

By Senator Constantine

22-164-06

1 A bill to be entitled

2 An act relating to growth management; creating

3 part II of ch. 171, F.S., the "Interlocal

4 Service Boundary Agreement Act"; providing

5 legislative intent with respect to annexation

6 and the coordination of services by local

7 governments; providing definitions; providing

8 for the creation of interlocal service boundary

9 agreements by a county and one or more

10 municipalities or independent special

11 districts; specifying the procedures for

12 initiating an agreement and responding to a

13 proposal for agreements; identifying issues the

14 agreement may or must address; requiring local

15 governments that are a party to the agreement

16 to amend their comprehensive plans; providing

17 for review of the amendment by the state land

18 planning agency; providing an exception to the

19 limitation on plan amendments; specifying those

20 persons who may challenge a plan amendment

21 required by the agreement; providing for

22 negotiation and adoption of the agreement;

23 providing for preservation of certain

24 agreements and powers regarding utility

25 services; providing for preservation of

26 existing contracts; providing prerequisites to

27 annexation; providing a process for annexation;

28 providing for the effect of an interlocal

29 service boundary area agreement on the parties

30 to the agreement; providing for a transfer of

31 powers; authorizing a municipality to provide

1 services within an unincorporated area or
2 territory of another municipality; authorizing
3 a county to exercise certain powers within a
4 municipality; providing for the effect on
5 interlocal agreements and county charters;
6 providing a presumption of validity; providing
7 a procedure to settle a dispute regarding an
8 interlocal service boundary agreement; amending
9 s. 171.042, F.S.; revising the time period for
10 filing a report; providing for a cause of
11 action to invalidate an annexation; requiring
12 municipalities to provide notice of proposed
13 annexation to certain persons; amending s.
14 171.044, F.S.; revising the time period for
15 providing a copy of a notice; providing for a
16 cause of action to invalidate an annexation;
17 creating s. 171.094, F.S.; providing for the
18 effect of interlocal service boundary
19 agreements adopted under the act; amending s.
20 171.081, F.S.; requiring a governmental entity
21 affected by annexation or contraction to
22 initiate conflict resolution procedures under
23 certain circumstances; providing for initiation
24 of judicial review and reimbursement of
25 attorney's fees and costs regarding certain
26 annexations or contractions; amending s.
27 163.01, F.S.; providing for the place of filing
28 an interlocal agreement in certain
29 circumstances; amending s. 164.1058, F.S.;
30 providing that a governmental entity that fails
31 to participate in conflict resolution

1 procedures shall be required to pay attorney's
2 fees and costs under certain conditions;
3 requesting the Division of Statutory Revision
4 to designate parts I and II of ch. 171, F.S. ;
5 providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Part II of chapter 171, Florida Statutes,
10 consisting of sections 171.20, 171.201, 171.202, 171.203,
11 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21,
12 171.211, and 171.212, is created to read:

13 171.20 Short title.--This part may be cited as the
14 "Interlocal Service Boundary Agreement Act."

15 171.201 Legislative intent.--The Legislature intends
16 to provide an alternative to part I of this chapter for local
17 governments regarding the annexation of territory into a
18 municipality and the subtraction of territory from the
19 unincorporated area of the county. The principal goal of this
20 part is to encourage local governments to jointly determine
21 how to provide services to residents and property in the most
22 efficient and effective manner while balancing the needs and
23 desires of the community. This part is intended to establish a
24 more flexible process for adjusting municipal boundaries and
25 to address a wider range of the effects of annexation. This
26 part is intended to encourage intergovernmental coordination
27 in planning, service delivery, and boundary adjustments and to
28 reduce intergovernmental conflicts and litigation between
29 local governments. It is the intent of this part to promote
30 sensible boundaries that reduce the costs of local
31 governments, avoid duplicating local services, and increase

1 political transparency and accountability. This part is
2 intended to prevent inefficient service delivery and an
3 insufficient tax base to support the delivery of those
4 services.

5 171.202 Definitions.--As used in this part, the term:

6 (1) "Chief administrative officer" means the municipal
7 administrator, municipal manager, county manager, county
8 administrator, or other officer of the municipality, county,
9 or independent special district who reports directly to the
10 governing body of the local government.

11 (2) "Enclave" has the same meaning as provided in s.
12 171.031.

13 (3) "Independent special district" means an
14 independent special district, as defined in s. 189.403, which
15 provides fire, emergency medical, water, wastewater, or
16 stormwater services.

17 (4) "Initiating county" means a county that commences
18 the process for negotiating an interlocal service boundary
19 agreement through the adoption of an initiating resolution.

20 (5) "Initiating local government" means a county,
21 municipality, or independent special district that commences
22 the process for negotiating an interlocal service boundary
23 agreement through the adoption of an initiating resolution.

24 (6) "Initiating municipality" means a municipality
25 that commences the process for negotiating an interlocal
26 service boundary agreement through the adoption of an
27 initiating resolution.

28 (7) "Initiating resolution" means a resolution adopted
29 by a county, municipality, or independent special district
30 which commences the process for negotiating an interlocal
31

1 service boundary agreement and which identifies the
2 unincorporated area and other issues for discussion.

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

7 (9) "Invited local government" means an invited
8 county, municipality, or special district and any other local
9 government designated as such in an initiating resolution or a
10 responding resolution that invites the local government to
11 participate in negotiating an interlocal service boundary
12 agreement.

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

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

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

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

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

31

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

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

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

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

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

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

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

1 exceeds the requirements of subsection (12), or the governing
2 bodies may use the process established in this section.

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

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

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

1 the county, the invited municipality, if any, and each other
2 municipality within the county.

3 (c) The initiating local government shall also send
4 the initiating resolution to the chief administrative officer
5 of each independent special district in the unincorporated
6 area designated in the initiating resolution.

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

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

29 (b) Within 7 days after the adoption of a responding
30 resolution, an invited municipality shall send the responding
31 resolution by United States certified mail to the chief

1 administrative officer of the initiating county, each invited
2 municipality, if any, and each independent special district
3 that received an initiating resolution.

4 (c) An invited municipality that was invited by a
5 responding resolution shall adopt a responding resolution in
6 accordance with paragraph (b).

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

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

1 participating resolution allowing the requesting municipality
2 to participate in the negotiations.

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

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

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

18 (a) Identify a municipal service area.

19 (b) Identify an unincorporated service area.

20 (c) Identify the local government responsible for the
21 delivery or funding of the following services within the
22 municipal service area or the unincorporated service area:

23 1. Public safety.

24 2. Fire, emergency rescue, and medical.

25 3. Water and wastewater.

26 4. Road ownership, construction, and maintenance.

27 5. Conservation, parks, and recreation.

28 6. Stormwater management and drainage.

29 (d) Address other services and infrastructure not
30 currently provided by an electric utility as defined by s.
31 366.02(2) or a natural gas transmission company as defined by

1 s. 368.103(4). However, this paragraph does not affect any
2 territorial agreement between electrical utilities or public
3 utilities under chapter 366 or affect the determination of a
4 territorial dispute by the Public Service Commission under s.
5 366.04.

6 (e) Establish a process and schedule for annexation of
7 an area within the designated municipal service area
8 consistent with s. 171.205.

9 (f) Establish a process for land-use decisions
10 consistent with part II of chapter 163, including those made
11 jointly by the governing bodies of the county and the
12 municipality, or allow a municipality to adopt land-use
13 changes consistent with part II of chapter 163 for areas that
14 are scheduled to be annexed within the term of the interlocal
15 agreement; however, the county comprehensive plan and
16 land-development regulations shall control until the
17 municipality annexes the property and amends its comprehensive
18 plan accordingly. Comprehensive plan amendments to incorporate
19 the process established by this paragraph are exempt from the
20 twice-per-year limitation 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, municipality, or
24 independent special district from another county,
25 municipality, or independent special district.

26 (h) Provide for the joint use of facilities and the
27 colocation of services.

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

31

1 (j) Establish a procedure by which the local
2 government that is responsible for water and wastewater
3 services shall, within 30 days after the annexation or
4 subtraction of territory, apply for any modifications to
5 permits of the water management district or the Department of
6 Environmental Protection which are necessary to reflect
7 changes in the entity that is responsible for managing surface
8 water under such permits.

9 (7) If the interlocal service boundary agreement
10 addresses responsibilities for land-use planning under chapter
11 163, the agreement must also establish the procedures for
12 preparing and adopting comprehensive plan amendments,
13 administering land-development regulations, and issuing
14 development orders.

15 (8) Each local government that is a party to the
16 interlocal service boundary agreement shall amend the
17 intergovernmental coordination element of its comprehensive
18 plan, as described in s. 163.3177(6)(h)1., no later than 6
19 months following entry of the interlocal service boundary
20 agreement consistent with s. 163.3177(6)(h)1. Plan amendments
21 required by this subsection are exempt from the twice-per-year
22 limitation under s. 163.3187.

23 (9) An affected person for the purpose of challenging
24 a comprehensive plan amendment required by paragraph (6)(f)
25 includes a person who owns real property, resides, or owns or
26 operates a business within the boundaries of the municipal
27 service area, and a person who owns real property abutting
28 real property within the municipal service area that is the
29 subject of the comprehensive plan amendment, in addition to
30 those other affected persons who would have standing under s.
31 163.3184.

1 (10)(a) A municipality that is a party to an
2 interlocal service boundary agreement that identifies an
3 unincorporated area for municipal annexation under s.
4 171.202(11)(a) shall adopt a municipal service area as an
5 amendment to its comprehensive plan to address future possible
6 municipal annexation. The state land planning agency shall
7 review the amendment for compliance with part II of chapter
8 163. A municipal service area must contain:

- 9 1. A boundary map of the municipal service area.
10 2. Population projections for the area.
11 3. Data and analysis supporting the provision of
12 public facilities for the area.

13 (b) This part does not authorize the state land
14 planning agency to review, evaluate, determine, approve, or
15 disapprove a municipal ordinance relating to municipal
16 annexation or contraction.

17 (c) Any amendment required by paragraph (a) is exempt
18 from the twice-per-year limitation under s. 163.3187.

19 (11) An interlocal service boundary agreement may be
20 for a term of 20 years or less. The interlocal service
21 boundary agreement must include a provision requiring periodic
22 review. The interlocal service boundary agreement must require
23 renegotiations to begin at least 18 months before its
24 termination date.

25 (12) No earlier than 6 months after the commencement
26 of negotiations, either of the initiating local governments or
27 both, the county, or the invited municipality may declare an
28 impasse in the negotiations and seek a resolution of the
29 issues under ss. 164.1053-164.1057. If the local governments
30 fail to agree at the conclusion of the process under chapter
31

1 164, the local governments shall hold a joint public hearing
2 on the issues raised in the negotiations.

3 (13) When the local governments have reached an
4 interlocal service boundary agreement, the county and the
5 municipality shall adopt the agreement by ordinance under s.
6 166.041 or s. 125.66, respectively. An independent special
7 district, if it consents to the agreement, shall adopt the
8 agreement by final order, resolution, or other method
9 consistent with its charter. The interlocal service boundary
10 agreement shall take effect on the day specified in the
11 agreement or, if there is no date, upon adoption by the county
12 or the invited municipality, whichever occurs later. This part
13 does not prohibit a county or municipality from adopting an
14 interlocal service boundary agreement without the consent of
15 an independent special district, unless the agreement provides
16 for the dissolution of an independent special district or the
17 removal of more than 10 percent of the taxable or assessable
18 value of an independent special district.

19 (14) For a period of 6 months following the failure of
20 the local governments to consent to an interlocal service
21 boundary agreement, the initiating local government may not
22 initiate the negotiation process established in this section
23 to require the responding local government to negotiate an
24 agreement concerning the same identified unincorporated area
25 and the same issues that were specified in the failed
26 initiating resolution.

27 (15) This part does not authorize one local government
28 to require another local government to enter into an
29 interlocal service boundary agreement. However, when the
30 process for negotiating an interlocal service boundary
31 agreement is initiated, the local governments shall negotiate

1 in good faith to the conclusion of the process established in
2 this section.

3 (16) This section authorizes local governments to
4 simultaneously engage in negotiating more than one interlocal
5 service boundary agreement, notwithstanding that separate
6 negotiations concern similar or identical unincorporated areas
7 and issues.

8 (17) Elected local government officials are encouraged
9 to participate actively and directly in the negotiation
10 process for developing an interlocal service boundary
11 agreement.

12 (18) This part does not impair any existing franchise
13 agreement without the consent of the franchisee, any existing
14 territorial agreement between electric utilities or public
15 utilities under chapter 366, or the jurisdiction of the Public
16 Service Commission to resolve a territorial dispute involving
17 electric utilities or public utilities in accordance with s.
18 366.04. In addition, an interlocal agreement entered into
19 under this section has no effect in a proceeding before the
20 Public Service Commission involving a territorial dispute. A
21 municipality or county shall retain all existing authority, if
22 any, to negotiate a franchise agreement with any private
23 service provider for use of public rights-of-way or the
24 privilege of providing a service.

25 (19) This part does not impair any existing contract
26 without the consent of the parties.

27 171.204 Prerequisites to annexation under this
28 part.--The interlocal service boundary agreement may describe
29 the character of land that may be annexed under this part and
30 may provide that the restrictions on the character of land
31 that may be annexed pursuant to part I are not restrictions on

1 land that may be annexed pursuant to this part. As determined
2 in the interlocal service boundary agreement, any character of
3 land may be annexed, including, but not limited to, an
4 annexation of land not contiguous to the boundaries of the
5 annexing municipality, an annexation that creates an enclave,
6 or an annexation where the annexed area is not reasonably
7 compact; however, such area must be "urban in character" as
8 defined in s. 171.031(8). The interlocal service boundary
9 agreement may not allow for annexation of land within a
10 municipality that is not a party to the agreement or of land
11 that is within another county. Before annexation of land that
12 is not contiguous to the boundaries of the annexing
13 municipality, an annexation that creates an enclave, or an
14 annexation of land that is not currently served by water or
15 sewer utilities, one of the following options must be
16 followed:

17 (1) The municipality shall transmit a
18 comprehensive-plan amendment that proposes specific amendments
19 relating to the property anticipated for annexation to the
20 Department of Community Affairs for review under chapter 163.
21 After considering the department's review, the municipality
22 may approve the annexation and comprehensive-plan amendment
23 concurrently. The local government must adopt the annexation
24 and the comprehensive-plan amendment as separate and distinct
25 actions, but may take such actions at a single public hearing;
26 or

27 (2) A municipality and county shall enter into a joint
28 planning agreement under s. 163.3171, which is adopted into
29 the municipal comprehensive plan. The joint planning agreement
30 must identify the geographic areas anticipated for annexation,
31 the future land uses that the municipality would seek to

1 establish, necessary public facilities and services, including
2 transportation and school facilities and how they will be
3 provided, and natural resources, including surface water and
4 groundwater resources, and how they will be protected. An
5 amendment to the future land-use map of a comprehensive plan
6 which is consistent with the joint planning agreement must be
7 considered a small-scale amendment.

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

12 (1) For all or a portion of the area within a
13 designated municipal service area, the interlocal service
14 boundary agreement may provide a flexible process for securing
15 the consent of persons who are registered voters or own
16 property in the area proposed for annexation, or of both such
17 voters and owners, for the annexation of property within a
18 municipal service area, with notice to such voters or owners
19 as required in the interlocal service boundary agreement. The
20 interlocal service boundary agreement may not authorize
21 annexation unless the consent requirements of part I are met
22 or the annexation is consented to by one or more of the
23 following:

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

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

30
31

1 (c) The municipality has received a petition for
2 annexation from more than 50 percent of the persons who own
3 property within the area proposed to be annexed.

4 (2) If the area to be annexed includes a privately
5 owned solid waste disposal facility as defined in s.
6 403.703(11) which receives municipal solid waste collected
7 within the jurisdiction of multiple local governments, the
8 annexing municipality must set forth in its plan the affects
9 that the annexation of the solid waste disposal facility will
10 have on the other local governments. The plan must also
11 indicate that the owner of the affected solid waste disposal
12 facility has been contacted in writing concerning the
13 annexation, that an agreement between the annexing
14 municipality and the solid waste disposal facility to govern
15 the operations of the solid waste disposal facility if the
16 annexation occurs has been approved, and that the owner of the
17 solid waste disposal facility does not object to the proposed
18 annexation.

19 (3) For all or a portion of an enclave consisting of
20 more than 20 acres within a designated municipal service area,
21 the interlocal service boundary agreement may provide a
22 flexible process for securing the consent of persons who are
23 registered voters or own property in the area proposed for
24 annexation, or of both such voters and owners, for the
25 annexation of property within such an enclave, with notice to
26 such voters or owners as required in the interlocal service
27 boundary agreement. The interlocal service boundary agreement
28 may not authorize annexation of enclaves under this subsection
29 unless the consent requirements of part I are met, the
30 annexation process includes one or more of the procedures in
31 subsection (1), or the municipality has received a petition

1 for annexation from one or more persons who own real property
2 in excess of 50 percent of the total real property within the
3 area to be annexed.

4 (4) For all or a portion of an enclave consisting of
5 20 acres or fewer within a designated municipal service area,
6 within which enclave not more than 100 registered voters
7 reside, the interlocal service boundary agreement may provide
8 a flexible process for securing the consent of persons who are
9 registered voters or own property in the area proposed for
10 annexation, or of both such voters and owners, for the
11 annexation of property within such an enclave, with notice to
12 such voters or owners as required in the interlocal service
13 boundary agreement. Such an annexation process may include one
14 or more of the procedures in subsection (1) and may allow
15 annexation according to the terms and conditions provided in
16 the interlocal service boundary agreement, which may include a
17 referendum of the registered voters who reside in the area
18 proposed to be annexed.

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, and a party may not
23 take any action that violates the interlocal service boundary
24 agreement.

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

29 (3) If the independent special district that
30 participated in the negotiation process pursuant to s.
31 171.203(2)(d) does not consent to the interlocal service

1 boundary agreement and a municipality annexes an area within
2 the independent special district, the independent special
3 district may seek compensation using the process in s.
4 171.093.

5 171.207 Transfer of powers.--This part is an
6 alternative provision otherwise provided by law, as authorized
7 in s. 4, Art. VIII of the State Constitution, for any transfer
8 of power resulting from an interlocal service boundary
9 agreement for the provision of services or the acquisition of
10 public facilities entered into by a county, municipality,
11 independent special district, or other entity created pursuant
12 to law.

13 171.208 Municipal extraterritorial power.--This part
14 authorizes a municipality to exercise extraterritorial powers
15 that include, but are not limited to, the authority to provide
16 services and facilities within the unincorporated area or
17 within the territory of another municipality as provided
18 within an interlocal service boundary agreement. These powers
19 are in addition to other municipal powers that otherwise
20 exist. However, this power is subject to the jurisdiction of
21 the Public Service Commission to resolve territorial disputes
22 under s. 366.04. An interlocal agreement has no effect on the
23 resolution of a territorial dispute to be determined by the
24 Public Service Commission.

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

1 171.21 Effect of part on interlocal agreement and
2 county charter.--A joint planning agreement, a charter
3 provision adopted under s. 171.044(4), or any other interlocal
4 agreement between local governments including a county,
5 municipality, or independent special district is not affected
6 by this part; however, a county, municipality or independent
7 special district may avail itself of this part, which may
8 result in the repeal or modification of a joint planning
9 agreement or other interlocal agreement. A local government
10 within a county that has adopted a charter provision pursuant
11 to s. 171.044(4) may avail itself of the provisions of this
12 part which authorize an interlocal service boundary agreement
13 if such interlocal agreement is consistent with the charter of
14 that county, as the charter was approved, revised, or amended
15 pursuant to s. 125.64.

16 171.211 Interlocal service boundary agreement presumed
17 valid and binding.--

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

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

26 171.212 Disputes regarding construction and effect of
27 an interlocal service boundary agreement.--If there is a
28 question or dispute about the construction or effect of an
29 interlocal service boundary agreement, a local government
30 shall initiate and proceed through the conflict resolution
31 procedures established in chapter 164. If there is a failure

1 to resolve the conflict, no later than 30 days following the
2 conclusion of the procedures established in chapter 164, the
3 local government may file an action in circuit court. For
4 purposes of this section, the term "local government" means a
5 party to the interlocal service boundary agreement.

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

9 171.042 Prerequisites to annexation.--

10 (2) Not fewer than 15 days prior to commencing the
11 annexation procedures under s. 171.0413, the governing body of
12 the municipality shall file a copy of the report required by
13 this section with the board of county commissioners of the
14 county wherein the municipality is located. Failure to timely
15 file the report as required in this subsection may be the
16 basis for a cause of action invalidating the annexation.

17 (3) The governing body of the municipality shall, not
18 less than 10 days prior to the date set for the first public
19 hearing required by s. 171.0413(1), mail a written notice to
20 each person who resides or owns property within the area
21 proposed to be annexed. The notice must describe the
22 annexation proposal, the time and place for each public
23 hearing to be held regarding the annexation, and the place or
24 places within the municipality where the proposed ordinance
25 may be inspected by the public. A copy of the notice must be
26 kept available for public inspection during the regular
27 business hours of the office of the clerk of the governing
28 body.

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 within 30 days following the passage of the
7 | 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 | subsection ~~section~~, the complainant, should he or she prevail,
11 | shall be 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. In any legal action instituted pursuant to this
23 | subsection, the prevailing party is entitled to reasonable
24 | costs and attorney's fees.

25 | Section 6. Subsection (11) of section 163.01, Florida
26 | Statutes, is amended to read:

27 | 163.01 Florida Interlocal Cooperation Act of 1969.--

28 | (11) Prior to its effectiveness, an interlocal
29 | agreement and subsequent amendments thereto shall be filed
30 | with the clerk of the circuit court of each county where a
31 | party to the agreement is located; however, if the parties to

1 the agreement are located in multiple counties and the
2 agreement, pursuant to subsection (7), provides for a separate
3 legal entity or administrative entity to administer the
4 agreement, the interlocal agreement and any amendments thereto
5 may be filed with the clerk of the circuit court in the county
6 where the legal or administrative entity maintains its
7 principal place of business.

8 Section 7. Section 164.1058, Florida Statutes, is
9 amended to read:

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

22 Section 8. The Division of Statutory Revision is
23 requested to designate ss. 171.011-171.094, Florida Statutes,
24 as part I of chapter 171, Florida Statutes, and ss.
25 171.20-171.212, Florida Statutes, as created by this act, as
26 part II of chapter 171, Florida Statutes.

27 Section 9. This act shall take effect upon becoming a
28 law.

SENATE SUMMARY

1
2
3 Provides for the creation of interlocal service boundary
4 agreements by a county and one or more municipalities or
5 independent special districts. Specifies the procedures
6 for initiating an agreement and responding to a proposal
7 for agreements. Requires local governments that are a
8 party to the agreement to amend their comprehensive
9 plans. Provides limitations on the review of certain
10 ordinances by the state land planning agency. Specifies
11 those persons who may challenge a plan amendment required
12 by the agreement. Provides for adoption of an interlocal
13 service boundary agreement. Provides prerequisites to
14 annexation. Provides for the effect of an interlocal
15 service boundary area agreement on the parties to the
16 agreement. Authorizes a municipality to provide services
17 within an unincorporated area or territory of another
18 municipality. Authorizes a county to exercise certain
19 powers within a municipality. Provides a procedure to
20 settle a dispute regarding an interlocal service boundary
21 agreement. Provides for a cause of action to invalidate
22 an annexation. Requires municipalities to provide notice
23 of proposed annexation to certain persons. Provides for a
24 cause of action to invalidate an annexation.
25
26
27
28
29
30
31