

By the Committee on Comprehensive Planning; and Senators
Geller and Constantine

316-2661A-04

1 A bill to be entitled
2 An act relating to local government; 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; specifying
16 those persons who may challenge a plan
17 amendment required by the agreement; requiring
18 that an agreement be adopted by resolution;
19 providing prerequisites to annexation;
20 providing a process for annexation; providing
21 for the effect of an interlocal service
22 boundary area agreement on the parties to the
23 agreement; providing for a transfer of powers;
24 authorizing a municipality to provide services
25 within an unincorporated area or territory of
26 another municipality; authorizing a county to
27 exercise certain powers within a municipality;
28 providing for the effect on interlocal
29 agreements and county charters; providing a
30 presumption of validity; providing a procedure
31 to settle a dispute regarding an interlocal

1 service boundary agreement; providing for a
2 citizen petition initiative process; providing
3 for application; providing procedures for
4 annexation of enclaves; providing for dispute
5 resolution agreements; providing
6 responsibilities of an arbitrator; providing
7 rulemaking authority to the Division of
8 Administrative Hearings; amending s. 171.042,
9 F.S.; revising the time period for filing of a
10 report; providing for a cause of action to
11 invalidate an annexation; amending s. 171.044,
12 F.S.; revising the time period for providing a
13 copy of a notice; providing for a cause of
14 action to invalidate an annexation; creating s.
15 171.094, F.S.; providing for the effect of
16 interlocal service boundary agreements adopted
17 under the act; amending s. 171.081, F.S.;
18 requiring a governmental entity affected by
19 annexation or contraction to initiate conflict
20 resolution procedures under certain
21 circumstances; amending s. 164.1058, F.S.;
22 providing that a governmental entity that fails
23 to participate in conflict resolution
24 procedures shall be required to pay attorney's
25 fees and costs under certain conditions;
26 requesting the Division of Statutory Revision
27 to designate parts I and II of ch. 171, F.S.;
28 providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Part II of chapter 171, Florida Statutes,
2 consisting of sections 171.20, 171.201, 171.202, 171.203,
3 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21,
4 171.211, 171.212, and 171.213, is created to read:

5 171.20 Popular name.--This part may be cited as the
6 "Interlocal Service Boundary Agreement Act."

7 171.201 Legislative intent.--The Legislature intends
8 to provide an alternative to part I of this chapter for local
9 governments regarding the annexation of territory into a
10 municipality and the subtraction of territory from the
11 unincorporated area of the county. The principal goal of this
12 part is to encourage local governments to jointly determine
13 how to provide services to residents and property in the most
14 efficient and effective manner while balancing the needs and
15 desires of the community. This part is intended to establish a
16 more flexible process for adjusting municipal boundaries and
17 to address a wider range of annexation impacts. This part is
18 intended to encourage intergovernmental coordination in
19 planning, service delivery, and boundary adjustments and to
20 reduce intergovernmental conflicts and litigation between
21 local governments. It is the intent of this part to promote
22 sensible boundaries that reduce the costs of local
23 governments, avoid local service duplication, and increase
24 political transparency and accountability. This part is
25 intended to prevent inefficient service delivery and an
26 insufficient tax base to support the delivery of those
27 services.

28 171.202 Definitions.--As used in this part, the term:

29 (1) "Chief administrative officer" means the municipal
30 administrator, municipal manager, county manager, county
31 administrator, or other officer of the municipality, county,

1 or independent special district who reports directly to the
2 governing body of the local government.

3 (2) "Enclave" has the same meaning as provided in s.
4 171.031(13).

5 (3) "Independent special district" means an
6 independent special district, as defined in s. 189.403, which
7 provides fire, emergency medical, water, wastewater, or
8 stormwater services.

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

12 (5) "Initiating local government" means a county or
13 municipality that commences the process for negotiation of an
14 interlocal service boundary agreement through the adoption of
15 an initiating resolution.

16 (6) "Initiating municipality" means a municipality
17 that commences the process for negotiation of an interlocal
18 service boundary agreement through the adoption of an
19 initiating resolution.

20 (7) "Initiating resolution" means a resolution adopted
21 by a county or a municipality which commences the process for
22 negotiation of an interlocal service boundary agreement and
23 which identifies the unincorporated area and other issues for
24 discussion.

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

29 (9) "Invited municipality" means an initiating
30 municipality and any other municipality designated as such in
31 an initiating resolution or a responding resolution that

1 invites the municipality to participate in the negotiation of
2 an interlocal service boundary agreement.

3 (10) "Municipal service area" means one or more of the
4 following as designated in an interlocal service boundary
5 agreement:

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

9 (b) An unincorporated area that has been identified in
10 an interlocal service boundary agreement to receive municipal
11 services from a municipality that is a party to the agreement
12 or from the municipality's designee.

13 (11) "Notified local government" means the county or a
14 municipality, other than an invited municipality, that
15 receives an initiating resolution.

16 (12) "Participating resolution" means the resolution
17 adopted by the initiating local government and the invited
18 local government.

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

22 (14) "Responding resolution" means the resolution
23 adopted by the county or an invited municipality which
24 responds to the initiating resolution and which may identify
25 an additional unincorporated area or another issue for
26 discussion, or both, and may designate an additional invited
27 municipality.

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

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

4 (b) An unincorporated area or incorporated area, or
5 both, which have been identified in an interlocal service
6 boundary agreement to receive municipal services from a county
7 or its designee.

8 171.203 Interlocal service boundary agreement.--The
9 governing body of a county and one or more municipalities or
10 independent special districts within the county may enter into
11 an interlocal service boundary agreement under this part. The
12 governing bodies of a county and a municipality may develop a
13 process for reaching an interlocal service boundary agreement
14 which provides for public participation in a manner that meets
15 or exceeds the requirements of subsection (10), or the
16 governing bodies may use the process established in this
17 section.

18 (1) A county or a municipality desiring to enter into
19 an interlocal service boundary agreement shall commence the
20 negotiation process by adopting an initiating resolution. The
21 initiating resolution shall identify an unincorporated area or
22 incorporated area, or both, to be discussed and the issues to
23 be negotiated. The identified area shall be specified in the
24 initiating resolution by a descriptive exhibit that includes,
25 but need not be limited to, a map or legal description of the
26 designated area. The issues for negotiation shall be listed in
27 the initiating resolution and may include, but need not be
28 limited to, the issues listed in subsection (6).

29 (a) The initiating resolution of an initiating county
30 must designate one or more invited municipalities. The
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1 initiating resolution of an initiating municipality may
2 designate an invited municipality.

3 (b) An initiating county shall send the initiating
4 resolution by United States certified mail to the chief
5 administrative officer of every invited municipality and each
6 other municipality within the county. An initiating
7 municipality shall send the initiating resolution by United
8 States certified mail to the chief administrative officer of
9 the county, the invited municipality, if any, and each other
10 municipality within the county.

11 (c) The initiating local government shall also send
12 the initiating resolution to the chief administrative officer
13 of each independent special district in the unincorporated
14 area designated in the initiating resolution.

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

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

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

13 (c) An invited municipality that was invited by a
14 responding resolution shall adopt a responding resolution in
15 accordance with paragraph (b).

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

27 (3) A municipality within the county that is not an
28 invited municipality may request participation in the
29 negotiations for the interlocal service boundary agreement.
30 Such a request shall be accomplished by adopting a requesting
31 resolution within 60 days after receipt of the initiating

1 resolution or within 10 days after receipt of the responding
2 resolution. Within 7 days after adoption of the requesting
3 resolution, the requesting municipality shall send the
4 resolution by United States certified mail to the chief
5 administrative officer of the initiating local government and
6 each invited municipality. The county and the invited
7 municipality shall consider whether to allow a requesting
8 municipality to participate in the negotiations, and, if they
9 agree, the county and the municipality shall adopt a
10 participating resolution allowing the requesting municipality
11 to participate in the negotiations.

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

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

23 (6) An interlocal service boundary agreement may
24 address any issue concerning service delivery, fiscal
25 responsibilities, or boundary adjustment. The agreement may
26 include, but need not be limited to, provisions that:

27 (a) Identify a municipal service area.

28 (b) Identify an unincorporated service area.

29 (c) Identify the local government responsible for the
30 delivery or funding of the following services within the
31 municipal service area or the unincorporated service area:

- 1 1. Public safety.
2 2. Fire, emergency rescue, and medical.
3 3. Water and wastewater.
4 4. Road ownership, construction, and maintenance.
5 5. Conservation, parks, and recreation.
6 6. Stormwater management and drainage.
7 (d) Address other services and infrastructure not
8 currently provided by the private sector.
9 (e) Establish a process and schedule for annexation of
10 an area within the designated municipal service area
11 consistent with s. 171.205.
12 (f) Establish a process for land-use decisions
13 consistent with part II of chapter 163, including those made
14 jointly by the governing bodies of the county and the
15 municipality, or allow a municipality to adopt land-use
16 changes consistent with part II of chapter 163 for areas that
17 are scheduled to be annexed within the term of the interlocal
18 agreement, and allow an exemption from the twice-per-year
19 limitation applicable to changes to the comprehensive plan
20 under s. 163.3187.
21 (g) Address other issues concerning service delivery,
22 including the transfer of services and infrastructure and the
23 fiscal compensation to one county or municipality from another
24 county or municipality.
25 (h) Provide for the joint use of facilities and the
26 colocation of services.
27 (i) Include a requirement for a report to the county
28 of the municipality's planned service delivery, as provided in
29 s. 171.042, or as otherwise determined by agreement.
30 (7) Each local government that is a party to the
31 interlocal service boundary agreement shall amend the

1 intergovernmental coordination element of its comprehensive
2 plan, as defined in s. 163.3177(6)(h)1., no later than 6
3 months following entry of the interlocal service boundary
4 agreement consistent with s. 163.3177(6)(h)1. Plan amendments
5 required by this subsection are exempt from the twice-per-year
6 limitation under s. 163.3187.

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

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

21 (10) No earlier than 6 months after the commencement
22 of negotiations, either of the initiating local governments or
23 both, the county, or the invited municipality may declare an
24 impasse in the negotiations and seek a resolution of the
25 issues under ss. 164.1053-164.1057. If the local governments
26 fail to agree at the conclusion of the process under chapter
27 164, the local governments shall hold a joint public hearing
28 on the issues raised in the negotiations.

29 (11) When the local governments have reached an
30 interlocal service boundary agreement, the county and the
31 municipality shall adopt the agreement by ordinance under s.

1 166.041 or s. 125.66, respectively. An independent special
2 district, if it consents to the agreement, shall adopt the
3 agreement by final order, resolution, or other method
4 consistent with its charter. The interlocal service boundary
5 agreement shall take effect on the day specified in the
6 agreement or, if there is no date, upon adoption by the county
7 or the invited municipality, whichever occurs later.

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

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

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

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

1 (16) This part does not impair any existing franchise
2 agreement without the consent of the franchisee.

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

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

23 (1) For all or a portion of the area within a
24 designated municipal service area, the interlocal service
25 boundary agreement may provide a flexible process for securing
26 the consent of the registered voters who reside in the area
27 proposed to be annexed, or property owners, or both, for
28 annexation of property within a municipal service area, with
29 notice to the registered voters who reside in the area
30 proposed to be annexed, or property owners, or both, as
31 required in the interlocal service boundary agreement. The

1 interlocal service boundary agreement may not authorize
2 annexation unless the consent requirements of part I are met
3 or the annexation is consented to by one or more of the
4 following:

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

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

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

14 (2) For all or a portion of an enclave consisting of
15 more than 20 acres within a designated municipal service area,
16 the interlocal service boundary agreement may provide a
17 flexible process for securing the consent of the registered
18 voters who reside in the area proposed to be annexed and
19 property owners for annexation of the property, with notice to
20 the registered voters who reside in the area proposed to be
21 annexed and property owners as required in the interlocal
22 service boundary agreement. The interlocal service boundary
23 agreement may not authorize annexation of enclaves under this
24 subsection unless the consent requirements of part I are met,
25 unless the annexation process includes one or more of the
26 procedures in subsection (1), or unless the municipality has
27 received a petition for annexation from one or more property
28 owners who own real property in excess of 50 percent of the
29 total real property within the area to be annexed.

30 (3) For all or a portion of an enclave, consisting of
31 20 acres or less and with fewer than 100 registered voters

1 within a designated municipal service area, the interlocal
2 service boundary agreement may provide a flexible process for
3 securing the consent of the registered voters who reside in
4 the area proposed to be annexed and property owners for
5 annexation of property within a municipal service area, with
6 notice to the registered voters who reside in the area
7 proposed to be annexed and property owners as required in the
8 interlocal service boundary agreement. Such an annexation
9 process may include one or more of the procedures in
10 subsection (1) and may allow annexation according to the terms
11 and conditions provided in the interlocal service boundary
12 agreement, which may include a referendum of the registered
13 voters who reside in the area proposed to be annexed.

14 171.206 Effect of interlocal service boundary area
15 agreement on annexations.--

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

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

24 (3) If the independent special district that
25 participated in the negotiation process pursuant to s.
26 171.203(2)(d) does not consent to the interlocal service
27 boundary agreement, it may seek compensation under s. 171.093.

28 171.207 Transfer of powers.--This part is an
29 alternative provision otherwise provided by law, as authorized
30 in s. 4, Art. VIII of the State Constitution, for any transfer
31 of power resulting from an interlocal service boundary

1 agreement for the provision of services or the acquisition of
2 public facilities entered into by a county, municipality,
3 independent special district, or other entity created pursuant
4 to law.

5 171.208 Municipal extraterritorial power.--This part
6 authorizes a municipality to exercise extraterritorial powers
7 that include, but are not limited to, the authority to provide
8 services and facilities within the unincorporated area or
9 within the territory of another municipality as provided
10 within an interlocal service boundary agreement. This power is
11 in addition to other municipal powers that otherwise exist.

12 171.209 County incorporated area power.--As provided
13 in an interlocal service boundary agreement, this part
14 authorizes a county to exercise powers within a municipality
15 that include, but are not limited to, the authority to provide
16 services and facilities within the territory of a
17 municipality. This power is in addition to other county powers
18 that otherwise exist.

19 171.21 Effect of part on interlocal agreement and
20 county charter.--A joint planning agreement, a charter
21 provision adopted under s. 171.044(4), or any other interlocal
22 agreement between a county and a municipality is not affected
23 by this part; however, the county or the municipality, or
24 both, may avail themselves of this part, which may result in
25 the repeal or modification of a joint planning agreement or
26 other interlocal agreement.

27 171.211 Interlocal service boundary agreement presumed
28 valid and binding.--

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

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

7 171.212 Disputes regarding construction and effect of
8 an interlocal service boundary agreement.--If there is a
9 question or dispute about the construction or effect of an
10 interlocal service boundary agreement, a local government
11 shall initiate and proceed through the conflict resolution
12 procedures established in chapter 164. If there is a failure
13 to resolve the conflict, no later than 30 days following the
14 conclusion of the procedures established in chapter 164, the
15 local government may file an action in circuit court. For
16 purposes of this section, the term "local government" means a
17 party to the interlocal service boundary agreement.

18 171.213 Citizen petition initiative process for
19 enclaves.--

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

28 (2) This section does not apply to any municipality
29 having a population of 7,500 or fewer as of January 1, 2003,
30 unless approved by a majority of the governing board of the
31 municipality. This section does not apply to any municipality

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

11 (a) The registered voters or the property owners
12 within the area may initiate the petition no sooner than 270
13 days after the joint public hearing required in s.
14 171.203(10). The registered voters or the property owners of
15 the area may initiate the interlocal service boundary
16 agreement process by notifying a municipality of one of the
17 following:

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

20 2. They have obtained the consent of 50 percent of the
21 property owners within the enclave;

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

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

30 (b) Each registered voter or property owner signing a
31 petition shall sign in ink or indelible pencil his or her name

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

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

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

24 (e) Not later than 60 days after the certification of
25 the petition initiative from the proposed area, a municipality
26 shall notify the county of its intent to initiate annexation
27 procedures established in s. 171.205(1). If it elects not to
28 annex, a municipality shall notify and invite the county and
29 any independent special district pursuant to the interlocal
30 service boundary agreement process established in s. 171.203
31 to address issues related to the annexation of the enclave. If

1 the municipality fails to initiate annexation or the
2 interlocal service boundary agreement process within 60 days,
3 the registered voters, property owners, condominium
4 association, or homeowners' association may petition the
5 county to initiate the interlocal agreement process for the
6 enclave.

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

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

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

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

31

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

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

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

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

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

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

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

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

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

30 6. The effects of the proposed annexation on the
31 efficiency and effectiveness of urban service delivery.

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

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

5 (g) The arbitrator shall:

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

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

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

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

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

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

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

26
27 All subsequent proceedings shall be governed by part III of
28 chapter 684.

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

31

1 Section 2. Subsection (2) of section 171.042, Florida
2 Statutes, is amended to read:

3 171.042 Prerequisites to annexation.--

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

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

13 171.044 Voluntary annexation.--

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

22 Section 4. Section 171.094, Florida Statutes, is
23 created to read:

24 171.094 Effect of interlocal service boundary
25 agreements adopted under part II on annexations under this
26 part.

27 (1) An interlocal service boundary agreement entered
28 into pursuant to part II is binding on the parties to the
29 agreement and a party may not take any action that violates
30 the interlocal service boundary agreement.

31

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

6 Section 5. Section 171.081, Florida Statutes, is
7 amended to read:

8 171.081 Appeal on annexation or contraction.--

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

25 (2) If the affected party is a governmental entity, no
26 later than 30 days following the passage of an annexation or
27 contraction ordinance, the governmental entity must initiate
28 and proceed through the conflict resolution procedures
29 established in chapter 164. If there is a failure to resolve
30 the conflict, no later than 30 days following the conclusion
31 of the procedures established in chapter 164, the governmental

1 entity that initiated the conflict resolution procedures may
2 file a petition in the circuit court for the county in which
3 the municipality or municipalities are located seeking review
4 by certiorari.

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

7 164.1058 Penalty.--If a primary conflicting
8 governmental entity ~~which has received notice of intent to~~
9 ~~initiate the conflict resolution procedure pursuant to this~~
10 ~~act~~ fails to participate in good faith in the conflict
11 assessment meeting, mediation, or other remedies provided for
12 in this act, ~~and the initiating governmental entity files suit~~
13 ~~and is the prevailing party in such suit,~~ the primary
14 disputing governmental entity that ~~which~~ failed to participate
15 in good faith shall be required to pay the attorney's fees and
16 costs in that proceeding of the prevailing primary conflicting
17 governmental entity ~~which initiated the conflict resolution~~
18 ~~procedure.~~

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

24 Section 8. This act shall take effect July 1, 2004.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill's 2362 and 3072

4 Senate Bill 2362 is a shell bill. The substantive differences
5 between Senate Bill 3072 and the committee substitute (CS) are
6 as follows: The CS clarifies the procedures for obtaining
7 consent to annex an enclave consisting of 20 acres or more
8 within a municipal service area. It requires each local
9 government that is a party to the interlocal service boundary
10 agreement to amend the intergovernmental coordination element
11 of its comprehensive plan within a certain time period. It
12 defines affected person for the purposes of challenging
13 certain plan amendments. The CS also states that part II of
14 ch. 171, F.S., does not impair any existing franchise
15 agreement without the consent of the franchisee.

16 In addition, the CS provides a citizen petition initiative
17 process for certain enclaves. If the local governments are
18 unable to reach an agreement on the annexation of an enclave
19 that used the citizen petition process, the Division of
20 Administrative Hearings is required to appoint an arbitrator
21 and hold arbitration hearings.

22 This CS requires an ordinance notice for annexation to be
23 provided to the county where the municipality is located not
24 fewer than 15 days prior to commencing annexation procedures
25 under s. 171.0413, F.S. The CS also deletes language extending
26 the time period for an annexing municipality to hold a
27 referendum for the registered electors of the area proposed to
28 be annexed, following the adoption of its final ordinance to
29 annex property under s. 171.0413, F.S.

30 The CS requires a municipality to send a copy of the ordinance
31 notice for a voluntary annexation to the county where the
municipality is located not fewer than 10 days prior to
publishing or posting the notice. Failure to comply with this
notice provision may be the basis for an action invalidating
the annexation. It requires a governmental entity that is
challenging an annexation to initiate conflict resolution
procedures within 30 days following the passage of an
annexation or contraction ordinance. Finally, it provides that
a primary disputing governmental entity that fails to
participate in good faith in certain proceedings under ch.
164, F.S., shall be required to pay the attorney's fees and
costs for that proceeding.