



JAN - MAR 2023 | 2ND QUARTER

THE QUARTERLY FOCUS

The Florida Association of Special Districts' Official Newsletter

CHECK OUT WHAT'S
INSIDE THE ISSUE:

**Message from The
President**

**Message from The
Executive Director**

Upcoming Events

Quarterly Meetings

State Advocacy

Legislative Forum

Member Benefits

Member Spotlight

Around The Districts

National Coalition

..and more!

2ND QUARTER RECAP

Written by FASD Staff

This quarter was extremely busy for FASD. We began 2023 with the January Quarterly Meeting in Jacksonville that was packed with CEU opportunities and important topics for members. We want to thank our Reception Sponsor, **Inframark Infrastructure Management Services**, for helping us make the event possible.

In February we opened registration for this year's FASD Annual Conference - Special Districts in Paradise. We already have numerous sponsors and our Exhibition Hall is almost sold out. If you are wanting to get in front of our members, now is the time to register.

And, finally, we had our Legislative Forum in Tallahassee in early March where we debuted Special Districts Day at the Capitol. This event had more attendees than any Quarterly Meeting in the last 2 years. Legislative Forum and related events are highlighted in this edition. We thank our Meeting Sponsors, **Database Financial Services** and **Ameritas**, and our Reception Sponsor, **Brown & Brown**. We couldn't pull these events off without your support!

In addition to Legislative Forum, FASD offered the first Certified District Manager Program of the year. The FASD Education Foundation recognized scholarship recipients at the luncheon.



UPCOMING FASD EVENTS

2023 EVENTS

APR 4 - WEBINAR, ADA COMPLIANCE FOR WEBSITES

APR 18 - WEBINAR, COOPERATIVE PURCHASING

APR 20 - WEBINAR, FLEET SAFETY/DOT

MAY 11 - WEBINAR, HEAT ILLNESS

JUN 1 - WEBINAR, HURRICANE PREPAREDNESS

JUN 12 - 15 - ANNUAL CONFERENCE, ORLANDO

2023/2024 EVENTS

OCT 9 - 12 - CDM PROGRAM, FT. LAUDERDALE

OCT 12 - 13 - QUARTERLY MEETING, FT. LAUDERDALE

JAN 22 - 26 - CDM PROGRAM, TALLAHASSEE

JAN 23 - 25 - LEGISLATIVE FORUM, TALLAHASSEE

JUN 10 - 13 - ANNUAL CONFERENCE, ORLANDO

FLORIDA ASSOCIATION OF SPECIAL DISTRICTS

120 SOUTH MONROE STREET, TALLAHASSEE, FL 32301
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MESSAGE FROM THE PRESIDENT

Written by Jim Millican

Creetings Members,

We had a great Legislative Forum in Tallahassee a couple weeks ago! We had a great showing of members. Unfortunately, we had to make changes due to rule changes at the Capitol and we were not able to display in the Courtyard. This also caused us to be there during the first week of Legislative Session. Our goal is to be in Tallahassee the 2nd, 3rd, or fourth week of Session.

Thank you to our Meeting Sponsors, Database Financial Services and Ameritas, and our Reception Sponsor, Brown & Brown, for helping FASD host our Legislative Forum. We still have a month of Legislative Session left and your legislative team is working hard to make sure our legislative priorities are being met.

Don't forget our Annual Conference is just around the corner, scheduled June 12 - 15 and the theme is Districts in Paradise! We have some new and exciting classes and speakers at this year's conference. Our Keynote Speakers are Blayne Smith and Brandon Young and they will show you how to Keep It Between the Ditches -- Effective Leaders are Peacemakers:



Blayne Smith
Keynote Speaker

Blayne Smith is a West Point graduate, former Green Beret (Special Forces Commander) and Co-Founder at Applied Leadership Partners. He is a highly effective business leader across a variety of industries and capacities. For over 20 years, Blayne has built teams and communities through a deep understanding of, and focus on, culture and leadership. Whether serving in corporate, small business, or nonprofit roles, his focus has remained on the people.

We have a great line up of classes and don't forget to dress for each day:

- Margarita Monday: Flip Flops & Shorts**
- Tourist Tuesday: Crazy Tourist**
- Key West Wednesday: Parrot Heads**
- Tropical Thursday: Island Time**



Brandon Young
Keynote Speaker

Brandon Young is a former US Army Ranger and a co-founder and principal at Applied Leadership Partners, helping leaders create tightly knit, high-performing teams through executive coaching, speaking, and team workshops. He was the first Director of Development for Team RWB, generating 450% overall revenue growth while building strategic partnerships with some of the world's most iconic brands including Nike, Walmart, Starbucks, Microsoft, and Amazon. He is the recipient of the Quest Diagnostics Regional Excellence Award for Commercial Leadership for his work in cancer diagnostics.

We will have a new raffle sponsored by your FASD Board of Directors. Be sure to get your tickets for that. All proceeds go to our FASD Education Foundation, also known as FEF. We are going to have a very exciting day on Thursday; You don't want to miss our on our Minute2WinIt Event!

FASD ANNUAL AWARDS 2023

NOMINATIONS ARE OPEN
DEADLINE IS MAY 5, 2023

WHO DO YOU THINK DESERVES
THE ANNUAL LEADERSHIP AWARDS?

MAKE YOUR CHOICE..!



SCAN THE QR CODE BELOW
TO SUBMIT YOUR NOMINATIONS



ANNUAL CONFERENCE

REGISTRATION OPEN NOW

Join FASD at the 2023 FASD Annual Conference in Orlando, FL. This year's conference will be both fun-filled and educational as we plan for new and innovative ways to strengthen special purpose government through education, the exchange of ideas, and active involvement in the legislative process.

The Districts in Paradise theme of the conference focuses on "Overcoming & Embracing Challenges in Paradise."

Attire for the conference is business casual OR bring a costume a day. The Conference and Awards Committee has incorporated the following THEMES for the week – **Flip Flops & Shorts for Margarita Monday, Crazy Tourist for Tourist Tuesday, Parrot Heads for Key West Wednesday, and Island Time for Tropical Thursday.** Use your imagination, innovation, and inspiration to work each of these themes into your attire each day.

**\$499 Early Bird
Pricing Ends May 12**



MESSAGE FROM THE EXECUTIVE DIRECTOR

Written by David E. Ramba

As we reflect on the last quarter, I am pleased to report that our organization has made great progress towards achieving our goals and objectives. One of the highlights of the last quarter was the successful Legislative Forum in March. We had 125 attendees come to Tallahassee to meet with their legislative delegations, as well as showcase their districts on Special Districts Day at the Capitol. We had a very informative presentation by Jack Gaskins, Jr., of the Special District Accountability Program housed in the Department of Economic Opportunity.



We also made significant strides in our advocacy efforts. Our team has been working tirelessly to raise awareness of the issues affecting our districts and to push for policy changes that will improve the lives of those we serve. Even though we have a month left of Legislative Session, our efforts are paying off, with several key policy victories over the past few weeks.

In addition, we have continued to provide high-quality programs and services to our members. Our quarterly meetings and webinars have been well attended and have received positive feedback. Our team has also been working hard to ensure that our members have access to the resources and support they need to succeed.


Of course, there are always challenges to be faced. We encountered hurdles when planning the Legislative Forum over the last year. Recently, the Department of Management Services changed rules on who and what is allowed to occupy space at the Capitol Complex, such as the Capitol Courtyard. I am proud to say that our team rose to the challenge and worked together to overcome and had a successful first Special Districts Day at the Capitol located on the 2nd Floor Rotunda.

Looking ahead, I am excited about the opportunities that lie ahead for our organization. We have some exciting new projects in the pipeline, and I am confident that we will continue to make progress towards our goals and objectives. As always, I want to thank you for your support of our organization. Without our members, we would not be able to achieve the great things that we have accomplished over the past quarter. I look forward to continuing to work together to make a positive difference in our association.

See you at Annual Conference in Orlando!




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LAURA DONALDSON, ESQ.
LDONALDSON@MANSONBOLVES.COM
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QUARTERLY MEETINGS



JANUARY

January's Quaterly Meeting was Jan 12 - 13 in Jacksonville at Hyatt Regency Riverfront. Attendees heard from FASD lobbyists, and special guest Sen. Clay Yarbrough, on The Legislative Process; Streamline's National Director Maria Lara spoke on Website Accessibility; and Preferred representatives shared information on Effective Safety Inspections and Accident Investigations.

Thank you Synovus and Inframark for sponsoring!

LEGISLATIVE FORUM

This year's Legislative Forum was held March 8 - 9 and featured Special Districts Day at the Capitol. Many district employees from across the state traveled to Tallahassee to showcase what Special Districts do for its citizens.

Thank you Database Financial Services, Ameritas, and Brown & Brown for sponsoring!



ANNUAL CONFERENCE



Register now for this year's Annual Conference in Orlando, scheduled June 12 - 15 at Rosen Plaza Hotel. The theme is Districts in Paradise.

This year's conference will be both fun-filled and educational as we plan for new and innovative ways to strengthen special-purpose government through education, the exchange of ideas, and active involvement in the legislative process.



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STATE ADVOCACY



THE 11 BIGGEST ISSUES IN THE 2023 LEGISLATIVE SESSION

The Florida legislature has formally convened for the start of its annual 60-day regular legislative session. Here's a look at what lawmakers have left on their "To Do" list and what we can expect to see:

— **SCHOOL VOUCHERS:** Florida's effort to expand learning options for low-income families began 25 years ago under former Gov. Jeb Bush. Now, the state is poised to take school choice to a level long-sought by choice supporters—allowing school-aged kids in the state to become eligible for education savings accounts. These are funds that can be used for private school tuition, home school, or other education-related expenses.

— **PERMIT-LESS CARRY:** For years, Second Amendment supporters have pushed for the state to loosen its restrictions on carrying guns. Last year, Gov. Ron DeSantis and other Republican leaders told supporters that "constitutional carry," which means allowing the open carrying of guns without a permit, would be forthcoming. But now, some 2A advocates say they've been lied to, under a proposal that would allow lawful gun owners to carry their weapons concealed without a permit.

— **AFFORDABLE HOUSING:** Many Floridians are rapidly getting priced out of their paradise amid an influx of new residents to the state, a spike in rental and home rates, and a series of natural disasters that have lowered housing stock.

After years of growing calls for lawmakers to do more to expand affordable housing in the state, the legislature finally appears ready to do so.

— **TERMS LIMITS AND PARTISAN LOCAL RACES:**

Supporters say requiring candidates to disclose their party affiliation and applying term limits to more races will result in greater governmental transparency at the local level since many local candidates are already being supported by parties anyway. Opponents argue it'll inject politics into typically a-political issues.

— **WOKE INVESTING:**

Republicans are targeting so-called "woke" investments and say such policies have no place in business. The proposal would ban state and local governments from using factors such as "Environmental, Social, and Governmental" considerations to make investment and financial decisions. ESG, or socially-responsible investing, is a practice meant to align business decisions with values; however, it's gained backlash within the past two years with critics who say it misses the point.

— **ANTI-WOKE HIGHER ED:**

Measures banning certain majors and minors and barring funding for certain types of teaching have been unveiled in the legislature as part of Gov. Ron DeSantis' ongoing efforts to curb progressive ideologies in higher education. The move is part of his plans to crack down on so-called "woke ideology" and to reform the state's higher education institutions to refocus more on merit, and less on equity, and similar themes.



STATE ADVOCACY

(...continued from previous page)

— **SOCIAL MEDIA AND MINORS:** A bipartisan consensus is emerging that lawmakers should do SOMETHING to combat the harmful effects of social media among young users. Recent studies have shown children and teens are at risk for dangerous behaviors and even suicide given the influence of such platforms. There are bills to require social media companies to disclose their algorithms and outline the steps they're taking to protect young users; there are plans to restrict the use of social media in schools and proposals that would ban TikTok on certain, government-owned wifi. It comes as social media companies are under more scrutiny than ever before.

— **MEDIA DEFAMATION:** The bill in Florida would eliminate the actual malice standard, and it goes further; it could allow anyone (reporters, commentators, or just regular folks) to sue anyone over any statements published in print, broadcast, or the internet, for something they disagree with, even IF those claims are true, but still paint the subject negatively and aren't directly related to their official duties. Furthermore, the measure would prevent anyone from making claims about racism, bigotry, and discrimination against a subject if those positions are part of that person's scientific or religious beliefs. Another bill in the Senate would require bloggers who report on state officials and are paid to do so, to register with the state.

— **BUDGET:** Florida lawmakers really have only one job to do each year; pass a balanced budget. But in recent years, that's proven to be tricky, even with Republican majorities. This year, the state is flush with cash, and there are lots of competing ideas on where, and how to spend it. Can lawmakers reach a deal among themselves this year so that the 2023 regular legislative session can end on time? They're going to try.

— **IMMIGRATION:** Gov. Ron DeSantis will try again to require all businesses in the state to verify an employee's immigration status using the E-Verify system. Right now, only the state government uses it. The governor is also looking to repeal a state law that granted in-state tuition to undocumented immigrants who were brought to the country as minors. These "dreamers" received the tuition benefit during the Rick Scott administration, and Scott has defended the program as something he would support all over again.

— **LOCAL GOVERNMENT ORDINANCES:** An effort to curb local rules that have the potential to hurt businesses is again up for debate this year. A similar measure that would have allowed businesses to sue over local ordinances passed the senate last year but failed in the House. This year's measure would require local governments to stop enforcing an ordinance if it's challenged in court. Plaintiffs could receive attorney fees and recoup court costs.

2023 LEGISLATIVE PRIORITIES

Performance Reviews – SB 250 Natural Emergencies by Sen. Martin

SUPPORT relief for costs and mandates in performance reviews newly created for Districts impacted by Hurricane Ian, as well as revisiting the reviews after the initial analysis for the cost-benefit to the State and to the District. (189.0695)

Drones

SUPPORT relief for Drone ownership by special districts (primarily mosquito and fire control districts) where previous legislation and rulemaking has not taken into consideration lack of availability of specialized equipment not available thru the approved manufacturers, nor the cost impact to local government for early obsolescence of drone equipment. [934.50, SB2512 (2022)]

Trespass Language – SB 1368 by Sen. Wright / HB 1367 by Rep. Altman

SUPPORT consistency with cities and county laws for special district in trespass language for special districts, primarily water control districts, for trespassing and dumping of debris.



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LEGISLATIVE FORUM

SPECIAL DISTRICTS DAY AT THE CAPITOL

MARCH 9, 2023



Beach Mosquito Control District



Destin Fire Control District



Immokalee Water & Sewer District



East Lake Fire Rescue



Indian Trail Improvement District



South Walton Co Mosquito Control



LEGISLATIVE FORUM

Every year during session, special district employees and officials from across the state come together in Tallahassee for Legislative Forum. This is a valuable opportunity for members to get to know their legislators and to view the legislature at work first-hand.

This year we had 16 districts showcase what they do on the 2nd Floor Rotunda during Special Districts Day at the Capitol. This event was successful and worthwhile for the districts in attendance. We plan to make next year's event even bigger!



North Collier Fire Rescue



Spring Lake Improvement District



South Walton Fire District



Pasco Co Mosquito Control



Lehigh Acres Municipal Services



Lee County Mosquito Control



West Coast Inland Navigation



Assoc of FL Conservation Districts



FL Association of Special Districts



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MEMBER SPOTLIGHT



SPECIAL DISTRICTS AND WEBISTE ADA COMPLIANCE

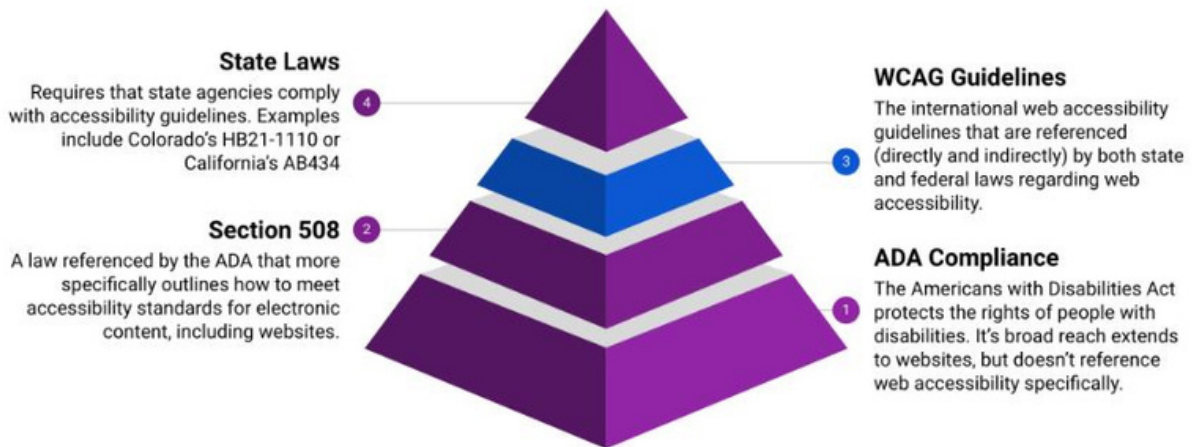
By Mac Clemmens, CEO, Streamline

Just as buildings must have wheelchair ramps, public websites must have special provisions for users with disabilities. The number of lawsuits rose 56% in 2021, and the penalties for noncompliance are rising—averaging \$4,000 for an ADA claim in 2019 to \$39,000 in 2022. It’s a situation that The Wall Street Journal calls “very perilous” in a recent article.

Because the majority of new actions are targeting organizations smaller than 30 million in revenue, special districts have emerged as being at risk, as they are often not aware of or prepared to meet web accessibility standards.

Understanding Accessibility Laws

The laws surrounding accessibility are complex and nuanced. There are a few layers of federal regulations further augmented by state regulations in some states. While more and more state laws are emerging with their own timelines and penalties, most districts do not realize that they are already liable for violations of federal laws, which comprise the majority of current actions.



Understanding website accessibility

When special districts have a website, it is required to be technically accessible and have policies and procedures for reporting and remediation.

The Americans with Disabilities Act (ADA) is a civil rights law that prohibits discrimination against individuals with disabilities. Title II of the ADA applies to public entities, which include special districts. This means that special districts have a legal obligation to ensure that their websites are accessible to individuals with disabilities.



MEMBER SPOTLIGHT

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The Web Content Accessibility Guidelines (WCAG) are a set of technical standards for web accessibility developed by the World Wide Web Consortium (W3C). Meeting these guidelines can help ensure that websites are accessible to people with a wide range of disabilities, including visual, auditory, physical, and cognitive disabilities. Special districts are required to meet WCAG 2.0 AA, and NSDC recommends that districts conform to WCAG 2.1 AA.


Making websites accessible is not just a legal obligation, it's also good for district communication. Accessible websites can help reach a wider audience, improve user experience, and boost search engine optimization (SEO). In fact, Google has stated that accessibility is a ranking factor in its search algorithm.

Providing accessible websites is the right thing to do. Everyone deserves equal access to information and services, regardless of their abilities. By making websites accessible, special districts can help promote inclusion and equity in their communities.

Improving website accessibility doesn't have to be expensive or time-consuming. Many accessibility improvements can be made with simple changes to website design and content, such as adding alt text to images and ensuring that text has sufficient contrast. There are also free and low-cost tools available to help test and improve website accessibility, such as the Accessibility Insights tool from Microsoft and Google Lighthouse (described below).



What is Google Lighthouse?
A free, open-source tool that anyone can use to scan your webpage to check for accessibility. It is available in the Chrome browser and is also available in Microsoft Edge by hitting F12 or right-clicking on a webpage and clicking "Inspect."



Accessibility
Lighthouse tests basic webpage conformance to standards such as WCAG, which is one of many requirements for web accessibility. Districts must also scan all pages, PDF documents, maintain an accessibility policy, check for closed captioning on videos to meet federal standards.

Quantifying the risk

Special districts often ask themselves, "What is the actual risk that an ADA claim will affect us?" The results are both surprising and unpredictable.

The overwhelming majority of ADA-related claims never make it to court. They are quietly settled, sometimes forced by an insurer who wants to manage risk without publicly admitting to any wrongdoing or districts whose EPLI insurance doesn't cover website-related ADA issues (the majority do not).



MEMBER SPOTLIGHT

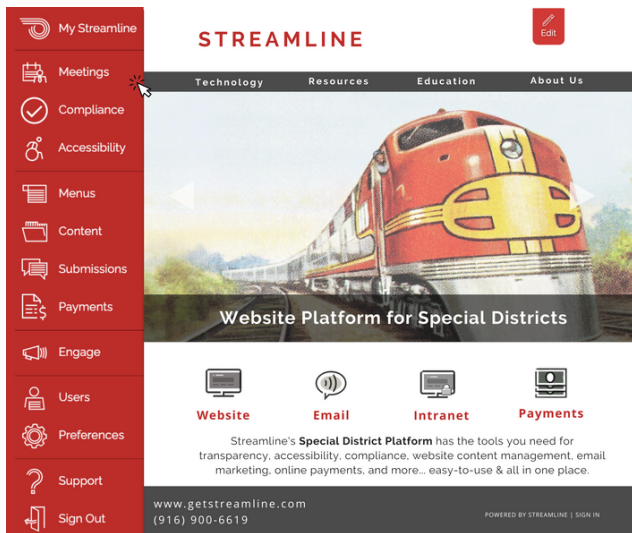
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<p>More than 2,403 districts affected</p> <p>About 6% of all districts in the US, including county-dependent districts, have been fined, received demand letters, or gotten Department of Justice Office of Civil Rights (OCR) letters for website ADA violations in the US.</p> <p>That number is expected to exceed 4,000 (10%) by the end of 2024.</p>	<p>Very few if any, special district insurance policies even partially cover the costs of web accessibility issues</p> <p>Most insurance carriers, including district statewide insurance pools, do not cover website-specific ADA claims in their EPLI policies. ADA is <i>not</i> covered by cyber, either.</p> <p>Median deductible: \$5,200 Median settlement: \$25,000³</p>
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What is my district's risk now?

One way to assess risk is to scan your site using a free district website accessibility tool, brought to you by the National Coalition of Special Districts and its coalition partners.

Run a free scan at checkmydistrict.org for a comprehensive report and monthly updates to get a sense of your compliance, as well as tips on how to get compliant.



Streamline's Special District Platform has the tools you need for transparency, accessibility, compliance, online payments, website content management, email marketing, and more... easy to use and all in one place.

**APRIL 4 WEBINAR:
STREAMLINE AND
NSDC**

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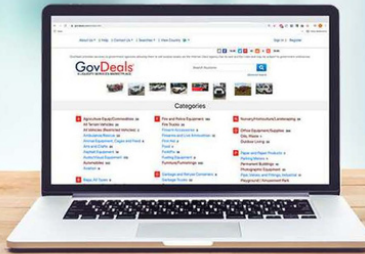




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MEMBER SPOTLIGHT

National Ladder Safety Month 2023

Supplied by Preferred Governmental Insurance Trust

Every March, the American Ladder Institute (ALI) presents National Ladder Safety Month to promote safe ladder use in the workplace and at home. Every year over one hundred people die in ladder-related accidents, and thousands suffer disabling injuries. Please join the American Ladder Institute by participating in National Ladder Safety Month every March.

This important month was designed to raise awareness of ladder safety and to decrease the number of ladder-related injuries and fatalities. For 2023 the focus was on these four key themes:

- Week One: Choosing Your Ladder
- Week Two: Safety Before the First Step (Inspection and Set Up)
- Week Three: Safety While Climbing
- Week Four: Safety at the Top

How to use a ladder safely

Some helpful tips to coincide with the four key themes for National Ladder Safety Month from OSHA include the following:

- Read and follow all labels/markings on the ladder.
- Avoid electrical hazards! – Look for overhead power lines before handling a ladder. Avoid using a metal ladder near power lines or exposed energized electrical equipment.
- Always inspect the ladder prior to using it. If the ladder is damaged, it must be removed from service and tagged until repaired or discarded.
- Always maintain a 3-point (two hands and a foot, or two feet and a hand) contact on the ladder when climbing. Keep your body near the middle of the step and always face the ladder while climbing.
- Only use ladders and appropriate accessories (ladder levelers, jacks or hooks) for their designed purposes.
- Do not use the top step/rung of a ladder as a step/rung unless it was designed for that purpose.
- Use a ladder only on a stable and level surface unless it has been secured (top or bottom) to prevent displacement.
- An extension or straight ladder used to access an elevated surface must extend at least three feet above the point of support. Do not stand on the three top rungs of a straight, single or extension ladder.



MEMBER SPOTLIGHT

(...continued from previous page)

- The proper angle for setting up a ladder is to place its base a quarter of the working length of the ladder from the wall or other vertical surface.
- A ladder placed in any location where it can be displaced by other work activities must be secured to prevent displacement or a barricade must be erected to keep traffic away from the ladder.
- Be sure that all locks on an extension ladder are properly engaged.
- Do not exceed the maximum load rating of a ladder. Be aware of the ladder's load rating and of the weight it is supporting, including the weight of any tools or equipment.

Please contact your Preferred Loss Control Consultant during National Ladder Safety Month and find out how the Vector Solutions online training platform and Streamery, the video streaming service, can be used to provide ladder safety training and education.

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LOOKING FOR PROJECT FUNDING OPPORTUNITIES?

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Earlier this year, the National Special Districts Coalition (NSDC) launched a tool to streamline special district members' ability to search for project or program funding opportunities.

In partnership with The Ferguson Group (TFG), NSDC established a "project idea portal" for districts to submit projects for which funding opportunities are sought. Districts are welcome to submit details of the project via the webform, which TFG's grants team will review and work with the district to identify and apply for potential grant and finance opportunities.

[CLICK HERE TO ACCESS THE NSDC PROJECT IDEA PORTAL](#)

VALUE-ADDED BENEFIT

The portal was launched alongside the publication of a NSDC special report outlining newly authorized and updated programs included in the Infrastructure Investment and Jobs Act (IIJA). The publication provides brief summaries of IIJA's 45 new federal programs and details 36 programs the law revised/updated.



TO REQUEST MORE RESOURCES, CONTACT COLE ARREOLA-KARR AT
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FASD MEMBER BENEFITS



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FASD MEMBER BENEFITS

What Should You Look For In Our Deferred Compensation Provider?

BY DATABASE FINANCIAL SERVICES, INC.

Much too often when speaking with someone regarding what is offered for a Deferred Compensation Provider (457b, 401a etc.) I find that they are not getting the service they deserve.

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MEMBER SPOTLIGHT

Special Districts that Maintain Water, Wait, What?

By Inframark IMS

Special Districts are found throughout the State of Florida and encompass many jurisdictions. They maintain and operate within the guidelines of their foundation from Community Development Districts that focus on the maintenance and upkeep of infrastructure whether residential or commercial, or they can be specifically designated districts such as an “Aquatic Weed Control” or “Erosion Control.” Special Districts are all designed to allow for a limited government to provide service at a local level.

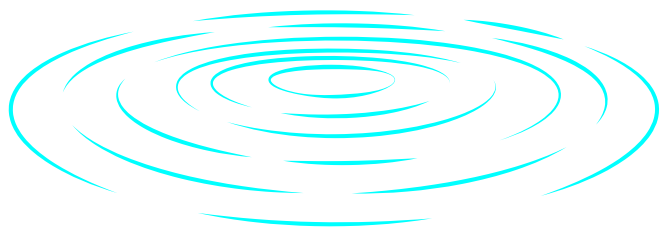
Surprisingly, this includes utility districts throughout the State of Florida, which also assist in providing our world’s most essential resource, water. Water districts can be found at many levels and layers within a local community, but they all universally offer water services. For example, some water districts may just provide and maintain water in a residential neighborhood by supplying reuse, potable, and wastewater. They would have several lift stations varying in size based on need that would work to maintain sewage in the community; however, they could also be incredibly more complex.

A utility district in the State of Florida could also maintain and manage a water plant or wastewater plant. The plants are much more complex and need experienced managers and technicians to ensure the water stays clean, safe, and available to the community. Inframark is a company that sits at a unique level in Florida. As a company dedicated to protecting and maintaining the water we drink and use daily, we also manage Special Districts of varying capacities and types throughout the State of Florida.

This places Inframark in an ideal situation to assist Special Districts from each layer of management to the technicalities needed to maintain and operate utilities for a community. Within Inframark our Community Management division can manage and assist Special Districts in operation, but additionally they manage and assist Homeowner’s Associations (HOAs) and municipalities. Our water and wastewater division of Operations and Maintenance provides and maintains water services throughout the United States.


Our Automation and Intelligence division can provide supervisory control and data acquisition (SCADA) and cybersecurity services to ensure that we protect and defend all water facilities we manage and maintain. As a result, Inframark stands in a prime position to ensure that through the combined teamwork of our three different units, we can protect, ensure, and maintain any Special Districts needing assistance with their water services. Together with the unified knowledge between the three different divisions it allows for Project Managers with qualified Open Water licenses and more to work at the Special Districts. Also, because District Managers are well-seasoned in the governance and policies need to run a limited liability government and engineers – trained and specialized at protected utility infrastructure from modern challenges through technology – these two specialties can combine for maximum efficiency.

We stand ready as always to defend and maintain water services no matter the moment, the level, or the layer of complexities. Our dedicated team is prepared to support your Special District and water, or wastewater needs.





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For more information about FL-FIT contact:

David Jang
(407) 618-4269
david@deepblue-inv.com

Ken Couch
(210) 888-0452
ken@deepblue-inv.com

Barry Baughier
(813) 321-4804
barry@deepblue-inv.com

Dominick Cristofaro
(813) 556-9778
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(813) 556-9775
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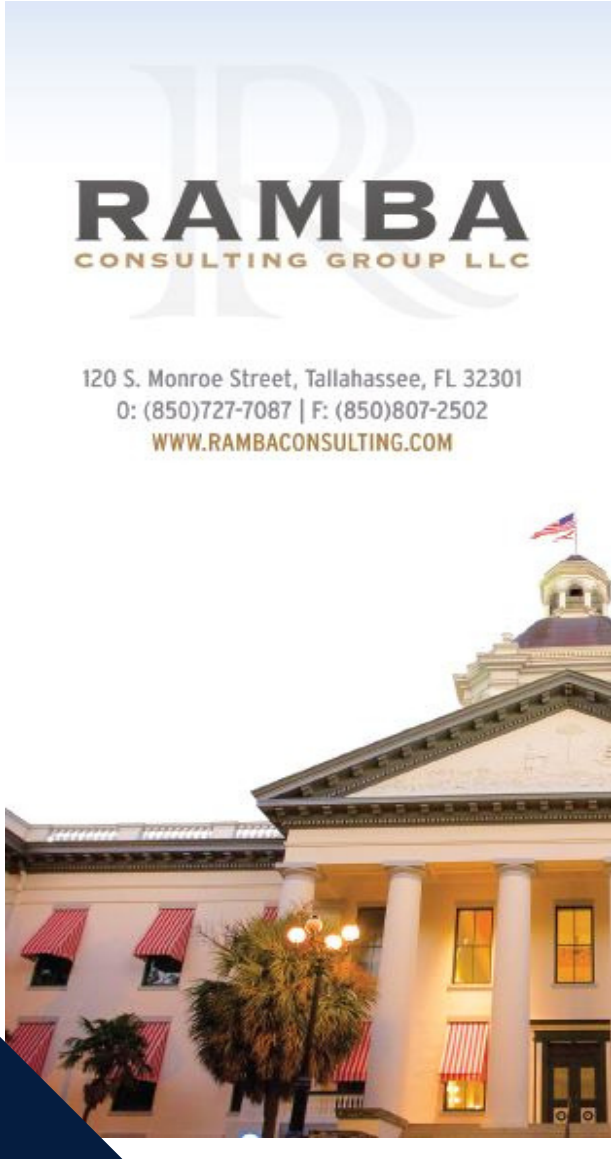
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MEMBER SPOTLIGHT

Risk Transfer: An Important Strategy to Protect Your District

Written by Ryan Rupnarain, Sr. Manager of Loss Control Services - Egis Insurance & Risk Advisors

Districts of all sizes often rely on crucial relationships with outside entities including contractors and vendors to support successful operations. Such relationships often involve the negotiation of written agreements and the subsequent need for a contract management program. While much of the focus tends to be on the financial elements of a contract, such as invoicing terms and overall service costs, it's important to ensure that other terms and conditions, specifically those that allocate risk and associated responsibilities, are not overlooked.

Including a risk-based approach to contractor and vendor management through proper contractual risk transfer can provide the best protection for districts. This consists of a wide range of provisions that can shift liability exposures to the appropriate party in a manner consistent with their ability to control and insure the associated risks. This can include insurance requirements, as well as hold harmless and indemnification language.

Failure to examine this can result in your district bearing an unfair amount of risk, including injury, damage, and defense costs associated with claims and lawsuits that may be a result of another party's actions or negligence.

Consider the following scenario:

Needfore Improvement District hires ABC Paving to make a few repairs to its office parking lot. ABC underestimates the number of repairs needed and must come back within a couple of days with more material. As a result, large holes are left open in the parking lot. In the meantime, ABC places cones and caution tape where the repairs are still in progress but did not have enough of each to cover all areas. The district had a community education event scheduled for the next day. An attendee stepped into an open, unmarked hole shortly after stepping out of their vehicle, falling and sustaining severe injuries, subsequently filing suit against the district. The district had entered into a written agreement with ABC; however, it did not include any language addressing insurance requirements, nor the allocation of risk. The district had used ABC about a year ago for similar repairs and secured a certificate of insurance at that time but failed to ask for a more recent copy. The district incurs over \$100,000 in expenses to defend and resolve the claim without any contribution from ABC due to poor risk transfer practices.

MEMBER SPOTLIGHT

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How is Risk Transfer Accomplished?

Risk transfer is most effective as a layered approach including both contracts and insurance requirements. We'll outline what to look for in reviewing each of these and how they can work together to protect your district.

Contracts - Properly worded contracts and agreements not only help to clarify each party's roles and responsibilities, but they can also offer the most comprehensive protection when they include provisions that allocate each party's risk equitably and outline insurance requirements clearly. Because contracts are intended to be enforceable by law, it is important to engage legal counsel in the drafting and review process. This also helps to ensure that contracts will be interpreted and enforced in a clear and consistent way, as these and other legal documents may be read and interpreted differently by multiple parties. Contracts that include hold harmless, indemnification and duty to defend provisions can help transferring the risk of loss, damage, or liability from one party to another. While some view the terms indemnification and hold harmless as interchangeable, there are notable differences.

Indemnification is generally the act of one party agreeing to provide compensation after a loss has already occurred, whereas hold harmless involves one party agreeing not to seek reimbursement from another for liability or damages, including those to a third party. For this reason, hold harmless and indemnification language often go hand in hand. Imposing a duty to defend on the vendor or contractor can also provide for a legal defense and associated costs related to lawsuits.

The ways in which this type of language allocates risk among the involved parties can span a wide spectrum. On one end of the spectrum, one party may assume all responsibility for injuries and damages that occur in the performance of contractual obligations. On the other end, each party may agree that they are only responsible for the outcomes of their own negligence. Distributing the risk to each party can sometimes be a part of the negotiation. Several factors can influence how much risk each party should agree to retain, transfer, or share, which can be difficult to navigate without the help of a risk management professional.

When contracts shift the burden of risk to another party, it is important to confirm that the other party is able and willing to pay for the liability it has assumed. This is why it's imperative to include insurance requirements in all contracts and agreements.



MEMBER SPOTLIGHT

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Insurance Requirements - Vendors and contractors working with your district should be able to meet the insurance requirements outlined in your contracts. It's important that these include the appropriate types of coverages that are consistent with the vendor's operations and the associated risks presented to your district. While general liability and worker's compensation coverage may be a given, it's important not to overlook others that may need to apply. For example, a vendor providing services that require the use of vehicles throughout the district should maintain automobile liability coverage. Likewise, a vendor who stores fuel tanks on district property should maintain pollution liability coverage.

Determining the appropriate coverages and limits is another area where consulting with your insurance professional can be helpful. Factors typically considered include the type and scope of services involved, other parties that may be impacted by those services, as well as the potential for the services to contribute to losses.

Additional Insured Status (AI) - The primary advantage of obtaining additional insured status on a vendor's policy is the provision of certain rights under that policy, including access to the insurance policy without having to pay any premiums or deductibles. This can also include defense coverage for those named as AI. As good as this sounds, it does not come without its limitations.

Additional insureds tend to have narrower coverage than what is provided to the vendor or named insured who purchased the policy as the intent is for an AI to be indemnified for liability related to the operations in the contract or agreement that involve the named insured in some way.

When a district requests AI status from another party, that party's insurance policy is endorsed to include the district as an additional insured. Some insurance companies can provide copies of these endorsements to better understand the scope and limitation of being an additional insured, along with any other special requirements.

Certificates of Insurance (COI) - When evaluating and selecting contractors and vendors, it's important to request a current Certificate of Insurance that reflects the coverages included in the insurance requirements outlined in your contract. A COI is a form issued by an insurer or agent that lists the coverage(s), expiration date(s) and limits of the insured's coverage(s). It includes important information about each line of coverage, including policy numbers, policy limits, insurer, agent, coverage period and name of the insured. Special endorsements, including AI status mentioned previously, and others, such as a waiver of subrogation may also be noted on the COI.



MEMBER SPOTLIGHT

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Risk Transfer Tips and Strategies

- Contracts with overly ambiguous risk allocation language can render the provision ineffective.
- Roles and responsibilities noted in contracts should also outline safety responsibilities. For example, a vendor that repairs a portion of a roadway should be required to comply with traffic control procedures.
- Certain risks associated with the physical safety of your district facilities can be difficult to transfer. Having a plan in place to control hazards such as uneven sidewalks remain important.
- All contracts should indicate that nothing shall be deemed as a waiver of the immunity or limits of liability of the district beyond those that have been adopted by the Florida Legislature in section 768.28 of the state statutes.
- The provision of additional insured status should be included in the insurance requirements or similar section of a contract.
- Requiring additional insured status on a primary and non-contributory basis can provide broader coverage, stipulating that the vendor's coverage pays before the district's policy without seeking contribution other policies afforded to or maintained by the district.
- Insurance providers can seek subrogation (recovery of some or all costs from another insurance carrier) if they believe the other carrier's insured was at fault or contributed to the cause of a claim. To avoid this, your district can request that vendor insurance policies include a waiver of subrogation.
- Many vendor insurance policies include what's known as a blanket additional insured endorsement.
- This can allow districts to be named as AI automatically, however, only when required by contract.
- COIs only provide a snapshot of coverage at a particular point in time. Districts should have a system in place to enable periodic review of the COIs provided by the entities they work with.
- Although COI's can indicate that AI status has been provided, the underlying endorsement is the best way to get confirmation.
- Absent proof of a vendor's workers compensation coverage, a district may experience increased worker's compensation premiums of their own.
- Be especially critical of contracts that other entities ask you to sign. Such contracts can include language and responsibilities unfavorable to the district, which may also serve to diminish the district's sovereign immunity protection



MEMBER SPOTLIGHT

(...continued from previous page)

The risk transfer tools and strategies in this article are an important part of a district’s risk management efforts and should be used whenever possible as they help to minimize the likelihood of being exposed to undue amounts of liability, including those that are the result of the action or inaction of others. While employing these strategies can seem a bit overwhelming, we’ve assisted several districts in implementing them into their risk management programs. For more articles, sample forms and policies, or any other resources on safety and risk management, please reach out to our team at riskservices@egisadvisors.com.

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A callout box with a yellow background and rounded corners. At the top, there are three overlapping speech bubbles: a green one on the left, a red one in the middle, and a light blue one on the right. The red bubble contains the text "fasd.com" in white and "Pro Tip:" in yellow. Below the speech bubbles, the text "CONNECT WITH YOUR PEERS THROUGH THE FASD ONLINE COMMUNITY" is written in bold, dark blue, uppercase letters. At the bottom, there is a paragraph of text in a smaller, dark blue font.

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