) If the notice includes all adopted non-ad valorem assessments, the provisions contained in subsection (12) shall not be placed on the notice.

Section 27. Except as otherwise provided herein, this act shall take effect October 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.