

By Senator Constantine

22-1001B-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 short
4 title; providing legislative intent with
5 respect to annexation and the coordination of
6 services by local governments; providing
7 definitions; providing for the creation of
8 interlocal service boundary agreements by a
9 county and one or more municipalities or
10 special districts; specifying the procedures
11 for initiating an agreement and responding to a
12 proposal for agreements; requiring that an
13 agreement be adopted by ordinance; providing
14 prerequisites to annexation; providing a
15 process for annexation; providing for the
16 effect of an interlocal service boundary area
17 agreement on the parties to the agreement or a
18 participating municipality; providing for a
19 transfer of powers; authorizing a municipality
20 to provide services within an unincorporated
21 area or territory of another municipality;
22 authorizing a county to exercise certain powers
23 within a municipality; providing for the effect
24 of existing interlocal agreements; providing a
25 presumption of validity; providing a procedure
26 to settle a dispute regarding an interlocal
27 service boundary agreement; creating s.
28 171.094, F.S.; providing for the effect of
29 interlocal service boundary agreements adopted
30 under the act; amending s. 171.0413, F.S.;
31 extending the time period between the final

1 adoption of an ordinance and the referendum
2 election; amending s. 171.042, F.S.; requiring
3 notice by a municipality before commencing
4 annexation procedures; providing grounds for
5 invalidating an annexation; requesting the
6 Division of Statutory Revision to designate
7 part I and part II of ch. 171, F.S.; providing
8 an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Part II of chapter 171, Florida Statutes,
13 consisting of sections 171.20, 171.201, 171.202, 171.203,
14 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21,
15 171.211, and 171.212, is created to read:

16

17 171.20 Short title.--This part may be cited as the
18 "Interlocal Service Boundary Agreement Act."

19

20 171.201 Legislative intent.--The Legislature intends
21 to provide an alternative to part I of this chapter for local
22 governments regarding the annexation of territory into a
23 municipality and subtraction of territory from the
24 unincorporated area of the county. The principal goal of this
25 part is to encourage local governments to jointly determine
26 how to provide services to residents and property in the most
27 efficient and effective manner while balancing the needs and
28 desires of the community. This part is intended to establish a
29 more flexible process for adjusting municipal boundaries and
30 to address a wider range of annexation effects. This part is
31 intended to encourage intergovernmental coordination in
planning, service delivery, and boundary adjustments and to
reduce intergovernmental conflicts and litigation. It is the

1 intent of this part to promote sensible boundaries that reduce
2 the costs of local governments, avoid local service
3 duplication, and increase political transparency and
4 accountability. This part is intended to prevent the wide
5 dispersion of unincorporated areas resulting from annexation
6 pursuant to part I of this chapter which may cause inefficient
7 service delivery and a tax base that is insufficient to
8 service the needs of the dispersed unincorporated areas.

9 171.202 Definitions.--As used in this part, the term:

10 (1) "Chief administrative officer" means the municipal
11 administrator, municipal manager, county manager, county
12 administrator, or other officer of the municipality, county,
13 or independent special district who reports directly to the
14 governing body of the local government.

15 (2) "Enclave" has the same meaning as provided in s.
16 171.031(13).

17 (3) "Independent special district" means an
18 independent special district, as defined in s. 189.403, which
19 provides fire, emergency medical, or storm water services.

20 (4) "Initiating county" means the county that
21 commences the process for negotiation of an interlocal service
22 boundary agreement through the adoption of an initiating
23 resolution.

24 (5) "Initiating local government" means the county or
25 municipality that commences the process for negotiation of an
26 interlocal service boundary agreement through the adoption of
27 an initiating resolution.

28 (6) "Initiating municipality" means the municipality
29 that commences the process for negotiation of an interlocal
30 service boundary agreement through the adoption of an
31 initiating resolution.

1 (7) "Initiating resolution" means the resolution
2 adopted by a county or a municipality which commences the
3 process for negotiation of an interlocal service boundary
4 agreement and which identifies the unincorporated area and
5 other issues for discussion.

6 (8) "Interlocal service boundary agreement" means an
7 agreement adopted under this part, between a county and one or
8 more municipalities, which may include one or more independent
9 special districts as a party to the agreement.

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

15 (10) "Municipal service area" means one or more of the
16 following as designated in an interlocal service boundary
17 agreement:

18 (a) An unincorporated area that has been identified in
19 an interlocal service boundary agreement for municipal
20 annexation by a municipality that is a party to the agreement;
21 or

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

26 (11) "Notified local government" means the county or a
27 municipality, other than an invited municipality, which
28 receives an initiating resolution.

29 (12) "Participating municipality" means a requesting
30 municipality that is allowed to participate in the negotiation
31 of an interlocal service boundary agreement through the

1 adoption of a participating resolution by the initiating local
2 government and the invited local government.

3 (13) "Participating resolution" means the resolution
4 adopted by the initiating local government and the invited
5 local government.

6 (14) "Requesting resolution" means the resolution
7 adopted by a municipality seeking to join the negotiation of
8 an interlocal service boundary agreement.

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

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

18 (a) An unincorporated area that has been identified in
19 an interlocal service boundary agreement and that may not be
20 annexed without the consent of the county; or

21 (b) An unincorporated area that has been identified in
22 an interlocal service boundary agreement to receive municipal
23 services from a county or its designee.

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

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1 or exceeds the requirements of subsection (7) or the governing
2 bodies may use the process established in this section.

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

14 (a) The initiating resolution of an initiating county
15 must designate one or more invited municipalities. The
16 initiating resolution of an initiating municipality may
17 designate an invited municipality.

18 (b) An initiating county shall send the initiating
19 resolution by United States certified mail to the chief
20 administrative officer of the invited municipality and each
21 municipality within the county. An initiating municipality
22 shall send the initiating resolution by United States
23 certified mail to the chief administrative officer of the
24 county, the invited municipality, if any, and each other
25 municipality within the county.

26 (c) The initiating local government shall also send
27 the initiating resolution to the chief administrative officer
28 of each independent special district in the unincorporated
29 area designated in the initiating resolution.

30 (2) Within 60 days after the receipt of an initiating
31 resolution, the county or the invited municipality, as

1 appropriate, shall adopt a responding resolution. The
2 responding resolution may identify an additional
3 unincorporated area for discussion and may designate
4 additional issues for negotiation. The additional identified
5 unincorporated area, if any, shall be specified in the
6 responding resolution by a descriptive exhibit that includes,
7 but need not be limited to, a map or legal description of the
8 designated area. The additional issues designated for
9 negotiation, if any, shall be listed in the responding
10 resolution and may include, but need not be limited to, the
11 issues listed in subsection (5). The responding resolution may
12 also invite an additional municipality to negotiate the
13 interlocal service boundary agreement.

14 (a) Within 3 days after the adoption of a responding
15 resolution, the responding county shall send the responding
16 resolution by United States certified mail to the chief
17 administrative officer for the initiating municipality, each
18 invited municipality, if any, and the independent special
19 district that received an initiating resolution.

20 (b) Within 3 days after the adoption of a responding
21 resolution, an invited municipality shall send the responding
22 resolution by United States certified mail to the chief
23 administrative officer for the initiating county, each invited
24 municipality, if any, and each independent special district
25 that received an initiating resolution.

26 (c) An invited municipality that was invited by a
27 responding resolution shall adopt a responding resolution in
28 accordance with paragraph (b).

29 (d) Within 60 days after receipt of the initiating
30 resolution, the independent special district that received an
31 initiating resolution and that desires to participate in the

1 negotiations shall adopt a resolution indicating whether it
2 intends to participate in the negotiation process for the
3 interlocal service boundary agreement. Within 3 days after the
4 adoption of the resolution, the independent special district
5 shall send the resolution by United States certified mail to
6 the chief administrative officer for the county, the
7 initiating municipality, and each invited municipality, if
8 any, and each notified local government.

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

24 (4) The county, the invited municipalities, the
25 participating municipalities, if any, and the independent
26 special districts, if any have adopted a resolution to
27 participate, shall begin negotiations within 60 days after
28 receipt of the responding resolution or a participating
29 resolution, whichever occurs later.

30 (5) An interlocal service boundary agreement may
31 address any issue concerning service delivery, fiscal

1 responsibilities, or boundary adjustment, including, but not
2 limited to the following:
3 (a) Identify a municipal service area;
4 (b) Identify an unincorporated service area;
5 (c) Identify the local government responsible for the
6 delivery or funding of the following services within the
7 municipal service area or the unincorporated service area:
8 1. Public safety;
9 2. Fire service;
10 3. Water and wastewater;
11 4. Road maintenance;
12 5. Parks and recreation; and
13 6. Storm water management and drainage.
14 (d) Address other services and infrastructure.
15 (e) Establish a process and schedule for annexation of
16 an area within the designated municipal service area
17 consistent with s. 171.205.
18 (f) Establish a process for land-use decisions,
19 including those made jointly by the governing bodies of the
20 county and the municipality, or allow a municipality to adopt
21 land-use changes for areas that are scheduled to be annexed
22 within the term of the interlocal agreement, and allow an
23 exemption from the two-per-year limitation applicable to
24 changes to the comprehensive plan under s. 163.3187.
25 (g) Address other issues concerning service delivery,
26 including the transfer of services and infrastructure and the
27 fiscal compensation to one municipality or county from another
28 municipality or county.
29 (h) Include provisions for the joint use of facilities
30 and the colocation of services.
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1 (i) Include a requirement for a report to the county
2 of the municipality's planned service delivery, as provided in
3 s. 171.042, or as otherwise determined by agreement.

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

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

18 (8) When the local governments have reached an
19 interlocal service boundary agreement, the municipality and
20 county shall adopt the agreement by ordinance under s. 166.041
21 or s. 125.66, respectively. An independent special district,
22 if it consents to the agreement, shall adopt the agreement by
23 final order, resolution, or other method consistent with its
24 charter. The interlocal service boundary agreement shall take
25 effect on the day specified in the agreement, or if there is
26 no date, upon adoption by the county or the invited
27 municipality, whichever occurs later.

28 (9) For a period of 3 years following the failure of
29 the local governments to consent to an interlocal service
30 boundary agreement, the initiating local government may not
31 initiate the negotiation process established in this section

1 to require the responding local government to negotiate an
2 agreement concerning the same identified unincorporated area
3 and the same issues that were specified in the initiating
4 resolution.

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

12 (11) This section authorizes local governments to
13 simultaneously engage in negotiating more than one interlocal
14 service boundary agreement, even if the separate negotiations
15 concern similar or identical unincorporated areas and issues.

16 (12) Elected local government officials are encouraged
17 to participate actively and directly in the negotiation
18 process for developing an interlocal service boundary
19 agreement.

20 171.204 Prerequisites to annexation under this
21 part.--The interlocal service boundary agreement may describe
22 the character of land that may be annexed and may provide that
23 the restrictions on the character of land that may be annexed
24 pursuant to part I are not restrictions on land that may be
25 annexed pursuant to this part. As determined in the interlocal
26 service boundary agreement, any character of land may be
27 annexed, including, but not limited to, an annexation of land
28 not contiguous to the boundaries of the annexing municipality,
29 an annexation that creates an enclave, an annexation where the
30 annexed area is not reasonably compact, or an annexation where
31 the annexed area does not qualify as urban in character under

1 part I. The interlocal service boundary agreement may not
2 allow for annexation of land within a municipality that is not
3 a party to the agreement or of land that is within another
4 county.

5 171.205 Consent requirements for annexation of land
6 under this part.--Notwithstanding part I, an interlocal
7 service boundary agreement may provide a process for
8 annexation consistent with this section or with part I.

9 (1) For all or a portion of the area within a
10 designated municipal service area, the interlocal service
11 boundary agreement may provide a flexible process for securing
12 the consent of the residents and property owners for
13 annexation of property within a municipal service area, with
14 notice to the residents and property owners as required in the
15 interlocal service boundary agreement. Such an annexation
16 process may include one or more of the following:

17 (a) The municipality must receive a petition for
18 annexation from more than 50 percent of the registered voters
19 that reside in the proposed area to be annexed;

20 (b) The annexation must be approved by a majority of
21 electors residing in the proposed area voting in a referendum
22 on the annexation; or

23 (c) The municipality must receive a petition for
24 annexation from more than 50 percent of the property owners
25 within the area proposed to be annexed.

26 (2) For all or a portion of an enclave consisting of
27 more than 20 acres within a designated municipal service area,
28 the interlocal service boundary agreement may provide a
29 flexible process for securing the consent of the residents and
30 property owners for annexation of the property, with notice to
31 the residents and property owners as required in the

1 interlocal service boundary agreement. Such an annexation
2 process may include one or more of the processes in subsection
3 (1) and may allow annexation when the municipality has
4 received a petition for annexation from one or more property
5 owners who own real property in excess of 50 percent of the
6 total real property within the area to be annexed.

7 (3) For all or a portion of an enclave consisting of
8 20 acres or less within a designated municipal service area,
9 the interlocal service boundary agreement may provide a
10 flexible process for securing the consent of the residents and
11 property owners for annexation of property within a municipal
12 service area, with notice to the residents and property owners
13 as required in the interlocal service boundary agreement. Such
14 an annexation process may include one or more of the processes
15 in subsection (1) and may allow annexation according to the
16 terms and conditions provided in the interlocal service
17 boundary agreement, which may include a referendum of the
18 electors residing in the area.

19 171.206 Effect of interlocal service boundary area
20 agreement on annexations.--

21 (1) An interlocal service boundary agreement is
22 binding on the parties to the agreement.

23 (2) Notwithstanding part I, without consent of the
24 county and the affected municipality by resolution, an invited
25 municipality or a county may not take any action that violates
26 the interlocal service boundary agreement that exists between
27 the county and the invited municipality.

28 (3) An interlocal service boundary agreement is
29 binding on a participating municipality regardless of whether
30 the participating local government consents to the interlocal
31 service boundary agreement. Notwithstanding part I, without

1 consent of the county and the affected municipality by
2 resolution, a participating municipality may not take any
3 action that violates an interlocal service boundary agreement
4 that exists between the county and the invited municipality.

5 (4) If the independent special district does not
6 consent to the interlocal service boundary agreement, it may
7 seek compensation under s. 171.093.

8 171.207. Transfer of powers.--This part is an
9 alternative provision otherwise provided by law, as authorized
10 in s. 4, Art. VIII of the State Constitution, for any transfer
11 of power resulting from an interlocal service boundary
12 agreement for the provision of services or the acquisition of
13 public facilities between a municipality, county, special
14 district, or other entity created pursuant to law.

15 171.208 Municipal extraterritorial power.--This part
16 authorizes a municipality to exercise extraterritorial powers
17 that include, but are not limited to, the authority to provide
18 services and facilities within the unincorporated area or
19 within the territory of another municipality as provided
20 within an interlocal service boundary agreement. This power is
21 in addition to other municipal powers that otherwise exist.

22 171.209 County incorporated area power.--As provided
23 in an interlocal service boundary agreement, this part
24 authorizes a county to exercise powers within a municipality
25 that include, but are not limited to, the authority to provide
26 services and facilities within the territory of a
27 municipality. This power is in addition to other county powers
28 that otherwise exist.

29 171.21 Effect of part on existing interlocal
30 agreement.--A joint planning agreement, a charter provision
31 adopted under s. 171.044(4), or other interlocal agreement

1 between a municipality and a county is not affected by this
2 part; however, the county or municipality, or both, may avail
3 themselves of this part, which may result in the repeal or
4 modification of a joint planning agreement or other interlocal
5 agreement.

6 171.211 Interlocal service boundary agreement presumed
7 valid and binding.--

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

12 (2) It is the intent of this part to authorize a
13 municipality to enter into an interlocal service boundary
14 agreement that enhances, restricts, or precludes annexations
15 during the term of the agreement.

16 171.212 Disputes regarding construction and effect of
17 an interlocal service boundary agreement.--If there is a
18 question or dispute about the construction or effect of an
19 interlocal service boundary agreement, a local government
20 shall initiate and proceed through the conflict resolution
21 procedures established in chapter 164. If there is a failure
22 to resolve the conflict, no later than 30 days following the
23 conclusion of the procedures established in chapter 164, the
24 local government may file an action in circuit court. For
25 purpose of this section the term "local government" means a
26 party to the interlocal service boundary agreement.

27 Section 2. Section 171.094, Florida Statutes, is
28 created to read:

29 171.094 Effect of interlocal service boundary
30 agreements adopted under part II on annexations under this
31 part.--

1 (1) An interlocal service boundary agreement entered
2 into pursuant to part II is binding on the parties to the
3 agreement.

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

10 (3) An interlocal service boundary agreement is
11 binding on a participating municipality regardless of whether
12 the participating local government consents to the interlocal
13 service boundary agreement. Notwithstanding any other
14 provision of this part, without consent of the county and the
15 affected municipality by resolution, a participating
16 municipality may not take any action that violates an
17 interlocal service boundary agreement that exists between the
18 county and the invited municipality.

19 Section 3. Paragraph (a) of subsection (2) of section
20 171.0413, Florida Statutes, is amended to read:

21 171.0413 Annexation procedures.--Any municipality may
22 annex contiguous, compact, unincorporated territory in the
23 following manner:

24 (2) Following the final adoption of the ordinance of
25 annexation by the governing body of the annexing municipality,
26 the ordinance shall be submitted to a vote of the registered
27 electors of the area proposed to be annexed. The governing
28 body of the annexing municipality may also choose to submit
29 the ordinance of annexation to a separate vote of the
30 registered electors of the annexing municipality. The
31 referendum on annexation shall be called and conducted and the

1 expense thereof paid by the governing body of the annexing
2 municipality.

3 (a) The referendum on annexation shall be held at the
4 next regularly scheduled election following the final adoption
5 of the ordinance of annexation by the governing body of the
6 annexing municipality or at a special election called for the
7 purpose of holding the referendum. However, the referendum,
8 whether held at a regularly scheduled election or at a special
9 election, shall not be held sooner than 60 ~~30~~ days following
10 the final adoption of the ordinance by the governing body of
11 the annexing municipality.

12 Section 4. Subsection (2) of section 171.042, Florida
13 Statutes, is amended, and subsection (3) is added to that
14 section, to read:

15 171.042 Prerequisites to annexation.--

16 (2) Thirty days prior to commencing the annexation
17 procedures under s. 171.0413, the governing body of the
18 municipality shall file a copy of the report required by this
19 section with the board of county commissioners of the county
20 wherein the municipality is located. Failure to comply with
21 this notice provision shall be the basis for a cause of action
22 to invalidate the annexation.

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

25 Section 5. The Division of Statutory Revision is
26 requested to designate sections 171.011-171.094, Florida
27 Statutes, as part I of chapter 171, Florida Statutes, and
28 sections 171.20-171.212, Florida Statutes, as created by this
29 act, as part II of chapter 171, Florida Statutes.

30 Section 6. This act shall take effect July 1, 2004.
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SENATE SUMMARY

Creates the "Interlocal Service Boundary Agreement Act". Provides for the creation of interlocal service boundary agreements. Provides prerequisites to annexation. Provides a process for annexation. Provides the effects of an interlocal service boundary area agreement on the parties to the agreement or a participating municipality. Authorizes a municipality to provide services within an unincorporated area or territory of another municipality. Authorizes a county to exercise certain powers within a municipality. Provides for the effect on existing interlocal agreements. Provides a procedure to settle a dispute regarding an interlocal service boundary agreement. Extends the time between the final adoption of an ordinance and the referendum election. Provides a notice requirement by a municipality. Provides grounds for invalidating an annexation. (See bill for details.)