Piecing Together the Governing Puzzle: An Exploration of Florida's Special Districts

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This report details the operation and funding of special districts in Florida. It was written by Robert Eger and Joe Vonasek, consultants to the LeRoy Collins Institute. Ken van Assenderp provided valuable insights and made substantive contributions to this report. The analysis was completed in FY2013 prior to the FY2014 change in Chapter 189. For accuracy and to reduce confusion, we renumbered the substantive changes in Florida Statutes that occurred in FY2014 while offering the FY2013 Florida Statute in parentheses. The law did not change the state substantive law and law-based policy on districts and, therefore, the substantive and policy discussions and recommendations in this report apply fully and are unaffected.

As part of its broader study of state-local governance in Florida, the LeRoy Collins Institute is examining the operation and funding of special districts in Florida. Special districts are local or regional (multi-county) governments limited to one or more special purposes granted by or pursuant to law.

Although granted revenue generation and expenditure powers similar to multi-purpose governments (e.g. cities and counties categorized as "general purpose local governments"), special districts (categorized as "special purpose local governments") remain largely invisible to citizens or property owners who use and pay for their services. This is observed, not as a criticism, but as an opportunity to analyze the role and fiscal behavior of these governmental entities in light of the reforms in the 1980s in state policy and law on special districts.

This report addresses two questions regarding special districts in Florida. The initial question is: How are special districts in Florida conveyed? Use of the word "conveyed" in this context means how are these governmental organizations formed. We find that the conveyance through state statute based on the reforms of the 1980s appears to be inconsistent and unclear. These findings leave citizens and property owners who attempt to understand these complex organizations at a disadvantage in understanding their critical role in governance.

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We suggest:

- Revise Florida Statute (F.S.) Chapter 189
    - Removing the internally inconsistent use of "create" (instead of establish) by ordinance on proposed real property.

    - Replace the term "taxing" with "revenue sources" since taxing is just one of the financing powers to fund the management of the special purpose.

    - Articulate the design of Community Improvement Authorities to indicate how an eligible county can establish this type of independent special district. The lack of specification may undermine the legislative intent to assist counties in the use of these special districts.

- Revise F.S. Chapter 155 that establishes hospital districts. Chapter 155.06 authorizes the Governor to appoint a board of trustees for any public hospital created under 155.05. This appointment makes the created district "independent," which makes the creation by the county contrary to the legislative intent concerning independent districts found in Chapter 189.402(1).

- Revise F.S. Chapter 373.713(2)(a)-(i) which lists the powers and duties, in addition to those agreed upon in the inter-local agreement, for regional water supply authorities. As such, this cannot be seen as the Legislature (via general law or special act) "creating" the authority. Because the Legislature did not create the authority, such local creation runs counter to Chapter 189.402.

- Revise F.S. Chapter 418 concerning recreation districts. This Chapter states that the governing body of the recreation district shall either be (1) a five-member or larger board of supervisors elected from among the residents of the district or (2) the governing body of the municipality or county that created the district. If the second option is taken, the district will qualify as a dependent district under 189.403(2)(a) and the creation of such a district by a county ordinance will not be adverse to any policy set forth by the Legislature regarding the creation of districts. However, if the governing board of the district is elected (under the first option), the district will not fit any of the criteria for being designated "dependent" under Chapter 189.403(2). Thus, creation of such a district via county ordinance would be adverse to the stated policy of the Florida Legislature. Chapter 418.22 outlines the powers a recreation district may possess, but does not limit those powers. Instead, Chapter 418.22 states that the district has the [powers listed in 418.22(1)-(9)] and any other powers the establishing county or municipality may deem necessary or useful. As such, the "creation" of such districts is handled by the counties or municipalities, not by general law. This outcome is inconsistent with Chapter 189.

The second question is: What has been the fiscal performance of special districts in Florida? In this analysis, we explore the financial aspects of Florida's special districts, focusing on revenues, expenditures, debt, assets, and liabilities generated by special districts. Our measurement of

fiscal performance provides citizens and legislators the opportunity to examine a randomly sampled set of special districts for comparison, providing a direct look at their fiscal behavior over the most recent four year period.

Our findings of the fiscal performance of Florida's special districts are as follows:

- In our descriptive fiscal performance analysis we find that Community Development Districts (CDDs) have struggled over the time period 2007-2010, while all other district types have low fiscal performance intermittently over the time period. By 2010, 25% of CDDs have very low number of days of cash on hand and a declining amount of cash on hand. Total net assets for the average CDD indicate that the average CDD is in balance sheet insolvency, an indicator of fiscal distress.

- We observe that although districts with a governor appointed board appear to have a relatively large amount of cash on hand compared to other districts, by 2010, 25% of these board types have fallen below the Government Finance Officers Association's minimal standard of 45 days of cash on hand. This coincides with their decline in average net assets over the time period. We note that 25% of fire districts struggled in 2007, 2008, and 2009 to reach the minimal amount of days of cash on hand. In both 2008 and 2009 25% of districts with appointed boards did not meet the 45 days of cash on hand. Over the time period special districts in general appear to have writhed during this economic slump.

Our fiscal ratio analysis findings indicate the following outcomes:

- Specific special district types are struggling financially. The overall fiscal health of CDDs appears to be marginal to poor. This marginal to poor status is in substantial part due to the types of organization that the CDD is that puts the consequences to citizens, other governments, landowners and investors in a unique focus.

- Elected board districts have seen a decline in liquidity, but appear to be improving over the time period. Prior to 2010 over 50% of elected board districts had less cash on hand than liabilities owed in the upcoming 12 month period, with this trend falling to 25% of elected board districts in 2010.

- Fire districts, mix board districts, and appointed board districts indicate a limited ability to respond to temporary cash shortages, emergencies or deficits. All districts show fiscal improvement by 2010, although fiscal recovery has been slow.

Overall our analyses indicate that one of the principal objectives of F.S. 189 is the creation of a uniform process for the expansion and implementation of expressed state policy on special districts. Despite the expressed and direct statement of legislative intent and implementing provisions that dependent and independent districts be defined, created and operated by or pursuant to general law, we conclude that the statutory language surrounding special districts is a confusing and often contradictory set of laws with different levels of government approving the creation of the district. We find a lack of consistent uniformity in the composition of governing boards where methods of appointment and number of seats vary. Dependent special districts may be created by counties or municipalities pursuant to minimum state law requirements while independent special districts are created by state law. The creation of a special district is independent of its desired financial resources and dissolution of special districts varies. Fiscally, we find that special district financial viability varies by type of organization with different

consequences; however, all types of districts have struggled throughout the 2007-2010 time period.

Introduction

As part of its broader study of state-local governance in Florida, the LeRoy Collins Institute is examining the operation and funding of special districts in Florida. Special districts are local or regional (multi-county) governments limited to one or more special purpose granted by or pursuant to law. Special districts are often granted power to impose and to levy ad valorem taxes and non-ad valorem assessments on real property and a variety of powers associated with charges and fees, similar to revenue generating powers found in general purpose governments (such as cities and counties). Similarly, special districts expend their resources to provide systems, facilities and services (hereafter, "services"), usually a single service, to property owners or constituents from whom they generate their revenues for managing the provision of the special purpose(s).

Although granted tax and other revenue authority and notwithstanding mandates for uniform disclosure, reporting, and accountability in F.S. Chapter 189, special districts remain largely invisible to citizens or property owners who use and pay for their services. This is observed, not as a criticism, but as an opportunity to analyze the role and fiscal behavior of these governmental entities. In newspaper reports across Florida in 2012, the role of special districts has come to the forefront. The headlines of these newspaper articles span the positive-negative continuum. Examples include The Bradenton Herald; where on January 11, 2012 reporter Josh Salman's article headline stated "Palmetto Development District Goes Into Foreclosure." Salman identifies the extremely poor financial condition of the Villages of Avignon Community Development District in Palmetto (expenses of $217,407 were 4 times the size of revenues, $52,733, in 2011), noting that this district, with about $2.4 million in debt, defaulted on its debt payment, joining more than 160 special districts to default on their development bonds since the housing decline of 2008. On the positive side, Judy Weber, who is chairwoman of the Children's Services Council of Martin County states that "this independent special district that supports local children's services results in property taxes that are about $42 a year for a home assessed at the median value of $164,000 and qualifying for homestead exemption" arguing that this amount is a low cost considering the importance of providing services to children. Weber's article appeared in the Stuart News on August 18, 2012. Clete J. Saunier, president of the Florida Association of Special Districts, wrote a column in the Stuart News on February 22, 2012 opining that he welcomes "fact based" discussions on the roles of Florida's special districts. Sue Carlton, a Tampa Bay Times columnist discussed on March 28, 2012 the lack of constituent knowledge regarding the Children's Board of Hillsborough County, an independent Florida special district. Carlton notes that "less than 30 percent of Hillsborough residents surveyed last year had even heard of the Children's Board" indicating the lack of visibility of the district to Florida residents.

The state of Florida began to look into the phenomenon of special districts in the 1970s beginning with recommendations from the Local Government Study Commission (LGSC) and the Environmental Land Management Study Commission (ELMS). The LGSC was concerned with the proliferation, duplication and fragmentation of local government systems, facilities and services by special districts. ELMS tied independent special districts to new regional-impact-based planning and permitting of community development. Prior to this recommendation, independent districts that were used for providing infrastructure to lands proposed for development were created by court order under Ch. 298 and then taken to the Legislature to be transformed by special act into improvement districts. The 1975 New Communities Task Force

called for legislation to preserve the nature of independent districts' tied to development approved for infrastructure funding, but it was never implemented. Special districts remained uncoordinated, non-uniform and standard less.

Fundamental, unprecedented and transformational reforms regarding independent special districts arrived in the 1980s. These reforms included:

- Chapter 190, the Uniform Community Development District Act of 1980, required and defined the non-financing of a special purpose untied to development incentives. It rejected coinciding and linking of district formation to land use approval and rejected financing as a purpose, relegating it to a managed benefit;
- Chapter 187, the state's policy plan of 1985, allowed districts to be tied to general law standards without proliferation and adverse impact on counties, citizens and taxpayers; and
- Chapter 189 implemented this general law reform tied to minimum general law standards for both dependent and independent districts.

The variation in opinion and knowledge associated with special districts and their role in government service provides the basis for our exploration of special districts. Some districts are "dependent" because they are created by and dependent upon county or municipal ordinance. Some are "independent" because they are created by or pursuant to authority of state general law. The relationship of special district governments to their enabling or, in the alternative, actual creating or establishing laws, whether through state statutory action, special act, inter local agreement, state rule or local ordinance, is used to address the first question in this report: How are special districts in Florida conveyed? Use of the word "conveyed" in this context means how are these governmental organizations formed. The answer to this question is focused on the legislative (legal) definition of special districts and the process of creation, establishment, operation, and dissolution. This creates a document for citizens and legislators who would like specifics associated with the "creation" of special districts. The second question: What has been the fiscal performance of special districts in Florida? Is the focus of the second analysis in this report. In this second question, we explore the financial aspects of Florida's special districts, focusing on revenues, expenditures, debt, assets, and liabilities generated by special districts. Our measurement of fiscal performance provides citizens and legislators the opportunity to examine a randomly sampled set of special districts for comparison, providing a direct look at their fiscal behavior over the most recent four year period including the role of the type of district.

The balance of this report focuses on the specific questions we address. We begin in Section I by addressing the issue of creation, by or pursuant to authority of general law, for each designated independent special district and the creation of dependent districts by county or municipal ordinance pursuant to the minimum requirements of general law. Next we identify the legislative intent of special districts, followed by a discussion of special district revenue sources and growth. We summarize our findings from the statutory and growth analysis. In Section II, we focus on the fiscal performance of a random sample of special districts. We provide a descriptive analysis of their fiscal performance highlighting their cash on hand and their net assets over the time period 2007-2010. Next we use ratio analysis to observe special district liquidity, debt management, and budgetary variance measures discussing the effects of each ratio. We then analyze the ratio measure as an aggregate measure of fiscal health and performance. We conclude by offering a summary of our findings.

Section I: How Are Special Districts In Florida Conveyed?

IA: Statutory Creation

In our first analysis, we focus on the powers associated with dependent and independent special districts through their creation language either in and by general law (Florida Statutes) or pursuant to authority of general law, primarily by special acts. The creations of special districts are allowed and authorized under, pursuant to and by Chapters 187 (as to expressed state policy) and 189 (as to statutory implementation of the policy), Florida Statutes (F.S.). Under authorization, special districts have the ability to raise revenue through ad valorem taxes (ad valorem taxes are based on value placed on real property), non-ad valorem assessments (non-ad valorem assessments are based on the special benefit determined to flow from an improvement or service to real property apportioned peculiar to parcels or acres in a fair and reasonable manner- examples include solid waste, lighting, or paving assessments levied on a special benefit basis, rather than on value), user fees and charges, impact fees, and other taxes granted to special districts under Article VII, Sections 1 and 9, of the Florida Constitution. They are also authorized to incur expenditures and to issue debt.

Chapter 187

The broad intent of Chapter 187 Florida Statutes is to lay-out the goals and policies of the State's Comprehensive Plan. It does not "create regulatory authority or authorize the adoption of agency rules, criteria, or standards not otherwise authorized by law" (187.101 (2)). It does, however, express state policy on special districts. As a seed-change reform in 1985, the expressed policy of the State of Florida is to encourage dependent districts where fiscal capacity exists and to allow independent districts if created with uniform general law standards and procedures that do not over burden other governments and their taxpayers while preventing proliferation of independent districts which do not meet these standards. More specifically, independent special "taxing" districts, and dependent special districts are authorized or allowed under F.S.187.201 (20)(b) as goals and policies for encouraging governmental efficiency through the State's Comprehensive Plan. As to policy on independent districts, the key is uniform general law standards and procedures. As to policy on dependent districts the key is determination of fiscal capacity meeting the authorizations and requirements of general law. The language of this section views these creations as strategies for providing inter-local cooperation, uniformity of standards, methods for providing infrastructure in areas with the fiscal means to do so, and greater efficiency in the provision of governmental services.

Chapter 189

Chapter 189, Florida Statutes, a major reform of 1989, is the seminal law of Florida that is focused on implementing and addressing the state's policy on special districts through a single uniform general law dedicated to special districts, as distinguished from other similar laws dedicated to counties (Chapter 125) and, municipalities (Chapters 165 & 170).The general intent of Chapter 189 F.S. is to provide for the definition, creation, accountability and operation of both dependent and independent special districts. It is expected that having one centralized location for all legislation governing special districts provides a focus on the methods for providing municipal services in both unincorporated and, as applicable, incorporated areas of each county. Chapter 189 F.S. requires uniform procedures and minimal requirements for general or special

laws that create or authorize the creation or establishment of independent districts as an alternative method for managing and financing basic capital infrastructure, facilities, and services. It provides for the uniform operation, exercise of power, and procedure for termination of an independent special district by general law. Chapter 189 F.S. intends that the public trust be secured by requiring each independent special district in the state to register, report its financial and other activities, and cooperate and coordinate their activities with the general-purpose governments in which they are located.

Under the major-reform general law tenets of Chapter 189 F.S. special districts may be dependent or independent. The creation of dependent special districts is by ordinance at the prerogative of the counties and municipalities meeting the requirements of general law; while the creation of independent special districts may only be created by or pursuant to authority of general law.

Dependent Districts Chapter 189.012(2) F.S. (189.403(2))

Dependent special districts are defined by meeting at least one of the following:

1. The governing body is identical to that of the governing body of a single county or a single municipality.
2. Its entire governing body is appointed by the governing body of a single county or municipality.
3. At any point in their term of service any member of a district's governing body serves at the pleasure of the governing body of a single county or a single municipality and may be removed at their discretion.
4. The district budget requires approval by the vote of the governing body of a single county or a single municipality.

After September 30, 1989, a charter creating a dependent special district may only be adopted by enactment meeting the requirements of 189.02 (189.4041) of an ordinance of a county or municipal governing body having jurisdiction over the area affected. Counties are authorized to create dependent special districts within their boundaries, subject to the approval of the governing body of any incorporated area that may be affected. Municipalities are authorized to create dependent special districts within their municipal boundaries.

The ordinance of a county or municipality creating a dependent special district must include:

1. The purpose, powers, functions, and duties of the district.
2. The geographic boundary limitations of the district.
3. The authority of the district.
4. An explanation of why the district is the best alternative.
5. The membership, organization, compensation, and administrative duties of the governing board of the district.
6. The applicable financial disclosure, noticing, and reporting requirements.
7. The methods for financing the district.
8. A declaration that the creation of the district is consistent with the approved local government comprehensive plans.

Independent Districts Chapter 187.002(20)(b)(2), F.S.; Chapter 189.012(3) (189.403(3))

A special district not meeting any of the above conditions is considered to be independent of the control of the governing body of any municipality or county.

Under powers granted through general law, a municipality may "establish" (the word used in F.S. 190.005) the State created charter of an independent special district (a community development district) by ordinance considering the factors (the statutory term) provided in F.S. 190.005, or as otherwise authorized by general law. In addition to precedent-setting implementation and expansion of state policy and law tying all districts to general law, a county may establish an independent special district through the adoption of a charter meeting the parameters established by F.S. 125.901 or F.S. 154.331 or chapter 155, or establish (the word used in F.S. 190.005) the State created charter (of the community development district) to operate on proposed property by the enactment of an ordinance considering factors provided in F.S. 190.005.

The Governor and Cabinet may, by rule, establish (the word used in F.S. 190.005) the State created charter of an independent special district (community development district) by considering the factors provided in F.S. 190.005 or, if created by the establishment of a charter, an independent special district must meet the conditions established in F.S. 373.713, or as otherwise authorized by general law.

Additionally, F.S. 189.433 creates a specific independent district within each eligible county to be known as a "Community Improvement Authority" (or, Community Improvement Trust). An "eligible county" is any county which simultaneously has at least two professional sports facilities, and a population of not less than 1.5 million according to the most recent *County Population Estimates of the U.S. Bureau of the Census*. Once an authority in an eligible county meets these requirements, notwithstanding subsequent reductions in population, the county is considered an eligible county.

Each Community Improvement Authority is "a body politic and corporate, a public instrumentality, and an independent special district" within the meaning of F.S. 189 but which exercises jurisdiction which encompasses both the applicable eligible county and each contiguous county, except as expressly provided. Any eligible county in which an independent port district was abolished through a referendum of the electors of that county within the immediately preceding 10 years of the effective date of the act, is not eligible for the establishment of an authority and no authority may exercise any of the powers of an authority without an approving ordinance adopted by such county's governing body.

In addition, under the terms of general law, any two or more counties may create a regional special district by meeting the conditions established in F.S. 950.001. Any combination of two or more counties or municipalities may also, under general law, create a regional special district by meeting the conditions established in F.S. 373.713. And lastly, under general law, any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district by meeting the conditions established in F.S. 163.567.

Chapter 189 Summary

- As related to the examination in this special districts report (including but not limited to district creation, operation and funding), Chapter 189, Florida Statutes, is the seminal law. It is a general law that uses findings: to implement, express, expand and require adherence to the state's general-law-based special district policy; and,
- Spell out expressed definitions, clarifications, duties and compliance requirements (including disclosure, oversight and accountability) for special districts.

Chapter 189 – As Applied to All Special Districts

The essential provisions of Chapter 189, Florida Statutes, addressing all special districts are noted and summarized as follows:

- Statement of findings, purpose and intent in 189.011(1) and 189.06 (189.402(1) and (2)) that one central and uniform general law is needed for all existing and future districts with general law including specific applicability:
    - to dependent districts created by county and municipal prerogative (subject to this general law's requirements); and,
    - to independent districts by or under and pursuant to expressed required legislative authorization also meeting and subject to this general law's requirements.
- Categorical finding in 189.011(2) (189.402(6)) that special districts serve a necessary and useful function providing services both to residents and to property.
- Fundamental and controlling statements in 189.011(3) and 189.03(4) (189.402(7) and (8)) that special districts serve special purposes requiring inter-governmental coordination transcending government boundaries, including multi-county districts.
- Definition of all special districts in 189.012(6) (189.403(1)) expressing the important provision that each is a special purpose local government (distinguished from county and municipal general purpose government) with the special purpose implemented by specialized functions and powers.
- Taxing and other types of financing are categorized through this law as a power to implement the special purpose, not the purpose itself, as provided in particular in 189.031(3)(a) and (b) (189.404(3)(a) and (b)) and 189.02(4)(a) and (g) (189.4041(4)(a) and (g)).
- Definitions are express in that the following are NOT special purpose local district governments of any type: school districts; a community college district; a special improvement district under 285.17; a municipal service taxing or benefit unit provided for in 125.01(1)(q) because they are units of land area used only by counties to impose and to levy taxes or assessments to pay for provisions by each such county of certain municipal services usually outside of municipal boundaries.

- Provisions on the preeminence of this seminal law in 189.013 (189.4031(1)) and on the useful complete list of all districts by category in 189.061 (189.4035).
- Provisions for assessments collections, bond referenda, bond issuance in sections 189.05, 189.042 and 189.051 (189.4065, 189.408 and 189.4085).
- Provision for the state Special District Information Program in 189.064 (189.412) including non-compliance disclosure reports, its handbook and the duty to help agency coordination.
- Important provisions for oversight:
    - oversight of use of state funds under 189.065 (189.413); and,
    - oversight review process in 189.068 (1) and (2) (189.428(1) and (2)).
- Requirements in 189.08 (189.415) for annual public facilities reports (see the explanation in the section of this report as to independent districts to which this report primarily applies).
- Required report on specialized construction in 189.081(1) (189.4155(1)).
- Requirement for a designated registered office and agent in 189.014 (189.416) for all districts.
- Provisions for meeting notices, reports, budgets and audits for all districts in 189.015 and 189.016 (189.417 and 189.418) [There is an incomplete provision in this section because the use of the word "created" in 189.016 (189.418) should be accompanied with "or established" for those uniform charters created by general law.].
- Provisions on the effect of failure to file required reports in 189.066 and 189.067 (189.419 and 189.421).
- Provisions on purchasing and related specialized provisions in 189.053 and 189.054 (189.4221 and 189.423).

Chapter 189 – As Applied to Dependent Districts

The essential dependent district provisions are noted and summarized as follows:

- Definition in 189.012(2) (189.403(2)) of dependent districts under the budgetary and/or political governing control of the county or municipality creating a dependent district by ordinance.
- Uniform provisions in 189.02 (189.4041) on requirements counties and cities must meet in any ordinance creating any dependent district.
- Uniform provisions for merger or dissolution of dependent districts in 189.071 (189.4042(2)).
- Uniform provisions in 189.021 (189.4047) for refund of certain dependent district special assessments.
- Assigning, as provided in 189.04(1) (189.405(1)), certain dependent district elections to the Supervisor of Elections in the applicable county.

- General assessment collection provisions and bond referenda in parts of 189.05 and 189.042 (189.4065 and 189.408).
- Provisions on failure to file required reports in 189.066(2) (189.419(2)).
- Provisions for the state oversight review process in 189.068(2)(a) (189.428(3)(a)).

Chapter 189 – As Applied to Independent Districts

The essential independent district provisions are noted and summarized as follows:

- Provisions in sections 189.03(1) (189.402(3)) of legislative findings of the need for uniform, focused and fair procedures for independent districts as an alternative to provide service including findings that:
    - If the determination is proper and fair, then an independent district can constitute a timely, efficient, effective, responsive and economic way to deliver the services subject to planning laws;
    - Not to over-burden other governments and their taxpayers;
    - Independent districts should not outlive their usefulness; and,
    - Operation should be consistent with such requirements as disclosure, due process, ethics and "sunshine" laws.
- Provisions in 189.03 (189.402(4)) expressing by general law the state's policy that:
    - Independent districts are a legitimate alternative;
    - All applicable planning and regulatory laws apply.
- Legislative intent and purpose in 189.03(3) (189.402(5)) to provide by general law uniformity in creation, operation and termination.
- Definition of an independent district in 189.012(3) (189.403(3)) so that it is independent of the county or city where located.
- Intent and required detailed minimum requirements for each and every independent district in 189.031(1)-(5) (189.404(1) - (5)).
- Detailed uniform provisions in 189.07 (189.4042) governing independent district merger and dissolution.
- Provisions in 189.062 (189.4044) on procedures to deal with inactive districts and in 189.076 (189.4045) on financial allocations in the event of merger or dissolution.
- Uniform provisions (except for Chapters 190 and 373 independent districts) in 189.04 (189.405(2)) on elections, education programs for new board members of independent districts and related provisions.
- Detailed and comprehensive provisions in 189.041 (189.4051) for elections and special provisions for governing boards of independent districts with governing

boards elected by property owners. This provision does not apply to those independent districts created and chartered by Chapter 190 because the general law charter has its own election systems addressing transfer from landowner to qualified elector elections.

- Provisions dealing in part with assessment collections for Chapter 190 districts in 189.05 (189.4065) and with bond referenda in 189.042 (189.408) exempting Chapter 190 districts which have their own bond requirements in their state general law charter.
- Provisions in 189.081(1)(a) and (2)-(6) (189.4155(1)(a) and (2) – (6)), dealing with the relationship of independent districts construction to the comprehensive plans of the county or municipality, exempting Chapter 373 districts.
- Provisions in 189.068(2)(b)-(d), (3) and (4)(a)-(i) (189.428(3)(b)-(d), (4) and (5)(a)-(i) and related sections on an oversight review process.

Findings

The focus of this report is how well this major set of transformational reforms is working. After three decades of use, we find internal inconsistencies within Chapter 189 and find that further clarification, while conforming to the policy that special districts may exist and operate only by or pursuant to authority of general law, is needed. It is therefore timely and helpful to note, to summarize and to understand the basic tenants of Chapter 189 F.S. that we find internally inconsistent. We summarize the inconsistencies below and in Table 1. We recommend that these inconsistencies be recognized and addressed.

- In Chapter 189.031(4) (189.404(4)), there is an inconsistence use of the term "create" (providing that counties, municipalities and the Governor and Cabinet "create" an independent community development district). The use of "create" is inconsistent with the reform provisions in Chapters 189 and 190. There are practitioners who use this "creation" inconsistently to include "establishment" but Chapter 190, Florida Statutes, uses the word "establishment" to mean the process by which the charter created expressly by 190.006-190.041 may operate on property proposed in the petition. Only the Legislature created and chartered the uniform charter of independent community development districts as confirmed expressly in 189.0311 (189.4031(2)). No county or municipality by ordinance and no state entity composed of the Governor and Cabinet by rule may "create" an independent community development district. Rather, they may only make an informed legislative (ordinance) or quasi-legislative (rule) policy decision whether to establish the uniform state charter as created by the Legislature on proposed real property. Establishment is not creation (See Chapters 189.0311 (189.4031(2)); 190.005(1)(e); 190.005 (1)(f); and 189.005(2).

- In Chapter 189.075(2) (189.4042(6)(b)) there is the internally inconsistent use of "create" (instead of established) by ordinance on proposed real property.

- In 189.068(2)(b)-(d), (3) and (4)(a)-(i) (189.428(3)(b)-(d), (4) and (5)(a)-(i)) and related sections the oversight review process applies to independent districts but the

wording is antiquated because only the Legislature created the powers and charter of a Chapter 190 district (established on the property by ordinance or rule). This indicates that only the Legislature can be the reviewer. This oversight provision is applicable and important but should be clarified and improved.

- Chapter 189 inconsistently uses the word "taxing" when taxing is just one of the financing powers to fund the management of the special purpose.

- In Chapter 189.433, which is focused on Community Improvement Authorities, specification on how an eligible county can establish this type of independent special district is not provided. This lack of provision may undermine the legislative intent to assist counties in the use of these special districts.

- Chapter 125.901(2)(b)5.b., the use of children service districts, requires the district to submit "[a] detailed anticipated budget…" to the governing body of the county which is not subject to change or modification by the governing board of the county or any other authority.

- Hospital districts are established under Chapter 155. Chapter 155.06 authorizes the Governor to appoint a board of trustees for any public hospital created under 155.05. This appointment makes the created district "independent," which makes the creation by the county contrary to the legislative intent concerning independent districts found in 189.011(1) (189.402(1)).

- Chapter 373.713(2)(a)-(i) lists the powers and duties in addition to those agreed upon in the inter-local agreement for regional water supply authorities. As such, this cannot be seen as the Legislature (via general law or special act) "creating" the authority. Because the Legislature did not create the authority, such local creation runs counter to Chapter 189.402 (189.402 is now split into multiple sections: 189.011, 189.06 and 189.402).

- Chapter 418.21 concerns recreation districts. This Chapter states that the governing body of the recreation district shall either be (1) a five-member or larger board of supervisors elected from among the residents of the district or (2) the governing body of the municipality or county that created the district. If the second option is taken, the district will qualify as a dependent district under 189.012(2)(a) (189.403(2)(a)) and the creation of such a district by a county ordinance will not be adverse to any policy set forth by the legislature regarding the creation of districts. However, if the governing board of the district is elected (under the first option), the district will not fit any of the criteria for being designated 'dependent" under Chapter 189.012(2) (189.403(2)). Thus, creation of such a district via county ordinance would be adverse to the stated policy of the Florida Legislature. Chapter 418.22 outlines the powers a recreation district may possess, but does not limit those powers. Instead, Chapter 418.22 states that the district has the [powers listed in 418.22(1)-(9)] and any other powers the establishing county or municipality may deem necessary or useful. As

such, the “creation” of such districts is handled by the counties or municipalities, not by general law. This outcome is inconsistent with Chapter 189.

There have been recent additional efforts to provide oversight and accountability to independent special districts established under F.S. 189. During the 2010 Legislative Session SB 1216 was filed. That bill proposed changes to the language of F.S. 125 that would’ve subjected independent districts created for the provision of children’s services and funded through the imposition of an ad valorem tax levy to undergo periodic review.

A 2010 law (Ch. 2010-210) made specific revisions to F.S. 125.901 such that, following the approval of such a district by the electors of a county, its continued existence would have to be addressed again through at least one more referendum. Changes to F.S. 125.901 (4)(b) require that the county’s governing body submit the question of retention or dissolution to the electorate in a general election, according to a schedule based on the county’s population, between 2014 and 2020. Additional reauthorization referenda would occur every 12 years unless the district, in the first required referendum, specified that the district is not subject to further reauthorization or specified a different number of years (i.e., some number other than 12) for which the initial authorization remains effective. If any district is not reauthorized, it is dissolved and the county within which the dissolved district was located is obligated to “assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available” under s. 9, Art. VII of the State Constitution. Five Children’s Services Councils (in Martin, St. Lucie, Okeechobee, Palm Beach and Broward Counties) are on the ballot in their respective counties for reauthorization in November 2014.

Table 1: Comparison of F.S. Chapter 187 (Policy) and 189 (Implementation) With General Law of Supplemental Statutes				
Statute Number	**Statute Title**	**Intent**	**Creation**	**Consistency Considerations**
F.S. 187.101; 187.201 (20(a);and 187.201 (20)(b)2 and 5	State Comprehensive Plan: State policy on special districts	Prevent proliferation of independent special districts not meeting general law standards and procedures; encourage dependent special districts where fiscal capacity exists to support them.	N/A	N/A
F.S. 189.011-013, 189.03, 189.0311 and 189.06 (189.402-4031); 189.031 (189.404); 189.02 (189.4041); 189.014-021, 189.04-189.082 (189.4042-.429); 189.061 (189.4035); and 189.033 (189.40401)	Special Districts General Provisions Implementing and Consistent with the State Policy	To implement the state's special district policy by general law that dependent districts are created by counties and municipalities meeting minimal general law requirements and independent districts shall only be created by legislative authorization in this chapter. That is, by or pursuant to the authority of general law.	By general law or pursuant to authorization of general law for all special districts with dependent and independent differentiation.	All special districts (dependent and independent) shall comply, regardless of other laws, with the creation, operation, dissolution, and reporting requirements of this chapter unless expressly exempted by this chapter. 189.433(1)(repealed in 2014) defines special districts, dependent districts, and independent districts; provides expressed minimum requirements for all special districts. Emphasizes that each district shall have its expressed special purpose(s). Inconsistently uses the word "taxing" when taxing is just one of the financing powers to fund the management of the special purpose. Inconsistently provides that counties and municipalities by ordinance, and the Governor and Cabinet by rule may "create" an independent special district (when some of the supplemental implementing general laws do not authorize such creation, primarily 190).
Supplemental Statutes				
F.S. 189.433 (Repealed in 2014)	Community Improvement Authority Act	Creates the charter by general law of a community improvement authority to be established in each eligible	189.433(1) states that "[a] community improvement authority is established…." Further, no Authority is	This act does not specify how the community improvement Authority is established in each county. The governing board is composed of nine members; after it is established;

		county.	"established" in counties that abolished an independent port district within 10 years immediately preceding the effective date of this act without an approving county ordinance. Here, "established" is permissible because the authority was already "created" by the act and the ordinance is simply implementing the act.	appointments are made by the Governor and local officials as provided in the charter. This law does not state what the county must do to initiate this process. This law is in the nature of a general law of local application in one or more of the eligible counties.
F.S. 125	Children's Services	Creates the charter of a children's services independent district for the special purpose of managing children's services and their financing as created by county ordinance; authorizes a dependent special district also created by county ordinance for additional children's services.	County ordinance to create both an independent and a dependent district	F.S. 125.901(2)(a) sets forth the powers and functions that each council on children's services (independent district) shall have to accomplish its special purposes. As such, the counties are not "creating" the district, as 125.901(1) indicates, but are merely "establishing" the district within the specific county. The use of "create" is again inconsistent. If these districts are "independent" and are "created" by county ordinance, it is in direct contradiction to legislative purpose set forth in F.S. 189.011(1) (189.402(1)) stating that "dependent special districts shall be created at the prerogative of the counties and municipalities and that independent special districts shall only be created by legislative authorization as provided herein" (indicating counties and municipalities may not create independent special districts).
F.S. 154	Public Health Facilities: County health and mental health care special districts	Authorizing and chartering special districts to manage the special purpose of county health and mental health care.	Authorizes the creation of dependent special districts by ordinance or an independent district, also by ordinance, to manage the special purpose of county health and mental care services, with authority to	Chapter 154.331(1) is not clear as to the appointment of the governing board for the independent district. It is a hybrid. The provision first states that "the county governing body shall appoint a district health or mental health care board to serve as the governing board of the independent special district." However, the very next sentence requires the Governor to appoint

			levy annually ad valorem taxes through a majority vote of electors in a referendum (154.331); the partial charter for these districts is created by general law in 154.331(2)-(5).	two members. If the county governing body is appointing the whole board for the district, this fact would make the district a "dependent special district" under the definition provided in F.S. 189.012(2)(b) (189.403(2)(b)). But, if the governor does have power to appoint members directly to the board, the district would still qualify as "independent." Also, 154.331(2)(a) outlines the powers and functions of the board, which means the county is not "creating" the district, but is instead "establishing" the district. As such, all language indicating the county is "creating" this district might be changed to read "establishing" to maintain statutory consistency.
F.S. 155	Hospitals	To authorize districts established to manage the special purpose of establishment and maintenance of public hospitals (155.05) districts.	Created and chartered by general law; established by county ordinance.	F.S. 155.06 authorizes the Governor to appoint a board of trustees for any public hospital created under 155.05. This appointment makes the created district "independent," which makes the creation by the county contrary to the legislative intent concerning independent districts found in 189.011(1) (189.402(1)).
F.S. 190	Community Development Districts	To create, by general law, a uniform charter of an independent district for the special purpose of the provision of basic infrastructure systems, facilities and services to real property within its boundaries by managing acquisition, construction, maintenance and financing.	Legislature by general law created the uniform charter (190.004(4), 189.4031(2), 190.005(1)(f), and 190.005(2)(d)). Authorizes establishment, on proposed property of under 1,000 acres, of the state chartered district by municipal or county ordinance or of 1,000 or more acres by rule of the Governor and cabinet. [Note that 190 is determinative general law passed in 1980 leading to the seminal Chapter 189 general law that actually lists key findings and	Chapter 190.005(1)(f) specifically states that "the Florida Land and Water Adjudicatory Commission shall not adopt any rule which would expand, modify, or delete any provision of the uniform community development district charter set forth in ss. 190.006-190.041;" the same limitation applies to both counties and municipalities under 190.005(2). This limitation, and the heading of 190.005 (*Establishment* of district (emphasis added), indicates that the actual creation of the community development district and its charter is by general law, not by regulatory quasi-legislative rule or county ordinances. The rule and the ordinances are limited to three "fill in the blanks" provisions: name of district; name of supervisors; mete and bounds legal description of the proposed property on which to

			determinations of 190 regarding independent districts.]	establish the state-created district.
F.S. 373.713	Regional Water Supply Authorities	To authorize the creation of regional water supply authorities by inter-local agreement between counties, municipalities, or special districts pursuant to s. 163.01 (Florida Inter-local Cooperation Act) for the special purpose of developing, recovering, storing, and supplying water for county and municipal purposes. The Authority may impose and levy ad valorem taxes pursuant to approval by the electorate to pay for the management of the special purpose.	Inter-local agreement (contract).	Chapter 373.713(2)(a)-(i) lists the powers and duties in addition to those agreed upon. As such, this cannot be seen as the legislature (via general law or special act) "creating" the authority. Because the legislature did not create the authority, such local creation runs counter to Chapter 189.011, 189.06, and 189.402 (189.402).
F.S. 373.069	Creation of Water Management Districts	Divides the State of Florida into five water management districts to regulate water consumption and related health, safety, and welfare requirements. Each appointed board may impose and levy ad valorem taxes collected by the tax collector in each applicable county to pay for its management of the special water consumption purpose.	General law	Each of these districts is regional (multi-county as defined by general law) and is not a local special entity but rather is a regional regulatory arm of the Department of Environmental Protection and therefore is not a local government and not a local special district.

F.S. 163.565-163.572	Regional Transportation Authorities	To arrange for regional transportation authorities for the special purpose of managing the provision of transportation facilities, systems, and services, with the power to charge rates, fares, and other charges; to borrow money; and to levy an ad valorem tax for the special region.	Authorizes contiguous counties, municipalities, other political subdivisions, or combinations thereof to develop a charter under which a regional transportation authority may be constituted, composed, and operated (163.567).	Chapter 163.568 lists the various powers the authority has, but does not limit those powers. By not limiting the powers granted, the legislature has delegated enough authority to the participating member (counties, municipalities, etc.) effectively to put the power to create these authorities in the hands of the applicable contiguous general-purpose local governments, a matter to be clarified. These authorities are not local special purpose governments.
F.S. 418	Recreation Districts	Authorizes the creation of a special district to manage the special purpose of recreation with the authority to issue bonds and to levy and collect ad valorem taxes through referendum vote by the electors of the district to fund the special purpose of recreation (418.22).	Ordinance approved by a vote of the electors in the district pursuant to s. 165.041.	Chapter 418.21 states that the governing body of the recreation district shall either be a five-member or larger board of supervisors elected from among the residents of the district or the governing body of the municipality or county that created the district. If the second option is taken, the district will qualify as a dependent district under 189.012(2)(a) (189.403(2)(a)) and the creation of such a district by a county ordinance will not be adverse to any policy set forth by the legislature regarding the creation of districts. However, if the governing board of the district is elected (under the first option), the district will not fit the criteria for being designated 'dependent" under 189.012(2) (189.403(2)). Creation of such via county ordinance would be adverse to the stated policy of the Florida Legislature. Chapter 418.22 outlines the powers a recreation district may possess, but does not limit those powers. Instead, Chapter 418.22(1) – (9) states the powers and any other powers the establishing county or municipality may deem necessary or useful. As such, the "creation" of such districts is handled by the counties or municipalities, not by general law, a matter to be clarified.

F.S. 582	Soil and Water Conservation	To authorize creation of special districts to manage the special purpose of soil and water conservation. Upon the Department of Agriculture's determination of need, a referendum of landowners will be held on the question of creation (582.12) of a district with the power of ad valorem taxation of up to 3 mills (582.44).	Petition Dept. of Agriculture; rulemaking establishes the district. Powers are created and granted by general law (582.20).	Chapter 582.10(1)(b) requires that any petition submitted to the Department of Agriculture show need for the district in the territory described. This showing of need eliminates the legislature's concern over needless proliferation of independent districts. Also, because 582.20 delineates the powers vested in any district created under 582, the legislature has effectively "created" the district and delegated the "establishment" of the district to the Dept. of Agriculture pending a petition and determination of need. Furthermore, 582.01 defines "district" for the purposes of Ch. 582 as a "governmental subdivision…organized in accordance with the provisions of this chapter, for the purpose, *with the powers*, and subject to the provisions set forth in this chapter." (emphasis added).
F.S. 298	Water control districts	To authorize special districts limited to the special purpose of providing water control for agricultural lands.	The substantial portion of the charter is created by general law in chapter 298 but must be established on proposed lands either by special act of the Florida Legislature pursuant to chapters 298 and s. 189.404 or by county ordinance pursuant to s. 125.01.	These entities are independent districts.

Chapter 190

Chapter 190, Florida Statutes, is the forerunner in 1980 to the reform by Chapter 187 in 1985 and Chapter 189 in 1989, as set forth in the "Chapter 190 Summary." Its purpose is to provide an alternative way to manage the provision of infrastructure to raw undeveloped land. The function of Chapter 190 F.S. is to create the charter and to provide uniform methods for the establishment of Community Development Districts (CDD) on proposed property (F.S. 190.005(1); F.S. 190.005 (2); and F.S. 190.005(2)(d)), a type of independent special district in the state of Florida with an elected board that is empowered to plan and provide public improvements and community facilities and services (F.S. 190.012) and to assess ad valorem taxes, non-ad valorem assessments, and enforce their payment (F.S. 190.021). The uniform state created charter of a CDD is section 190.006-190.041, Florida Statutes, as provided expressly in 189 and 190 (189.4031(2); 190.004(4); 190.005(1)(f); 190.005(2)(d)).

The establishment of a state created charter to function on proposed land of 1,000 acres, or more, in size is through a quasi-legislative rule adopted under chapter 120 by the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission (FLWAC) upon petition for the establishment of a community development district. State created and chartered CDDs established on lands of less than 1,000 acres in size are established legislatively through the use of an ordinance by the county commission or municipal corporation having jurisdiction over the majority of land in the area in which the CDD is to be located (F.S. 190.005). Any existing independent special district, created pursuant to other law to provide one or more of the public improvements and community facilities authorized by F.S. 190, may petition for reestablishment of the existing district as a community development district.

No county commission may establish a CDD on land that lies within any municipality without approval of that municipality (F.S. 190.005(2)(e)). Any petition for any "proposed" (it is the land that is proposed because the CDD charter is created by law) CDD with portions of its area lying in two or more municipalities must be filed with the FLWAC. As well, within 90 days of a petition for the establishment of a CDD having been filed with the governing body of the county or municipal corporation, that governing body may transfer the petition to the FLWAC, which shall make the determination to grant or deny the establishment petition. However, once transferred to the FLWAC, the county or municipal corporation shall have no right or power to grant or deny that petition.

A petition to the FLWAC for a CDD of 1,000 or more acres must contain the following:

1. A metes and bounds description of the external boundaries of the land within the district with any real property to be excluded from the district specifically described, and the address of all owners of the real property listed.
2. Written consent to establishment of the CDD by all landowners whose real property is to be included in the district or documentation demonstrating that the petitioner has control of 100 percent of the property to be included and if property to be included in the district is owned by a governmental entity and subject to a ground lease as described in s. 190.003(14), the written consent that governmental entity.
3. A designated five person initial board of supervisors, who shall serve until replaced by members elected by landowners and later if applicable by qualified electors as provided in 190.006.

4. The proposed name of the district.
5. A map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence.
6. The proposed timetable for construction of the district services and the estimated cost of constructing the proposed services.
7. A description of the future land use plan element of the effective local government comprehensive plan of which all mandatory elements have been adopted by the applicable general purpose local government in compliance with the Community Planning Act.
8. A statement of estimated regulatory costs.

Prior to filing the petition for a CDD of 1,000 or more acres, a petitioner is required to:

1. Pay a filing fee of $15,000 to the county or municipality, and to each municipality with boundaries that are contiguous to the proposed CDD or with all, or a portion of, its land within the CDDs proposed external boundaries.
2. Provide a copy of the petition to the county or municipality, and to each municipality with boundaries contiguous to the proposed CDD or with all, or a portion of, its land within the CDDs proposed external boundaries.
3. Pay a $15,000 filing fee to each entity if land to be included in a CDD is located partially within the unincorporated area of one or more counties and partially within a municipality, or within two or more municipalities.

Each county and municipality required to receive a copy of the petition to establish a CDD on property described in the petition may conduct a public hearing to consider information related to the factors specified in F.S. 190.005(e) and in the petition. If held, the public hearings by the counties and municipalities must be concluded within 45 days after the filing date of the petition unless an extension is requested by the petitioner and granted by the county or municipality. The county or municipality holding a public hearing may express support or objection to the FLWAC petition through the adoption of a resolution. Any objection must be based upon the factors specified in F.S. 190.005 (e). A county or municipality presenting its resolution of support or objection shall be afforded an opportunity to present relevant information in support of its resolution at the FLWAC hearing.

A local public hearing on the petition in conformance with the Administrative Procedure Act shall be conducted by an administrative law judge in the county or municipality in which the CDD is to be located and shall include oral and written comments based upon the factors specified in F.S. 190.005 (e). Notice of the hearing must be published in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing. In addition to the information relevant to the hearing, the published notice must include a description of the CDD's proposed area, including a map and other relevant information which the establishing governing bodies may require.

F.S. 190.005(1)(e) requires the FLWAC, in exercising its quasi-legislative rulemaking power, to take into consideration information addressing the specific factors when rendering its decision to grant or deny a petition to establish a CDD. Included are the entire records of the local hearing, the transcript of the hearing, and all resolutions adopted by local general-purpose governments in support or opposition to establishing the CDD. The six factors to be considered are:

1. Whether all statements contained in the petition true and correct.

2. Whether the establishment of the district is inconsistent with any element or portion of the comprehensive plans of the state or of the effective local government.
3. Whether the area of the proposed CDD is of sufficient size, sufficiently compact, and sufficiently contiguous to be one functional interrelated community.
4. Whether establishment of a CDD is the best available alternative for delivering community development services and facilities to the area.
5. Whether the community development services and facilities of the proposed CDD will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area to be served by the CDD is amenable to separate special-district government.

The general law requirement to "consider" the six "factors" is important. These factors to be considered are not quasi-judicial, adjudicatory or regulatory requirements. They are not regulatory standards. They are not to be proven but considered as a quasi-legislative function only. The resulting rule is not an order, permit or license. These same factors are to be considered legislatively by the applicable county or municipality in determining whether to establish the state created charter to operate on proposed property. Some practitioners in government and in the private sectors treat these "factors" as regulatory standards to be proven. This is inconsistent with statute.

Chapter 190 Summary

F.S. 190 provides the special purpose of infrastructure provision by the District alternative to a developer, county or a municipality. It provides a uniform method establishing CDDs, a type of independent special district. A CDD's elected board is empowered to plan and to provide public improvements and community facilities and services, and to enforce payment of the ad valorem taxes and non-ad valorem assessments which it may impose and levy. The establishment of CDDs of less than 1,000 acres in size is through the enactment of an ordinance by the county or municipality with jurisdiction over the majority of land in the area where the CDD is located. Establishment of CDDs of 1,000 acres, or more, in size is through a rule adopted by the FLWAC. The governing board of a CDD consists of five members who must be residents of the state and citizens of the United States. Within 90 days following a CDDs establishment, its landowners must meet and elect its initial governing board. Future elections are to be publicly noticed and are held every 2 years in November on a date established by the board. Voting is in the one-acre/one vote election format, including one vote for each fraction of an acre. A lot that is a fraction of an acre is considered the same as a lot of 1 acre in size, entitling its owner to one vote.

The major reform provided by Chapter 190 (that in turn led to the uniform reforms in the 1980s in Chapter 187 and Chapter 189) are:

- general law creation and chartering
- quasi-legislative (rule) or legislative (ordinance) establishment
- special single purpose (with expressed implementing powers) is not financing
- management focused and pinpointed by the CDD governing board on acquisition, construction, maintenance, and financing of infrastructure to raw undeveloped land

- establishment untied to development approval
- all development approvals, rights and conditions preempted exclusively to the state and the county or city
- not perpetual coupled with termination provisions
- disclosure and accountability
- conflicts, ethics, sunshine and public records laws apply

Chapter 191

F.S. 191 empowers the establishment of "independent special fire control districts" that are described as independent special districts (F.S. 189.403) for the provision of fire suppression and related activities, including emergency medical and rescue response services (F.S. 191.008). They are to be created by the Legislature under the terms of F.S. 189.404 and may have their district boundaries extended, enlarged, modified, or merged with other districts by the Legislature (F.S. 191.014). It specifically is not intended that F.S. 191 address such services provided by a municipality, a county, a dependent special district, districts that provide primarily emergency medical services, CDDs, or any other multiple-power district performing fire suppression and related services additional to other services. The intention of the Legislature in the creation of F.S. 191 was that it was to supersede all special act or general law local charters of independent special fire control district except for the features of such laws and charters which address district boundaries and geographical sub-districts for the election of members of the governing board. Neither did the act repeal any authorization providing for the levy and assessment of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees, or other fees or charges by a district.

The powers conferred by F.S. 191 constitute the creation of a political subdivision performing essential public functions and provides each district the powers of such an organization. This includes the ability to adopt and enforce resolutions and ordinances, levy taxes, charge user fees and impact fees, lien property for non-payment, exercise eminent domain, and to assess and impose upon real property ad valorem taxes not exceeding 3.75 Mils (exclusive of debt service on bonds) unless authorized (F.S. 191.009 (1)) and non-ad valorem assessments (the growth of which are limited by F.S. 191.009(2), and to issue debt instruments, as well (F.S. 191.012). An independent special fire control district, being a political subdivision performing essential public functions, is declared (F.S. 190.007) exempt from taxation.

In summary, F.S. 191 provides an instrument for the creation of "independent special fire control districts;" special districts for the provision of fire suppression, emergency medical and rescue response services, and related activities. These independent districts are created by act of the Legislature. In creating a fire control district, the Legislature creates a political subdivision with all of its relevant powers. Generally, the governing board of a fire control district is composed of five members who serve at-large. Election of board members is through nonpartisan elections by the electors of the district and members of the board must be qualified electors at the time they qualifies and throughout their term. The size of fire control district boards that are jointly appointed by the Governor, the county commission, and any cooperating city within the county as well as boards previously created by special act may vary in size. In that board members must be qualified electors of the district, they must own property in the district and have reached their majority.

IB. Legislative Intent

Board Structure and Membership

Chapter 189

The governing board of a dependent district is either identical to that of the governing body of a single county or a single municipality, or has its entire governing body appointed by the governing body of a single county or municipality. At any point in their term of service any appointed member of a district's governing body serves at the pleasure of the governing body of a single county or a single municipality and may be removed at their discretion.

Generally, the membership of the board of an independent special district is to be stipulated in the district's enabling law or the creation law (ex.190) including special act that meets the requirements of general law (F.S. 189.031(3) (189.404(3)). However, special districts created after September 30, 1989 using a one-acre/one vote election system are required to have a five member board; the presence of three members at an official meeting constitutes a quorum.

A board of supervisors is the governing body for community improvement authorities created under F.S. 189.433. Those boards are composed of nine members. After the authority is established, the Governor appoints two members; the county commission of the eligible county appoints three members; the "mayor" of the eligible county appoints one member; the city commission with the largest population appoints two members; and the mayor of that city appoints one member. The members must be residents of the eligible county in which the authority is located. The members of the board shall serve without compensation but are entitled to reimbursement for travel and per diem expenses in accordance with F.S. 112.061. Five members of the board shall constitute a quorum, and the affirmative vote of a majority of the members present and voting is necessary to take any official action. The board shall annually elect a chair for a term of 1 year or until a successor is elected or the chair is removed, with or without cause, by the board. The chair presides at all meetings of the board. If the chair is absent or disqualified at any meeting, any member of the board may be designated chair pro tempore for that meeting.

Chapter 190

Under F.S. 190.006, the board of a CDD consists of five members who each hold office for a term of 2 years or 4 years, until a successor is chosen and qualifies. The members of the board must be residents of the state and citizens of the United States, until, during transition, they must be qualified electors. Within 90 days following the effective date of the establishment of the CDD, landowners of the district must meet for the purpose of electing five supervisors. Notice of the meeting must be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area of the district. The last publication of the notice cannot be less than 14 days, or more than 28 days before, the date of the election. When assembled at the meeting the landowners must organize by electing a chair, who may be any person present at the meeting, who will conduct the meeting. If the chair is either a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions. (After statutory charter thresholds are attained, the board members must be qualified electors elected by qualified electors.)

Chapter 191

Excepting independent special fire control districts with governing boards appointed collectively by the Governor, the county commission, and any cooperating city within the county, the business affairs of each district shall be conducted and administered by a five-member board, with the exception of three-member boards permitted to continue by special act.

Each member of the board is designated as being a numbered seat on the board. However, the numerical designation does not reflect single-member district representation, unless such sub-district existed on the effective date of this act. Following an election, the board shall organize by electing from its members a chair, a vice chair, a secretary, and a treasurer. The positions of secretary and treasurer may be held by one member. Members may each be paid a salary or honorarium that may not exceed $500 per month for each member and must to be determined by at least a majority plus one vote of the board, following special notice of the meeting.

Board Selection or Election

Chapter 189

This chapter does not govern elections of the board of districts created and chartered by general law (Chapter 190) or by special act that meets minimal general law requirements.

Dependent special districts having an elected governing board shall have elections conducted by the supervisor of elections of the county wherein the district is located (Florida Election Code, chapters 97-106). Independent special districts located entirely in a single county may provide for the conduct of district elections by the supervisor of elections for that county but must make election procedures consistent with the Florida Election Code. Alternatively, independent special districts not conducting elections through the supervisor of elections must promptly report to the supervisor the purpose, date, authorization, procedures, and results of each election conducted by the district.

Candidates for positions on governing boards of single-county special district that have elections conducted by the supervisor of elections must qualify for the office with the county supervisor of elections in whose jurisdiction the district is located as directed by Chapter 99, F.S. Governing board members elected by registered electors shall be nonpartisan unless a district's charter specifies partisan elections. If a multicounty special district has a popularly elected governing board, elections must conform to the Florida Election Code, Chapters 97-106.

Elections held for seats on the board of a special district may be on the basis of either majority vote of the electors of the district or the basis of one-acre/one vote, dependent upon the terms of the district's charter. 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.

Qualifying for multicounty special district governing board positions is coordinated by the Department of State, except in districts conducting elections on a one-acre/one-vote basis. Except when partisan elections are specified by a district's charter, elections for governing board members elected by registered electors shall be nonpartisan. All candidates shall qualify as directed by Chapter 99 and the qualifying fee shall be remitted to the Department of State.

The conduct of elections in independent special districts using a one-acre/one vote system is addressed by F.S. 189.041 (189.4051). However, F.S. 189.4051 references F.S. 298. F.S. 298.11(2) describes the one-acre/one vote election system process used in districts created by special act for the purpose of drainage and water control for voting by landowners: "At the election, each and every acre of assessable land in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy in writing duly signed, for every acre of assessable land owned by him or her in the district, and the three persons receiving the highest number of votes shall be declared elected as supervisors. The appointment of proxies shall comply with F.S. 607.0722. Landowners owning less than 1 assessable acre in the aggregate shall be entitled to one vote. Landowners with more than 1 assessable acre are entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowners' acreage has been aggregated for purposes of voting. The landowners shall at such election determine the length of the terms of office of each supervisor so elected by them, which shall be respectively 1, 2, and 3 years, and they shall serve until their successors shall have been elected and qualified."

F.S. 298.12 describes the annual election of supervisors, their term of office, and vacancies of office. Annually, in the same month after the time for the election of the first board of supervisors, a meeting of the landowners in the district is to be called. At that meeting, the owners shall elect one supervisor. Owners whose assessments have not been paid for the previous year are not entitled to vote. In case of a failure to elect a supervisor, the Governor appoints a supervisor who shall hold office for 3 years or until his or her successor is elected and qualified. In the case of a vacancy in any office of supervisor elected by the landowners, the remaining supervisors may appoint a supervisor to fill the vacancy until the next annual meeting. Should the supervisors fail to act within 30 days, the Governor shall make an appointment to fill the vacancy until the next annual meeting.

Should a petition for use of popular vote be successful, the composition of the five member board of special districts using a one-acre/one vote system will vary according to the proportion of land contained within what F.S. 189.031 (189.4051) describes as "urban area." The greater the amount of a district comprised of urban area, the larger the number of board members that are required to be elected by popular vote of qualified electors and the fewer by one-acre/one vote (F.S. 189.031(3) (189.4051(3)). All board members elected by qualified electors have terms of 4 years except for those board members elected at the first election and the first landowners' meeting following the referendum for the petition to use popular vote.

The governing board of supervisors of a community improvement authority is composed of nine members. The members appointed to the board hold office for a term of 4 years or until their successors take office. If during a member's term of office a vacancy occurs, the Governor shall fill the vacancy by appointment for the remainder of the term.

Appointed members of the board of a community improvement authority shall hold office for a term of 4 years or until their successors take office, except that the two initial members appointed by the Governor, one of the initial members appointed by the commission of the eligible county, and one of the initial members appointed by the mayor of the eligible county shall be appointed to terms of 3 years. In the event that initial members are appointed by the board, the board shall designate which, if any, of the initial members appointed by the board shall hold office for a term of 3 years, such that four of the nine initial members of the board shall be designated to hold office for terms of 3 years. If during a member's term of office a

vacancy occurs, the Governor shall fill the vacancy by appointment for the remainder of the term.

Chapter 190

The provisions of F.S. 189.04 (189.405) (which addresses the election of the boards of special districts) does not apply to the state created and chartered CDDs established pursuant to Chapter 190, F.S., or to water management districts created and operated pursuant to F.S. 373.

Voting in CDD elections initially (until thresholds discussed below are met) will be in the one-acre/one vote election format. However, for purposes of determining voting interests, platted lots shall be counted individually and rounded up to the nearest whole acre. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote. The acreage of platted lots shall not be aggregated for determining the number of voting units held by a landowner or a landowner's proxy. Proxy signatures are not required to be notarized.

The members of the first board elected by landowners shall serve their respective 4-year or 2-year terms. The next election by landowners will be held on the first Tuesday in November. Afterwards, an election of supervisors for the district will be held every 2 years in November on a date established by the board and must be publicly noticed. The second and subsequent landowners' election shall be announced at a public meeting of the board at least 90 days prior to the date of the landowners' meeting and shall also be publicly noticed.

The two candidates receiving the highest number of votes will serve a 4-year term, and the remaining candidate elected will serve a 2-year term.

Should the board propose to exercise ad valorem taxing power authorized in F.S. 190.021, the district must call an election at which members of the board of supervisors will be elected. That election shall be held in conjunction with a primary or general election unless the district bears the cost of a special election.

If, in the 6th year following the initial appointment by ordinance or rule of board members, or 10 years after such initial appointment for districts exceeding 5,000 acres or for a compact, urban, mixed-use district, there are not at least 250 qualified electors in the district, or for a district exceeding 5,000 acres or for a compact, urban, mixed-use district, there are not at least 500 qualified electors, members of the board shall continue to be elected by landowners. However, after the 6th or 10th year, once a district reaches 250 or 500 qualified electors, the positions of the two board members whose terms are expiring shall be filled by qualified electors of the district, elected by qualified electors for 4-year terms. The remaining board member whose term is expiring shall be elected for a 4-year term by the landowners and is not required to be a qualified elector. As future terms expire, board members shall be qualified electors elected by qualified electors of the district for a term of 4 years. A "qualified elector" is any person at least 18 years of age who is a citizen of the United States, a legal resident of Florida and of the district, and who registers to vote with the supervisor of elections in the county in which the district land is located.

Chapter 191

Election of board members shall be in nonpartisan elections by the electors of the district at the time and in the manner prescribed by law for holding general elections. Member shall be elected

for a term of 4 years, serving in staggered terms. Candidates for a board must qualify as required by Chapter 99 F.S. Members of the board must be qualified electors at the time he or she qualifies and retain that qualification continually throughout his or her term. Any member ceasing to be a qualified elector is automatically removed pursuant to F.S. 191.005(2).

If a vacancy occurs on the board for any reason other than the expiration of a member's term, the remaining members may appoint a qualified person to fill the seat until the next general election. Any member who has three consecutive, unexcused absences from regularly scheduled meetings must be removed by the board. By resolution, the board shall adopt policies defining excused and unexcused absences.

Relationship to Citizens and Local Elected Officials

Chapter 189

The legislative intent of F.S. 189 is to provide by general law for the uniform operation, exercise of power, and procedure for termination of any dependent or independent special district. Special districts serve a necessary and useful function by providing services to residents and property in the state and operate to serve a public purpose that is best secured by certain minimum standards of accountability designed to inform the public and appropriate general-purpose local governments of the status and activities of special districts. It is intended that this public trust be secured by requiring each independent special district in the state to register and report its financial and other activities. Further, failure of an independent special district to comply with the minimum disclosure requirements established in F.S. 189 may result in action against officers of such district board.

Because they are created to serve special purposes, it is intended that special districts cooperate and coordinate their activities with the units of general-purpose local government in which they are located. The reporting requirements established in F.S. 189 should be construed as the minimum level of cooperation necessary to provide efficient and equitable services to citizens.

Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit of government can plan or implement policies dealing with those issues without affecting other units of government. Thus, the provision of capital infrastructure, facilities, and services preserving and enhancing the quality of life in this state requires the creation of multicounty and multijurisdictional districts.

Chapter 190

At open meetings for the benefit of the citizens and the public subject to ethics, conflicts, disclosure, public records and accountability laws, under F.S. 190.011 a CDD shall have, and its board may exercise, the following general powers:

1. To sue and be sued in the name of the district and otherwise act as a corporate person in all ways necessary or convenient to the exercise of its powers in conducting the business of the district.
2. To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

3. To contract for the services of a professional nature; subject to the public bidding or competitive negotiation requirements as set forth in F.S. 190.033.
4. To borrow money, accept gifts, and to apply for and use grants or loans of money or other property and enter into agreements required in connection therewith.
5. To adopt rules and orders prescribing the powers, duties, and functions of the officers of the district; the conduct of district business; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district.
6. To adopt administrative rules with respect to district projects and define the area to be included therein.
7. To adopt resolutions necessary to the conduct of district business.
8. To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, for the purposes authorized by F.S. 190 and to make use of them for the purposes authorized.
9. To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects, facilities, or property of the type that the district is authorized to undertake.
10. To borrow money and issue instruments of indebtedness as hereinafter provided.
11. To levy such tax and special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.
12. To exercise within the district or, with prior approval by resolution of the governing body of the general purpose government, the right and power of eminent domain, pursuant to the provisions of Chapters 73 and 74, over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.
13. To cooperate with, or contract with, other governmental agencies in connection with any of the powers, duties, or purposes authorized by this act.
14. To assess and impose ad valorem taxes upon lands in the district.
15. To determine, order, levy, impose, collect, and enforce special assessments.
16. To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

Under F.S. 190.012 a district shall have, and its board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

1. To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for: Water management and control for the lands within the district; water supply, sewer, and wastewater management, reclamation, and

reuse or any combination thereof; bridges or culverts across, though, or over any public right-of-way, highway, grade, fill, or cut; district roads equal to or exceeding the applicable specifications of the county in which such district roads are located; roads and improvements to existing public roads that are owned by or conveyed to governments; street lights; alleys; landscaping; hardscaping; and the undergrounding of electric utility lines; mass transportation equipment, facilities and services, parking improvements, and related signage; investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination; conservation areas, mitigation areas, and wildlife habitat; any other project within or without the boundaries of a district when a local government issued a development order requiring the construction or funding of the project by the district or the construction is the subject of an agreement between the district and a governmental entity and consistent with the local government comprehensive plan; any other project, facility, or service required by a development approval, interlocal agreement, zoning condition, or permit issued by a governmental authority with jurisdiction in the district.

2. After the local general purpose government within the jurisdiction of which a power specified in this subsection is to be exercised consents to the exercise of such power by the district, the district shall have the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: Parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and, Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment; school buildings and related structures and site improvements, which may be leased, sold, or donated to the school district; security systems, equipment, and services (the district may not exercise any police power, but may contract with the appropriate local general purpose government agencies for an increased level of such services); control and elimination of mosquitoes and other arthropods of public health importance; waste collection and disposal.
3. To adopt rules necessary for the district to enforce certain deed restrictions pertaining to the use and operation of real property within the district and outside the district pursuant to an interlocal agreement under chapter or with the consent of the county or municipality in which the deed restriction enforcement is proposed to occur.

Chapter 191

Although an independent special fire control district is empowered to adopt resolutions and procedures and to enact ordinances necessary to the conduct district business, such actions may not conflict with any ordinances of a local general purpose government within whose jurisdiction the district is located. Further, any resolution or ordinance adopted by the board and approved by referendum vote of district electors may only be repealed by referendum vote of district electors.

Each district board is required keep a permanent “Record of Proceedings of (name of district),” in which the minutes of all meetings, resolutions, proceedings, certificates, bonds given by commissioners, and corporate acts shall be recorded. The record book is a public record under

F.S. 119 and must be open to inspection in the same manner as state, county, and municipal records. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located. All meetings of the board shall be open to the public consistent with Chapter 286, s. 189.015 (189.417), and other applicable general laws.

Operations, Services, and Financial Resources

Chapter 189

F.S. 189.443(b)(repealed in 2014) requires that the special purpose of a district (i.e. – to manage the services it is to provide) and "the powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements" be stated in the charter of a district. Where the authority of a district has been expanded by the use of statutes that supplement the authorization of F.S. 189, this will be stated in a district's charter, as well.

Chapter 190

Operations are determined at noticed open meetings with agendas by the Board. The manager has exclusive charge and supervision of the works of the district. The board retains its engineer and counsel. Services (limited to infrastructure, systems, facilities, services, improvements and works) are derived from the CDD's general-law-charter and special powers to be used by the board and manager to carry out and implement the CDD's single special purpose. Resources are the staff and various management and administrative powers including the power to manage funding (taxes, assessments, charges and borrowing) subject to substantial and disclosed limitations.

Chapter 191

F.S. 191 empowers the establishment of "independent special fire control districts" that are, under the authorization of F.S. 191.008, created for the provision of fire suppression and related activities (including emergency medical and rescue response services).

F.S. 191 creates a political subdivision performing essential public functions and provides each district the ability to adopt and enforce resolutions and ordinances, levy taxes, charge user fees and impact fees, lien property for non-payment, exercise eminent domain, and to assess and impose upon real property ad valorem taxes not exceeding 3.75 Mils (exclusive of debt service on bonds) unless authorized (F.S. 191.009 (1)) and non-ad valorem assessments (the growth of which are limited by F.S. 191.009(2), and to issue instruments of indebtedness (F.S. 191.012).

Dissolution and Merger

Chapter 189

To implement the expressed intent of Chapter 187, Chapter 189 specifically addresses the merger and dissolution of special districts within F.S. 189.07-0761 and 189.062 (189.4042 and F.S. 189.4044). Dependent special districts may be merged or dissolved through the enactment of an ordinance of the general-purpose local government where the district (or districts) is/are located. Neither counties nor municipalities, however, may dissolve a special district dependent to the other, nor may they dissolve a dependent district created by special act unless otherwise provided by general law. As well, an inactive independent district that was created through a referendum

may be dissolved by the county or municipality that created the district after publishing notice as described in s. 189.062 (189.4044).

An independent district created by a county or municipality by referendum or any other procedure may, if and as authorized by general law, be merged or dissolved through the same procedure by which it was created. Where an independent district has ad valorem taxation powers, however, the same procedure required to grant those powers of taxation are required to dissolve or merge the district. Community Development Districts implemented under Chapter 190 and Water Management Districts created and operated pursuant to Chapter 373 are not subject to this section because they have their own dissolution and merger provision that predate Chapter 189.

A special district may be declared inactive by the Department of Economic Opportunity (DEO) if it documents the district as meeting one of the following criteria:

1. It is notified in writing that that the district has taken no action for 2 or more years by either the district's registered agent, the chair of the governing body of the district, or the governing body of the appropriate local general purpose government;
2. If the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general- purpose government, following an inquiry from DEO, notifies DEO in writing that the district has not had a governing board or a sufficient number of governing board members to constitute a quorum for 2 or more years, or fails to respond to the DEO inquiry within 21 days;
3. The DEO determines the special district has failed to file any of the reports listed in s. 189.066 (189.419); or
4. The district has not had a registered office and agent on file with DEO for 1 or more years.

A special district may also be declared inactive by the Department of Economic Opportunity (DEO) if the DEO, the special district, or the local general-purpose government publish a notice of proposed declaration of inactive status in a newspaper of general circulation in the county or municipality in which the special district is located and sent a copy of that notice by certified mail to the registered agent or chair of the board, if any. After twenty-one days have elapsed from the publication date of the notice, if no administrative appeals were filed, DEO may declare the special district inactive.

If any special district is declared inactive pursuant to this section, the property or assets of the special district are subject to legal process for payment of any debts of the district. 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.

Where a district was created by special act of the Legislature, DEO shall send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate, referencing each known special act creating or amending the charter of any special district declared to be inactive under this section. The declaration of inactive status shall be considered sufficient notice to authorize the Legislature's repeal of any special laws. If a district

was created by local general-purpose governments, DEO must send the declaration of inactive status to the chair of the governing body of each government that created the district. If created by inter-local agreement, DEO shall send the declaration of inactive status to the chair of the governing body of each local government which entered into the inter-local agreement.

The entity that created a special district declared inactive must dissolve the special district by repealing its enabling laws or by other appropriate means.

Effective July 2012, amendments to 165 F.S. changing the "Formation of Municipalities Act" allow the conversion without legislative review of some types of special districts, meeting certain statutory requirements, into municipalities. Briefly, to be eligible for conversion, a district must:

1. Have been created by special act of the Legislature.
2. Be an improvement district created under F.S. 298, or a stewardship district created under F.S. 189.404. (Note here that we could not find, in any statute, a legal entity identified as a "stewardship" district. However, Chapter 2004-461 is a special law creating, chartering and establishing, an independent district, pursuant to the minimum requirements of general law in Chapter 189, to provide infrastructure to the lands in and around the Ave Maria township. The independent district's land is located within the Collier County comprehensive plan's "stewardship" overlay. The district was named the Ave Maria Stewardship Community District. There is no language in 189 or 2004-461 creating a type of "stewardship" district).
3. Have an elected governing board.
4. Have the agreement of the governing board.
5. Provide at least four of the following municipal services:

Water	Public works
Sewer	Fire and rescue
Solid waste	Street lighting
Drainage	Parks and recreation
Roads	Library or cultural facilities
Transportation	

6. Have no portion of the district located within an existing municipality.

To begin the conversion process, the district's electors must present a petition including at least 40% of qualified electors to the district's board. The petition must be presented no more than one-year following the start of the conversion process. The petition must also be submitted to the Supervisor of Elections (SOE) of the county where the district is located for verification of signatures.

Following verification, the district board must meet within 30 days and, at least 60 days prior to an election on the plan, approve by majority vote a resolution approving a proposed elector-initiated conversion and incorporation plan. The plan must address the information requirements of the statute. Public notice and display of the proposed plan is required and a subsequent public hearing on the plan must be held by the district board. If the plan is approved by the district board, a referendum on the proposed plan is then scheduled and held by the SOE. Failure of the referendum to approve the plan prohibits consideration of conversion for another two years. If the referendum is successful by majority vote, the effective date of incorporation is the date

stated in the conversion and incorporation plan. In addition to not requiring legislative review, the process does not require notification of either the respective county or any other municipalities.

Chapter 190

A landowner or a CDD board may petition to contract or expand the boundaries of a community development district by submitting essentially the same information required to establish a CDD, by providing written consent of the landowners, pay filing fees to the affected general purpose governments, and hold required public hearings (F.S. 190.406). The approval of the merger agreement and the petition by the board of supervisors of the district shall constitute consent of the landowners within the district. Additionally, prior to filing the petition, the districts desiring to merge must enter into a merger agreement that provides proper allocation of any indebtedness to be assumed and for the manner in which that debt will be retired.

If expansion of the district is sought, the petition must describe the proposed timetable for construction of services to the expansion, the estimated cost of constructing the proposed services, and the designation of the general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan.

If contraction of the district is sought, the petition must describe what services and facilities are currently provided to the area being dropped from the CDD, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.

If the district was initially established by county ordinance, the petition for ordinance amendment is filed with the county commission. If the land to be included or excluded is, in whole or in part, within the boundaries of a municipality, the county commission requires municipal approval to amend the CDD ordinance. For districts initially established by municipal ordinance, the municipality assumes the duties of the county commission. However, if any land to be included or excluded is outside the boundaries of the municipality, the municipality may not amend its ordinance without county commission approval. Districts initially established by administrative rule pursuant to s. 190.005(1) shall file the petition with the Florida Land and Water Adjudicatory Commission.

A district under Chapter 190, F.S. shall remain in existence unless it is merged with another district, all of the specific community development systems, facilities, and services it is authorized to perform have been transferred to a general purpose unit of local government, or the district is dissolved or the other termination options in 190.046(2)(a)-(c) applying 190.046(3)-(9).

Upon the transfer of all CDD services to a general purpose unit of local government, the district shall be terminated in accordance with a plan of termination which must be adopted by the board of supervisors and filed with the clerk of the circuit court. The transfer of specific services from a district to a local general purpose government, which must be within the geographical boundaries of which the district lies, may be accomplished by the adoption of a non-emergency ordinance providing a transfer plan. The plan must provide for the assumption and guarantee of the CDD debt related to the service by the local general purpose government and must demonstrate the ability of the government to provide the service being transferred as efficiently as the district, at

a level of quality equal to or higher than that presently being delivered by the district, and at a cost equal to or lower than the present charge by the district to service users. If the transfer plan ordinance is enacted, no later than 30 days afterwards, the board of supervisors may file in circuit court for review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance.

If a district has no outstanding financial obligations and no operating or maintenance responsibilities, the district may be dissolved by a nonemergency ordinance of the general-purpose local governmental entity that established the CDD or, if the CDD was established by rule of the FLWAC, the district may be dissolved by repeal of such rule of the commission.

Chapter 191

Under F.S. 191 independent special fire control districts are created by the Legislature under the authority of F.S. 189.031 (189.404) and may have their district boundaries extended, enlarged, modified, or merged with other districts by the Legislature.

IC. Special District Revenue Sources and Growth

Special district growth in Florida has occurred predominately in the last 25 years, although recognition of special districts can be traced back to colonial times. Using data from the State of Florida's Department of Economic Opportunity (DEO), we assess the revenue sources and growth of special districts by type as of June 2012. We note that legislation that has identified special districts began in the 1980s and has continued to be a relevant topic through a series of legislative changes in Florida to date.

Dependent Districts

Of the 1,639 special districts (as of 06/12/2012) in the state of Florida, 632 are dependent districts, 3 of which are inactive. Those districts have been established to provide 65 different types of service. The average number of counties to which services are provided by a district indicates that the vast majority of these districts are single-county focused. Only 2 dependent districts are multi-county districts. The composition of the governing boards of the 629 active dependent districts vary; 54 are elected, 294 are appointed, 18 have a mix of elected and appointed board members, and 262 are composed of the members of the local governing authority over the district, only 1 dependent special district is reported as having a board that does not fall into one of these classifications.

In addition to the issuance of bonded indebtedness, dependent special districts employ a substantial number of sources of revenues. Some of these sources reflect the purposes for which a district was established. The most common funding sources for dependent districts, in order of their predominance of use are seen in Table 2.

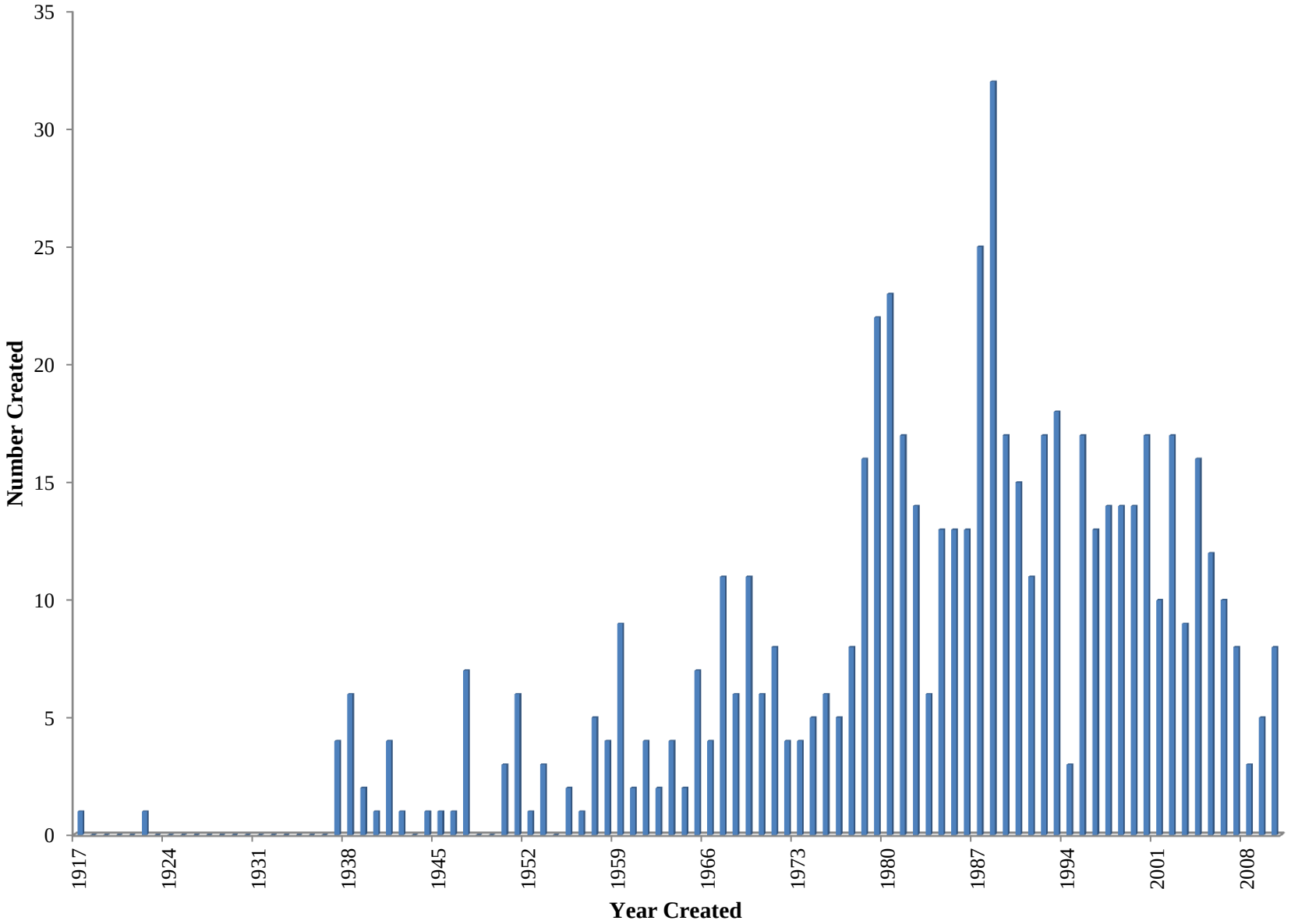
Table 2: Revenue Sources for Dependent Special Districts

Authorized Revenue Source	Number using Authorized Source
Bond Issuance	447
Tax Increment Financing	206
Fees For Services (not liens)	109
Ad Valorem Taxes	75
Local/State/Federal Intergovernmental Revenues	71
Non-Ad Valorem Assessments	61

Additional to the above, 33 dependent districts in the DEO files have indicated that they have no sources of revenue, while another 21 dependent districts have indicated that they have unspecified "other" sources. Another 18 dependent districts have not provided information on their revenue sources.

Dependent special district growth is shown in Chart 1. DEO data indicate that the first dependent district in Florida was established in 1917, with the largest growth by count occurring in 1988 with 32 dependent districts established.

Chart 1: Dependent Districts Created by Year in Florida



Independent Districts

The independent special district is the most prevalent type of special district in Florida. Of the 1,639 special districts in the state, 1,007 are independent districts; 15 of these are inactive. Independent districts have been organized to provide 55 different types of service. The average independent district serves 1.72 counties. Of the 70 multi-county districts, 68 are independent special districts. The seats on the governing boards of 826 independent districts are filled through elections, 148 governing boards are appointed, 23 governing boards are filled through a mixture of elected and appointed seats, while 5 are congruent with the local governing authority. Another 5 governing boards of independent special districts are filled by other methods.

A review of the independent district files of the DEO by stratified sample was undertaken. From this sampling it is estimated that excluding Soil and Water Districts, which F.S. 582.12 requires formation to be ratified by referendum of property owners within a proposed district, approximately 63% of all other F.S. 189 special districts use a referendum. The general motivation in F.S. 189 for independent districts to engage in a referendum is to acquire additional authority to enable the use of additional sources of revenue by gaining supplemental statutory authorizations.

As is the case with the dependent districts discussed above, independent special districts utilize a number of sources of revenue. The top funding sources, in order of their predominance of use are shown in Table 3, below:

Table 3: Revenue Sources for Independent Special Districts

Authorized Revenue Source	Number using Authorized Source
Bond Issuance	846
Assessments*	669
Ad Valorem Taxes	142
Fees For Services: not liens	71
Local/State/Federal-Intergovernmental Revenues	56
Non-Ad Valorem Assessments	15
Sales & Leases	15

* An assessment, generally stated, is the imposition of a charge imposed upon real property for specific services or facilities that are being provided. Such charges may be through an ad valorem tax for a specific purpose or through a non-ad valorem assessment. This differs from the assessment of an ad-valorem tax for general purposes. The authority of counties, municipalities, and special districts to impose assessments upon said real property is found in F.S. 125.01, F.S. 166.021, and F.S. 189.404, respectively. An assessment as described by F.S. 192 reflects the imposition of an ad valorem tax upon real property. This is a levy of a tax, expressed in mills ($1/1000^{th}$ of a U.S. dollar), on the assessed value of the subject property. Alternatively, a non-ad valorem assessment, as defined in F.S 197.3632, "means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution."

Additionally, 12 independent districts indicated they have no sources of revenue, another 38 independent districts have indicated that they have unspecified "other" sources while 13 independent districts have provided no information on their revenue sources.

Independent special district growth is shown in Chart 2. DEO data indicate that the first independent district in Florida was established in 1913, with the largest growth by count occurring in 1963 with 16 independent districts established.

Community Development Districts

Florida has had 579 Community Development Districts (CDDs) established under F.S. 190 since its adoption in 1980[1]. Only 4 of those are inactive. All 579 CDDs are independent districts. There can be no dependent CDD. A CDD of less than 1,000 acres may be established legislatively through the adoption of a local ordinance while a CDD of 1,000 acres or more in size may be established quasi-legislatively by rule of the Governor and Cabinet, (F.S. 373.114.(1).a) sitting as the Florida Land and Water Adjudicatory Commission (FLWAC) by special act. Such approval is responsible for the establishment of 53 of the 579 CDDs; the remaining 526 CDDs were established through the adoption of local ordinances. No CDD is created by special act. Under F.S. 190, all CDDs are governed initially by a 5 member board elected using a one-acre, one vote system. However, records of the DEO indicate that one CDD is governed by a landowner elected board and another 9 CDDs are governed by a mixture of qualified electors elected and landowner elected seats. CDDs are authorized in their uniform state created charter in F.S. 190 to generate revenue through the limited use of ad valorem taxes, non-ad valorem assessments, user fees and charges, with related powers and the issuance of bonded indebtedness. CDDs are able to employ a number of sources of revenue. The top funding sources are provided in Table 4 in order of their predominance of use.

[1] Our data show that Fallschase (a Planned Unit Development) and within a CDD was initially within a special taxing district by the Leon County Board of County Commissioners (BCC) through the enactment of Leon County Ordinance 75-2. The Fallschase Special Taxing District (which was the subject of debate whether it was a dependent or an independent district finally resolved by a court order designating it an independent district with an appointed Board), itself, was created February 11, 1975 by Leon County Ordinance 75-6. Due to the District's extensive history of land development financial dealings, on October 14, 1997 the Leon County BCC approved the re-establishment of the Fallschase Community Development District (CDD) to replace the Special Taxing District pursuant to F.S. Section 190.0059(3). This had the effect of providing infrastructure to the development lands by an independent district with elections controlled initially by its developer landowner (E. Lamar Bailey). A chronology of Fallschase's history (through 2003) has been written by a former Leon County Commissioner and can be found at www.curg.org/resources/fallschase_chrono.pdf. Until the Legislature enacted F.S. 190 in 1980, there were no CDDs under the Florida Constitution. Thus, it may be contended that the DEO records' 1975 date of establishment for the Fallschase CDD should actually be 1997. The 1975 initial establishment date of the PUD/Special Taxing District should be only a footnote to the record.

Chart 2: Independent Districts Created or Established by Year in Florida

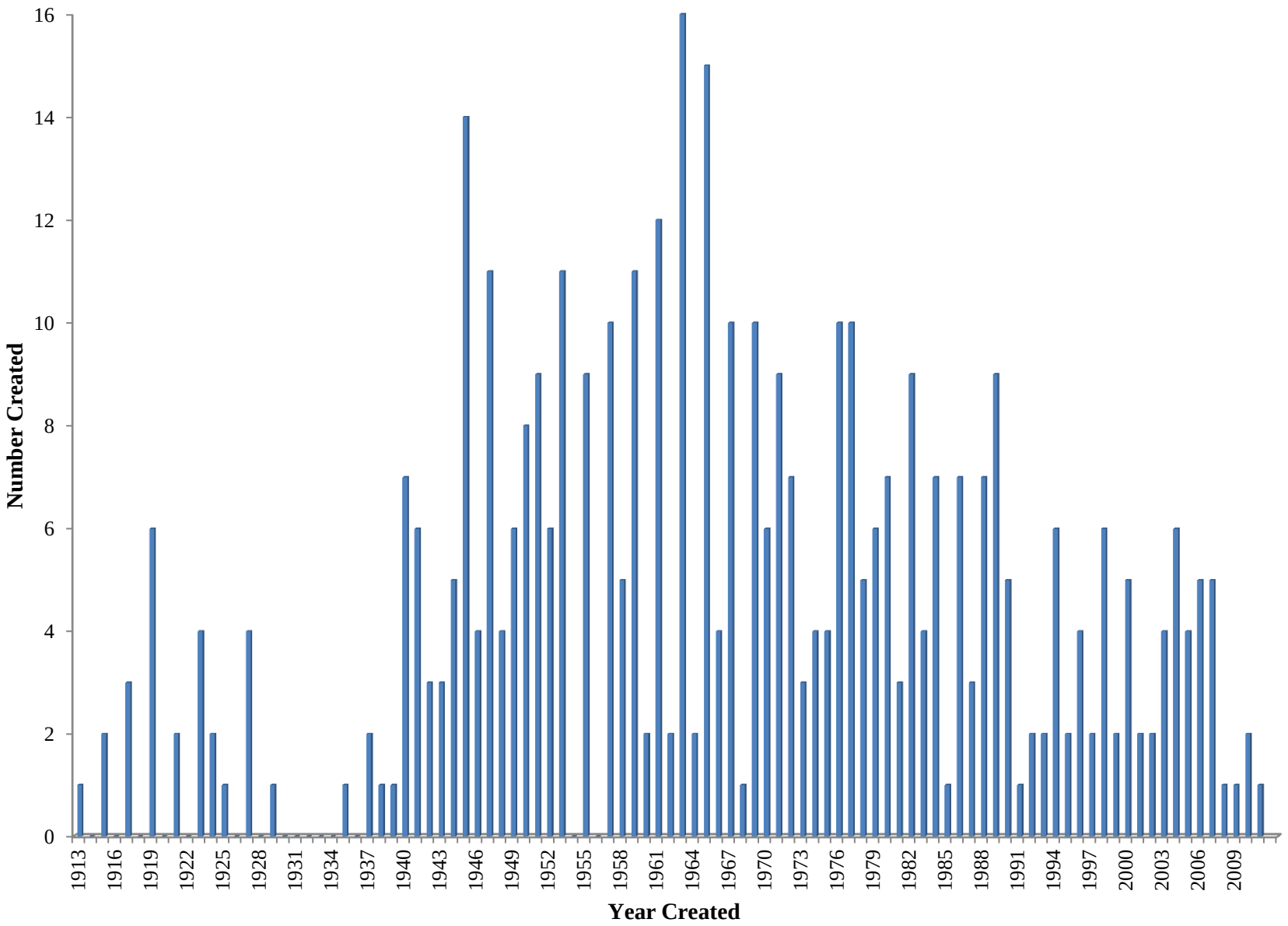


Table 4: Revenue Sources for Community Development Districts

Authorized Revenue Source	Number using Authorized Source
Bond Issuance	578
Assessments*	566
Developer Contributions	7
Fees For Services	3
Ad Valorem Taxes	3
Non-Ad Valorem Assessments	3
Agreements	3

* An assessment, generally stated, is the imposition of a charge imposed upon real property for specific services or facilities that are being provided. Such charges may be through an ad valorem tax for a specific purpose or through a non-ad valorem assessment. This differs from the assessment of an ad-valorem tax for general purposes. The authority of counties, municipalities, and special districts to impose assessments upon said real property is found in F.S. 125.01, F.S. 166.021, and F.S. 189.404, respectively. An assessment as described by F.S. 192 reflects the imposition of an ad valorem tax upon real property. This is a levy of a tax, expressed in mills ($1/1000^{th}$ of a U.S. dollar), on the assessed value of the subject property. Alternatively, a non-ad valorem assessment, as defined in F.S 197.3632, "means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution."

Additionally, another 6 CDDs have indicated that they have unspecified "other" sources while no CDDs have indicated that they have no sources of revenue or have provided no information on their revenue sources.

In viewing the growth of CDDs in the state of Florida, Chart 3 makes it evident that it was a little used vehicle for providing infrastructure to lands within a development from the time of enactment of the "Uniform Community Development District Act of 1980" until 1998. Between 1980 and 1997, fewer than 12% of the 579 CDDs in Florida were established. Surveying the events occurring in the 1998-1999 timeframe, what can be seen appears to be a watershed moment for development ventures from the culmination of a series of political and financial events equivalent to a "perfect financial storm." Those events provided both a path to financial opportunity through the use of F.S. 190 and the beginning of the home loan crisis. This pathway has three separate, but inter-related, components which have significant interplay with the features of F.S. 190:

1. The widespread use of non-traditional forms of home loans.
2. The creation of a *credit bubble* by the removal of the firewall between commercial banking and investment banking, enabling indirect access to low-cost Federal Home Loan Bank advances to fund development activities.
3. The reduction of lender's risk through the packaging of sub-prime mortgages for re-sale through Government Sponsored Enterprises (GSEs).

The path begins in 1982 with Congress' enactment of the Alternative Mortgage Transactions Parity Act (AMTPA). AMPTA starts the process by allowing non-federally chartered housing creditors to write adjustable-rate mortgages. AMPTA enabled adjustable-rate, option adjustable-rate, balloon-payment, interest-only, and other types of mortgages to become available and, eventually dominate the market; replacing conventional fixed-rate, amortizing mortgages as the financial market standard. At this same time, Congress failed to enact regulations limiting the use of such loans and further deregulated banking. This contributed to the savings and loan crisis, leading to predatory lending through the use of adjustable-rate mortgages. By 2006, approximately 90% of the subprime mortgages issued were adjustable-rate. While not the sole cause, the enactment of AMPTA is almost certainly the first step in the creation of what became referred to as the *credit bubble*.

The foundation for the *credit bubble's* geometric growth is path-marked by the 1998 approval of the Citicorp – Travelers merger (forming Citigroup) by the Federal Reserve Board. The Fed allowed this through a technical exemption to the Bank Holding Act, but required Citigroup to divest certain Travelers assets if it could not get the Bank Holding Act changed within 5 years. This led to the 1999 enactment of the Gramm-Leach-Bliley Act (also known as the *Financial Services Modernization Act*) repealing the 1933 Glass–Steagall Act's prohibitions to banks offering investment, commercial banking, and insurance services. A similar bill had been considered unsuccessfully in 1998 (Senator Gramm), primarily because of its expanding banking institutions into other areas of service without subjecting them to compliance with the Community Reinvestment Act of 1977 (CRA). The enactment of Gramm-Leach-Bliley was accommodated in late 1999 through a compromise between Senator Gramm and the Clinton Administration brokered by Senators Christopher Dodd and Charles E. Schumer. The compromise amended the *Federal Deposit Insurance Act* and allowed banks to merge or expand into other types of financial institutions by providing for FDIC insurance of any bank holding institution wishing to be re-designated as a financial holding institution by the Fed, so long as they agreed to follow CRA compliance guidelines before any merger or expansion could take effect. Although the CRA does not require banks to make high-risk loans, the requirement that banks comply with an Act intended to provide loans to lower and moderate income individuals and businesses opens a motivational door that is aided by the availability of tools such as sub-prime type loans, as well as Gramm-Leach-Bliley's removal of the firewall Glass-Steagall had installed between commercial and investment banking as a response to the 1929 economic crash.

What had to occur for the *credit bubble* to have any real impact on the use of F.S. 190 to exploit potential profitability of land development was for homeownership to be motivated at the individual level. This individual motivation came when, at nearly the same time as the enactment of Gramm-Leach-Bliley, Congress took action revising capital gains tax regulations pertaining to the sale of a home. The 1997 Taxpayer Relief Act allowed a once every two years $500,000 (married) or $250,000 (single) exclusion from capital gains tax for sale of a home. The legislative enactment of the exclusion formed the basis for what became referred to as the *housing bubble*. Although this exclusion, in and of itself, was not responsible for the *housing bubble*, it made homeownership into an opportunity for windfall profit-taking by individuals.

The missing piece that would inflate the *housing bubble* part of the puzzle and enable the use of CDDs created by and established pursuant to F.S. 190 to deliver substantial returns on land development was the expansion of the home loan industry's economy of scale. Functionally, the availability of subprime loans could have produced only a few rounds of activity in the housing

market that would largely cease when the lender's available capital was exhausted. This element came through the creation of several financial investment vehicles. The financial market's tool for expanding the *housing bubble* was "Mortgage-Backed Securities" (MBS) and was abetted by other financial industry institutions. Ratings agencies participated in the marketing of securities for investment banks that employed asset securitization in the form of "collateralized debt obligations" (CDO) that were secured through the purchase of offsetting "credit default swaps" (CDS) (essentially, a derivative that guarantees a purchaser a stream of payments should a default occur) from insurance writers, such as AIG and AMBAC.

The creation of financial vehicles alone did not assure lenders willingness to participate. It was their ability to garner high returns on their investments at the same time as limiting their risk that made them willing to engage in the expansion of the *housing bubble*. Subprime loan types all have higher interest rates to accommodate their higher risk borrowers' but were considered by lenders to be good risks because of the rising real estate market; the borrowers' higher default rate would be offset by the rise in price since the time the loan was made (the average home price in Florida had annual increases of 4.1% from 1995 – 2000 and 11.1% from 2000 – 2003). It was the purchase of subprime loans from lenders by the Government Sponsored Enterprises (GSEs) known as "Fannie Mae" and "Freddie Mac" that completed the path that made CDDs a positive force in driving the development that took advantage of the *housing bubble* (Final Report of the Financial Crisis Inquiry Commission, Official Government Edition. Superintendent of Documents, U.S. Government Printing Office, 2011).

The Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) are a major source of the CDOs sold in the secondary market. These two organizations are publicly traded corporations that were given implicit guarantees (Federal Housing Administration mortgage insurance) by the Federal government for this purpose. With the ability to sell mortgages to Fannie and Freddie, mortgage originators were motivated to make loans to high-risk borrowers. Fannie and Freddie packaged those loans and subsequently sold them on the secondary market. At times, however, Fannie and Freddie were the market for CDOs; Bloomberg reported that, in June of 2008, Fannie alone held $388 billion in these investments. The effect on use of Florida's CDDs in the *housing bubble* was the same as elsewhere: the broad use of high risk-level home loans, the sale of securitized loan packages in the government-sponsored secondary market by Fannie and Freddie, and spread the risk of default outwards into the entire economy.

In summary, the *housing bubble* in Florida was affected through a sequence of mutually sympathetic events. Changes to tax laws combining motivated buyers with liberal borrowing regulations, lax regulatory oversight, low interest rates, and the sale of securitized home mortgages by investment banks all created a scenario that was exploited by real estate developers through the authority to petition establish in F.S. 190. This is supported by the increase in the use of CDDs, as an alternative mechanism to manage provision of infrastructure to lands within otherwise planned and permitted development, since 1998. Once the ability to access home loans had been broadened by Gramm-Leach-Bliley's to borrowers previously unable to qualify, and mortgage originators were able to limit their risk by packaging and selling their subprime paper to GSEs, market forces responded to increased demand with increased home prices. This increase in demand for housing made the use of CDDs in Florida (with their ability to issue bonds at low interest rates to finance the construction of a development's infrastructure and assign responsibility for the repayment of that borrowing to future buyers) an extremely viable

process that's reflected by their increased use; over 88% of the 579 CDDs in Florida in 2013 were established after 1997.

Other statutory conditions exist that may affect the financial horizons of the use of established CDDs. Under the recently enacted amendments to F.S. 165.0615 that changed the "Formation of Municipalities Act," the 53 CDDs that have been established by the FLWAC may be eligible to be converted to a municipality without legislative review if they meet certain statutory requirements. Communities within a CDD may be "converted", that is, be incorporated; but the CDD remains until and unless dissolved or merged by the provisions found in Chapter 190. As provided in Chapter 190, municipal incorporation can result in the municipality assuming CDD debt amortization duties and liability structure upon the dissolution or merger of a CDD. There are some infrastructure providing independent districts created by special act meeting the minimum requirements, but they, as a matter of law, are not CDDs.

An additional statutory condition gives rise to the question of what barriers exist to prevent a declaratory finding of blight by those municipalities. Such a finding could enable the establishment of a community redevelopment agency (CRA) under F.S. 163.340. The terms of F.S. 163.353 specifically contemplate the concept of redevelopment for "enhancement of the tax base" of a taxing authority. Under the language of F.S. 163.335(5), the "preservation or enhancement of the tax base from which a taxing authority realizes its tax revenues is essential to its existence and financial health; that the preservation and enhancement of such tax base is implicit in the purposes for which a taxing authority is established; that tax increment financing (TIF) is an effective method of achieving such preservation and enhancement in areas in which such tax base is declining." In the current scenario of declining property values, the ability of a municipality to discern blight could easily be a self-fulfilling prophesy that would not only enable formerly private development enterprises to escape exposure to debt, but access tax increment revenue from counties and other taxing authorities to enhance the prospect of rescuing their ventures.

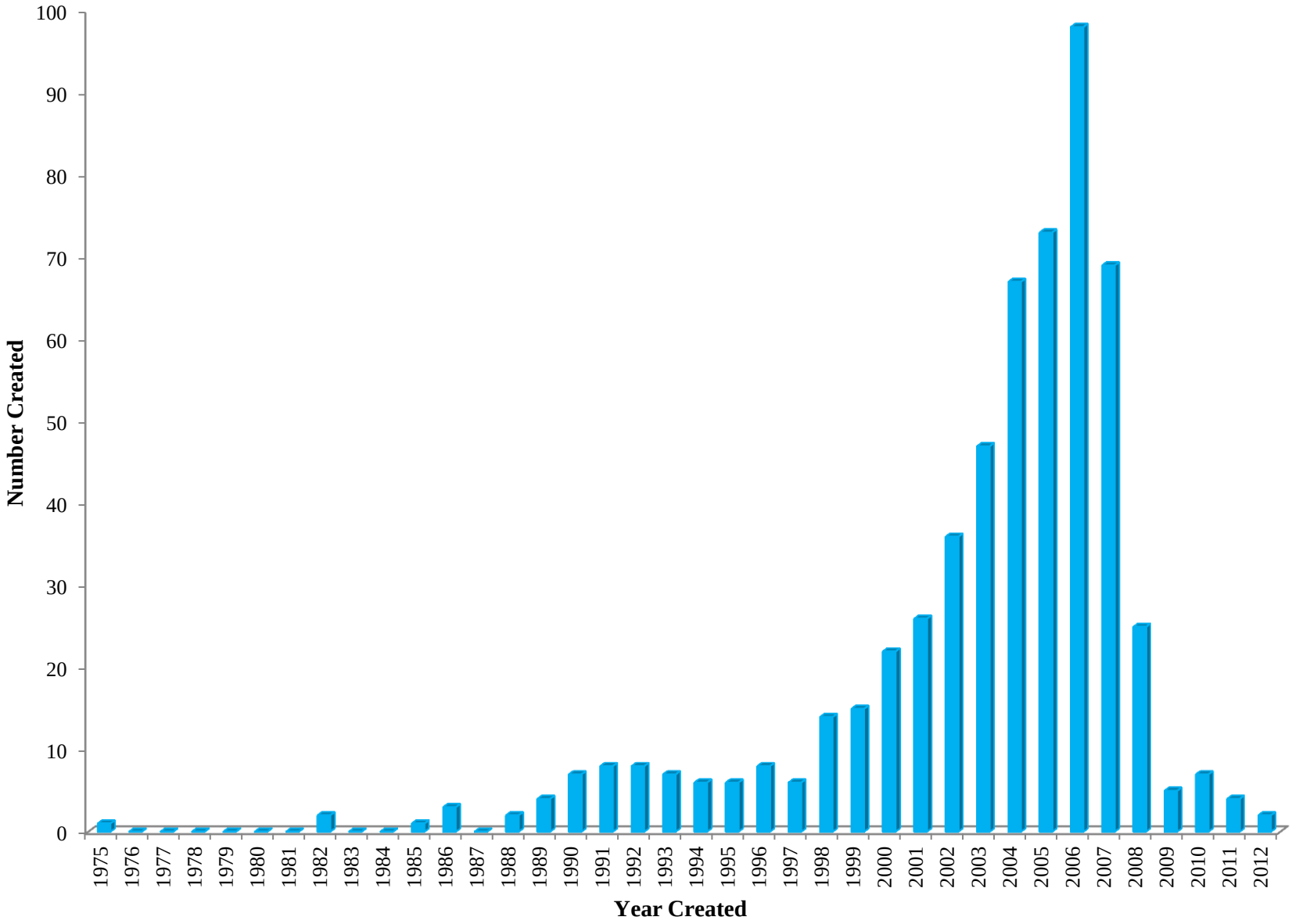
Fire Control Districts

There are a total of 64 Fire Control Districts in Florida. Of that total, 54 are independent districts while 10 are dependent districts. No inactive Fire Control Districts, either independent or dependent are reported. All of these districts have been created to provide fire and/or rescue services. While both independent and dependent districts are largely created to service a single county, the average number of counties per independent district is 1.04 while all dependent districts provide service to a single county. The composition of the governing boards of the 54 independent districts is limited; the members of 53 district boards are elected while only 1 is appointed. The composition of the governing boards of the 10 dependent districts is more varied; 1 is elected, 8 are appointed, and 1 is composed of the members of the local governing authority (LGA) over the district. Board composition is summarized in Table 5.

Table 5: Fire Control District Board Composition

Type	Elected	Appointed	Elected/Appointed	LGA	Other
Independent	53	1	0	0	0
Dependent	1	8	0	1	0
Total	54	9	0	1	0

Chart 3: CDDs Established by Year in Florida



The independent fire districts utilize a number of sources of revenue which are indicated in Table 6.

Table 6: Revenue Sources for Independent Fire Control Districts

Authorized Revenue Source	Number using Authorized Source
Bond Issuance	29
Ad Valorem Taxes	42
Assessments*	10
Fees For Services	4
Non-Ad Valorem Assessments	4
Donations	1
Agreements	1

* An assessment, generally stated, is the imposition of a charge imposed upon real property for specific services or facilities that are being provided. Such charges may be through an ad valorem tax for a specific purpose or through a non-ad valorem assessment. This differs from the assessment of an ad-valorem tax for general purposes. The authority of counties, municipalities, and special districts to impose assessments upon said real property is found in F.S. 125.01, F.S. 166.021, and F.S. 189.404, respectively. An assessment as described by F.S. 192 reflects the imposition of an ad valorem tax upon real property. This is a levy of a tax, expressed in mills ($1/1000^{th}$ of a U.S. dollar), on the assessed value of the subject property. Alternatively, a non-ad valorem assessment, as defined in F.S 197.3632, "means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution."

No independent fire district has indicated they have no sources of revenue and all provided information on their revenue sources.

The dependent fire districts also utilize a number of sources of revenue and are shown in Table 7. No dependent fire district has indicated they have no sources of revenue, however, one has provided no information on their revenue sources.

Table 7: Revenue Sources for Dependent Fire Control Districts' Revenue Sources

Authorized Revenue Source	Number using Authorized Source
Bond Issuance	8
Fees For Services	7
Ad Valorem Taxes	1
Non-Ad Valorem Assessments	1

Chart 4 provides a look at the growth of fire control districts over time. The DEO notes that the first fire control district was established in 1943, with the largest growth, by count, of fire control districts occurring in 1976 with the establishment of 7 districts.

Multi-County Special Districts

A total of 70 of the special districts in Florida provide services in more than a single county; there are 3 of these multi-county districts that are inactive. Of the 70 multi-county districts, 68 are independent districts. The 70 multi-county districts provide 25 different types of services and serve an average of 4.1 counties per district. However, when Florida's Water Management Districts are removed from the calculation, the average number of counties served per multi-county district decreases to 3.1. The seats on the governing boards of 24 of the 70 multi-county districts are filled through elections, 37 governing boards are appointed, 4 governing boards are filled through a mixture of elected and appointed seats, while 4 are congruent with the local governing authority. The single remaining governing board is filled by other methods.

The multi-county special districts utilize a number of sources of revenue, all of which may be seen in Table 8. The top funding sources, in order of their predominance of use, are:

Table 8: Revenue Sources for Multi-County Special Districts

Authorized Revenue Source	Number using Authorized Source
Bond Issuance	53
Assessments*	21
Fees For Services	16
Ad Valorem Taxes	13
Local/State/Federal Intergovernmental Revenues	13
Investments	3

* An assessment, generally stated, is the imposition of a charge imposed upon real property for specific services or facilities that are being provided. Such charges may be through an ad valorem tax for a specific purpose or through a non-ad valorem assessment. This differs from the assessment of an ad-valorem tax for general purposes. The authority of counties, municipalities, and special districts to impose assessments upon said real property is found in F.S. 125.01, F.S. 166.021, and F.S. 189.404, respectively. An assessment as described by F.S. 192 reflects the imposition of an ad valorem tax upon real property. This is a levy of a tax, expressed in mills ($1/1000^{th}$ of a U.S. dollar), on the assessed value of the subject property. Alternatively, a non-ad valorem assessment, as defined in F.S 197.3632, "means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution."

Additional to the above, 8 multi-county districts have indicated that they have unspecified "other" sources, while 2 multi-county districts have not provided information on their revenue sources. No multi-county district reports having no sources of revenue.

Summary of Special District Revenue Sources and Growth

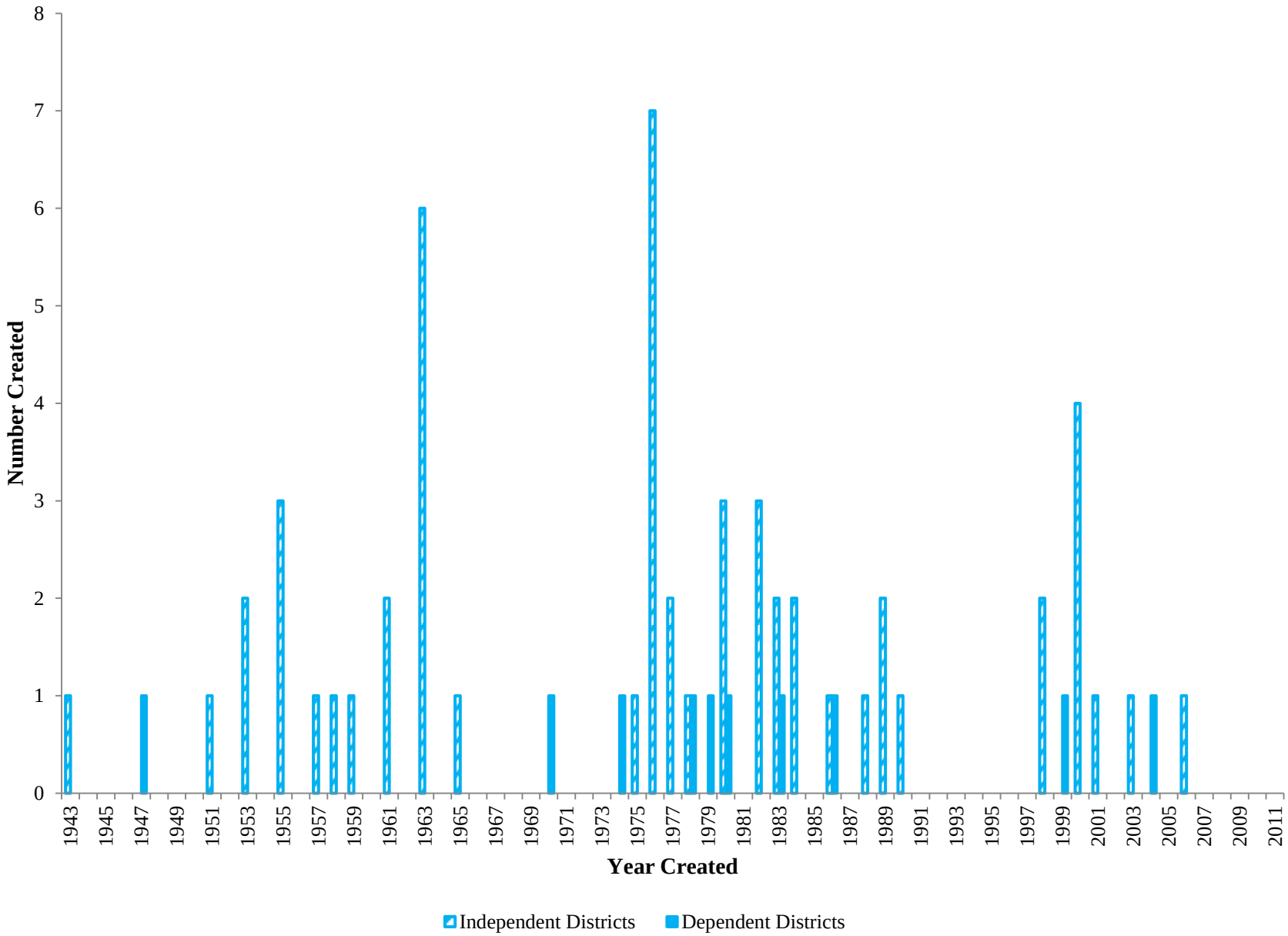
Our assessment of revenue sources is summarized in Table 9. We find that the predominant source of revenue is debt issuance followed by tax increment financing in dependent districts and assessments in both independent and multi-county districts.

Table 9: Summary of Sources of Revenue Used by Districts

No. of Districts:	**630** **Dependent District**	**939** **Independent District**	**70** **Multi-County District**
Sources of Revenue			
Bond Issuance	71.0%	84.5%	75.7%
Ad Valorem Taxes	11.6%	14.0%	18.6%
Non-Ad Valorem Assessments	9.7%	1.6%	1.4%
Tax Increment Financing	32.7%	0.0%	0.0%
Sales Surtax	0.0%	0.1%	0.0%
Assessments	6.2%	69.0%	30.0%
Grants	1.6%	0.7%	4.3%
Fees: not liens	17.3%	5.9%	22.9%
Tolls	0.5%	0.7%	2.9%
Donations	0.5%	0.4%	0.0%
Sales/Leases	1.6%	1.6%	7.1%
County/State/Fed IGR	11.3%	4.6%	18.6%
Developer Contributions	0.0%	0.7%	0.0%
Agreements	0.0%	0.6%	1.4%
Investments	0.6%	0.4%	4.3%
Private Enterprise	0.2%	0.3%	0.0%
Unknown/Not Provided	2.9%	1.4%	2.9%
None	5.2%	1.3%	0.0%
Other	3.3%	4.0%	11.4%

Regarding growth of special districts in Florida, we note that 49% of dependent districts were created in the two decade period that includes the 1980s and 1990s. When we consider independent districts, excluding only Chapter 190 CDDs, we find that the decades of the 1940s, 1950s, 1960s, 1970s, and 1980s each establish about 15% of the total independent districts. When evaluating CDDs, we find that the decade of the 2000s dominates the establishment of CDDs incorporating over 81% of the total established CDDs.

Chart 4: Fire Districts Created by Year in Florida



Summary

One of the principal objectives of F.S. 189 is the creation of a uniform process for the expansion and implementation of expressed state policy on special districts based on general law. Our analysis leads us to the following conclusions regarding the statutory language surrounding special districts:

1. Special districts in Florida, notwithstanding the major reform of the 1980s, operate under a confusing and often contradictory set of laws with different levels of government approving the creation or establishment of the district. The intent underlying Florida Statute (F.S.) 187 policy is to set up and apply general law standards and not to overburden other local governments and their taxpayers, preventing proliferation of independent districts. This transformative policy is to encourage the use of special districts as a method of efficiently providing services, avoiding duplication of effort and fragmentation in the provision of services, and promoting cooperation between the various levels of government that exist within the state of Florida. Even so, there are problems. As an example, both the state executive branch and the local government can establish the state chartered and created Community Development Districts (CDD). Given the different levels of government for establishing CDDs, the following questions are raised: 1) how do CDDs avoid fragmentation in the provision of services; and 2) is their establishment by ordinance or rule subject to abuse in the consideration of the six factors resulting in possible proliferation?
2. Because CDDs are created and chartered by Chapter 190, they result from a general law determination that CDDs are not needless or unauthorized proliferation and therefore they do not constitute proliferation since the Legislature determined by general law they are needed. However, this may not be true in all cases.
3. There is a lack of consistent uniformity in the composition of governing boards where methods of appointment and number of seats vary.
    a. The governing board of a CDD consists of five members. Voting initially however is on the basis of one-acre/one vote so that on the majority vote of the electors on the basis of one person/one vote (as found in other elected special district boards) occurs after the raw undeveloped land is developed and landowners who are electors purchase final property and move in on the improved property as provided in 190.006(3)(a).
    b. Generally, the governing board of a fire control district is composed of five members who serve at-large. The size of fire control district boards that are jointly appointed by the Governor, the county commission, and any cooperating city within the county as well as boards previously created by special act may vary in size.
    c. Our analysis of multi-county special districts shows that seats on the governing boards are based on the election process for 34% of districts, 53% of the governing boards are appointed, 6% of the governing boards are filled through a mixture of elected and appointed seats, and 6% are congruent with the local governing authority.

4. Dependent special districts may be created by counties or municipalities if they meet minimum general law requirements while independent special districts are created by or pursuant to state general law.
5. The statute setting forth the minimum requirement for dependent special districts is vague regarding whether they limit the creation of multi-county or multi-jurisdictional authorities and their composition F.S. 189.01 (189.401).
6. Notwithstanding the minimum requirements of Chapter 189 for dependent and independent districts, the creation of a special district is independent of its desired financial resources. A successful referendum can provide a created independent special district additional revenue sources, particularly ad valorem taxes. The referendum cannot occur in the early years of a CDD because the land is undeveloped which is the public-policy-based special purpose, an alternative way to provide infrastructure to undeveloped land.
7. Dissolution of special districts varies. Four examples are offered: 1) an independent district created by a county or municipality by referendum under authority of general law (except 190) or any other applicable procedure may be merged or dissolved through the same procedure by which it was created; 2) an independent district that has ad valorem taxing powers, requires that the same procedure required to grant those powers of taxation are required to dissolve or merge the district; 3) a CDD shall remain in existence unless it is terminated including the alternative of being merged with another district, all of the specific community development systems, facilities, and services it is authorized to perform have been transferred to a general purpose unit of local government, or the district is dissolved; 4) water management districts created and operated pursuant to Chapter 373 are not subject to the same dissolution process as other special districts because they are not local governments.
8. Recently there have been efforts to provide further oversight and accountability to independent special districts than the oversight as provided currently in 189.068(2)(b)-(d) and (3)-(5) (189.428(3)(b)-(d) and (4)-(6)) and in 189.068(2)(a) (189.428(3)(a)) for dependent districts. In 2010, Senator Joe Negron (R-Palm City) introduced a bill (SB1216) necessitating children's service districts continued existence to be addressed every 8 years through public hearings on the effectiveness of the district and requiring a vote of both the county's governing body and its electors. This bill ultimately failed in the House.
9. In July 2012, amendments to 165 F.S. changed the "Formation of Municipalities Act" allowing the conversion for some types of special districts into municipalities if they met certain statutory requirements. These amendments do not require notification of either the respective county or any other municipalities, unless the special district or some portion of it lies within a municipality, nor do they require legislative review.
    a. Our evaluation infers that 53 CDDs have been established by the FLWAC. Upon meeting certain thresholds, CDDs are required by their own state general law charter to hold an incorporation referendum which, if passed, triggers the procedures of Chapter 165.061. (No CDDs may be established by special act but some non-CDD infrastructure providing independent districts have been created and established by special act). Conversion to a municipality has the effect of changing the structure of the organization's liabilities, in particular debt liabilities. Chapter 165.0615 appears to be ambiguous in its application to districts that use

in their name "Stewardship," because there is no such legal entity as a stewardship district in Florida Statutes. Recent municipal government defaults raise a question as to whether the State of Florida, in extending the ability of districts to convert to a municipality in the present period of property devaluation, gave consideration to the State's potential exposure to financial liability for municipal debt regarding the probability of default of municipalities created without legislative review.

10. A higher percentage of independent districts (85%) issue bonds than either multi-county districts (76%) or dependent districts (71%). When looking at ad valorem taxes, we find that 19% of multi-county districts, 14% of independent districts and 12% of dependent districts rely on this revenue source.
11. The growth in CDDs has been in recent years; from 2000 through 2003 there were approximately 33 new CDDs established annually; from 2004 through 2007 there were approximately 77 new CDDs established annually. In 2008, 25 new CDDs were established. Following 2008, after the breakdown of the housing market in the state, CDD growth abated to single digits annually. This information does not include non-CDD independent districts created by special act under Chapter 89 requirements.
12. The growth period for the creation of dependent special districts was in the 1980s (173 total, averaging 17 per year) however, during the 2000s (107 total), an average of 11 were created each year. Only two multi-county districts are not local districts.
13. The largest growth in independent districts occurred in the 1960s (74 total, an average of 7 per year) while average creation or establishment in the 2000s was 4 per year. In contrast with dependent districts, the average independent district is multi-county, serving 1.72 counties.
14. There are provisions in F.S. 189 and other general laws that are inconsistent, confusing or unauthorized that should be clarified, corrected or eliminated. The specific difference analyzed and found to be inconsistent in general law is presented in Table 1.
15. The general law-based policy and implementing reforms of the 1980s on special districts, including its implementation emphasizing the principle of authority of general law, is healthy in preventing needless proliferation of special districts but implementation of this policy should be improved by eliminating inconsistencies and potential for abuse.

Section II: What Has Been The Fiscal Performance Of Special Districts In Florida?

Methodology

To examine the fiscal performance of independent special districts[2], we use a sampling technique for special districts that provides representation of all independent special districts in Florida. Our representative sample methodology is as follows:

1. We stratify the special districts based on statutory creation, created under F.S. 189 (independent districts), F.S. 190 (Community Development Districts), and F.S. 191 (Fire Districts).
2. Within each stratum, we use a simple random sample based on our desired error rate of ± 4%.
3. We sample only the 992 independent districts that are active as of June 12, 2012.
4. Our sample consists of 96 independent special districts in Florida.

Using our sample, we collect data from two sources. Our first source of data for independent special districts is the Department of Economic Opportunity, Division of Community Development, Special District Information Program. Our second source of data is the audited financial statements under 218.39 F.S from the State of Florida, Auditor General's website. F.S. 218.39 requires that all entities shall have an annual financial audit of its accounts and records completed within 9 months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its public funds, including any special district with revenues or the total of expenditures and expenses in excess of $100,000, as reported on the fund financial statements or special district with revenues or the total of expenditures and expenses between $50,000 and $100,000, as reported on the fund financial statement, which has not been subject to a financial audit for the 2 preceding fiscal years.

To obtain the data, we physically scanned all creating documents and any additional documentation regarding creation or board membership available from the physical files at the Department of Economic Opportunity, Division of Community Development, Special District Information Program for our sampled independent special districts. We reviewed our scanned documents for the creating process that includes evidence of referendum required. If the scanned documents indicated that a special district required a referendum, this language was considered prima facie evidence that a referendum was ratified for the district. Data from the Auditor General's website was downloaded and information pertaining to our fiscal analysis was collected and manually placed into a database.

[2] While not the focal purpose of this report, we point out that it assists policy makers and reformers to understand the use of district audit reports. Both districts and their oversight entities are encouraged to use audit reports to project and guide substantive future actions while comparing and reconciling short-term and long-term fund accounts. This informs both districts and oversight entities about the impact of short-term decisions on long-term funding goals, a potential preventative analysis to the deficit balances reported in our analysis. Policy makers and reformers, in addition, should take into account practices specific or unique to the statutory purpose of the district when deficit balances are discovered. As an example, CDD's often continue to amortize substantial debt for years after the capital asset is no longer owned by the CDD because it was dedicated to a county or municipality pursuant to state-law-based policies and requirements. When these contextual matters are taken into account, policy makers and reformers can consider targeted improvements to the law, thereby anticipating, preventing, and managing the kinds of deficit balances disclosed in our report.

Our data collection process findings include the following:

1. Only a single soil and conservation district's documents were available from the physical files at the Department of Economic Opportunity, Division of Community Development, Special District Information Program.
    a. Using the single district's documents we found that under F.S. 582.12 all soil and conservation districts require referendum for creation or dissolution of the district.
2. Each special district with a governing board elected on a one-acre/one-vote basis must call for a referendum to decide whether certain members of its governing board should be elected by qualified electors (popular election). To establish the referendum the following two requirements must be met – the district has at least 500 qualified electors and at least 10% of the qualified electors sign a petition requiring the referendum.
3. Special districts issuing bonded debt may be required, if enabling legislation does not exempt the district, to adopt a resolution ordering a bond referendum to find out if a majority of the people residing in the special district favor a bonded debt.

IIA. Fiscal Performance

Using the data collected under our sampling methodology, we find that financial information is available for 74 of our 96 sampled independent districts. The missing districts are due to the age of the district (created after 2007), the size of the districts identified in 218.39 F.S., or the district did not report all data used in the analysis. We define and limit our fiscal analysis to independent special districts based on Chapters 189, 190, and 191 of the Florida Statutes (F.S.). These chapters identify the legislative boundaries and uniqueness of each defined independent district, setting the context for the districts authority and potentially its financial behavior. Given the variation in allocated authority and service provision, we present the independent districts by their associated groupings based on Florida Statute. In this way, the analysis groups districts as financial representatives of their legislative boundaries. We acknowledge that district financial behavior is affected by both their legislative authority and their management's behavior.

We include all 74 sampled independent districts regardless of current financial condition. We do not differentiate between districts that are in default, have defaulted, or are at risk of defaulting on their financial obligations. As identified in Section I, one key difference between the districts is their relationship with their enabling government and their constituents. To address this relationship, Table 10 identifies the board membership type for each of the 3 major statutory categories.

Table 10: Summary of Board Composition in Independent Districts

			Board Composition				
Service Type	**Total**	**Inactive**	**Elected**	**Appointed**	**Elected Appointed (mixed)**	**Local Government Authority**	**Other**
Independent (189 F.S.)	374	11	204	146	14	5	5
Other Independent							
Community Development (190 F.S.)	579	4	579	0	0	0	0
Fire Control and Rescue (191 F.S.)	54	0	53	1	0	0	0
Total	**1007**	**15**	**836**	**147**	**14**	**5**	**5**

Table 10 indicates that both Community Development districts (CDDs) and fire control and rescue districts are dominated by an elected board structure; however Chapter 189 F.S. independent special districts have large variation in board structure. To assess Chapter 189 F.S. districts further, we divide these districts into four groups based on board structure. These districts are divided into districts that have elected, gubernatorial appointed, mixed (both elected and appointed members) and appointed board structures.

Table 11: Summary of Districts by Type in the Sample

	Number of Special Districts
CDDs	47
Fire Districts	5
189 F.S. Independent Districts	
Elected Board Districts	11
Governor Appointed Boards	3
Mixed Boards	1
Appointed Boards	7

Our sample is shown in Table 11 and indicates the number of independent districts represented in our sample with financial statement data available from the Auditor General's website. We note that representation due to missing data may affect our sample. To address this we evaluate the representation of our districts with available financial information finding that 63.5% are CDDs, 29.7% are 189 F.S. independent, and 6.8% are fire districts. Comparing this to the active district population in Florida, we should find that 58% are independent CDDs, 36.6% are 189 F.S. independent, and 5.4% are independent fire districts. Statistically we find that there is no difference between the proportion of our sampled districts with available information and their representation in the population of special districts in Florida, allowing us to statistically generalize our findings to the Florida population of special districts.

We begin the fiscal performance analysis by descriptively looking at total cash on hand. Table 12 provides the breakdown of our sampled districts end of the year (EOY) cash on hand. The information shown in Table 12 indicates that average end of year cash on hand is declining for CDDs over the time period and is varied for fire districts. Elected, Governor appointed, mixed, and appointed boards all have increases in average end of year cash on hand for the time period. Looking at the 25th percentile, median, and 75th percentile CDDs vary on their change in cash on hand over the period.

Table 12: Cash on Hand at End of Year in Nominal Dollars

Year 2007	Average	25th percentile	Median	75th percentile
CDDs	530,427	12,979	22,445	117,837
Fire Districts	1,656,788	1,268,315	1,803,015	2,540,657
Elected Board Districts	937,471	123,491	252,730	1,063,485
Governor Appointed Boards	17,100,000	1,513,233	11,400,000	38,200,000
Mixed Boards	1,159,702			
Appointed Boards	18,000,000	800,222	25,200,000	25,700,000
Year 2008				
CDDs	361,771	13,262	82,729	190,858
Fire Districts	2,268,034	997,206	1,929,313	3,243,031
Elected Boards	813,001	116,348	387,366	1,762,683
Governor Appointed Boards	34,500,000	17,900,000	22,800,000	62,700,000
Mixed Boards	1,539,535			
Appointed Boards	17,000,000	495,858	12,600,000	28,500,000
Year 2009				
CDDs	346,344	23,556	106,936	383,445

Fire Districts	2,389,565	1,907,470	1,980,753	3,149,214
Elected Boards	1,107,776	127,465	623,045	2,227,206
Governor Appointed Boards	26,400,000	722,849	34,000,000	44,500,000
Mixed Boards	1,690,627			
Appointed Boards	18,800,000	426,337	12,500,000	30,800,000
Year 2010				
CDDs	294,011	22,136	99,871	304,804
Fire Districts	1,954,344	1,087,676	2,091,603	2,789,293
Elected Boards	3,976,177	158,635	1,653,034	3,147,503
Governor Appointed Boards	21,600,000	558,027	26,400,000	37,700,000
Mixed Boards	2,154,838			
Appointed Boards	23,500,000	12,600,000	26,100,000	28,500,000

Cash on hand, as illustrated in Table 13, only indicates the amount of cash available. To observe what the amount of cash on hand indicates in the districts' ability to pay their expenses[3], cash on hand is weighted by expenses per day resulting in the number of days of cash on hand. This is derived by the following formula:

$$Days\ cash\ on\ hand = \frac{Cash}{(Operating\ expenses/365\ days)}$$

Table 13: Days of Cash on Hand at the End of Year (Current Year Dollars)

Year 2007	**Mean**	**25th percentile**	**Median**	**75th percentile**
CDDs	350	18	49	189
Fire Districts	107	30	113	143
Elected Board Districts	386	99	322	818
Governor Appointed Boards	143	133	143	152
Mixed Boards	88			
Appointed Boards	166	55	96	280
Year 2008				
CDDs	469	17	155	286
Fire Districts	197	133	207	307
Elected Board Districts	282	54	184	461
Governor Appointed Boards	825	258	825	1391
Mixed Boards	141			
Appointed Boards	104	20	83	137
Year 2009				
CDDs	590	61	213	455
Fire Districts	135	34	130	160
Elected Board Districts	272	143	211	339
Governor Appointed Boards	383	61	383	705

[3] Expenses and expenditures are considered synonymous in financial statements since all financial statements are reported in the accrual basis of accounting.

Mixed Boards	154			
Appointed Boards	109	17	103	106
Year 2010				
CDDs	377	35	220	442
Fire Districts	186	110	201	226
Elected Board Districts	451	213	437	528
Governor Appointed Boards	284	44	284	524
Mixed Boards	199			
Appointed Boards	171	98	177	280

A financially disturbing outcome is observed for CDDs in the 25th percentile over the time period. This outcome is that 25% of CDDs had less than 35 days of cash on hand in 2010. According to the Government Finance Officers Association's (GFOA) best practices, the level of cash on hand should have a baseline of 90 days and a minimum of 45 days. Consistent across the time period, we find that the average fire district and appointed board district have less than 6 months but more than 90 days of cash on hand. By 2010, 25% of governor appointed board districts fall below the 45 day minimum of cash on hand.

Our final descriptive fiscal performance assessment of districts is a look at net assets, a measure that is commonly used to assess the organization's ability to reinvest surplus toward the organization's mission. Net assets provide a long-term view of the organization's overall economic condition, providing a useful metric in evaluating debt issuance, capital infrastructure condition and needs, program creation or expansion, and other decisions impacting the long-term economic prospects.

Table 14: Net Assets (Total Assets - Total Liabilities)

Year 2007	**Average**	**25th percentile**	**Median**	**75th percentile**
CDDs	383,649	(1,321,649)	(272,203)	1,329,509
Fire Districts	5,066,356	4,158,135	4,199,221	4,615,906
Elected Boards	11,500,000	151,707	1,298,430	8,716,019
Governor Appointed Boards	180,000,000	135,000,000	179,000,000	225,000,000
Mixed Boards	n.a.			
Appointed Boards	163,000,000	9,652,303	121,000,000	152,000,000
Year 2008				
CDDs	(718,251)	(2,453,877)	(486,478)	1,334,684
Fire Districts	5,805,324	4,141,469	4,945,450	5,715,713
Elected Boards	12,300,000	149,180	1,743,035	9,895,318
Governor Appointed Boards	189,000,000	142,000,000	184,000,000	241,000,000
Mixed Boards	n.a.			
Appointed Boards	162,000,000	10,100,000	140,000,000	163,000,000
Year 2009				
CDDs	(378,783)	(2,323,350)	(73,503)	3,216,270
Fire Districts	5,886,591	4,314,820	5,144,914	5,311,846
Elected Boards	11,300,000	190,091	2,345,260	9,627,838
Governor Appointed Boards	190,000,000	154,000,000	170,000,000	248,000,000
Mixed Boards	n.a.			

Appointed Boards	160,000,000	11,300,000	134,000,000	170,000,000
Year 2010				
CDDs	(296,104)	(2,449,476)	(90,029)	1,879,780
Fire Districts	5,293,655	4,235,003	4,512,404	4,983,818
Elected Boards	7,185,128	207,135	3,472,644	10,700,000
Governor Appointed Boards	199,000,000	166,000,000	173,000,000	259,000,000
Mixed Boards	n.a.			
Appointed Boards	162,000,000	10,900,000	135,000,000	185,000,000

n.a. = not available.

Negative net assets, known as balance sheet insolvency, are indicative of financial distress. Financial distress can lead to bankruptcy, but is more commonly an indicator of the organizations inability to meet the conditions of creditor repayment promises or honoring those promises with difficulty. We define net assets as total assets minus total liabilities. We observe that at least 50% of CDDs are in balance sheet insolvency over the time. Although over 50% of CDDs are in balance sheet insolvency, CDDs have first lien on the land assets as a potential protection for investors. Given that land is accounted for on the balance sheet at historical costs and is a non-depreciating asset, the market value appreciation of the land may protect investors. In addition, CDD investments in infrastructure may be conveyed to a local general purpose government, such as a city, thereby removing the infrastructure asset from the balance sheet while the long-term liability, a note or bond, continues as a liability. That said, investors in the CDD's debt are still taking risk that the owners of the land, which is securitizing the debt, are solvent. There is no guidance from GFOA regarding the amount of total net assets that would indicate a best practice or a benchmark. Table 14 shows the total net assets for the districts.

Summary of Fiscal Performance

In our descriptive fiscal performance analysis we find that CDDs have struggled over the time period, while all other district types have low fiscal performance intermittently over the time period. By 2010, 25% of CDDs have very low number of days of cash on hand and a declining amount of cash on hand. Total net assets for the average CDD indicate that the average CDD is in balance sheet insolvency, an indicator of fiscal distress.

We observe that although districts with a governor appointed board appear to have a relatively large amount of cash on hand compared to other districts, by 2010, 25% of these board types have fallen below the GFOA minimal standard of 45 days of cash on hand. This coincides with their decline in average net assets over the time period. We note that 25% of fire districts struggled in 2007, 2008, and 2009 to reach the minimal amount of days of cash on hand. In both 2008 and 2009 25% of districts with appointed boards did not meet the 45 days of cash on hand. Over the time period special districts in general appear to have writhed during this economic slump.

IIB. Ratio Analysis

We begin the ratio analysis by providing definitions for the measures used. We use multiple measures to identify the two key measurements of a special district's financial condition, liquidity and debt management. This follows the academic and practice literature where liquidity and debt management are found to be the major contributor to fiscal health in governmental organizations. We provide additional measures of the instantaneous financial condition of the special district by offering a measure of the ability to liquidate or fund ensuing operations from available cash and unrestricted spendable equity available to meet temporary cash shortages, an emergency, or a deficit situation. We then provide a budgetary variance analysis indicating the grasp of underlying assumptions, planning, and /or projections by special districts. The response to variances over time indicates the budgetary adaptation to inaccuracy in the budget demonstrating the ability to focus on accuracy in the stewardship of financial resources.

Liquidity Measures

To measure the organization's ability to pay obligations in a timely manner (within 12 months), we use two measures. The current ratio is identified as a useful indicator of cash flow in the near term. Current assets include cash and other assets that will be converted to cash or used within a year or operating cycle. Current liabilities include those obligations that are due within a year or operating cycle and will require the use of current assets or establishment of additional current liabilities. However, not all current assets are immediately convertible to cash. A current ratio of 1 or more would indicate there are more current assets than current liabilities. We measure the current ratio as follows:

$$\boldsymbol{Current\ ratio} = \frac{Current\ assets}{Current\ liabilities}$$

Net working capital measure uses balance sheet accounts arising from routine operations to provide an indicator of short-term financing decisions (within 12 months). Net working capital can be negative or positive. Positive net working capital has two aspects. The first is that conceptually positive working capital represents the amount of resources (money) a government needs in order to carry out its routine operations. Secondly, positive working capital serves as a measure of safety to government lenders on the assumption that current assets are more likely to maintain a reasonable liquidating value when compared to any other asset of the government. Underlying the net working capital measure is the assumption that current assets are sources of cash inflows and current liabilities are sources of cash outflows. Net working capital is measured as:

$$\boldsymbol{Net\ Working\ Capital} = Current\ assets - Current\ liabilities$$

Debt Management (leverage) Measures

How much the organization is relying on funding from others, such as loans, payables, and obligated funds underlies our measures of debt management. The first measure of debt management is debt ratio 1, which is defined as:

$$\boldsymbol{Debt\ Ratio\ 1} = \frac{Total\ liabilities}{Total\ unrestricted\ net\ assets}$$

Debt ratio 1 indicates the resources already obligated in providing public services for every dollar of available resources owned by the organization.

The extent to which the total assets of the organization have been financed using borrowed funds is measured by debt ratio 2. This ratio is defined as:

$$\boldsymbol{Debt\ Ratio\ 2} = \frac{Total\ Debt}{Total\ Assets}$$

Other Fiscal Measures

The fund balance ratio, now called the unrestricted net assets ratio, is used to measure the amount of unrestricted spendable equity special districts have in relation to annual operating expenses. If low, the organization has little unrestricted spendable equity available to meet temporary cash shortages, an emergency, or a deficit situation in the future. This may be the case even in organizations with significant unrestricted net assets, if the major portion of equity is tied up in fixed assets. We define the unrestricted net assets ratio as:

$$\boldsymbol{Unrestricted\ Net\ Assets\ Ratio} = \frac{Expendable\ Unrestricted\ Net\ Assets}{Annual\ Expenses}$$

The ability to liquidate current liabilities or to fund ensuing operations from available cash is an important aspect of the ability to respond to a fiscal crisis. To measure this ability to respond, this ratio measures the amount of cash on hand at the end of the year in relation to the amount of current liabilities. The response ratio is defined as:

$$\boldsymbol{Response\ ratio} = \frac{Cash\ and\ Investments}{Current\ Liabilities}$$

Budgetary Variance Measures

The variance between actual and budgeted revenues or expenses is an indicator of the grasp of underlying assumptions, planning, and /or projections by an organization. The ability to assess the variance between actual and budget outcomes is an important aspect of good budgetary evaluation. We provide measures for revenue and expenditure variances defined as follows:

$$\boldsymbol{Revenue\ Variance} = Budgeted\ Revenues - Actual\ Revenues$$

A negative variance indicates that actual revenues were higher than budgeted revenues.

$$\boldsymbol{Expenditures\ Variance} = Budgeted\ Expenditures - Actual\ Expenditures$$

A negative variance indicates that actual expenditures were higher than budgeted expenditures.

Liquidity Measures

Table 15 shows the current ratio, an indication of the special district's ability to pay obligations in a timely manner (within 12 months). Larger numbers or trends over time that are increasing

indicate that the special districts have available current assets to cover current liabilities (within 12 months).

Table 15: Current Ratio

Year 2007	Average	25th percentile	Median	75th percentile
CDDs	29.75	17.54	32.25	41.26
Fire Districts	16.02	10.42	10.69	16.53
Elected Boards	57.61	9.25	19.36	30.39
Governor Appointed Boards	5.17			
Mixed Boards				
Appointed Boards	14.25	3.34	9.92	11.38
Year 2008				
CDDs	35.15	23.93	35.61	44.08
Fire Districts	11.77	11.16	11.92	12.81
Elected Boards	119.67	3.87	20.72	24.52
Governor Appointed Boards	3.94			
Mixed Boards				
Appointed Boards	12.95	2.18	4.90	12.62
Year 2009				
CDDs	33.60	23.20	34.56	42.90
Fire Districts	23.48	9.74	15.42	30.27
Elected Boards	171.18	10.73	25.35	52.44
Governor Appointed Boards	16.99	3.69	14.19	33.10
Mixed Boards				
Appointed Boards	14.47	2.51	8.20	12.08
Year 2010				
CDDs	25.37	9.54	23.85	41.11
Fire Districts	20.46	6.44	9.02	34.49
Elected Boards	52.51	14.72	25.60	52.20
Governor Appointed Boards	13.62	5.15	14.06	21.64
Mixed Boards				
Appointed Boards	9.22	5.37	8.37	12.72

Noteworthy in Table 15 is the sharp decline in the average current ratio for all districts in 2010. Our next liquidity measure is net working capital. Net working capital measures the excess of current assets over current liabilities. Current assets include cash and other assets that will be converted to cash or used within a year or operating cycle. Table 16 provides the information for working capital.

Using both of our liquidity measures as indicators, Tables 15 and 16 indicate that both CDDs and other elected board districts have seen a steady decline in liquidity over the time period, indicating that both of these types of districts have a reduced capacity in their ability to pay obligations in a timely manner (within 12 months).

Table 16: Working Capital in Current Year Dollars

Year 2007	Average	25th percentile	Median	75th percentile
CDDs	14,100,000	4,435,923	10,800,000	19,000,000
Fire Districts	3,358,948	2,725,435	3,252,338	3,406,034
Elected Boards	27,600,000	150,167	2,809,833	60,100,000
Governor Appointed Boards	76,300,000			
Mixed Boards	n.a			
Appointed Boards	46,700,000	15,900,000	35,200,000	93,800,000
Year 2008				
CDDs	13,500,000	3,612,052	9,883,199	20,200,000
Fire Districts	4,004,527	3,139,372	3,333,976	4,415,079
Elected Boards	27,300,000	121,140	2,763,120	60,300,000
Governor Appointed Boards	108,000,000			
Mixed Boards	n.a			
Appointed Boards	43,100,000	11,700,000	41,100,000	61,800,000
Year 2009				
CDDs	12,900,000	3,450,672	10,400,000	19,300,000
Fire Districts	4,545,401	3,274,520	3,586,334	3,906,441
Elected Boards	25,000,000	155,388	2,883,232	45,700,000
Governor Appointed Boards	102,000,000	39,700,000	56,300,000	210,000,000
Mixed Boards	n.a			
Appointed Boards	40,600,000	12,500,000	39,200,000	57,000,000
Year 2010				
CDDs	12,200,000	2,599,559	10,100,000	18,100,000
Fire Districts	4,174,655	2,734,032	3,766,847	4,416,669
Elected Boards	23,200,000	483,125	3,673,043	28,600,000
Governor Appointed Boards	106,000,000	43,800,000	64,000,000	212,000,000
Mixed Boards	n.a			
Appointed Boards	54,600,000	11,900,000	37,400,000	59,100,000

Debt Management (leverage) Measures

Table17 shows the first debt ratio. This ratio indicates the resources obligated for providing public services for every dollar of unrestricted resources owned by the special district. This ratio is best if it is under 1.0, which would indicate unrestricted net assets are higher than total liabilities. The results indicate that by 2010, only fire districts and appointed board districts had ratios under 1.0. In 2010, the average CDD had 57 times more liabilities than unrestricted net assets, while the average other elected board district had about 6 times more liabilities than unrestricted net assets.

Table 17: Debt Ratio 1 (Total Liabilities/Unrestricted Net Assets)

Year 2007	Average	25th percentile	Median	75th percentile
CDDs	99,366.53	6.30	91.97	378.53

Fire Districts	0.28	0.08	0.09	0.55
Elected Boards	83.66	0.00	0.00	0.02
Governor Appointed Boards	1.51	0.00	0.05	4.47
Mixed Boards	8.66			
Appointed Boards	1.61	0.69	1.17	2.97
Year 2008				
CDDs	1,312.96	0.00	36.50	123.49
Fire Districts	0.21	0.05	0.05	0.46
Elected Boards	14.95	0.00	0.00	8.90
Governor Appointed Boards	1.59	0.01	0.07	4.69
Mixed Boards	9.80			
Appointed Boards	1.26	0.50	0.82	1.36
Year 2009				
CDDs	842.92	0.00	18.39	91.95
Fire Districts	0.33	0.11	0.17	0.34
Elected Boards	12.69	0.00	0.00	2.83
Governor Appointed Boards	1.65	0.01	0.05	4.91
Mixed Boards	7.60			
Appointed Boards	1.17	0.46	0.60	1.15
Year 2010				
CDDs	57.23	(1.77)	17.32	68.65
Fire Districts	0.42	0.16	0.29	0.54
Elected Boards	5.92	0.00	0.00	4.62
Governor Appointed Boards	1.57	0.00	0.04	4.65
Mixed Boards	4.90			
Appointed Boards	0.86	0.00	0.32	1.30

Our second measure of debt management, measuring the extent to which the total assets of the organization have been financed using borrowed funds, is offered in Table 18. Measures below 0.5 indicate that less than 50% of the total asset value is due to debt issuance. Here we see that CDDs have a very high debt ratio an indicator that if all the assets were sold off at book value it would not cover the total debt that has been acquired by the CDDs. For the average CDD in 2010, there was 4 times as much debt as total assets, while all other district types have ratios of about 0.5 or less.

Using both our measures of debt management, we ascertain that CDDs have both a high amount of liabilities compared to unrestricted net assets and a high debt to asset ratio, indicating that debt has the potential to place the average CDD into a financial distressed position which may require an influx of outside revenues to reduce the default risk.

Table 18: Debt Ratio 2 (Total Debt/Total Assets)

Year 2007	Average	25th percentile	Median	75th percentile
CDDs	1.05	0.76	0.97	1.16
Fire Districts	0.10	0.04	0.05	0.15
Elected Boards	0.21	0.00	0.00	0.45
Governor Appointed Boards	0.10	0.00	0.00	0.30
Mixed Boards	0.56			
Appointed Boards	0.12	0.00	0.02	0.29
Year 2008				
CDDs	8.18	0.78	1.01	1.48
Fire Districts	0.08	0.03	0.03	0.15
Elected Boards	0.20	0.00	0.01	0.45
Governor Appointed Boards	0.13	0.00	0.00	0.38
Mixed Boards	0.52			
Appointed Boards	0.11	0.01	0.05	0.27
Year 2009				
CDDs	5.00	0.64	1.01	1.51
Fire Districts	0.12	0.06	0.11	0.16
Elected Boards	0.20	0.00	0.01	0.42
Governor Appointed Boards	0.16	0.00	0.00	0.48
Mixed Boards	0.52			
Appointed Boards	0.10	0.00	0.04	0.25
Year 2010				
CDDs	4.14	0.70	1.00	1.49
Fire Districts	0.19	0.16	0.20	0.27
Elected Boards	0.26	0.00	0.00	0.53
Governor Appointed Boards	0.16	0.00	0.00	0.47
Mixed Boards	0.52			
Appointed Boards	0.10	0.00	0.01	0.28

Other Fiscal Measures

We offer two additional fiscal measures in the analysis. The first, the unrestricted net asset ratio, is used to measure the amount of unrestricted spendable equity special districts have in relation to annual operating expenses. If low, the organization has little unrestricted spendable equity available to meet temporary cash shortages, an emergency, or a deficit situation in the future. This may be the case even in organizations with significant unrestricted net assets, if the major portion of equity is tied up in fixed assets. Our second measure provides an opportunity to look at a district's ability to liquidate current liabilities or to fund ensuing operations from available cash which is an important aspect of the ability to respond to a fiscal crisis. To measure this ability to respond, this ratio measures the amount of cash on hand at the end of the year in relation to the amount of current liabilities.

Table 19 provides the results of the unrestricted net asset ratio (formerly called the fund balance ratio). The ratio shows that CDDs, fire districts, mixed board districts, and appointed board

districts all have low values, indicating a limited ability to respond to temporary cash shortages, emergencies or deficits. Contrasting these districts, the ratio indicates that on average in 2010 both elected board districts and governor appointed board districts have about 2 times their annual expenses available in spendable unrestricted net assets.

Table 19: Unrestricted Net Asset Ratio

Year 2007	**Average**	**25th percentile**	**Median**	**75th percentile**
CDDs	-0.44	0.04	0.25	0.65
Fire Districts	0.47	0.37	0.46	0.63
Elected Boards	1.62	0.95	1.52	2.39
Governor Appointed Boards	1.69	0.55	1.69	2.83
Mixed Boards	0.14			
Appointed Boards	0.28	0.07	0.21	0.22
Year 2008				
CDDs	-1.49	0.03	0.42	0.71
Fire Districts	0.59	0.42	0.56	0.80
Elected Boards	1.51	0.69	1.17	1.42
Governor Appointed Boards	1.03	0.59	1.03	1.48
Mixed Boards	0.14			
Appointed Boards	0.18	0.09	0.15	0.15
Year 2009				
CDDs	-0.58	0.10	0.58	1.11
Fire Districts	0.42	0.25	0.42	0.43
Elected Boards	1.60	0.77	1.18	1.43
Governor Appointed Boards	1.58	0.61	1.58	2.55
Mixed Boards	0.18			
Appointed Boards	0.19	0.04	0.20	0.23
Year 2010				
CDDs	-0.46	0.14	0.58	1.19
Fire Districts	0.53	0.34	0.44	0.48
Elected Boards	2.24	1.13	1.44	1.57
Governor Appointed Boards	1.99	0.90	1.99	3.09
Mixed Boards	0.31			
Appointed Boards	0.44	0.24	0.29	0.55

The ability to liquidate current liabilities or to fund ensuing operations from available cash is the focus of our final fiscal ratio. This ratio measures the amount of cash on hand at the end of the year in relation to the amount of current liabilities. The ratio information is provided in Table 20. Shown here is that prior to 2010 over 50% of elected board districts had less cash on hand than liabilities owed in the upcoming 12 month period. This trend fell to 25% of elected board districts in 2010. Note here that at least 50% of CDDs continue to show low cash holdings when compared to their upcoming liabilities throughout the time period.

Table 20: Response Ratio

Year 2007	Average	25th percentile	Median	75th percentile
CDDs	0.76	0.03	0.11	0.52
Fire Districts	5.47	1.72	7.64	8.22
Elected Boards	45.18	0.05	0.25	15.34
Governor Appointed Boards	0.95			
Mixed Boards				
Appointed Boards	8.32	1.26	2.40	3.53
Year 2008				
CDDs	1.56	0.04	0.30	2.20
Fire Districts	8.23	7.85	9.63	10.56
Elected Boards	91.48	0.17	0.32	6.32
Governor Appointed Boards	1.38			
Mixed Boards				
Appointed Boards	10.04	0.03	0.85	5.18
Year 2009				
CDDs	1.57	0.12	0.49	2.04
Fire Districts	16.02	8.62	12.66	24.02
Elected Boards	139.34	0.16	0.48	27.64
Governor Appointed Boards	9.19	0.05	2.14	25.38
Mixed Boards				
Appointed Boards	10.87	0.33	1.11	9.39
Year 2010				
CDDs	1.17	0.03	0.34	1.41
Fire Districts	10.14	2.17	6.54	18.11
Elected Boards	35.91	0.93	6.65	22.51
Governor Appointed Boards	3.63	0.05	2.33	8.52
Mixed Boards				
Appointed Boards	5.74	2.35	4.53	7.79

Summary of Ratio Analysis

The ratio analysis indicates that specific special district types are struggling fiscally. The overall fiscal health of CDDs appears to be marginal to poor. Other elected board districts have seen a decline in liquidity, but appear to be improving over the time period. Prior to 2010 over 50% of other elected board districts had less cash on hand than liabilities owed in the upcoming 12 month period, with this trend falling to 25% of elected board districts in 2010. Fire districts, mixed board districts, and appointed board districts indicate a limited ability to respond to temporary cash shortages, emergencies or deficits. All districts show fiscal improvement by 2010, although fiscal recovery has been slow.

Budgetary Variance Measures

We use the budgetary comparison schedule in the financial statements to assess the accuracy of revenue and expenditure forecasts. This analysis is used as an indicator of the grasp of underlying assumptions, planning, and /or projections by special districts. The ability to assess

the variance between actual and budget outcomes is an important aspect of good budgetary evaluation. The response to variances over time indicates the budgetary adaptation to inaccuracy in the budget demonstrating the ability to focus on accuracy in the stewardship of financial resources. The revenue variance is an indicator of the financial management system's ability to closely forecast revenues. Table 21 provides the revenue variance outcomes. Note that for each year the average fire district and CDD had actual revenues below budgeted revenues. Contrasting this outcome is both other elected and governor appointed board districts where the average district had actual revenues that exceeded budgeted revenues for all years. Both of these outcomes indicate consistent inaccuracy in projecting revenues.

Table 21: Revenue Variance (Budgeted Revenues - Actual Revenues)

Year 2007	**Average**	**25th percentile**	**Median**	**75th percentile**
CDDs	27,012	(9,485)	(1)	18,885
Fire Districts	271,853	(434,525)	(106,122)	286,859
Elected Boards	(243,690)	(179,588)	(70,864)	(9,298)
Governor Appointed Boards	(863,247)			
Mixed Boards	106,574			
Appointed Boards	765,498	68,661	1,089,692	1,126,359
Year 2008				
CDDs	23,136	(9,067)	(1,466)	25,348
Fire Districts	973,229	(366,056)	(69,341)	711,560
Elected Boards	(5,915)	(64,724)	(5,169)	2,085
Governor Appointed Boards	(500,117)			
Mixed Boards	109,679			
Appointed Boards	757,427	0	687,989	838,542
Year 2009				
CDDs	40,999	(5,432)	3,168	48,581
Fire Districts	787,095	(180,738)	61,816	1,027,913
Elected Boards	(8,742)	(40,541)	931	20,218
Governor Appointed Boards	(209,752)			
Mixed Boards	184,248			
Appointed Boards	1,256,655	0	500,429	1,225,630
Year 2010				
CDDs	14,082	(5,569)	(1,560)	21,671
Fire Districts	2,346,095	26,209	1,197,485	3,833,115
Elected Boards	(55,613)	(7,054)	2,509	20,301
Governor Appointed Boards	(939,921)			
Mixed Boards	(70,821)			
Appointed Boards	(61,172)	0	687,292	1,148,375

The expenditure variance, shown in Table 22, illustrates that for all years, with the exception of the average fire district in 2009, actual expenditures are below budgeted expenditures. We consistently see that average governor appointed board district over the time period overstates expenditure by at least 20 million dollars, indicating that the financial management process for this group of districts is inaccurate when predicting expenditures.

Table 22: Expenditure Variance (Budgeted Expenditures - Actual Expenditures)

Year 2007	Average	25th percentile	Median	75th percentile
CDDs	41,329	3,476	22,593	65,634
Fire Districts	1,317,408	31,350	668,510	1,981,158
Elected Boards	590,080	(85,530)	27,373	82,978
Governor Appointed Boards	24,200,000			
Mixed Boards	6,237			
Appointed Boards	1,213,362	0	1,112,361	3,461,882
Year 2008				
CDDs	68,545	12,963	41,421	78,356
Fire Districts	3,091,918	208,504	984,317	4,048,923
Elected Boards	1,303,929	(79,217)	(4,859)	108,613
Governor Appointed Boards	26,900,000			
Mixed Boards	508,677			
Appointed Boards	898,706	833,297	1,126,359	2,880,216
Year 2009				
CDDs	69,421	6,653	46,769	99,507
Fire Districts	(5,716,241)	278,768	1,044,665	3,725,703
Elected Boards	1,653,990	8,974	32,438	154,773
Governor Appointed Boards	29,600,000			
Mixed Boards	662,820			
Appointed Boards	4,315,486	212,139	687,989	6,061,809
Year 2010				
CDDs	47,726	3,548	38,064	89,652
Fire Districts	2,642,952	1,269,932	1,282,406	3,693,521
Elected Boards	1,212,313	52,890	139,540	1,054,474
Governor Appointed Boards	35,100,000			
Mixed Boards	725,308			
Appointed Boards	1,784,832	0	944,422	1,239,797

Summary of Variance Analysis

The financial behavior we observe in the variance analysis is that for each year the trend was to overstate expenditures on average. Budgeted revenues were overstated in the average fire district and CDD when compared to actual revenues, while the average other elected and governor appointed board district had actual revenues that exceeded budgeted revenues for all years. These variance outcomes indicate consistent inaccuracy in projecting revenues and expenditures.