

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

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

1 to designate parts I and II of ch. 171, F.S. ;
2 providing a commission may be created;
3 providing for its membership and requirements
4 for voting; providing for appointments by the
5 Governor, the President of the Senate, and the
6 Speaker of the House of Representatives;
7 requiring the Secretary of Transportation, the
8 Secretary of Community Affairs, the Secretary
9 of Environmental Protection, the Commissioner
10 of Agriculture, and the executive director of
11 the Fish and Wildlife Conservation Commission,
12 or their designees, to serve as ex officio
13 nonvoting members; requiring the commission to
14 review the state's growth management programs
15 and laws and make recommendations; requiring
16 public hearings; requiring the Department of
17 Community Affairs to provide staff support;
18 providing for expiration of the commission;
19 providing an effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Part II of chapter 171, Florida Statutes,
24 consisting of sections 171.20, 171.201, 171.202, 171.203,
25 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21,
26 171.211, 171.212, and 171.213, is created to read:

27 171.20 Popular name.--This part may be cited as the
28 "Interlocal Service Boundary Agreement Act."

29 171.201 Legislative intent.--The Legislature intends
30 to provide an alternative to part I of this chapter for local
31 governments regarding the annexation of territory into a

1 municipality and the subtraction of territory from the
2 unincorporated area of the county. The principal goal of this
3 part is to encourage local governments to jointly determine
4 how to provide services to residents and property in the most
5 efficient and effective manner while balancing the needs and
6 desires of the community. This part is intended to establish a
7 more flexible process for adjusting municipal boundaries and
8 to address a wider range of annexation impacts. This part is
9 intended to encourage intergovernmental coordination in
10 planning, service delivery, and boundary adjustments and to
11 reduce intergovernmental conflicts and litigation between
12 local governments. It is the intent of this part to promote
13 sensible boundaries that reduce the costs of local
14 governments, avoid local service duplication, and increase
15 political transparency and accountability. This part is
16 intended to prevent inefficient service delivery and an
17 insufficient tax base to support the delivery of those
18 services.

19 171.202 Definitions.--As used in this part, the term:

20 (1) "Chief administrative officer" means the municipal
21 administrator, municipal manager, county manager, county
22 administrator, or other officer of the municipality, county,
23 or independent special district who reports directly to the
24 governing body of the local government.

25 (2) "Enclave" has the same meaning as provided in s.
26 171.031(13).

27 (3) "Independent special district" means an
28 independent special district, as defined in s. 189.403, which
29 provides fire, emergency medical, water, wastewater, or
30 stormwater services.

31

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

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

8 (6) "Initiating municipality" means a municipality
9 that commences the process for negotiation of an interlocal
10 service boundary agreement through the adoption of an
11 initiating resolution.

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

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

21 (9) "Invited municipality" means an initiating
22 municipality and any other municipality designated as such in
23 an initiating resolution or a responding resolution that
24 invites the municipality to participate in the negotiation of
25 an interlocal service boundary agreement.

26 (10) "Municipal service area" means one or more of the
27 following as designated in an interlocal service boundary
28 agreement:

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

1 (b) An unincorporated area that has been identified in
2 an interlocal service boundary agreement to receive municipal
3 services from a municipality that is a party to the agreement
4 or from the municipality's designee.

5 (11) "Notified local government" means the county or a
6 municipality, other than an invited municipality, that
7 receives an initiating resolution.

8 (12) "Participating resolution" means the resolution
9 adopted by the initiating local government and the invited
10 local government.

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

14 (14) "Responding resolution" means the resolution
15 adopted by the county or an invited municipality which
16 responds to the initiating resolution and which may identify
17 an additional unincorporated area or another issue for
18 discussion, or both, and may designate an additional invited
19 municipality.

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

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

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

30 171.203 Interlocal service boundary agreement.--The
31 governing body of a county and one or more municipalities or

1 independent special districts within the county may enter into
2 an interlocal service boundary agreement under this part. The
3 governing bodies of a county, municipality, or an independent
4 special district may develop a process for reaching an
5 interlocal service boundary agreement which provides for
6 public participation in a manner that meets or exceeds the
7 requirements of subsection (11), or the governing bodies may
8 use the process established in this section.

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

24 (a) The initiating resolution of an initiating county
25 must designate one or more invited municipalities. The
26 initiating resolution of an initiating municipality may
27 designate an invited municipality. The initiating resolution
28 of an independent special district shall designate one or more
29 invited municipalities and invite the county.

30 (b) An initiating county shall send the initiating
31 resolution by United States certified mail to the chief

1 administrative officer of every invited municipality and each
2 other municipality within the county. An initiating
3 municipality shall send the initiating resolution by United
4 States certified mail to the chief administrative officer of
5 the county, the invited municipality, if any, and each other
6 municipality within the county.

7 (c) The initiating local government shall also send
8 the initiating resolution to the chief administrative officer
9 of each independent special district in the unincorporated
10 area designated in the initiating resolution.

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

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

3 (b) Within 7 days after the adoption of a responding
4 resolution, an invited municipality shall send the responding
5 resolution by United States certified mail to the chief
6 administrative officer of the initiating county, each invited
7 municipality, if any, and each independent special district
8 that received an initiating resolution.

9 (c) An invited municipality that was invited by a
10 responding resolution shall adopt a responding resolution in
11 accordance with paragraph (b).

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

23 (3) A municipality within the county that is not an
24 invited municipality may request participation in the
25 negotiations for the interlocal service boundary agreement.
26 Such a request shall be accomplished by adopting a requesting
27 resolution within 60 days after receipt of the initiating
28 resolution or within 10 days after receipt of the responding
29 resolution. Within 7 days after adoption of the requesting
30 resolution, the requesting municipality shall send the
31 resolution by United States certified mail to the chief

1 administrative officer of the initiating local government and
2 each invited municipality. The county and the invited
3 municipality shall consider whether to allow a requesting
4 municipality to participate in the negotiations, and, if they
5 agree, the county and the municipality shall adopt a
6 participating resolution allowing the requesting municipality
7 to participate in the negotiations.

8 (4) The county, the invited municipalities, the
9 participating municipalities, if any, and the independent
10 special districts, if any have adopted a resolution to
11 participate, shall begin negotiations within 60 days after
12 receipt of the responding resolution or a participating
13 resolution, whichever occurs later.

14 (5) An invited municipality that fails to adopt a
15 responding resolution shall be deemed to waive its right to
16 participate in the negotiation process and shall be bound by
17 an interlocal agreement resulting from such negotiation
18 process, if any is reached.

19 (6) An interlocal service boundary agreement may
20 address any issue concerning service delivery, fiscal
21 responsibilities, or boundary adjustment. The agreement may
22 include, but need not be limited to, provisions that:

23 (a) Identify a municipal service area.

24 (b) Identify an unincorporated service area.

25 (c) Identify the local government responsible for the
26 delivery or funding of the following services within the
27 municipal service area or the unincorporated service area:

28 1. Public safety.

29 2. Fire, emergency rescue, and medical.

30 3. Water and wastewater.

31 4. Road ownership, construction, and maintenance.

- 1 5. Conservation, parks, and recreation.
- 2 6. Stormwater management and drainage.
- 3 (d) Address other services and infrastructure not
4 currently provided by an electric utility as defined by s.
5 366.02(2) or a natural gas transmission company as defined by
6 s. 368.103(4).
- 7 (e) Establish a process and schedule for annexation of
8 an area within the designated municipal service area
9 consistent with s. 171.205.
- 10 (f) Establish a process for land-use decisions
11 consistent with part II of chapter 163, including those made
12 jointly by the governing bodies of the county and the
13 municipality, or allow a municipality to adopt land-use
14 changes consistent with part II of chapter 163 for areas that
15 are scheduled to be annexed within the term of the interlocal
16 agreement, and allow an exemption from the twice-per-year
17 limitation applicable to changes to the comprehensive plan
18 under s. 163.3187.
- 19 (g) Address other issues concerning service delivery,
20 including the transfer of services and infrastructure and the
21 fiscal compensation to one county, municipality, or
22 independent special district from another county,
23 municipality, or independent special district.
- 24 (h) Provide for the joint use of facilities and the
25 colocation of services.
- 26 (i) Include a requirement for a report to the county
27 of the municipality's planned service delivery, as provided in
28 s. 171.042, or as otherwise determined by agreement.
- 29 (7) If the interlocal service boundary agreement
30 addresses land use planning responsibilities, the agreement
31 must also establish the procedures for the preparation and

1 adoption of comprehensive plan amendments, for the
2 administration of land development regulations, and for the
3 issuance of development orders.

4 (8) Each local government that is a party to the
5 interlocal service boundary agreement shall amend the
6 intergovernmental coordination element of its comprehensive
7 plan, as defined in s. 163.3177(6)(h)1., no later than 6
8 months following entry of the interlocal service boundary
9 agreement consistent with s. 163.3177(6)(h)1. Plan amendments
10 required by this subsection are exempt from the twice-per-year
11 limitation under s. 163.3187.

12 (9) An affected person for the purpose of challenging
13 a comprehensive plan amendment required by paragraph (6)(f)
14 includes persons owning real property, residing, or owning or
15 operating a business within the boundaries of the municipal
16 service area and owners of real property abutting real
17 property within the municipal service area that is the subject
18 of the comprehensive plan amendment in addition to those
19 affected persons who would have standing under s. 163.3184.

20 (10)(a) A municipality that is a party to an
21 interlocal service boundary agreement that identifies an
22 unincorporated area for municipal annexation under s.
23 171.202(10)(a) shall adopt a municipal service area as an
24 amendment to its comprehensive plan to address future possible
25 municipal annexation. The state land planning agency shall
26 review the amendment for compliance with part II of chapter
27 163.

28 1. A municipal service area must contain:

29 a. A boundary map of the municipal service area.

30 b. Population projections for the area.

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1 c. Data and analysis supporting the provision of
2 public facilities for the area.

3 (b) This part shall not authorize the state land
4 planning agency to review, evaluate, determine, approve or
5 disapprove a municipal ordinance relating to municipal
6 annexation or contraction.

7
8 A municipality or county may consider the adoption of any
9 comprehensive plan amendment required by this subsection
10 without regard to the provisions of s. 163.3187(1) regarding
11 the frequency of adoption of amendments to the comprehensive
12 plan.

13 (10) An interlocal service boundary agreement may be
14 for a term of 20 years or less. The interlocal service
15 boundary agreement shall also include a provision requiring
16 periodic review. The interlocal service boundary agreement
17 shall require renegotiations to begin at least 18 months
18 before its termination date.

19 (11) No earlier than 6 months after the commencement
20 of negotiations, either of the initiating local governments or
21 both, the county, or the invited municipality may declare an
22 impasse in the negotiations and seek a resolution of the
23 issues under ss. 164.1053-164.1057. If the local governments
24 fail to agree at the conclusion of the process under chapter
25 164, the local governments shall hold a joint public hearing
26 on the issues raised in the negotiations.

27 (12) When the local governments have reached an
28 interlocal service boundary agreement, the county and the
29 municipality shall adopt the agreement by ordinance under s.
30 166.041 or s. 125.66, respectively. An independent special
31 district, if it consents to the agreement, shall adopt the

1 agreement by final order, resolution, or other method
2 consistent with its charter. The interlocal service boundary
3 agreement shall take effect on the day specified in the
4 agreement or, if there is no date, upon adoption by the county
5 or the invited municipality, whichever occurs later. Nothing
6 in this part shall prohibit a county or municipality from
7 adopting an interlocal service boundary agreement without the
8 consent of an independent special district.

9 (13) For a period of 6 months following the failure of
10 the local governments to consent to an interlocal service
11 boundary agreement, the initiating local government may not
12 initiate the negotiation process established in this section
13 to require the responding local government to negotiate an
14 agreement concerning the same identified unincorporated area
15 and the same issues that were specified in the failed
16 initiating resolution.

17 (14) This part does not authorize one local government
18 to require another local government to enter into an
19 interlocal service boundary agreement. However, when the
20 process for negotiating an interlocal service boundary
21 agreement is initiated, the local governments shall negotiate
22 in good faith to the conclusion of the process established in
23 this section.

24 (15) This section authorizes local governments to
25 simultaneously engage in negotiating more than one interlocal
26 service boundary agreement, notwithstanding that separate
27 negotiations concern similar or identical unincorporated areas
28 and issues.

29 (16) Elected local government officials are encouraged
30 to participate actively and directly in the negotiation
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1 process for developing an interlocal service boundary
2 agreement.

3 (17) This part does not impair any existing franchise
4 agreement without the consent of the franchisee. A
5 municipality or county shall retain all existing authority, if
6 any, to negotiate a franchise agreement with any private
7 service provider for use of public rights-of-way or the
8 privilege of providing a service.

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

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

27 171.205 Consent requirements for annexation of land
28 under this part.--Notwithstanding part I, an interlocal
29 service boundary agreement may provide a process for
30 annexation consistent with this section or with part I.
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1 (1) For all or a portion of the area within a
2 designated municipal service area, the interlocal service
3 boundary agreement may provide a flexible process for securing
4 the consent of the registered voters who reside in the area
5 proposed to be annexed, or property owners, or both, for
6 annexation of property within a municipal service area, with
7 notice to the registered voters who reside in the area
8 proposed to be annexed, or property owners, or both, as
9 required in the interlocal service boundary agreement. The
10 interlocal service boundary agreement may not authorize
11 annexation unless the consent requirements of part I are met
12 or the annexation is consented to by one or more of the
13 following:

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

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

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

23 171.206 Effect of interlocal service boundary area
24 agreement on annexations.--

25 (1) An interlocal service boundary agreement is
26 binding on the parties to the agreement, and a party may not
27 take any action that violates the interlocal service boundary
28 agreement.

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

3 (3) If the independent special district that
4 participated in the negotiation process pursuant to s.
5 171.203(2)(d) does not consent to the interlocal service
6 boundary agreement and a municipality annexes an area within
7 the independent special district, the municipality may consent
8 to allowing the independent special district to receive ad
9 valorem tax revenue or the independent special district may
10 seek compensation pursuant to s. 171.093.

11 171.207 Transfer of powers.--This part is an
12 alternative provision otherwise provided by law, as authorized
13 in s. 4, Art. VIII of the State Constitution, for any transfer
14 of power resulting from an interlocal service boundary
15 agreement for the provision of services or the acquisition of
16 public facilities entered into by a county, municipality,
17 independent special district, or other entity created pursuant
18 to law.

19 171.208 Municipal extraterritorial power.--This part
20 authorizes a municipality to exercise extraterritorial powers
21 that include, but are not limited to, the authority to provide
22 services and facilities within the unincorporated area or
23 within the territory of another municipality as provided
24 within an interlocal service boundary agreement. This power is
25 in addition to other municipal powers that otherwise exist.

26 171.209 County incorporated area power.--As provided
27 in an interlocal service boundary agreement, this part
28 authorizes a county to exercise powers within a municipality
29 that include, but are not limited to, the authority to provide
30 services and facilities within the territory of a
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1 municipality. This power is in addition to other county powers
2 that otherwise exist.

3 171.21 Effect of part on interlocal agreement and
4 county charter.--A joint planning agreement, a charter
5 provision adopted under s. 171.044(4), or any other interlocal
6 agreement between local governments including a county,
7 municipality, or independent special district is not affected
8 by this part; however, the county, municipality or independent
9 special district may avail themselves of this part, which may
10 result in the repeal or modification of a joint planning
11 agreement or other interlocal agreement.

12 171.211 Interlocal service boundary agreement presumed
13 valid and binding.--

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

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

22 171.212 Disputes regarding construction and effect of
23 an interlocal service boundary agreement.--If there is a
24 question or dispute about the construction or effect of an
25 interlocal service boundary agreement, a local government
26 shall initiate and proceed through the conflict resolution
27 procedures established in chapter 164. If there is a failure
28 to resolve the conflict, no later than 30 days following the
29 conclusion of the procedures established in chapter 164, the
30 local government may file an action in circuit court. For
31

1 purposes of this section, the term "local government" means a
2 party to the interlocal service boundary agreement.

3 171.213 Citizen petition initiative process for
4 enclaves.--

5 (1) If an interlocal service boundary agreement is not
6 approved by the participating local governments, the
7 registered voters or the property owners within an enclave
8 that was identified in the requesting resolution by the
9 initiating local government or in a responding resolution by a
10 participating local government may petition a municipality for
11 annexation or to initiate the interlocal service boundary
12 agreement process for their specific area.

13 (2) This section does not apply to any municipality
14 having a population of 7,500 or fewer as of January 1, 2003,
15 unless approved by a majority of the governing board of the
16 municipality. This section does not apply to any municipality
17 having a population greater than 7,500 as of January 1, 2003,
18 if the proposed area to be annexed will increase the municipal
19 population by more than 10 percent, unless approved by a
20 majority of the governing board of the municipality. In the
21 event that a municipality is petitioned under this section on
22 two or more occasions, the total of the proposed area to be
23 annexed may not increase the municipal population by more than
24 20 percent in any given year or 50 percent in a 5-year period,
25 unless approved by a majority of the governing body of the
26 municipality.

27 (a) The registered voters or the property owners
28 within the area may initiate the petition no sooner than 270
29 days after the joint public hearing required in s.
30 171.203(11). The registered voters or the property owners of
31 the area may initiate the interlocal service boundary

1 agreement process by notifying a municipality of one of the
2 following:

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

5 2. They have obtained the consent of 50 percent of the
6 property owners within the enclave;

7 3. The board of directors of a condominium association
8 as defined in s. 718.103(2) has approved a resolution and the
9 resolution has been approved by a majority of the members of
10 the condominium association located within the enclave; or

11 4. The board of directors of a homeowners' association
12 as defined in s. 720.301(7) has approved a resolution and the
13 resolution has been approved by a majority of the members of
14 the homeowners' association located within the enclave.

15 (b) Each registered voter or property owner signing a
16 petition shall sign in ink or indelible pencil his or her name
17 as registered in the office of the supervisor of elections or
18 the property appraiser. Each petition shall contain
19 appropriate lines for the signature, printed name, and street
20 address of the signee and an oath, to be executed by a witness
21 thereof, verifying the fact that the witness saw each person
22 sign the petition, that each signature appearing thereon is
23 the genuine signature of the person it purports to be, and
24 that the petition was signed in the presence of the witness on
25 the date indicated.

26 (c) Copies of the petition or resolution shall be
27 submitted to the clerk of the municipality. If it is
28 determined that the petition does not meet the requirements in
29 this subsection, the clerk shall so certify to the governing
30 body of the municipality and file the petition without taking
31 further action, and the matter shall be at an end. No

1 additional names may be added to the petition, and the
2 petition may not be used in any other proceeding.

3 (d) If it is determined that the petition has met the
4 requirements of this subsection, the clerk shall so certify to
5 the governing body of the municipality. Upon certification, a
6 municipality must notify the registered voters, property
7 owners, condominium association, or homeowners' association
8 within 30 days after the certification of the petition.

9 (e) Not later than 60 days after the certification of
10 the petition initiative from the proposed area, a municipality
11 shall notify the county of its intent to initiate annexation
12 procedures established in s. 171.205(1). If it elects not to
13 annex, a municipality shall notify and invite the county and
14 any independent special district pursuant to the interlocal
15 service boundary agreement process established in s. 171.203
16 to address issues related to the annexation of the enclave. If
17 the municipality fails to initiate annexation or the
18 interlocal service boundary agreement process within 60 days,
19 the registered voters, property owners, condominium
20 association, or homeowners' association may petition the
21 county to initiate the interlocal agreement process for the
22 enclave.

23 (f) If the participating local governments fail to
24 reach an agreement, the board of directors of a condominium
25 association or homeowners' association within the proposed
26 area may request a dispute resolution process that provides
27 for an orderly, speedy, and final resolution of the dispute.

28 (3) The local governments may adopt an interlocal
29 dispute resolution agreement that provides a dispute
30 resolution process. If the local governments do not adopt an
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1 interlocal dispute resolution agreement, they must use the
2 following dispute resolution process:

3 (a) A county, municipality, condominium association,
4 or homeowners' association may file a petition seeking
5 arbitration that states with particularity the issue in
6 dispute, suggests a proposed resolution, and states the
7 reasons supporting the resolution.

8 (b) Notwithstanding s. 120.569, the petition shall be
9 filed with the Division of Administrative Hearings, which
10 shall, immediately upon filing, forward copies to the other
11 local government that is a party. Within 10 days after
12 receiving a complete petition, the division director shall
13 assign an administrative law judge as arbitrator, who shall
14 conduct an arbitration hearing within 90 days thereafter,
15 unless the petition is withdrawn or a continuance is granted
16 by agreement of the parties or for good cause shown.

17 (c) Within 90 days after the arbitration hearing, the
18 arbitrator shall issue a written decision and state the
19 reasons for the decision in writing. The division shall
20 immediately transmit a copy of the decision to the county, the
21 municipality, and any independent special district.

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

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

26 (f) The arbitrator shall consider the following
27 factors:

28 1. The preference of the residents and property owners
29 in the enclave proposed for annexation.

30 2. The fiscal effects of boundary adjustments,
31 including the effect of the annexation of the enclave on the

1 ability of the county, the municipality, and any independent
2 special district to provide services and facilities to the
3 area proposed to be annexed, the remainder of the
4 unincorporated area, and the incorporated area of the
5 municipality.

6 3. The current level-of-service standards of the
7 infrastructure and the potential fiscal impact on the
8 municipality which may result from annexation of the enclave.

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

12 5. The commonality of interests among the residents
13 and property owners of the enclave proposed for annexation and
14 the adjacent incorporated area.

15 6. The effects of the proposed annexation on the
16 efficiency and effectiveness of urban service delivery.

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

19 8. The intent of the Legislature as expressed in this
20 part.

21 (g) The arbitrator shall:

22 1. Determine whether the enclave should remain
23 unincorporated or be annexed. If the arbitrator finds that the
24 enclave should be annexed, the annexation must be approved by
25 a majority of the registered voters who reside in the enclave.

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

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

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

5 1. Accept the findings and enter into an agreement
6 based upon the award;

7 2. Negotiate and enter into an agreement that differs
8 from the award; or

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

11
12 All subsequent proceedings shall be governed by part III of
13 chapter 684.

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

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

19 171.042 Prerequisites to annexation.--

20 (2) Not fewer than 15 days prior to commencing the
21 annexation procedures under s. 171.0413, the governing body of
22 the municipality shall file a copy of the report required by
23 this section with the board of county commissioners of the
24 county wherein the municipality is located. The notice
25 provision provided in this subsection may be the basis for a
26 cause of action invalidating the annexation.

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

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

31 171.044 Voluntary annexation.--

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

9 Section 4. Section 171.094, Florida Statutes, is
 10 created to read:

11 171.094 Effect of interlocal service boundary
 12 agreements adopted under part II on annexations under this
 13 part.

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

18 (2) Notwithstanding any other provision of this part,
 19 without the consent of the county, the affected municipality
 20 or affected independent special district by resolution, a
 21 county, an invited municipality or independent special
 22 district may not take any action that violates an interlocal
 23 service boundary agreement.

24 Section 5. Section 171.081, Florida Statutes, is
 25 amended to read:

26 171.081 Appeal on annexation or contraction.--

27 (1) No later than 30 days following the passage of an
 28 annexation or contraction ordinance, Any party affected who
 29 believes that he or she will suffer material injury by reason
 30 of the failure of the municipal governing body to comply with
 31 the procedures set forth in this chapter for annexation or

1 contraction or to meet the requirements established for
2 annexation or contraction as they apply to his or her property
3 may file a petition in the circuit court for the county in
4 which the municipality or municipalities are located seeking
5 review by certiorari. The action may be initiated at the
6 party's option either within 30 days following the passage of
7 the annexation or contraction ordinance or within 30 days
8 following the completion of the dispute resolution process in
9 subsection (2). In any action instituted pursuant to this
10 section, the complainant, should he or she prevail, shall be
11 entitled to reasonable costs and attorney's fees.

12 (2) If the affected party is a governmental entity, no
13 later than 30 days following the passage of an annexation or
14 contraction ordinance, the governmental entity must initiate
15 and proceed through the conflict resolution procedures
16 established in chapter 164. If there is a failure to resolve
17 the conflict, no later than 30 days following the conclusion
18 of the procedures established in chapter 164, the governmental
19 entity that initiated the conflict resolution procedures may
20 file a petition in the circuit court for the county in which
21 the municipality or municipalities are located seeking review
22 by certiorari.

23 Section 6. Section 164.1058, Florida Statutes, is
24 amended to read:

25 164.1058 Penalty.--If a primary conflicting
26 governmental entity ~~which has received notice of intent to~~
27 ~~initiate the conflict resolution procedure pursuant to this~~
28 ~~act~~ fails to participate in good faith in the conflict
29 assessment meeting, mediation, or other remedies provided for
30 in this act, ~~and the initiating governmental entity files suit~~
31 ~~and is the prevailing party in such suit,~~ the primary

1 disputing governmental entity ~~that which~~ failed to participate
2 in good faith shall be required to pay the attorney's fees and
3 costs in that proceeding of the prevailing primary conflicting
4 governmental entity ~~which initiated the conflict resolution~~
5 procedure.

6 Section 7. The Division of Statutory Revision is
7 requested to designate sections 171.011-171.094, Florida
8 Statutes, as part I of chapter 171, Florida Statutes, and
9 sections 171.20-171.213, Florida Statutes, as created by this
10 act, as part II of chapter 171, Florida Statutes.

11 Section 8. (1) The 2005 Planning and Development
12 Study Commission may be created. The commission shall be
13 composed of 19 voting members, five appointed by the Governor,
14 five appointed by the President of the Senate, and five
15 appointed by the Speaker of the House of Representatives. In
16 addition, the President of the Senate and the Speaker of the
17 House of Representatives shall each appoint two members from
18 their respective chambers to serve as voting members of the
19 commission. The Governor shall select a chair from his or her
20 appointees. The secretaries of the Department of
21 Transportation, the Department of Community Affairs, and the
22 Department of Environmental Protection, the Commissioner of
23 Agriculture, and the executive director of the Fish and
24 Wildlife Conservation Commission, or their designees, shall
25 serve as nonvoting ex officio members of the commission.

26 (2) Initial appointments shall be made by July 1,
27 2004, and the first meeting of the commission shall be held by
28 September 1, 2004. Any vacancy shall be filled in the same
29 manner as the original appointment. The Governor's
30 appointments shall include one representative from each of the
31 following categories:

1 (a) Business interests, including development and real
2 estate;

3 (b) Agricultural interests, including farming,
4 aquaculture, ranching, and forestry;

5 (c) Municipal and county governments;

6 (d) Environmental interests, including nonprofit
7 organizations that promote conservation or protection of
8 natural resources; and

9 (e) Citizen organizations, including community
10 associations, citizen groups, and affordable housing groups.

11
12 The appointments of voting members by the President of the
13 Senate and the Speaker of the House of Representatives must
14 also include one representative from each of the categories in
15 paragraphs (a)-(e).

16 (3) Each commission member is entitled to one vote
17 unless otherwise specified in this section. Action of the
18 commission requires a two-thirds vote of the voting members
19 present. Action may not be taken if fewer than a majority of
20 all voting members are present.

21 (4) The commission shall review the operation and
22 implementation of the state's growth management programs and
23 laws, including, but not limited to, chapters 163, 186, 187
24 and 380, Florida Statutes, for the purpose of making specific
25 recommendations relating to:

26 (a) Determining methods to substantially improve,
27 modify, or replace the current system of controls and
28 incentives for managing growth with alternatives that have a
29 higher likelihood of significantly improving the
30 growth-management system;

31

1 (b) Implementing programs that provide necessary
2 incentives, including financial incentives, to promote and
3 encourage the redevelopment, improvement and, where
4 appropriate, infill of existing developed areas;

5 (c) Determining the most appropriate agency,
6 combination of agencies, or the creation of a new agency to
7 effectively implement a partnership and appropriate oversight
8 role with local and regional governments for growth
9 management;

10 (d) Enhancing the ability of state residents to more
11 readily and at less cost participate at all levels of
12 decisionmaking involving growth management;

13 (e) Providing development interests with necessary
14 certainty regarding where, when, and how development will be
15 encouraged and promoted;

16 (f) Providing coordination, incentives, and funding
17 programs that jointly share, among state, regional, and local
18 government entities, the responsibility for relieving the
19 crowded conditions in the state's schools, easing the
20 congestion on highways in the state, and protecting the
21 state's natural resources;

22 (g) Revising the development-of-regional-impact
23 process to streamline and reduce duplication in the
24 application for development approval and to make any necessary
25 changes to the criteria used in determining whether a proposed
26 change constitutes a substantial deviation requiring further
27 review; and

28 (h) Maintaining existing private property rights in a
29 growing economy so that all sectors of the state's economy
30 share in an improved quality of life.

31

1 (5) The commission shall hold at least eight public
2 hearings, conducted every 60 days, at different locations
3 throughout the state. At each hearing the commission shall
4 solicit input from the public on the effectiveness of
5 Florida's growth-management system, with particular attention
6 to suggestions for how local, state, and regional agencies and
7 governments can better coordinate growth-management programs.

8 (6) By January 1, 2006, the commission shall provide
9 to the Governor, the President of the Senate, and the Speaker
10 of the House of Representatives, a report with specific
11 recommendations concerning all issues identified in paragraphs
12 (4)(a)-(h). The Department of Community Affairs shall prepare
13 legislative recommendations consistent with the commission's
14 report for consideration by the 2006 Legislature.

15 (7) The commission may appoint technical advisory
16 committees. Commission members, and the members of any
17 technical advisory committee that is appointed, may not
18 receive remuneration for their services, but members other
19 than public officers and employees are entitled to be
20 reimbursed by the Department of Community Affairs for travel
21 or per diem expenses in accordance with section 112.061,
22 Florida Statutes. Public officers and employees shall be
23 reimbursed by their respective agencies in accordance with
24 section 112.061, Florida Statutes.

25 (8) The commission may appoint an executive director,
26 who shall report to the commission and serve at its pleasure.
27 The Department of Community Affairs shall provide the
28 commission and the executive director with staff assistance.
29 The department may, upon the request of the commission,
30 reimburse consultants if such costs can be funded from the
31 appropriation provided for in this act.

1 (9) All agencies under the control of the Governor are
2 directed, and all other agencies are requested, to render
3 assistance and cooperation to the commission.

4 (10) The commission shall continue in existence until
5 its public hearings and written report are complete, but not
6 later than January 1, 2006.

7 Section 9. This act shall take effect upon becoming a
8 law.

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