

SPECIAL DISTRICT CREATION AND OPERATION

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GENERAL INFORMATION.

- Special districts are a special purpose form of local government created to provide a specific public service or to fund public infrastructure. As an example, the City of Key West has created a community redevelopment agency (“CRA”) which is a form of dependent special district created for the purpose of urban redevelopment of blighted areas of the community.



- There are approximately 60 different types of special districts in Florida. There are more than 1800 special districts scattered throughout Florida. Special districts can provide any service or fund any public infrastructure a city or county can.
- Special districts are often used when a public service or public infrastructure is only needed in a specific area within the county or a city and primarily benefits the landowners or residents within the district. The CRA is a good example. Other examples include flood control districts, wastewater services, fire rescue or roads.



- Special districts can be created by local governments by ordinance and by the State Legislature by special act.
- There are two types of special districts pursuant to Chapter 189, Florida Statutes, the Uniform Special Districts Accountability Act, dependent and independent districts.



Dependent districts are defined by Section 189.012, Florida Statutes as meeting one of the following criteria:

- The members of the governing body is identical to that of the governing body of a signal county or single municipality.
- All members of the district governing body are appointed by the governing body of a single county or municipality.



- Members of the governing body of the district may be removed by the governing body of a single county or municipality.
- The district budget must be approved or can be vetoed by a vote of the governing body of a single county or municipality.



- Independent districts are special districts that are not dependent as defined in paragraph 6 above. In effect these districts are self-governed once created and set and control their budgets without oversight by a county or municipal governing board. Community Development Districts created pursuant to Chapter 190, Florida Statutes are a good example.



- Chapter 189, Florida Statutes and several other laws govern the operations and organization of special districts including but not limited to meetings, meeting notices, various reports to the State of Florida, budgeting, audits, Florida's Code of Ethics, Government in the Sunshine and Public Records Act.



- All special districts pay the Florida Department of Economic Opportunity \$175 a year to operate the Office of Special District Information which keeps track of all special districts in Florida. Once created by the City, the district must designate its independent or dependent status to the Department along with the \$175, fee and some other information.
- Based on the foregoing our assumption is that the City of Key West is interested in creating a dependent district with a governing Board controlled by the City governing board or simply operated by the City governing board.



THE DEPENDENT DISTRICT CHARTER.

- As noted, a dependent district charter is created by City ordinance. Per Chapter 189, Florida Statutes, the charter must include:
- The purpose, powers, functions and duties of the district.
- The geographic boundary of the district.



- The authority of the district.
- An explanation of why the district is the best alternative.
- The membership, organization, compensation and administrative duties of the district governing body.



- The applicable financial disclosure, noticing and reporting requirements.
- A declaration that the creation of the district is consistent with the City's approved comprehensive plan.



- If a district governing board is elected, it must comply with the Florida Election Code, Chapters 97 – 106 Florida Statutes.
- If the district governing board is appointed by the City, the provisions of the Florida Election Code will not apply.



FINANCES.

- The sources of revenue for a special district may be ad valorem taxes, non-ad valorem assessments, fees and occasionally a grant from the state or federal government.
- If ad valorem taxes will be used, the tax will be counted toward the City's 10 mill tax cap. If the tax is from any other source, it can only be collected after an initial referendum approval by City electors.



- Non-ad valorem assessments do not require referendum approval but do require that the procedure for approval found in Section 197.3632, Florida Statutes or Chapter 170, Florida Statutes must be followed.
- Fee-based revenue such as utility charges for water or sewer services will not require referendum approval unless the requirement is included in the district charter.



- Depending on the source of revenue, most special districts do have the authority to issue bonds for long term projects. If bonds are backed by ad valorem revenue, referendum approval is required.



MEETINGS AND NOTICES.

- The governing body of a special district must file a schedule of its regular meetings with the local governing authority either quarterly, semiannually or annually. The schedule must include the date, time, and location of each meeting.



- Any special meeting must have at least seven (7) days notice in a local newspaper unless there is a bona fide emergency.
- Every dependent district must provide the following information on the City website:
 - The legal name of the district.
 - The public purpose of the district.



- The name, official address, email address, and; if applicable, term and appointing authority of each member of the governing body of the district.
- The fiscal year of the district.
- The full text of the district's charter and related information.



- The mailing address, email address, and telephone number of the district.
- A description of the district's geographic boundary and the services provided.
- A listing of any taxes, assessments or fees to be imposed by the district and the statutory authority to do so.
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- Primary contact information.
- A code of ethics.
- The budget of the district and any amendments.
- The final audit of the district for the year in question or a link to the Auditor General's website where the audit can be found.



- A listing of regularly scheduled public meetings.
- The link to the Department of Financial Services website as specific by Section 218-32(1)g), Florida Statutes.
- A meeting agenda at least seven (7) days before a board meeting or workshop.



EXAMPLES.

- City of Boca Raton v. State, 595 So.2d 25 (Fla. 1992). The Florida Supreme Court validated public infrastructure bonds for revitalizing downtown Boca Raton. The source of revenue was non-ad valorem assessments. The assessments were based on property values of the real estate to be assessed. The Court concluded that revitalizing the downtown properties provides a special benefit to the assessed properties (increased value) and the assessment scheme fairly and proportionately distributed the assessment burden.



- Morris v. City of Cape Coral, 163 So.3rd 1174 (Fla. 2015). The Supreme Court ruled that the City's methodology for assessing developed and undeveloped property for fire protection services was a reasonable way of apportioning costs and was not arbitrary.



The End!

