

## **Chapter 189, Florida Statutes – Special Districts: General Provisions**

This statutory chapter, known as the Uniform Special District Accountability Act of 1989, establishes the framework for the standards for establishing and the reporting requirements and accountability of special districts in Florida. This chapter does not directly regulate the operation of special districts, but sets minimum requirements for the charters set up by the governing body of the special district (s. 189.404, F.S.). Special districts are not limited to those related to hospital services or health care. They can, for example, be related to water management.

Special districts were required, after October 1, 1997, to amend their existing charters to specifically state the district's status as "dependent" (created through an ordinance of and controlled by a local government), or as "independent" (created by a special act or authorization of the Florida Legislature and operated apart from the direct control of local government bodies). The Governor and Cabinet may also create special districts by rule.

This chapter applies to all special districts in Florida, which total "1,615 plus", according to the Department of Community Affairs webpage information. The department's listing of special districts related to health care services and facilities includes 73 special districts. With that wide range of applicability, the chapter includes several sections that do not apply specifically to special districts created for support of health care services and facilities.

The chapter includes substantial new information and requirements for special districts that were formed after 1989, but does not consistently require that pre-existing special districts adopt the revised standards such as those detailed in Section 189.404 (see below) where the minimum specific elements of a district's charter are specified. The listing of special districts on the Department of Community Affairs indicates that many of the health care districts were created before 1989.

Along with the thorough information available on the Department of Community Affairs webpage (<http://www.floridaspecialdistricts.org/Handbook/1-1Introduction.cfm#Act>), the following summary of the chapter will provide a brief description of the statutes that apply to health care special districts.

**189.401** – The chapter title is "Uniform Special District Accountability Act of 1989,"

**189.402** – **Statement of legislative purpose and intent.** This section states that Chapter 189 is the one central location for laws on special districts and the intent to create standards for these districts that provide services at a local level without broadly burdening other, unaffected taxpayers. Independent districts are authorized for both private and public sector use. In subsection (4)(a), independent districts are required to register and report financial activities and to coordinate with local government bodies.

**189.403** – **Definitions.** A "special district" is defined as having a special purpose as opposed to a general-purpose government body which has broader authority to determine activities and use of revenues. Districts are exempt from ad valorem taxes under the same terms as municipalities. Dependent special districts are specified as those created and controlled by local government that can appoint governing body members.

**189.4031 – Special Districts; creation, dissolution, and reporting requirements; charter requirements.**

This section requires special districts to comply with the creation, dissolution and reporting requirements in this chapter, regardless of other applicable laws. Districts are required to have information and standards as specified in this chapter, in the district’s charter.

**189.4035 – Preparation of official list of special districts.** This section describes the duties of the Department of Community Affairs. Compilation of the official list of special districts is done through use of special reporting data from Department of Financial Services and the Auditor General in addition to reports to Department of Community Affairs. The department makes the official list available on its website. If a special district does not submit its status (independent or dependent) to the department, the department is authorized to make the determination of status. That determination is specified as not constituting “final agency action pursuant to chapter 120”. Resolving inconsistencies in status determination is done by referring the determination to the governing body (local government or the Legislature) that created the district, rather than the determination being made by the department, an executive branch agency.

**189.404 – Legislative intent for the creation of independent special districts; special act prohibitions; model elements ...**

This section prohibits, after September 30, 1989, the creation of an independent special district that does not have a charter that conforms to the minimum requirements in this section and prohibits the Legislature from passing laws that are exempt from the standards in this chapter or have not had a statement of purpose, authority, etc., to the Legislature.

This section lists the minimum requirements for the elements that must be included in the charter for an independent special district created by a law or act after September 30, 1989. After October 1, 1997, newly created districts must include a reference to the status (independent or dependent) of the district. Preexisting special districts are required to comply with this status reference “as practical”, with no specific date specified for compliance.

**189.4041 - Dependent special districts.** County or municipal governing bodies, after September 30, 1989, may adopt a charter for a dependent special district only by ordinance. Districts must be within the boundaries of the local government and must have charters that include criteria specified in this section.

**189.4042 – Merger and dissolution procedures.** This section states that the districts may be merged or dissolved only by the governing body that created the district, i.e., local county or municipal governing body may take action on dependent special districts that it has created and the Legislature may take action on independent special districts that it has created by special act or law; a county or municipality must use a referendum, the same procedure as used for creation of the independent special district, to merge or dissolve that district.

**189.4044 – Special procedures for inactive districts.** The Department of Community Affairs is authorized to declare a special district “inactive” on the basis of notification from the district’s registered agent, notification that the governing body has not had a quorum meeting for 2 years or that the district has failed to file any of the reports required in this chapter.

**189.4945 – Financial allocations.** When special districts merge, the proposed charter of the combined district shall provide for allocation of debts and the manner for retiring the debt. In the absence of other specific laws, the property and debts of a special district shall be transferred to the local general-purpose government. This section does not distinguish between dependent and independent special districts.

**189.4047 – Refund of certain special assessments.** A dependent special district is authorized to refund assessments to the original payors if there are no bonds issued relative to the assessment, the original demand for the function no longer exists, or the majority of the land assessed has been acquired by tax-exempt organizations.

**189.405 – Elections; general requirements and procedures; education programs.** This section requires that elections be conducted by or coordinated with the local supervisor of elections. The Department of Community Affairs is authorized to provide or assist with education programs for all newly elected or appointed members of district boards.

**189.4051 – Elections; special requirements and procedures for districts with governing boards elected on a one-acre/one-vote basis.** This section provides details of qualifications of electors, provisions for referendum, definitions of urban areas, board representation, term of office and qualifications.

**189.4065 – Collection of non-ad valorem assessments.** Requires special districts to collect “non-ad valorem” assessments (not based on millage and which may become a lien against a household) according to statutory requirements related to tax collection.

**189.408 – Bond Issuance.** This section establishes criteria for the special districts to apply if bonds are not the subject of a referendum.

**189.412 – Special district Information Program; duties and responsibilities.** This section establishes the duties of the Department of Community Affairs, specifying publishing the “Florida Special District Handbook” and the contents of the handbook.

**189.413 – Special Districts; oversight of state funds use.** This section requires state agencies that provide funds to special districts to report details of the funding program and an annual list of special districts participating in the program.

**189.415 – Special district public facilities report.** Special districts are required to coordinate with local governments and the comprehensive plan, including providing an annual report on public facilities and a

notice of any changes. The district is required to notify local government of any public facility plans that require a Certificate of Need from the Agency for Health Care Administration.

**189.4155 – Activities of special districts; local government comprehensive planning.** This section requires coordination with local government and comprehensive plan and sets limits on local government actions related to special districts.

**189.4156 – Water management district technical assistance.** Does not apply to health care special districts.

**189.416 – Designation of registered office and agent.** Requires registered agent to be resident of Florida with a business at the address provided for the agent.

**189.417 – Meetings; notice; required reports.** The special district is required to file and publish a schedule of its regular meetings. Approval of annual budget at an emergency meeting is prohibited. All meetings must be open to the public and held in a public or an accessible building.

**189.418 – Reports; budgets; audits.** A new special district must submit the document (special act, rule, ordinance, resolution, or other) that provides for creation of the district to the Department of Community Affairs, for determination as to whether the district is Independent or Dependent. Amendment of such documents must be filed with the department, with the department being authorized to take action against the district for failure to do so.

Special districts are required to adopt a budget by resolution each fiscal year and all expenditures must follow the adopted budget. Local governments are authorized to “review ” the budget of any special district within its boundaries. No action by local government is specified.

**189.419 – Effect of failure to file certain reports or information.** Authorizes the person who should receive reports from the special district to contact the registered agent; authorizes an extension of time for filing. If special district’s failure to submit reports is found to be “unjustified” by local government, the department may take action to seek a “writ of certiorari” with the circuit court. Proceedings related to review of actions against special districts are specified to be handled by the circuit court of Leon County and governed by the Rules of Appellate Procedure, rather than under the provisions of Chapter 120, the Administrative Procedures Act, which typically applies to action by executive branch agencies.

**189.4221 – Purchases from purchasing agreements of special districts, municipalities, or counties.** Services other than acquisition of architectural, engineering, landscape, surveying or mapping services, may be purchased through competitively-bid purchasing agreements of these other bodies.

**189.423 – Purchase, sale, or privatization of water, sewer, or wastewater reuse utility by special district.** Does not apply to health care special districts.

**189.425 – Rulemaking authority.** Provides authority to adopt administrative rules to provide detail and necessary procedures for complying with statutory language in Chapter 189. Rules are Chapter 9B-50, Florida Administrative Code, and are comprised of two rules related to fee schedules, data updating, and

updating the department database on special districts. These rules may be accessed at:

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=9B-50>

**189.428 – Special districts; oversight review process.** This section does not apply to several types of special districts, including special districts organized to operate health systems and facilities licensed under Chapters 395 (Hospitals and Ambulatory Surgical Centers), Chapter 400, (Nursing Homes, Home Health Agencies, and several others) and Chapter 429 (Assisted Living Facilities, Adult Family Care Homes, and others).

**189.429 – Codification.** This section required, in 2000, that special districts formed by more than one special act would revise the charter to be codified into a single act that would be passed by the Legislature. This action was to have been completed by December 1, 2004.

**189.430 – Community Improvement Authority Act; short title.** This title covers the remaining sections of this statutory chapter. The Community Improvement Authority Act was passed in the 2000 session of the Legislature and authorizes establishment of independent authorities related to professional sports facilities and other related amenities and infrastructure.

**189.432 through 189.444 – Additional provisions related to the Community Improvement Authority Act.**

Department of Community Affairs webpage contains information on special districts, including a “Frequently Asked Questions” page that may be accessed at:

<http://www.floridaspecialdistricts.org/FAQ.cfm>