

**PRESENTATION TO THE ANNUAL CONFERENCE
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-Sunshine Law, Code of Ethics, & Campaign and Election Laws-

The creation, governance, and reporting requirements for Special Districts are governed by various statutory chapters, including chapters 189 and 190, FS.¹ In addition to complying with those provisions, Special District Boards (“Boards”)² must comply with statutes generally applicable to local governmental entities related to the sunshine law, the code of ethics, and campaign and election laws.

The Sunshine Law³

Government-in-the-Sunshine

Under section 286.011, FS, commonly referred to as the Sunshine Law,

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

Elected and appointed Boards fall within the sunshine law’s parameters, which are very broad and are to be construed that way.⁴ Because this law is applicable, Boards

¹ The Florida Special District Handbook is a good resource and is available at: <http://floridaspecialdistricts.org/handbook/>.

² For specific information about water control districts, see chapter 298, F.S., community development districts, see chapter 190, F.S., and fire control districts, see chapter 191, F.S.

³ See Art. I, § 24, Fla. Const.

⁴ § 189.417(2), Fla. Stat. (2007); Op. Att’y Gen. Fla. 71-171 (1971) (holding that special districts are political subdivisions under what is now s. 1.01(8), FS, for the purposes of the Sunshine Law); Op. Att’y Gen. Fla.

not only have to meet in the sunshine, but Florida courts have consistently held that the Sunshine Law applies when two or more members discuss an issue that could *foreseeably* come before the Board for decision or discussion.⁵ Therefore formal actions taken by the Board, as well as certain discussions, debate, gathering of facts and expertise, and seemingly casual or harmless small talk on certain subjects are prohibited unless compliant with the law.⁶ There are instances, however, “where the physical presence of two or more members is not necessary in order to find the Sunshine Law applicable.[7] As stated by The Supreme Court of Florida, the Sunshine Law is to be construed so as to frustrate all evasive devices.”⁸

Compliance with the Sunshine law requires:

- All meetings be open to the public;
- All meetings be held in a location that does not discriminate on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility;⁹ and
- The minutes of all meetings shall be promptly recorded and open to public inspection.

The parameters of notice of public meetings as required by the Sunshine Law, is partially set forth in chapter 189, F.S., which requires that Boards must *file* quarterly, semiannually, or annually a schedule of its regular meetings, and *publish* such schedule in a newspaper of general paid circulation. The schedule shall include the date, time, and location of each scheduled meeting. The advertisement must be placed in that portion of the newspaper where legal notices and classified advertisements appear; appear in a newspaper that is published at least 5 days a week, unless the only

73-223 (1973) (finding that elected and appointed boards are controlled by the Sunshine law); *see generally Times Publishing Company v. Williams*, 222 So. 2d 470 (Fla. 2d DCA 1969), *disapproved in part on other grounds, Neu v. Miami Herald Publishing Company*, 462 So. 2d 821 (Fla. 1985), *Hobbs v. Weinkauff* 940 So. 2d 1151 (Fla. 2d DCA 2006).

⁵ *Mitchell v. The School Board of Leon County*, 335 So. 2d 354, (Fla. 1st DCA 1976); *Hough v. Stembridge*, 278 So. 2d 288, (Fla. 3d DCA 1973).

⁶ For a detailed discussion of what types of meetings and discussions are covered, see Government-in-the-Sunshine Manual (2008), available on-line at <http://myfloridalegal.com/sun.nsf/manual>.

⁷ Section 286.011, FS, includes an exception for certain discussions with an attorney. The Government-in-the-Sunshine Manual includes additional exceptions.

⁸ 89-23 Fla. Op. Att’y Gen. Fla. (1989) (internal references omitted).

⁹ Under § 189.417(3), F.S., the meetings must be held in a public building when available within the district, in a county courthouse of a county in which the district is located, or in a building in the county accessible to the public.

newspaper in the county is published fewer than 5 days a week; and be one of general interest and readership in the community and not one of limited subject matter.¹⁰

Independent Special Districts. These Boards must advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days prior to such meeting, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the board. No approval of the annual budget shall be granted at an emergency meeting.¹¹

Violations of the Sunshine Law can result in criminal and noncriminal penalties or civil action. Additionally, any action taken at a meeting in violation of the Sunshine Law is void.¹²

- Noncriminal. Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.
- Criminal. Any Board member who knowingly violates the provisions of this section, either in the State or outside thereof, by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree. This penalty carries a prison term of up to 60 days and/or a fine up to \$500.
- Civil Action. Any citizen of the state can file an action against a Board for violation of the Sunshine Law. The Sunshine Law provides for the assessment of attorney fees.

Public Records

Under chapter 119, FS, Special Districts must provide public access to certain governmental records and public documents defined as public records.¹³ Public records include: all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form,

¹⁰ § 189.417(1), Fla. Stat. (2007).

¹¹ § 189.417(1), Fla. Stat. (2007).

¹² § 286.011, Fla. Stat. (2007).

¹³ Chapter 119, FS, applies to agencies as broadly defined within that chapter to include all districts. § 119.011(2), Fla. Stat. (2007).

characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.¹⁴ This definition is very broad, as defined in the statutes and by the courts. The Florida Supreme Court has held that this definition encompasses all materials that are used to perpetuate, communicate or formalize knowledge, whether created by, created for, or received by any agency.¹⁵ All materials defined as public records are open for public inspection unless the Legislature has exempted them from disclosure.¹⁶ As such, the definition includes emails, computer records, certain election records, unfinished business such as drafts and notes, and financial records, to name a few.¹⁷ Regarding e-mail, the legislature has adopted specific provisions requiring public agencies to warn citizens of the potential for public record disclosure of their e-mail: An agency as defined in s. 119.011 F.S., or legislative entity that operates a website and uses electronic mail shall post the following statement in a conspicuous location on its website:

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.¹⁸

“Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.”¹⁹ There is a large body of law surrounding the inspection and copying of public records, but generally,²⁰

- A custodian of public records may not impose a rule or condition of inspection that operates to restrict or circumvent a person's right of access;²¹
- A request can be made in any form, by mail, email, or verbal;²²

¹⁴ § 119.011(12), Fla. Stat. (2007). As renumbered by addition of a new subsection (10). Chapter 2008-57, Laws of Florida, effective 10/1/2008.

¹⁵ *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633 (Fla. 1980).

¹⁶ *Wait v. Florida Power & Light Company*, 372 So. 2d 420 (Fla. 1979).

¹⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633, 640 (Fla. 1980); *Seigle v. Barry*, 422 So. 2d 63 (Fla. 4th DCA 1982), *review denied*, 431 So. 2d 988 (Fla. 1983); Op. Att’y Gen. Fla. 96-34 (1996); Op. Att’y Gen. Fla. 96-96 (1996). Regarding election records, see § 97.0585, FS. For a more detailed discussion, see the Government-in-the-Sunshine Manual.

¹⁸ §. 668.6076, Fla. Stat. (2007)

¹⁹ § 119.07(1), Fla. Stat. (2007).

²⁰ The Government-in-the-Sunshine Manual includes a detailed discussion of this issue.

²¹ Op. Att’y Gen. Fla. 75-50 (1975).

²² *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302, 305 n.1 (Fla. 3rd DCA 2001).

- The request does not have to come from a person with any special characteristics, like being a Florida citizen or not having a felony record, or from a person with a special interest;²³ and
- No automatic delay in release of records is allowed, the response must be reasonable.²⁴

As with the Sunshine Law, there are legal remedies available under chapter 119, FS, including mediation, civil action (mandamus, injunction, or declaratory relief), and criminal penalties. Regarding criminal penalties, any person who willfully and knowingly violates the provisions of chapter 119, FS, may receive a definite term of imprisonment not exceeding 1 year and/or a fine of up to \$1000.²⁵

Code of Ethics

The ethics laws in Florida require compliance by any person elected or appointed to a Board, as well as persons employed by the Special District.²⁶ During the 2009 Legislative Session, the Florida Legislature amended chapter 112 to apply portions of the Code of Ethics to private entities that perform the function of chief administrative or executive officer or employee for a political subdivision.²⁷ The laws generally deal with the prohibition of certain actions or required disclosures.²⁸ Private entities serving as the chief administrative or executive officer, and their employees, are subject to the following sections on Gifts and Honoraria, Financial Reporting, and Misuse of Public Position, except that the contract under which they serve the agency is exempt from the prohibition on Doing Business with One's Agency and Prohibited Employment and Contractual Relationships.

Prohibited Actions or Conduct

Gifts and Honoraria. The Code of Ethics prohibits Board members and district employees from soliciting or accepting anything of value, including a gift, loan, reward,

²³ § 119.01, Fla. Stat. (2007).

²⁴ *Michel v. Douglas*, 464 So. 2d 545, 546 at n.2 (Fla. 1985).

²⁵ § 119.10, Fla. Stat. (2007).

²⁶ See part III of chapter 112, FS. Agency is defined broadly to include Special Districts. § 112.312, Fla. Stat. (2007).

²⁷ See Senate Bill 252 (2009) relating to Local Government/Code of Ethics.

²⁸ The Florida Commission on Ethics, 2008 Guide to the Sunshine Amendments and Code of Ethics for Public Officers and Employees is a good resource and is available at: <http://www.ethics.state.fl.us/publications/2008%20guide.pdf>; see generally part III, chapter 112, FS.

promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the Board member would be influenced thereby.²⁹ This prohibition is carried forward into required disclosure as required in Form 1 and 9.³⁰ Additionally, those required to file Form 1 are additionally prohibited from soliciting or accepting honoraria under specified circumstances.³¹

Unauthorized Compensation. The Code of Ethics prohibits Board member, district employees and their spouses and minor children from accepting anything of value when the Board member knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the Board member was expected to participate in his or her official capacity.³²

Misuse of Public Position. The Code of Ethics prohibits Board members and district employees from the corrupt use or attempted use of his or her official position or any property or resource that may be within his or her trust, or from performing his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section specifically does not conflict with campaign fundraising efforts per s. 104.31, F.S. (political activities of public officers and employees).³³

Disclosure or Use of Certain Information. The Code of Ethics prohibits Board members and district employees, current or former, from disclosing or using information not available to members of the general public and gained by reason of his or her official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity, except for information relating exclusively to government practices.³⁴

Voting Conflicts.

- No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law.³⁵
- Board members cannot vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows

²⁹ § 112.313(2), Fla. Stat. (2007).

³⁰ See §§ 112.3148 and 112.3215, Fla. Stat. (2007).

³¹ § 112.3149, Fla. Stat. (2007).

³² § 112.313(4), Fla. Stat. (2007).

³³ § 112.313(6), Fla. Stat. (2007).

³⁴ § 112.313(8), Fla. Stat. (2007).

³⁵ § 112.313(5), Fla. Stat. (2007).

would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2), FS; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.³⁶ See Form 8B.

- An officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.³⁷
- No appointed Board member shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.³⁸ See Form 8A or 8B.

Prohibited Employment and Business Relationships

Doing Business with One's Agency. ³⁹

- The Code of Ethics prohibits Board members acting in their *official capacity* from either directly or indirectly purchasing, renting, or leasing any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest.
- The Code of Ethics further prohibits Board members acting in a *private capacity* from renting, leasing, or selling any realty, goods, or services to the officer's or

³⁶ § 112.3143(3)(a), Fla. Stat. (2007).

³⁷ § 112.3143(3)(b), Fla. Stat. (2007).

³⁸ § 112.3143(4), Fla. Stat. (2007).

³⁹ § 112.313(3), Fla. Stat. (2007).

employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision.

- There are multiple exceptions to these prohibitions, for example if the purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier; or if the total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.⁴⁰

Conflicting Employment or Contractual Relationships.⁴¹

- The Code of Ethics prohibits Board members and district employees from having or holding any employment or contractual relationship with any business entity or any agency that is regulated by or doing business with the district. There is an exception collective bargaining.
- The Code of Ethics prohibits Board members and district employees from having any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.
- Exception: Board members and district employees of special tax districts created by general or special law limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the district has jurisdiction, or organized pursuant to chapter 298, are not prohibited from having employment with, or entering into a contractual relationship with, such business entity. This is unless the member's conduct is prohibited by or otherwise frustrates the intent of these restrictions.
- These restrictions do not prohibit a Board member or district employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.
- Exceptions to these prohibitions are the same as those discussed for doing business with one's agency, above.⁴²
- There is an additional exception for Board members who are employed by an entity that is tax-exempt under 501(c) and which contracts with or otherwise

⁴⁰ § 112.313(12), Fla. Stat. (2007).

⁴¹ § 112.313(7), Fla. Stat. (2007).

⁴² § 112.313(12), Fla. Stat. (2007).

enters into a business relationship with the officer's agency if certain conditions are met.⁴³

Lobbying Prohibition. A person who has been elected to a special district office may not personally represent⁴⁴ another person or entity for compensation before the “government body or agency”⁴⁵ of which the person was an officer for a period of 2 years after vacating that office.⁴⁶ Additionally, the governing body of any special district may adopt a resolution providing that an appointed special district officer or employee may not personally represent another person or entity for compensation before the district for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining.⁴⁷

Employees Holding Office. No employee of a special taxing district shall hold office as a member of the governing board, council, commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.⁴⁸

Anti-Nepotism. A Board member may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the district in which the official is serving or over which the official exercises jurisdiction or control⁴⁹ any individual who is a relative of the public official. Furthermore, an individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual. This subsection does not apply to appointments to boards other than those with land-

⁴³ § 112.313(15), Fla. Stat. (2007).

⁴⁴ Compare CEO 06-22 (indicating that the term "representation" includes mere physical attendance at a county commission meeting or workshop, even if the former county commissioner does not directly address the commission) with CEO 07-6 (indicating that a former county commissioner is not prohibited by Section 112.313(14), Florida Statutes, from merely attending, in behalf of a client, gatherings which are not regular meetings of the county commission and which are not advertised or noticed under the Sunshine Law).

⁴⁵ The “government body or agency” of an elected special district officer is the special district. (s2, ch. 2006-275 Fla. Laws).

⁴⁶ § 112.313(14)(d), Fla. Stat. (2007). Subsection (d) specifically addresses special districts as added by s, 2 ch. 2006-275 Fla. Laws.

⁴⁷ § 112.313(13), Fla. Stat. (2007).

⁴⁸ § 112.313(10), Fla. Stat. (2007).

⁴⁹ “Mere approval of budgets shall not be sufficient to constitute ‘jurisdiction or control’ for the purposes of this section.” § 112.3135(2)(b), Fla. Stat. (2007).

planning or zoning responsibilities in those municipalities with less than 35,000 population.⁵⁰

Disclosure

As stated by the Florida Commission on Ethics,⁵¹

Conflicts of interest may occur when public officials are in a position to make decisions which affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

All forms are detailed on the Commission's website, including who must file each report.⁵²

Penalties⁵³

Violation of the Code of Ethics or any disclosure requirements may be punished by, one or more of the following:

- Board members: impeachment, removal or suspension from office, public censure and reprimand, forfeiture of no more than one-third salary per month for no more than 12 months, a civil penalty not to exceed \$10,000, and/or restitution of any pecuniary benefits received because of the violation committed,

⁵⁰ § 112.3135(2), Fla. Stat. (2007). Exception is made for emergencies. § 112.3135(3), Fla. Stat. (2007).

⁵¹ The Florida Commission on Ethics, 2008 Guide to the Sunshine Amendments and Code of Ethics for Public Officers and Employees at: <http://www.ethics.state.fl.us/publications/2008%20guide.pdf>.

⁵² <http://www.ethics.state.fl.us/>. More detailed discussion can be found in the Guide (<http://www.ethics.state.fl.us/publications/2008%20guide.pdf>) and in the Florida Special District Handbook (<http://floridaspecialdistricts.org/handbook/>).

⁵³ § 112.317, Fla. Stat. (2007).

the commission may recommend the destination of the restitution penalty payment.⁵⁴

- A district employee: dismissal from employment, suspension from employment for not more than 90 days without pay, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than 12 months, a civil penalty not to exceed \$10,000, restitution of any pecuniary benefits received because of the violation committed, and/or public censure and reprimand.
- Former Board members or employees: public censure and reprimand, a civil penalty not to exceed \$10,000, and/or restitution of any pecuniary benefits received because of the violation committed. The commission may recommend the destination of the restitution penalty payment.
- Violations of the Ethics in Government provisions of section 8, article II of the State Constitution are cause for suspension from office.
- Complaints based on perjured testimony or containing false statements made with a malicious intent to injure are also addressed in s. 112317, F.S.

Private entities serving as the chief administrative or executive officer of a political subdivision may be penalized for violations via public censure and reprimand, a civil penalty not to exceed \$10,000, or restitution of any pecuniary benefits received because of the violation.⁵⁵ The Ethics Commission may recommend that restitution be paid to the person's agency or to the General Revenue Fund.

Election Laws

Popular Election⁵⁶

Dependent Special Districts. The county supervisor of elections must conduct elections in accordance with the Florida Election Code, chapters 97-106.⁵⁷

Independent Special Districts within a Single County.⁵⁸

- The district may *choose* to have the county supervisor of elections conduct elections; if this process is chosen, it must be in accordance with the Florida

⁵⁴ S 8, ch. 2006-275 Fla. Laws.

⁵⁵ See Senate Bill 252 (2009) relating to Local Government/Code of Ethics.

⁵⁶ These requirements do not apply to community development districts established under chapter 190, FS.

⁵⁷ § 189.405, Fla. Stat. (2007).

⁵⁸ § 189.405, Fla. Stat. (2007).

Election Code, chapters 97-106. If chosen, the election must be nonpartisan⁵⁹ and candidates qualify as directed by Chapter 99 Florida Statutes, by qualifying with the supervisor of election in the county in which the district is located.⁶⁰

- If the district *does not choose* to conduct elections through the supervisor of elections, the following information must be reported the supervisor in a timely manner: purpose, date, authorization, procedures, and results of each election conducted by the district.

Multicounty Independent Special Districts.⁶¹

- Elections for the purpose of electing members to such board shall conform to the Florida Election Code, chapters 97-106.
- Qualifying for positions is coordinated by the Department of State, elections shall be nonpartisan unless specified in the charter.
- Candidates qualify as directed by Chapter 99 Florida Statutes, by qualifying with the Department of State.⁶²
- The decision made by a majority of those voting shall prevail, except as otherwise specified by law.

One Acre/One Vote Elections- Independent Special Districts

As stated in the Florida Special District Handbook,⁶³

The charters of some independent special districts require their governing boards to be elected under an election system called the one-acre/one-vote

⁵⁹ The district's charter can specify that the elections are to be partisan, and if this is done, there is to be no election or party assessment

⁶⁰ S. 52, ch. 2007-30 Fla. Laws. Although other provisions of chapter 99 are applicable, Fla Stat §99.061(3) specifically addresses qualifying for election to a special district. "[E]ach person seeking to qualify for election to a special district office shall qualify between noon of the 71st day prior to the primary election and noon of the 67th day prior to the date of the primary election. Candidates for single-county special districts shall qualify with the supervisor of elections in the county in which the district is located. If the district is a multicounty district, candidates shall qualify with the Department of State. All special district candidates shall qualify by paying a filing fee of \$25 or qualify by the petition process pursuant to s. [99.095](#). Notwithstanding s. [106.021](#), a candidate who does not collect contributions and whose only expense is the filing fee or signature verification fee is not required to appoint a campaign treasurer or designate a primary campaign depository."

⁶¹ § 189.405, Fla. Stat. (2007).

⁶² S. 52, ch 2007- 30 Fla. Laws.

⁶³ These requirements do not apply to water management districts established under chapter 373, FS or community development districts established under chapter 190, FS. Section 189.045(6) Florida Statutes.

system. This is a system where landowners have one vote for each acre of land they own in the special district. These special districts, when first created, use this system. As the special district grows in population, they may begin going to a system where some government board members are popularly elected and some governing board members are elected under this one-acre/one-vote system.

The following requirements summarize how this change in election procedure occurs:

A referendum shall be called by the governing board of a special district on the question of whether certain members of a district governing board should be elected by qualified electors, provided each of the following conditions has been satisfied at least 60 days prior to the general or special election at which the referendum is to be held: total population is at least 500 qualified electors and a petition signed by 10 percent of the qualified electors of the district shall have been filed with the governing board of the district.⁶⁴

If the popular election is *approved*, the governing board of the district shall be increased to five members and elections shall be held beginning with the next regularly scheduled election of governing board members or at a special election called within 6 months following the referendum and final unappealed approval of district urban area maps,⁶⁵ whichever is earlier. Number of Board members popularly elected versus those elected under the one acre/one vote system (dependent on percentage of the district that is urban)⁶⁶ and terms of office are specified in s. 189.4051, FS. (dependent on numbers popularly elected versus those elected on an one acre/one vote system).⁶⁷ As long as 10 percent or more of the district is not contained in an urban area, an annual landowners' meeting shall be held pursuant to s. 298.11, FS, and at least one governing board member shall be elected on a one-acre/one-vote basis pursuant to s. 298.12, FS.⁶⁸

If the popular election is *disapproved*, elections of the members of the governing board shall continue as described by s. 298.12, FS (water and drainage control districts) or the enabling legislation for the district. No further referendum on the question shall be held for a minimum period of 2 years following the referendum.

⁶⁴ § 189.4051, Fla. Stat. (2007).

⁶⁵ For information on the designation of urban areas, see s. 189.4051(2)(b), FS.

⁶⁶ § 189.4051(3)(a), Fla. Stat. (2007).

⁶⁷ § 189.4051(3)(b), Fla. Stat. (2007).

⁶⁸ The specifics of such meetings are in s. 189.4051(3)(c), FS. Once all governing board members are elected by qualified electors, there shall be no further landowners' meetings. § 189.4051(3)(c), Fla. Stat. (2007).

Campaign and Campaign Finance Laws

Campaign and campaign finance laws are very complex; therefore, the applicable statutes (specifically, chapters 96 and 106, FS) and Division of Elections' publications (available at <http://election.dos.state.fl.us/publications/index.shtml>, such as the 1006 Candidate and Campaign Treasurer Handbook) should be reviewed in detail.

The campaign laws cover a multitude of subjects, such as prohibited acts, advertising, fundraising, solicitation, and bookkeeping. Regarding campaign financing, generally, all candidates must file campaign finance reports disclosing all contributions,⁶⁹ loans,⁷⁰ expenditures, distributions, and transfers, regardless of the amount. They must report the full name and address of each person making the contribution or receiving the expenditure and, for contributions over \$100, the occupation. A candidate may not accept a contribution in excess of \$500 from any one person⁷¹ per election.

⁶⁹ In-kind contributions are subject to the same contribution limitations as money.

⁷⁰ Loans are considered contributions; however, loans made by a candidate to his own campaign are not subject to contribution limitations.

⁷¹ Defined as "an individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term includes a political party, political committee, or committee of continuous existence." § 106.011(8), Fla. Stat. (2007).