

Bill No. CS for CS for CS for SB 1174, 1st Eng.

Amendment No. ____ Barcode 644804

CHAMBER ACTION

Senate

House

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Senators Geller and Constantine moved the following amendment:

Senate Amendment (with title amendment)

On page 2, between lines 23 and 24,

insert:

Section 1. Part II of chapter 171, Florida Statutes, consisting of sections 171.20, 171.201, 171.202, 171.203, 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21, 171.211, 171.212, and 171.213, is created to read:

171.20 Popular name.--This part may be cited as the "Interlocal Service Boundary Agreement Act."

171.201 Legislative intent.--The Legislature intends to provide an alternative to part I of this chapter for local governments regarding the annexation of territory into a municipality and the subtraction of territory from the unincorporated area of the county. The principal goal of this part is to encourage local governments to jointly determine how to provide services to residents and property in the most efficient and effective manner while balancing the needs and desires of the community. This part is intended to establish a

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 more flexible process for adjusting municipal boundaries and
2 to address a wider range of annexation impacts. This part is
3 intended to encourage intergovernmental coordination in
4 planning, service delivery, and boundary adjustments and to
5 reduce intergovernmental conflicts and litigation between
6 local governments. It is the intent of this part to promote
7 sensible boundaries that reduce the costs of local
8 governments, avoid local service duplication, and increase
9 political transparency and accountability. This part is
10 intended to prevent inefficient service delivery and an
11 insufficient tax base to support the delivery of those
12 services.

13 171.202 Definitions.--As used in this part, the term:

14 (1) "Chief administrative officer" means the municipal
15 administrator, municipal manager, county manager, county
16 administrator, or other officer of the municipality, county,
17 or independent special district who reports directly to the
18 governing body of the local government.

19 (2) "Enclave" has the same meaning as provided in s.
20 171.031(13).

21 (3) "Independent special district" means an
22 independent special district, as defined in s. 189.403, which
23 provides fire, emergency medical, water, wastewater, or
24 stormwater services.

25 (4) "Initiating county" means a county that commences
26 the process for negotiation of an interlocal service boundary
27 agreement through the adoption of an initiating resolution.

28 (5) "Initiating local government" means a county,
29 municipality, or independent special district that commences
30 the process for negotiation of an interlocal service boundary
31 agreement through the adoption of an initiating resolution.

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 (6) "Initiating municipality" means a municipality
2 that commences the process for negotiation of an interlocal
3 service boundary agreement through the adoption of an
4 initiating resolution.

5 (7) "Initiating resolution" means a resolution adopted
6 by a county, municipality, or independent special district
7 which commences the process for negotiation of an interlocal
8 service boundary agreement and which identifies the
9 unincorporated area and other issues for discussion.

10 (8) "Interlocal service boundary agreement" means an
11 agreement adopted under this part, between a county and one or
12 more municipalities, which may include one or more independent
13 special districts as parties to the agreement.

14 (9) "Invited municipality" means an initiating
15 municipality and any other municipality designated as such in
16 an initiating resolution or a responding resolution that
17 invites the municipality to participate in the negotiation of
18 an interlocal service boundary agreement.

19 (10) "Municipal service area" means one or more of the
20 following as designated in an interlocal service boundary
21 agreement:

22 (a) An unincorporated area that has been identified in
23 an interlocal service boundary agreement for municipal
24 annexation by a municipality that is a party to the agreement.

25 (b) An unincorporated area that has been identified in
26 an interlocal service boundary agreement to receive municipal
27 services from a municipality that is a party to the agreement
28 or from the municipality's designee.

29 (11) "Notified local government" means the county or a
30 municipality, other than an invited municipality, that
31 receives an initiating resolution.

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 (12) "Participating resolution" means the resolution
2 adopted by the initiating local government and the invited
3 local government.

4 (13) "Requesting resolution" means the resolution
5 adopted by a municipality seeking to participate in the
6 negotiation of an interlocal service boundary agreement.

7 (14) "Responding resolution" means the resolution
8 adopted by the county or an invited municipality which
9 responds to the initiating resolution and which may identify
10 an additional unincorporated area or another issue for
11 discussion, or both, and may designate an additional invited
12 municipality.

13 (15) "Unincorporated service area" means one or more
14 of the following as designated in an interlocal service
15 boundary agreement:

16 (a) An unincorporated area that has been identified in
17 an interlocal service boundary agreement and that may not be
18 annexed without the consent of the county.

19 (b) An unincorporated area or incorporated area, or
20 both, which have been identified in an interlocal service
21 boundary agreement to receive municipal services from a county
22 or its designee or an independent special district.

23 171.203 Interlocal service boundary agreement.--The
24 governing body of a county and one or more municipalities or
25 independent special districts within the county may enter into
26 an interlocal service boundary agreement under this part. The
27 governing bodies of a county, municipality, or an independent
28 special district may develop a process for reaching an
29 interlocal service boundary agreement which provides for
30 public participation in a manner that meets or exceeds the
31 requirements of subsection (11), or the governing bodies may

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 use the process established in this section.

2 (1) A county, municipality, or an independent special
3 district desiring to enter into an interlocal service boundary
4 agreement shall commence the negotiation process by adopting
5 an initiating resolution. The initiating resolution shall
6 identify an unincorporated area or incorporated area, or both,
7 to be discussed and the issues to be negotiated. The
8 identified area shall be specified in the initiating
9 resolution by a descriptive exhibit that includes, but need
10 not be limited to, a map or legal description of the
11 designated area. The issues for negotiation shall be listed in
12 the initiating resolution and may include, but need not be
13 limited to, the issues listed in subsection (6). An
14 independent special district may initiate the interlocal
15 service boundary agreement for the sole purpose of dissolving
16 an independent special district.

17 (a) The initiating resolution of an initiating county
18 must designate one or more invited municipalities. The
19 initiating resolution of an initiating municipality may
20 designate an invited municipality. The initiating resolution
21 of an independent special district shall designate one or more
22 invited municipalities and invite the county.

23 (b) An initiating county shall send the initiating
24 resolution by United States certified mail to the chief
25 administrative officer of every invited municipality and each
26 other municipality within the county. An initiating
27 municipality shall send the initiating resolution by United
28 States certified mail to the chief administrative officer of
29 the county, the invited municipality, if any, and each other
30 municipality within the county.

31 (c) The initiating local government shall also send

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 the initiating resolution to the chief administrative officer
2 of each independent special district in the unincorporated
3 area designated in the initiating resolution.

4 (2) Within 60 days after the receipt of an initiating
5 resolution, the county or the invited municipality, as
6 appropriate, shall adopt a responding resolution. The
7 responding resolution may identify an additional
8 unincorporated area or incorporated area, or both, for
9 discussion and may designate additional issues for
10 negotiation. The additional identified area, if any, shall be
11 specified in the responding resolution by a descriptive
12 exhibit that includes, but need not be limited to, a map or
13 legal description of the designated area. The additional
14 issues designated for negotiation, if any, shall be listed in
15 the responding resolution and may include, but need not be
16 limited to, the issues listed in subsection (6). The
17 responding resolution may also invite an additional
18 municipality to negotiate the interlocal service boundary
19 agreement.

20 (a) Within 7 days after the adoption of a responding
21 resolution, the responding county shall send the responding
22 resolution by United States certified mail to the chief
23 administrative officer of the initiating municipality, each
24 invited municipality, if any, and the independent special
25 district that received an initiating resolution.

26 (b) Within 7 days after the adoption of a responding
27 resolution, an invited municipality shall send the responding
28 resolution by United States certified mail to the chief
29 administrative officer of the initiating county, each invited
30 municipality, if any, and each independent special district
31 that received an initiating resolution.

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 (c) An invited municipality that was invited by a
 2 responding resolution shall adopt a responding resolution in
 3 accordance with paragraph (b).

4 (d) Within 60 days after receipt of the initiating
 5 resolution, any independent special district that received an
 6 initiating resolution and that desires to participate in the
 7 negotiations shall adopt a resolution indicating that it
 8 intends to participate in the negotiation process for the
 9 interlocal service boundary agreement. Within 7 days after the
 10 adoption of the resolution, the independent special district
 11 shall send the resolution by United States certified mail to
 12 the chief administrative officer of the county, the initiating
 13 municipality, each invited municipality, if any, and each
 14 notified local government.

15 (3) A municipality within the county that is not an
 16 invited municipality may request participation in the
 17 negotiations for the interlocal service boundary agreement.
 18 Such a request shall be accomplished by adopting a requesting
 19 resolution within 60 days after receipt of the initiating
 20 resolution or within 10 days after receipt of the responding
 21 resolution. Within 7 days after adoption of the requesting
 22 resolution, the requesting municipality shall send the
 23 resolution by United States certified mail to the chief
 24 administrative officer of the initiating local government and
 25 each invited municipality. The county and the invited
 26 municipality shall consider whether to allow a requesting
 27 municipality to participate in the negotiations, and, if they
 28 agree, the county and the municipality shall adopt a
 29 participating resolution allowing the requesting municipality
 30 to participate in the negotiations.

31 (4) The county, the invited municipalities, the

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 participating municipalities, if any, and the independent
2 special districts, if any have adopted a resolution to
3 participate, shall begin negotiations within 60 days after
4 receipt of the responding resolution or a participating
5 resolution, whichever occurs later.

6 (5) An invited municipality that fails to adopt a
7 responding resolution shall be deemed to waive its right to
8 participate in the negotiation process and shall be bound by
9 an interlocal agreement resulting from such negotiation
10 process, if any is reached.

11 (6) An interlocal service boundary agreement may
12 address any issue concerning service delivery, fiscal
13 responsibilities, or boundary adjustment. The agreement may
14 include, but need not be limited to, provisions that:

15 (a) Identify a municipal service area.

16 (b) Identify an unincorporated service area.

17 (c) Identify the local government responsible for the
18 delivery or funding of the following services within the
19 municipal service area or the unincorporated service area:

20 1. Public safety.

21 2. Fire, emergency rescue, and medical.

22 3. Water and wastewater.

23 4. Road ownership, construction, and maintenance.

24 5. Conservation, parks, and recreation.

25 6. Stormwater management and drainage.

26 (d) Address other services and infrastructure not
27 currently provided by an electric utility as defined by s.
28 366.02(2) or a natural gas transmission company as defined by
29 s. 368.103(4).

30 (e) Establish a process and schedule for annexation of
31 an area within the designated municipal service area

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 consistent with s. 171.205.

2 (f) Establish a process for land-use decisions
3 consistent with part II of chapter 163, including those made
4 jointly by the governing bodies of the county and the
5 municipality, or allow a municipality to adopt land-use
6 changes consistent with part II of chapter 163 for areas that
7 are scheduled to be annexed within the term of the interlocal
8 agreement, and allow an exemption from the twice-per-year
9 limitation applicable to changes to the comprehensive plan
10 under s. 163.3187.

11 (g) Address other issues concerning service delivery,
12 including the transfer of services and infrastructure and the
13 fiscal compensation to one county, municipality, or
14 independent special district from another county,
15 municipality, or independent special district.

16 (h) Provide for the joint use of facilities and the
17 colocation of services.

18 (i) Include a requirement for a report to the county
19 of the municipality's planned service delivery, as provided in
20 s. 171.042, or as otherwise determined by agreement.

21 (7) If the interlocal service boundary agreement
22 addresses land use planning responsibilities, the agreement
23 must also establish the procedures for the preparation and
24 adoption of comprehensive plan amendments, for the
25 administration of land development regulations, and for the
26 issuance of development orders.

27 (8) Each local government that is a party to the
28 interlocal service boundary agreement shall amend the
29 intergovernmental coordination element of its comprehensive
30 plan, as defined in s. 163.3177(6)(h)1., no later than 6
31 months following entry of the interlocal service boundary

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 agreement consistent with s. 163.3177(6)(h)1. Plan amendments
2 required by this subsection are exempt from the twice-per-year
3 limitation under s. 163.3187.

4 (9) An affected person for the purpose of challenging
5 a comprehensive plan amendment required by paragraph (6)(f)
6 includes persons owning real property, residing, or owning or
7 operating a business within the boundaries of the municipal
8 service area and owners of real property abutting real
9 property within the municipal service area that is the subject
10 of the comprehensive plan amendment in addition to those
11 affected persons who would have standing under s. 163.3184.

12 (10)(a) A municipality that is a party to an
13 interlocal service boundary agreement that identifies an
14 unincorporated area for municipal annexation under s.
15 171.202(10)(a) shall adopt a municipal service area as an
16 amendment to its comprehensive plan to address future possible
17 municipal annexation. The state land planning agency shall
18 review the amendment for compliance with part II of chapter
19 163.

20 1. A municipal service area must contain:
21 a. A boundary map of the municipal service area.
22 b. Population projections for the area.
23 c. Data and analysis supporting the provision of
24 public facilities for the area.

25 (b) This part shall not authorize the state land
26 planning agency to review, evaluate, determine, approve or
27 disapprove a municipal ordinance relating to municipal
28 annexation or contraction.

29
30 A municipality or county may consider the adoption of any
31 comprehensive plan amendment required by this subsection

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 without regard to the provisions of s. 163.3187(1) regarding
2 the frequency of adoption of amendments to the comprehensive
3 plan.

4 (10) An interlocal service boundary agreement may be
5 for a term of 20 years or less. The interlocal service
6 boundary agreement shall also include a provision requiring
7 periodic review. The interlocal service boundary agreement
8 shall require renegotiations to begin at least 18 months
9 before its termination date.

10 (11) No earlier than 6 months after the commencement
11 of negotiations, either of the initiating local governments or
12 both, the county, or the invited municipality may declare an
13 impasse in the negotiations and seek a resolution of the
14 issues under ss. 164.1053-164.1057. If the local governments
15 fail to agree at the conclusion of the process under chapter
16 164, the local governments shall hold a joint public hearing
17 on the issues raised in the negotiations.

18 (12) When the local governments have reached an
19 interlocal service boundary agreement, the county and the
20 municipality shall adopt the agreement by ordinance under s.
21 166.041 or s. 125.66, respectively. An independent special
22 district, if it consents to the agreement, shall adopt the
23 agreement by final order, resolution, or other method
24 consistent with its charter. The interlocal service boundary
25 agreement shall take effect on the day specified in the
26 agreement or, if there is no date, upon adoption by the county
27 or the invited municipality, whichever occurs later. Nothing
28 in this part shall prohibit a county or municipality from
29 adopting an interlocal service boundary agreement without the
30 consent of an independent special district.

31 (13) For a period of 6 months following the failure of

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 the local governments to consent to an interlocal service
2 boundary agreement, the initiating local government may not
3 initiate the negotiation process established in this section
4 to require the responding local government to negotiate an
5 agreement concerning the same identified unincorporated area
6 and the same issues that were specified in the failed
7 initiating resolution.

8 (14) This part does not authorize one local government
9 to require another local government to enter into an
10 interlocal service boundary agreement. However, when the
11 process for negotiating an interlocal service boundary
12 agreement is initiated, the local governments shall negotiate
13 in good faith to the conclusion of the process established in
14 this section.

15 (15) This section authorizes local governments to
16 simultaneously engage in negotiating more than one interlocal
17 service boundary agreement, notwithstanding that separate
18 negotiations concern similar or identical unincorporated areas
19 and issues.

20 (16) Elected local government officials are encouraged
21 to participate actively and directly in the negotiation
22 process for developing an interlocal service boundary
23 agreement.

24 (17) This part does not impair any existing franchise
25 agreement without the consent of the franchisee. A
26 municipality or county shall retain all existing authority, if
27 any, to negotiate a franchise agreement with any private
28 service provider for use of public rights-of-way or the
29 privilege of providing a service.

30 (18) This part does not impair any existing contract
31 without the consent of the parties.

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 171.204 Prerequisites to annexation under this
2 part.--The interlocal service boundary agreement may describe
3 the character of land that may be annexed and may provide that
4 the restrictions on the character of land that may be annexed
5 pursuant to part I are not restrictions on land that may be
6 annexed pursuant to this part. As determined in the interlocal
7 service boundary agreement, any character of land may be
8 annexed, including, but not limited to, an annexation of land
9 not contiguous to the boundaries of the annexing municipality,
10 an annexation that creates an enclave, an annexation where the
11 annexed area is not reasonably compact; provided, however,
12 such area shall meet the definition of urban in character as
13 defined in s. 171.031(8). The interlocal service boundary
14 agreement may not allow for annexation of land within a
15 municipality that is not a party to the agreement or of land
16 that is within another county.

17 171.205 Consent requirements for annexation of land
18 under this part.--Notwithstanding part I, an interlocal
19 service boundary agreement may provide a process for
20 annexation consistent with this section or with part I.

21 (1) For all or a portion of the area within a
22 designated municipal service area, the interlocal service
23 boundary agreement may provide a flexible process for securing
24 the consent of the registered voters who reside in the area
25 proposed to be annexed, or property owners, or both, for
26 annexation of property within a municipal service area, with
27 notice to the registered voters who reside in the area
28 proposed to be annexed, or property owners, or both, as
29 required in the interlocal service boundary agreement. The
30 interlocal service boundary agreement may not authorize
31 annexation unless the consent requirements of part I are met

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 or the annexation is consented to by one or more of the
2 following:

3 (a) The municipality has received a petition for
4 annexation from more than 50 percent of the registered voters
5 who reside in the area proposed to be annexed.

6 (b) The annexation is approved by a majority of the
7 registered voters who reside in the area proposed to be
8 annexed voting in a referendum on the annexation.

9 (c) The municipality has received a petition for
10 annexation from more than 50 percent of the property owners
11 within the area proposed to be annexed.

12 171.206 Effect of interlocal service boundary area
13 agreement on annexations.--

14 (1) An interlocal service boundary agreement is
15 binding on the parties to the agreement, and a party may not
16 take any action that violates the interlocal service boundary
17 agreement.

18 (2) Notwithstanding part I, without consent of the
19 county and the affected municipality by resolution, a county
20 or an invited municipality may not take any action that
21 violates the interlocal service boundary agreement.

22 (3) If the independent special district that
23 participated in the negotiation process pursuant to s.
24 171.203(2)(d) does not consent to the interlocal service
25 boundary agreement and a municipality annexes an area within
26 the independent special district, the municipality may consent
27 to allowing the independent special district to receive ad
28 valorem tax revenue or the independent special district may
29 seek compensation pursuant to s. 171.093.

30 171.207 Transfer of powers.--This part is an
31 alternative provision otherwise provided by law, as authorized

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 in s. 4, Art. VIII of the State Constitution, for any transfer
2 of power resulting from an interlocal service boundary
3 agreement for the provision of services or the acquisition of
4 public facilities entered into by a county, municipality,
5 independent special district, or other entity created pursuant
6 to law.

7 171.208 Municipal extraterritorial power.--This part
8 authorizes a municipality to exercise extraterritorial powers
9 that include, but are not limited to, the authority to provide
10 services and facilities within the unincorporated area or
11 within the territory of another municipality as provided
12 within an interlocal service boundary agreement. This power is
13 in addition to other municipal powers that otherwise exist.

14 171.209 County incorporated area power.--As provided
15 in an interlocal service boundary agreement, this part
16 authorizes a county to exercise powers within a municipality
17 that include, but are not limited to, the authority to provide
18 services and facilities within the territory of a
19 municipality. This power is in addition to other county powers
20 that otherwise exist.

21 171.21 Effect of part on interlocal agreement and
22 county charter.--A joint planning agreement, a charter
23 provision adopted under s. 171.044(4), or any other interlocal
24 agreement between local governments including a county,
25 municipality, or independent special district is not affected
26 by this part; however, the county, municipality or independent
27 special district may avail themselves of this part, which may
28 result in the repeal or modification of a joint planning
29 agreement or other interlocal agreement.

30 171.211 Interlocal service boundary agreement presumed
31 valid and binding.--

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 (1) If there is litigation over the terms, conditions,
2 construction, or enforcement of an interlocal service boundary
3 agreement, the agreement shall be presumed valid, and the
4 challenger has the burden of proving its invalidity.

5 (2) Notwithstanding part I, it is the intent of this
6 part to authorize a municipality to enter into an interlocal
7 service boundary agreement that enhances, restricts, or
8 precludes annexations during the term of the agreement.

9 171.212 Disputes regarding construction and effect of
10 an interlocal service boundary agreement.--If there is a
11 question or dispute about the construction or effect of an
12 interlocal service boundary agreement, a local government
13 shall initiate and proceed through the conflict resolution
14 procedures established in chapter 164. If there is a failure
15 to resolve the conflict, no later than 30 days following the
16 conclusion of the procedures established in chapter 164, the
17 local government may file an action in circuit court. For
18 purposes of this section, the term "local government" means a
19 party to the interlocal service boundary agreement.

20 171.213 Citizen petition initiative process for
21 enclaves.--

22 (1) If an interlocal service boundary agreement is not
23 approved by the participating local governments, the
24 registered voters or the property owners within an enclave
25 that was identified in the requesting resolution by the
26 initiating local government or in a responding resolution by a
27 participating local government may petition a municipality for
28 annexation or to initiate the interlocal service boundary
29 agreement process for their specific area.

30 (2) This section does not apply to any municipality
31 having a population of 7,500 or fewer as of January 1, 2003,

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 unless approved by a majority of the governing board of the
 2 municipality. This section does not apply to any municipality
 3 having a population greater than 7,500 as of January 1, 2003,
 4 if the proposed area to be annexed will increase the municipal
 5 population by more than 10 percent, unless approved by a
 6 majority of the governing board of the municipality. In the
 7 event that a municipality is petitioned under this section on
 8 two or more occasions, the total of the proposed area to be
 9 annexed may not increase the municipal population by more than
 10 20 percent in any given year or 50 percent in a 5-year period,
 11 unless approved by a majority of the governing body of the
 12 municipality.

13 (a) The registered voters or the property owners
 14 within the area may initiate the petition no sooner than 270
 15 days after the joint public hearing required in s.
 16 171.203(11). The registered voters or the property owners of
 17 the area may initiate the interlocal service boundary
 18 agreement process by notifying a municipality of one of the
 19 following:

20 1. They have obtained the consent of 50 percent or
 21 more of the registered voters who reside in the enclave;

22 2. They have obtained the consent of 50 percent of the
 23 property owners within the enclave;

24 3. The board of directors of a condominium association
 25 as defined in s. 718.103(2) has approved a resolution and the
 26 resolution has been approved by a majority of the members of
 27 the condominium association located within the enclave; or

28 4. The board of directors of a homeowners' association
 29 as defined in s. 720.301(7) has approved a resolution and the
 30 resolution has been approved by a majority of the members of
 31 the homeowners' association located within the enclave.

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 (b) Each registered voter or property owner signing a
 2 petition shall sign in ink or indelible pencil his or her name
 3 as registered in the office of the supervisor of elections or
 4 the property appraiser. Each petition shall contain
 5 appropriate lines for the signature, printed name, and street
 6 address of the signee and an oath, to be executed by a witness
 7 thereof, verifying the fact that the witness saw each person
 8 sign the petition, that each signature appearing thereon is
 9 the genuine signature of the person it purports to be, and
 10 that the petition was signed in the presence of the witness on
 11 the date indicated.

12 (c) Copies of the petition or resolution shall be
 13 submitted to the clerk of the municipality. If it is
 14 determined that the petition does not meet the requirements in
 15 this subsection, the clerk shall so certify to the governing
 16 body of the municipality and file the petition without taking
 17 further action, and the matter shall be at an end. No
 18 additional names may be added to the petition, and the
 19 petition may not be used in any other proceeding.

20 (d) If it is determined that the petition has met the
 21 requirements of this subsection, the clerk shall so certify to
 22 the governing body of the municipality. Upon certification, a
 23 municipality must notify the registered voters, property
 24 owners, condominium association, or homeowners' association
 25 within 30 days after the certification of the petition.

26 (e) Not later than 60 days after the certification of
 27 the petition initiative from the proposed area, a municipality
 28 shall notify the county of its intent to initiate annexation
 29 procedures established in s. 171.205(1). If it elects not to
 30 annex, a municipality shall notify and invite the county and
 31 any independent special district pursuant to the interlocal

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 service boundary agreement process established in s. 171.203
2 to address issues related to the annexation of the enclave. If
3 the municipality fails to initiate annexation or the
4 interlocal service boundary agreement process within 60 days,
5 the registered voters, property owners, condominium
6 association, or homeowners' association may petition the
7 county to initiate the interlocal agreement process for the
8 enclave.

9 (f) If the participating local governments fail to
10 reach an agreement, the board of directors of a condominium
11 association or homeowners' association within the proposed
12 area may request a dispute resolution process that provides
13 for an orderly, speedy, and final resolution of the dispute.

14 (3) The local governments may adopt an interlocal
15 dispute resolution agreement that provides a dispute
16 resolution process. If the local governments do not adopt an
17 interlocal dispute resolution agreement, they must use the
18 following dispute resolution process:

19 (a) A county, municipality, condominium association,
20 or homeowners' association may file a petition seeking
21 arbitration that states with particularity the issue in
22 dispute, suggests a proposed resolution, and states the
23 reasons supporting the resolution.

24 (b) Notwithstanding s. 120.569, the petition shall be
25 filed with the Division of Administrative Hearings, which
26 shall, immediately upon filing, forward copies to the other
27 local government that is a party. Within 10 days after
28 receiving a complete petition, the division director shall
29 assign an administrative law judge as arbitrator, who shall
30 conduct an arbitration hearing within 90 days thereafter,
31 unless the petition is withdrawn or a continuance is granted

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. Barcode 644804

1 by agreement of the parties or for good cause shown.

2 (c) Within 90 days after the arbitration hearing, the
3 arbitrator shall issue a written decision and state the
4 reasons for the decision in writing. The division shall
5 immediately transmit a copy of the decision to the county, the
6 municipality, and any independent special district.

7 (d) The evidentiary standards shall be as provided in
8 ss. 120.569(2)(g) and 120.57(1)(c).

9 (e) This subsection does not preclude settlement by
10 mutual agreement of the parties at any time.

11 (f) The arbitrator shall consider the following
12 factors:

13 1. The preference of the residents and property owners
14 in the enclave proposed for annexation.

15 2. The fiscal effects of boundary adjustments,
16 including the effect of the annexation of the enclave on the
17 ability of the county, the municipality, and any independent
18 special district to provide services and facilities to the
19 area proposed to be annexed, the remainder of the
20 unincorporated area, and the incorporated area of the
21 municipality.

22 3. The current level-of-service standards of the
23 infrastructure and the potential fiscal impact on the
24 municipality which may result from annexation of the enclave.

25 4. The reduction in the value or use of infrastructure
26 owned by the county or an independent special district that
27 may result from annexation of the enclave.

28 5. The commonality of interests among the residents
29 and property owners of the enclave proposed for annexation and
30 the adjacent incorporated area.

31 6. The effects of the proposed annexation on the

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. ____ Barcode 644804

1 efficiency and effectiveness of urban service delivery.

2 7. Whether the area proposed for annexation meets the
3 criteria in s. 171.031(13).

4 8. The intent of the Legislature as expressed in this
5 part.

6 (g) The arbitrator shall:

7 1. Determine whether the enclave should remain
8 unincorporated or be annexed. If the arbitrator finds that the
9 enclave should be annexed, the annexation must be approved by
10 a majority of the registered voters who reside in the enclave.

11 2. Determine service delivery responsibilities of the
12 county, municipality, and any independent special district.

13 3. Determine fiscal compensation issues, including
14 requiring a single payment or payment over a term of years by
15 one of the parties to ensure that fiscal responsibilities for
16 providing urban services can be met.

17 (h) Arbitration hearings shall be conducted as
18 provided by ss. 120.569 and 120.57, except that the
19 arbitrator's order shall be transmitted to the governmental
20 entities, which have 45 days to:

21 1. Accept the findings and enter into an agreement
22 based upon the award;

23 2. Negotiate and enter into an agreement that differs
24 from the award; or

25 3. File an action rejecting the award under s. 684.22
26 to set aside the award or enforce it.

27

28 All subsequent proceedings shall be governed by part III of
29 chapter 684.

30 (i) The Division of Administrative Hearings may adopt
31 rules for arbitration proceedings under this section.

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. ____ Barcode 644804

1 Section 2. Subsection (2) of section 171.042, Florida
2 Statutes, is amended, and subsection (3) is added to that
3 section, to read:

4 171.042 Prerequisites to annexation.--

5 (2) Not fewer than 15 days prior to commencing the
6 annexation procedures under s. 171.0413, the governing body of
7 the municipality shall file a copy of the report required by
8 this section with the board of county commissioners of the
9 county wherein the municipality is located. The notice
10 provision provided in this subsection may be the basis for a
11 cause of action invalidating the annexation.

12 (3) Notice shall be provided by the municipality to
13 the affected residents within the proposed area to be annexed.

14 Section 3. Subsection (6) of section 171.044, Florida
15 Statutes, is amended to read:

16 171.044 Voluntary annexation.--

17 (6) Not fewer than 10 days prior to ~~Upon~~ publishing or
18 posting the ordinance notice required under subsection (2),
19 the governing body of the municipality must provide a copy of
20 the notice, via certified mail, to the board of the county
21 commissioners of the county wherein the municipality is
22 located. The notice provision provided in this subsection may
23 ~~shall not~~ be the basis for a ~~of any~~ cause of action
24 invalidating ~~challenging~~ the annexation.

25 Section 4. Section 171.094, Florida Statutes, is
26 created to read:

27 171.094 Effect of interlocal service boundary
28 agreements adopted under part II on annexations under this
29 part.

30 (1) An interlocal service boundary agreement entered
31 into pursuant to part II is binding on the parties to the

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. ____ Barcode 644804

1 agreement and a party may not take any action that violates
2 the interlocal service boundary agreement.

3 (2) Notwithstanding any other provision of this part,
4 without the consent of the county, the affected municipality
5 or affected independent special district by resolution, a
6 county, an invited municipality or independent special
7 district may not take any action that violates an interlocal
8 service boundary agreement.

9 Section 5. Section 171.081, Florida Statutes, is
10 amended to read:

11 171.081 Appeal on annexation or contraction.--

12 (1) No later than 30 days following the passage of an
13 annexation or contraction ordinance, Any party affected who
14 believes that he or she will suffer material injury by reason
15 of the failure of the municipal governing body to comply with
16 the procedures set forth in this chapter for annexation or
17 contraction or to meet the requirements established for
18 annexation or contraction as they apply to his or her property
19 may file a petition in the circuit court for the county in
20 which the municipality or municipalities are located seeking
21 review by certiorari. The action may be initiated at the
22 party's option either within 30 days following the passage of
23 the annexation or contraction ordinance or within 30 days
24 following the completion of the dispute resolution process in
25 subsection (2). In any action instituted pursuant to this
26 section, the complainant, should he or she prevail, shall be
27 entitled to reasonable costs and attorney's fees.

28 (2) If the affected party is a governmental entity, no
29 later than 30 days following the passage of an annexation or
30 contraction ordinance, the governmental entity must initiate
31 and proceed through the conflict resolution procedures

Bill No. CS for CS for CS for SB 1174, 1st Eng.

Amendment No. ____ Barcode 644804

1 established in chapter 164. If there is a failure to resolve
2 the conflict, no later than 30 days following the conclusion
3 of the procedures established in chapter 164, the governmental
4 entity that initiated the conflict resolution procedures may
5 file a petition in the circuit court for the county in which
6 the municipality or municipalities are located seeking review
7 by certiorari.

8 Section 6. Section 164.1058, Florida Statutes, is
9 amended to read:

10 164.1058 Penalty.--If a primary conflicting
11 governmental entity ~~which has received notice of intent to~~
12 ~~initiate the conflict resolution procedure pursuant to this~~
13 ~~act~~ fails to participate in good faith in the conflict
14 assessment meeting, mediation, or other remedies provided for
15 in this act, ~~and the initiating governmental entity files suit~~
16 ~~and is the prevailing party in such suit,~~ the primary
17 disputing governmental entity that ~~which~~ failed to participate
18 in good faith shall be required to pay the attorney's fees and
19 costs in that proceeding of the prevailing primary conflicting
20 governmental entity which initiated the conflict resolution
21 procedure.

22 Section 7. The Division of Statutory Revision is
23 requested to designate sections 171.011-171.094, Florida
24 Statutes, as part I of chapter 171, Florida Statutes, and
25 sections 171.20-171.213, Florida Statutes, as created by this
26 act, as part II of chapter 171, Florida Statutes.

27
28 (Redesignate subsequent sections.)
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Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. ____ Barcode 644804

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, lines 2-4, delete those lines

4

5 and insert:

6 An act relating to growth management; creating
7 part II of ch. 171, F.S.; providing a popular
8 name; providing legislative intent with respect
9 to annexation and the coordination of services
10 by local governments; providing definitions;
11 providing for the creation of interlocal
12 service boundary agreements by a county and one
13 or more municipalities or independent special
14 districts; specifying the procedures for
15 initiating an agreement and responding to a
16 proposal for agreements; identifying issues the
17 agreement may address; requiring local
18 governments that are a party to the agreement
19 to amend their comprehensive plans; providing
20 limitations on the review of certain
21 ordinances; providing exception to the
22 limitation on plan amendments; specifying those
23 persons who may challenge a plan amendment
24 required by the agreement; requiring that an
25 agreement be adopted by resolution; providing
26 prerequisites to annexation; providing a
27 process for annexation; providing for the
28 effect of an interlocal service boundary area
29 agreement on the parties to the agreement;
30 providing for a transfer of powers; authorizing
31 a municipality to provide services within an

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. ____ Barcode 644804

1 unincorporated area or territory of another
 2 municipality; authorizing a county to exercise
 3 certain powers within a municipality; providing
 4 for the effect on interlocal agreements and
 5 county charters; providing a presumption of
 6 validity; providing a procedure to settle a
 7 dispute regarding an interlocal service
 8 boundary agreement; providing for a citizen
 9 petition initiative process; providing for
 10 application; providing procedures for
 11 annexation of enclaves; providing for dispute
 12 resolution agreements; providing
 13 responsibilities of an arbitrator; providing
 14 rulemaking authority to the Division of
 15 Administrative Hearings; amending s. 171.042,
 16 F.S.; revising the time period for filing of a
 17 report; providing for a cause of action to
 18 invalidate an annexation; requiring
 19 municipalities to provide notice of proposed
 20 annexation to certain persons; amending s.
 21 171.044, F.S.; revising the time period for
 22 providing a copy of a notice; providing for a
 23 cause of action to invalidate an annexation;
 24 creating s. 171.094, F.S.; providing for the
 25 effect of interlocal service boundary
 26 agreements adopted under the act; amending s.
 27 171.081, F.S.; requiring a governmental entity
 28 affected by annexation or contraction to
 29 initiate conflict resolution procedures under
 30 certain circumstances; amending s. 164.1058,
 31 F.S.; providing that a governmental entity that

Bill No. CS for CS for CS for SB 1174, 1st Enq.

Amendment No. ____ Barcode 644804

1 fails to participate in conflict resolution
2 procedures shall be required to pay attorney's
3 fees and costs under certain conditions;
4 requesting the Division of Statutory Revision
5 to designate parts I and II of ch. 171, F.S. ;
6 providing a commission may be created;
7 providing for its membership and
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