



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

##### **Provide Limited Government**

If incorporation of the proposed municipality is approved, it will create an additional local government entity.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background/Municipal Incorporation**

###### Constitutional Provisions

Section 2, Art. VII of the State Constitution provides that municipalities<sup>1</sup> may be established or abolished and their charters amended pursuant to general or special law. Municipalities are constitutionally granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The only specific constitutional requirement concerning municipal government is that its legislative body be elected.

###### Statutory Provisions

Florida law governing the formation and dissolution of municipal governments is found in ch. 165, F.S., the "Formation of Municipalities Act." The stated purpose of the Act is to provide standards, direction and procedures for the incorporation, merger and dissolution of municipalities so as to:

- allow orderly patterns of urban growth and land use;
- assure adequate quality and quantity of local public services;
- ensure financial integrity of municipalities;
- eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
- promote equity in the financing of municipal services.

Under ch.165, F.S., there is only one way to establish a city government where no such government exists: the Legislature must pass a special act creating the city's charter, upon determination that the standards provided in that chapter have been met.<sup>2</sup>

###### Requirements and Standards for Municipal Incorporation

Submittal of a feasibility study and a local bill that proposes the local government charter is required for consideration of incorporation. In addition, the new municipality must meet the following conditions in the area proposed for incorporation pursuant to s. 165.061(1), F.S.:

1. It must be compact, contiguous and amenable to separate municipal government.

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<sup>1</sup> A municipality is a local government entity, located within a county that is created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. The term "municipality" can be used interchangeably with the terms "city," "town" and "village."

<sup>2</sup> An exception to this rule exists in Miami-Dade County where the county has been granted the exclusive power to create cities through the State Constitution and its home rule powers. See, s. 165.022, F.S., and s. 6(e), Art. VIII of the State Constitution. Adopted in 1957, the Miami-Dade Home Rule Charter provides for the creation of new municipalities at section 5.05.

2. It must have a total population, as determined in the latest official state census, special census or estimate of population, of at least 1,500 persons in counties with a population of less than 75,000, and of at least 5,000 persons in counties with a population of more than 75,000.
3. It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
4. It must be a minimum distance of at least two miles from the boundaries of an existing municipality within the county or have an extraordinary natural boundary that requires separate municipal government.
5. It must have a proposed municipal charter that clearly prescribes and defines the form of government and its functions and does not prohibit or restrict the levy of authorized tax.
6. In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation.

### Feasibility Study

The feasibility study is a survey of the proposed area to be incorporated. The purpose of the study is to enable the Legislature to determine whether or not the area: 1) meets the statutory requirements for incorporation, and 2) is financially feasible. The feasibility study must be completed and submitted to the Legislature at least 90<sup>3</sup> days prior to the first day of the regular legislative session during which the municipal charter would be enacted.

In 1999, the Legislature revised s.165.041, F.S., by adding new, detailed requirements for the preparation of the required feasibility study for any area requesting incorporation. Specifically, the study must include:

1. The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.
2. The major reasons for proposing the boundary change.
3. The following characteristics of the area:
  - a list of the current land use designations applied to the subject area in the county comprehensive plan;
  - a list of the current county zoning designations applied to the subject area;
  - a general statement of present land use characteristics of the area;
  - a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
4. A list of all public agencies, such as local governments, school districts and special districts, whose current boundaries fall within the boundary of the territory proposed for the change or reorganization.
5. A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each service.
6. A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such services.
7. The names and addresses of three officers or persons submitting the proposal.
8. Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:
  - existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and

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<sup>3</sup> Section 165.041(1)(b), F.S.

- a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance and budgets.
9. Data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations and an explanation concerning methodologies used for such analysis.
  10. Evaluation of the alternatives available to the area to address its policy concerns.
  11. Evidence that the proposed municipality meets the standards for incorporation of s.165.061, F.S.

Section 165,081, F.S., provides that any special law enacted pursuant to ch. 165, F.S., is reviewable by certiori if the appeal is brought before the effective date of the incorporation.

Formation Activity In Florida

***Municipal Incorporations and Mergers***

From 1972 to the present, 25 municipalities have been incorporated, with 17 municipalities created by special act (Bonita Springs, DeBary, Deltona, Destin, Ft. Myers Beach, Islamorada, Jacob City, Lake Mary, Marathon, Marco Island, Midway, Palm Coast, Sanibel, Southwest Ranches, Wellington, West Park and Weston). During this time, one municipality was recreated by special act after previous incorporation under authority of general law in effect prior to 1974 (Seminole). The cities of Key Biscayne, Pinecrest, Aventura, Sunny Isles Beach, Miami Lakes, Palmetto Bay, Doral and Cutler Bay were created under the charter provisions of Miami-Dade County's Charter. The following table indicates recent municipal incorporations by year, county and enabling law.

YEAR	MUNICIPALITY	COUNTY	ENABLING LAW
1973	LAKE MARY	Seminole County	ch. 73-522, L.O.F.
1974	SANIBEL	Lee County	ch. 74-606, L.O.F.
1983	JACOB CITY	Jackson County	ch. 83-434, L.O.F. ch. 84-456, L.O.F.
1984	DESTIN	Okaloosa County	ch. 84-422, L.O.F. ch. 85-471, L.O.F.
1986	MIDWAY	Gadsden County	ch. 86-471, L.O.F.
1991	KEY BISCAYNE	Miami-Dade County	by authority of the Miami-Dade County Charter
1993	DEBARY	Volusia County	ch. 93-351, L.O.F. ch. 93-363, L.O.F.
1995	AVENTURA	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	PINECREST	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	FT. MYERS BEACH	Lee County	ch. 95-494, L.O.F.
1995	DELTONA	Volusia County	ch. 95-498, L.O.F.

1995	WELLINGTON	Palm Beach County	ch. 95-496, L.O.F.
1996	WESTON	Broward County	ch. 96-472, L.O.F.
1997	ISLAMORADA	Monroe County	ch. 97-348, L.O.F.
1997	MARCO ISLAND	Collier County	ch. 97-367, L.O.F.
1997	SUNNY ISLES BEACH	Miami-Dade County	by authority of the Miami-Dade County Charter
1999	BONITA SPRINGS	Lee County	ch. 99-428, L.O.F.
1999	MARATHON	Monroe County	ch. 99-427, L.O.F.
1999	PALM COAST	Flagler County	ch. 99-448, L.O.F.
2000	SOUTHWEST RANCHES	Broward County	ch. 2000-475, L.O.F.
2000	MIAMI LAKES	Miami-Dade County	by authority of the Miami-Dade County Charter
2002	PALMETTO BAY	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	DORAL	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	MIAMI GARDENS	Miami-Dade County	by authority of the Miami-Dade County Charter
2004	WEST PARK	Broward	ch. 2004-454, L.O.F.
2005	CUTLER BAY	Miami-Dade County	by authority of the Miami-Dade County Charter

### ***Failed Attempts at Municipal Incorporation***

Over the years, a number of incorporation attempts have failed. Since 1980, Floridians have rejected the formation of municipal governments by voting down the incorporation efforts of:

- A city in the Halifax area of Volusia County (1985)  
(ch. 85-504, L.O.F.)
- The City of Fort Myers Beach (1982/1986)  
(chs. 82-295 and 86-413, L.O.F.)
- The City of Spring Hill (1986)  
(ch. 86-463, L.O.F.)
- The City of Deltona Lakes (1987)  
(ch. 87-449, L.O.F.)
- The City of Deltona (1990)

(ch. 90-410, L.O.F.)

- The City of Marco Island (1980/1982/1986/1990/1993)  
(chs. 80-541, 82-330, 86-434, 90-457 and 93-384, L.O.F.)
- The City of Port LaBelle (1994)  
(ch. 94-480, L.O.F.)
- The City of Destin (1995)  
(by authority of the Miami-Dade County Charter)
- The City of Ponte Vedra (1998)  
(ch. 98-534, L.O.F.)
- The Village of Key Largo (1999)  
(ch. 99-430, L.O.F.)
- The City of Southport (1999)  
(ch. 99-444, L.O.F.)
- The Village of the Lower Keys (2000)  
(ch. 2000-383, L.O.F.)
- The Village of Paradise Islands (2000)  
(ch. 2000-382, L.O.F.)

### ***Municipal Mergers***

A few previously existing cities have been incorporated through mergers with other cities. Examples include:

- In Brevard County, the merger of Eau Gallie with Melbourne (chs. 67-1156, 69-879 and 70-807, L.O.F.) and the merger of the Town of Whispering Hills Golf Estates with the City of Titusville (chs. 59-1991 and 63-2001, L.O.F.).
- In Pinellas County, the merger of Pass-A-Grille Beach with the City of St. Petersburg Beach (ch. 57-1814, L.O.F.).
- In Bay County, the merger of Longbeach Resort and Edgewater Gulf Beach with the City of Panama City Beach (chs.67-2174 and 70-874, L.O.F.).

### ***Municipal Dissolutions***

During the last several decades, numerous cities have been dissolved:

- Bithlo in Orange County by authority of the Secretary of State in January 1977;
- Bayview in Bay County by ch. 77-501, L.O.F.;
- Munson Island in Monroe County by ch. 81-438, L.O.F.;
- Painters Hill in Flagler County by ch. 81-453, L.O.F.;
- Hacienda Village in Broward County by ch. 84-420, L.O.F.;
- Pennsuco in Miami-Dade County under authority of the Miami-Dade County Charter;
- Golfview in Palm Beach County by ch. 97-329, L.O.F.; and
- North Key Largo by ch. 2003-318, L.O.F.

## The City of Southport

The unincorporated area known as Southport is located in the mid-section of Bay County in the Florida Panhandle. The latest official population estimate for Bay County placed its population at 161,721.<sup>4</sup> Southport is estimated to have a current population of approximately 6,500 persons.<sup>5</sup> The community is bordered to the north by unincorporated Bay County, to the east by Deer Point Lake, to the south by North Bay and the City of Lynn Haven, and to the west by a wildlife management area.

In June 1988, the City of Lynn Haven purchased a 640 acre parcel north of Southport in an effort to comply with state and federal requirements to remove effluent disposal from the newly classified Class II water of North Bay. The city was prohibited from utilizing the parcel for this purpose as a result of an administrative hearing and subsequent ruling. The complaint was brought by citizens concerned with a raw sewage line crossing the bay.

The land laid idle for six years, until 1994, when the City of Lynn Haven began to utilize part of the property as a borrow pit, as a construction-and-debris landfill, and for managed timber growth. Additionally, the city established a full service commerce park, which allowed light industrial, manufacturing, technology and research uses to operate on the parcel. The city wanted to annex this property, but the action would not comply with its comprehensive plan unless the unincorporated area known as Southport also was annexed. During the 1998 Legislative Session, the City of Lynn Haven proposed to annex, by special act, all of this property.

Residents within the community of Southport resisted the annexation efforts by the City of Lynn Haven, and worked with their legislative delegation to ensure that a straw ballot would be held during the 1998 general election. This straw ballot asked the voters in the area identified as Southport if they supported the incorporation of the City of Southport, in an effort to avoid annexation. The support for the incorporation of the City of Southport was overwhelming with nearly 79 percent voting in its favor. The 1999 Florida Legislature passed a bill creating the City of Southport, contingent upon a referendum.<sup>6</sup> This referendum failed.

The current effort to incorporate is spearheaded by the "Southport Incorporation Committee."

### **Effect of Proposed Changes**

HB 993 provides a proposed charter for the City of Southport. A feasibility study on the creation of the city, as required by ch. 165, F.S., was submitted to the Florida House of Representatives on November 30, 2005. This study and the charter were reviewed by the: Legislative Committee on Intergovernmental Relations; Office of Economic & Demographic Research; Department of Revenue; and Department of Community Affairs. Selected and edited responses of these reviewers are noted in "Comments" in Section III C. of this analysis. In summary, the reviewers noted that the proposed incorporation effort could encounter certain challenges in that:

- the charter does not clearly define the responsibilities for legislative and executive functions in the city;
- the plan does not address the issue of existing solid-waste contracts;
- the feasibility study does not meet numerous statutory requirements;
- there appears to be no official understanding as to who will provide certain essential services within the incorporated area, and at what price;
- certain revenue sources may be overstated or need clarification in the study; and
- the estimated expenditures projected for Southport are approximately one-sixth of the "average" reported expenditures for 10 comparison municipalities.

### Proposed Charter

The proposed charter for the City of Southport provides as follows:

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<sup>4</sup> Official 4/1/2005 estimate from the Bureau of Economic and Business Research, University of Florida).

<sup>5</sup> Office of Economic and Demographic Research, January 23, 2006.

<sup>6</sup> See, HB 1017 (ch. 99-444,L.O.F.), and Committee on Community Affairs' staff analysis.

**Section 1: Charter; creation.** Provides that the act will be known as the "City of Southport Charter," and creates the City of Southport.

**Section 2: Legislative intent.** Provides a finding that the Southport area of Bay County includes a compact and contiguous urban community amenable to separate municipal government, and that it is in the best interests of the public health, safety and welfare of the citizens of the community to form a separate municipality.

**Section 3: Powers.** Provides that the city shall have a commission-manager form of government; provides that the city shall be a body corporate and politic and have all the powers of a municipality under the State Constitution and laws, unless otherwise prohibited; provides that the city shall have all governmental, corporate and proprietary powers necessary to enable it to conduct municipal government, perform municipal functions, and render municipal services; provides that the powers of the city be liberally construed in its favor.

**Section 4: Corporate limits.** Provides a legal description of the city's boundaries.

**Section 5: City commission.**

(1) COMPOSITION; QUALIFICATIONS FOR OFFICE: Provides for a five-member city commission, consisting of a mayor and four commissioners, all elected at large; provides that each candidate for the office of city commissioner be a qualified elector of the city; provides that at the time of qualification, each candidate for a seat on the commission reside within the boundaries of the city and remain a resident for the length of his or her term; requires that candidates submit a petition or pay the qualifying fee required by the Florida Elections Code.

(2) TERMS OF OFFICE: Provides for four-year, staggered terms for commissioners.

(3) POWERS AND DUTIES OF COMMISSION: Provides that the legislative and police powers of the city shall be vested in the commission, except as otherwise provided by law.

(4) MAYOR: Provides for a mayor to be elected at large who has the same legislative powers and duties as the other commissioners, except as provided in the charter; provides that the mayor shall preside at the meetings of the commission, be recognized as the head of city government for ceremonial matters, and sign ordinances, contracts, deeds, bonds, and other instruments and documents; provides that the mayor shall have no administrative duties other than those necessary to accomplish these actions, or other actions as may be authorized by the city commission.

(5) VICE MAYOR: Provides for a vice mayor to be elected annually by the commission; provides that he or she shall serve as acting mayor during the absence of the mayor; provides for the election of an acting mayor in the absence of the mayor and vice mayor.

(6) COMPENSATION AND EXPENSES: Provides that the mayor and commissioners will serve without compensation for their first three months in office; provides that the commission may determine an annual salary for commissioners or the mayor, but that no ordinance increasing such salaries will become effective until the date of commencement of the terms of the commissioners elected at the next regular election; provides that the commission may provide for reimbursement of actual expenses incurred by members while performing their official duties.

(7) VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES: Provides when a vacancy in the office of a commissioner occurs; provides circumstances under which a commissioner shall forfeit his or her office; provides that if a vacancy occurs in the office of mayor, the vice mayor shall serve in that position until a new mayor is elected; provides for temporary filling of seats; provides for filling of seats bases on the remainder of unexpired terms; provides for the filling of extraordinary vacancies.

**Section 6: City commission meetings.** Provides that the commission meet regularly at least once a month in public meetings; provides that a majority of the commission shall constitute a quorum; provides that all actions of the city commission be by ordinance, resolution or motion; provides for special meetings and their notice.

**Section 7: Designated charter officers.**

(1) DESIGNATED CHARTER OFFICERS: Provides that the initial designated charter officer shall be the city manager; provides for appointment of other charter officers by majority vote of the commission;



provides that charter officers serve at the pleasure of the commission, and may be removed from office by a majority vote; provides that the compensation of the charter officers be fixed by the city commission; provides that the city commission shall begin the process to fill a vacancy in a charter office within 90 days after the vacancy occurs; provides for the appointment of an acting charter officer; provides that no charter officer may be a candidate for any elected office while holding his or her charter office position.

(2) CITY MANAGER: Provides that the city manager is the chief administrative officer of the city and serves at the direction and discretion of the city commission; provides for his or her qualifications; provides for his or her powers and duties.

(3) CITY ATTORNEY: Provides that the commission members may contract with a city attorney; provides that the city attorney or his or her designee be a member in good standing of the Florida Bar; provides for the duties of the city attorney.

### **Section 8: Elections.**

(1) ELECTORS: Provides that any person who is a resident of the city, who has qualified as an elector of the state, and who registers in the manner prescribed by law, shall be an elector of the city.

(2) NONPARTISAN ELECTIONS: Provides that all elections for the office of mayor or other city commissioners be conducted on a nonpartisan basis.

(3) QUALIFICATIONS: Provides that candidates for the office of city commission member or mayor shall qualify for office by filing a written notice of candidacy.

(4) PROCEDURE FOR REGULAR ELECTIONS AND RUNOFF ELECTIONS: Provides for the regular election of city commission members and mayor and for runoff elections; provides for qualifying for office; provides for the Bay County Commission to appoint a canvassing board; provides that after the initial election, the city commissioners shall decide how results are certified by ordinance; provides that in the event of a tie vote for any seat, the names of the candidates who tied shall be placed in a box and one name shall be drawn by a member of the canvassing board.

(5) INDUCTION INTO OFFICE: Provides that those elected shall be inducted into office at a meeting held at the regular meeting place of the commission no more than 30 days after the final election requirements are determined to be in compliance; provides that initial elections will be held after the referendum for incorporation.

(6) RECALL OF CITY COMMISSIONERS: Provides that any member of the city commission may be removed from office by the electors of the city following the procedures of recall established in general law.

(7) DISTRICT BOUNDARIES: Provides that elections shall be held at large until such time as the commissioners pass an ordinance providing for voting districts; provides that in the event that the commissioners pass an ordinance providing for voting districts, such districts shall come up for review every five years, unless an earlier review is determined necessary.

**Section 9: Southport area municipal services.** Provides that after the first general election, the commissioners may authorize the city manager to enter into contracts for municipal services on behalf of the City of Southport; provides that before a city manager is hired, the mayor is authorized to enter into contracts for services on behalf of the city.

### **Section 10: General provisions.**

(1) CHARTER AMENDMENT: Provides that the charter may be amended in accordance with the provisions of the ch. 166, F.S., or as may otherwise be provided by general law; provides that the form, content, and certification of any petition to amend the charter be established by ordinance.

(2) CHARTER REVIEW: Provides that the standards for charter review be established by ordinance.

(3) INITIATIVE AND REFERENDUM: Provides that at least 25 percent of the qualified electorate of the city shall have the power to petition to propose an ordinance or to require reconsideration of an adopted ordinance.

(4) STANDARDS OF CONDUCT: Provides that all elected officials and employees of the city be subject to the standards of conduct for public officials and employees set by general law; provides for establishment of a supplemental code of ethics by ordinance.

**Section 11: Severability.** Provides for severability of invalid provisions of the act.

## **Section 12: Transition schedule.**

(1) REFERENDUM: Provides that the referendum election called for by the act be held no later than 90 days from the date of legislative approval of the act, unless a different municipal election date is established; provides that the issue of whether to incorporate the City of Southport be placed on the ballot; provides for an affirmative vote by a majority of electors voting in the referendum to incorporate and establish the City of Southport, and for the provisions of the charter to take effect.

(2) CREATION AND ESTABLISHMENT OF CITY: Provides that for the purpose of compliance with general law, relating to assessment and collection of ad valorem taxes, the City of Southport is created and established effective the date the charter becomes law.

(3) INITIAL ELECTION OF COMMISSIONERS; DATES, QUALIFYING PERIOD, CERTIFICATION OF ELECTION RESULTS; INDUCTION INTO OFFICE: Provides that, following the adoption of the charter, the county commission call a special election for the mayor and other four city commissioners to be held no more than 90 days after an affirmative vote to incorporate; provides that any necessary runoff election be held as soon as possible but no sooner than 14 days and no more than 60 days after the special election; provides that after the initial election, the city commissioners shall decide how results are certified by ordinance.

(4) INDUCTION INTO OFFICE: Provides that those candidates who are elected be inducted into office at the initial city commission meeting, which shall be held no more than 30 days after the final election requirements are determined to be in compliance at the Southport Community Center, located at 7334 Franklin Street, Southport, Florida.

(5) TRANSITION SERVICES AND COMPENSATION: Provides that it is intended that Bay County provide and be compensated for the provision of services for the City of Southport as budgeted for in the fiscal year 2006-2007 Bay County Budget as far as the revenue will provide; requires that the level of services to be provided be consistent with the level upon which the fiscal year 2006-2007 expense budget was predicted and in accordance with adopted revenue; provides that it is the responsibility of the city to adopt appropriate ordinances, resolutions or agreements as required to ensure the continued collection of budgeted revenues with which to fund services beginning January 1, 2007; provides that any revenues adopted or received by the City of Southport upon which delivery of services was not predicted within the county's fiscal year 2006-2007 adopted budget shall accrue to the City of Southport; provides that services that the county shall provide under the terms of "this agreement" include all services provided to the Southport municipal district as adopted by the Bay County Commission prior to the City of Southport becoming operational.

(6) FIRST-YEAR EXPENSES: Provides that the commission has the power to borrow money necessary for the operation of city government until a budget is adopted and revenues are raised.

(7) TRANSITIONAL ORDINANCES AND RESOLUTIONS: Provides for the city commission to adopt ordinances and resolutions required to effect the transition; provides that ordinances adopted within 60 days after the first commission meeting shall be passed as emergency ordinances; provides that these transitional ordinances shall be effective for no longer than 90 days after adoption and thereafter may be readopted, renewed or otherwise continued only in the manner normally prescribed for ordinances.

(8) TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATION: Provides that until the city adopts a comprehensive plan, the applicable provisions of the Comprehensive Plan of Bay County will remain in effect as the city's transitional comprehensive plan; provides that all planning functions, duties and authority will thereafter be vested in the City Commission of Southport, which shall be deemed the local planning agency until the commission establishes a separate local planning agency; provides that all powers and duties of the Bay County Planning and Land Development Regulations Commission, any boards of adjustment and appeals created pursuant to statutory trade codes, and the Bay County Commission, as set forth in traditional zoning and land use regulations, shall be vested in the City Commission of Southport until it delegates all or a portion hereof to another entity; provides that subsequent to the commencement of the city's corporate existence, no amendment of the city's land development regulations enacted by the county commission will be deemed as an amendment of the city's transitional comprehensive plan or land development regulations or shall otherwise take effect within the city's corporate limits unless approved by the city commission.

(9) STATE-SHARED REVENUES; CITY PARTICIPATION IN STATE-SHARED REVENUES PROGRAMS: Provides that the City of Southport shall be entitled to participate in the state-shared

revenues programs effective immediately on the date of incorporation; provides that the provisions of s. 218.23, F.S., shall be waived for the purpose of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year 2006-2007; provides that initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research or, under certain circumstances, the Bay County Planning Department.

(10) GAS TAX REVENUES: Provides that the City of Southport be entitled to receive a local option gas tax revenue beginning January 1, 2007, notwithstanding s. 336.025, F.S.; provides that the gas tax distribution shall be made in accordance with s. 336.025(4)(b)2., F. S., and in accordance with the county's previous year's lane mile expenditures multiplied by the number of miles of roads within the boundaries of Southport.

**Section 13.** Provides that the act take effect upon its approval by a majority vote of qualified electors residing within the proposed corporate limits of the City of Southport voting in a referendum election to be called by the Bay County Commission; provides for this section to take effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for charter and creation of City of Southport.

Section 2: Provides for legislative intent.

Section 3: Provides for a commission-manager form of government, and municipal powers.

Section 4: Provides a legal description of the city's boundaries.

Section 5: Provides for a city commission; its composition; member qualifications; terms of office; powers and duties; a mayor and vice mayor; compensation and expenses; vacancies; and forfeiture of office.

Section 6: Provides for city commission meetings.

Section 7: Provides for designated charter officers.

Section 8: Provides for elections.

Section 9: Provides for Southport area municipal services.

Section 10: Provides for charter amendments; charter review initiative; and referendum and standards of conduct.

Section 11: Provides for severability.

Section 12: Provides a transition schedule.

Section 13. Provides for effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 5, 2006

WHERE? *The News Herald*, a daily newspaper published in Bay County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? No later than 90 days from the date of legislative approval of this act, unless a different municipal election date is established.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, the estimated cost of administration, implementation and enforcement for this bill is \$1,777,169 in FY 06-07, and \$1,830,484 in FY 07-09. The anticipated sources of funding are noted as follows:

	FY 07-08	FY 08-09
State:	\$1,005,282	\$1,035,441
Local:	\$771,886	\$795,043

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **Drafting Issues**

#### **Exemptions to General Law**

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may create exemptions to the following general laws:

- 1) Section 165.061(1)(c), F.S., which requires that a proposed municipality have a minimum density of 1.5 persons per acre, or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
- 2) Section 165.01(1)(d), F.S., which requires that the boundaries of a proposed municipality be a minimum distance of two miles from an existing municipality, or have an extraordinary natural boundary which requires separate municipal government.
- 3) Section 165.061(1)(e)1., F.S., which required that the proposed charter prescribe the form of government and clearly define the responsibilities for legislative and executive functions.
- 4) Section 165.061(1)(f), F.S., which requires that the plan for incorporation must honor existing solid-waste contracts in the affected geographic area for five years or the remainder of the contract term, whichever is less.

- 5) Section 165.041(b)3.a., F.S., which requires that the study include a list of current land use designations applied to the area as currently contained in the county comprehensive plan.
- 6) Section 165.041(b)3.b., F.S., which requires the study to include a list of current zoning designations.
- 7) Section 165.041(b)3.c., F.S., which requires that the study include a general statement of present land use characteristics of the area.
- 8) Section 165.041(b)4., F.S. which requires that the study identify all local public agencies with boundaries lying within the territory proposed for incorporation.
- 9) Section 165.041(1)(b)5., F.S, which requires that the study identify all current public service providers as identified by that provision, and cost estimates for each of those services.
- 10) Section 165.041(1)(b)7, F.S., which requires the names and addresses of three officers or persons submitting the proposal.
- 11) Section 165.041(1)(b)8., F.S., which requires evidence of fiscal capacity and a five year operational plan.
- 12) Section 165.041(1)(b)9., F.S., which requires data and analysis to support the conclusions that incorporation is necessary and financially feasible.
- 13) Section 165.041(1)(b)10., F.S., which requires evaluation of the alternatives available to the area to address its policy concerns.
- 14) Section 165.041(1)(b)11., F.S., evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S.
- 15) Section 218.23(1), F.S., which provides eligibility requirements for revenue sharing, that s. 12 (9) of the bill seeks to waive.
- 16) Section 336.025(4)(b), F.S., which provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation. Section 12(10) of the Charter states that the beginning of distribution of gas tax shall be 1/1/07.

## Feasibility Study Reviews

### ***The Legislative Committee on Intergovernmental Relations (LCIR)***

*The following includes comments from the Legislative Committee on Intergovernmental Relations regarding the proposed incorporation of the City of Southport.*

*The LCIR indicated that its review determined that the proposed incorporation met state standards for municipal incorporations specified in s. 165.061, F.S., (see, "Requirements and Standards for Municipal Incorporation" on page 2 of this analysis) with the following exceptions:*

The *Study* (page 1) reports the number of acres proposed for incorporation at 9,978 acres and the estimated population at 6,943. Based on these data, the density of the area proposed for incorporation is 0.7 persons per acre, less than one-half of the required minimum under s. 165.061(1)(c), F.S., of 1.5 persons per acre.

Alternatively, the statutes provide that the area have extraordinary conditions requiring the establishment of a municipal incorporation with less existing density. The *Study* (pages 1 and 2) suggests that the historical character of Southport and its standing as a readily identified community meet this statutory condition. However, it offers no additional information or materials to substantiate this claim. In addition, the *Study* notes that the resident population will soon increase as a result of numerous large developments proposed within Southport's boundaries. As such, it cannot be ascertained whether the unique characteristics of Southport serve as extraordinary conditions as required by law.

Information in the *Study* acknowledges that the area to be incorporated does not maintain a distance of at least two miles from a boundary of recently annexed property by the City of Lynn Haven. It notes, however, that Deer Point Lake and North Bay might serve as natural boundaries on two sides of Southport. Based on the information in the *Study*, it cannot be ascertained whether they constitute an

extraordinary natural boundary that requires separate municipal government as required by s. 165.061(1)(d), F.S. In addition, the *Study* suggests that the aggressive annexation policies of Lynn Haven brought it within the two mile limit of Southport, and have contributed to its wish to incorporate as a means to protect the community from further expansion by this municipality.

Under s. 165.061(1)(e)1., F.S., the proposed charter must prescribe the form of government and clearly define the responsibilities for legislative and executive functions. The *Charter* prescribes the commission-manager form of government. Powers and duties of the mayor and city manager overlap, are vague, and require clarification. In addition, there is no provision prohibiting the commission from involvement in the administration functions. As such, it cannot be ascertained whether the *Charter* meets this criterion.

Under s. 165.061(1)(e)2., F.S., the proposed charter must not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Florida Constitution or general law. The *Charter* is mute on this issue. As noted in the below review of the *Charter*, provisions need to be included that ensure the legislative body of the municipality is not prohibited from exercising this power. As such, it cannot be ascertained whether the Charter meets this criterion.

Pursuant to s. 165.061(1)(f), F.S., the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for five years or the remainder of the contract term, whichever is less. Neither the *Study* nor the *Charter* addresses this issue. Thus, the *Study* does not meet this criterion.

*The LCIR additionally indicated that its review determined that the proposed incorporation met state standards for a municipal incorporation feasibility study pursuant to s. 165.041(1)(b), F.S., (see, "Feasibility Study" on pages 3 and 4 of this analysis) with the following exceptions:*

- The *Study* does not meet the requirement that the study include a list of current land use designations applied to the area as currently contained in the county comprehensive plan. (s. 165.041(b)3.a., F.S.)
- The *Study* does not meet the requirement that it include a list of current zoning designations. (s. 165.041(b)3.b., F.S.)
- The *Study* does not meet the requirement that it include a general statement of present land use characteristics of the area. (s. 165.041(b)3.c., F.S.)
- The *Study* does not appear to identify all local public agencies with boundaries lying within the territory proposed for incorporation. (s. 165.041(b)4., F.S.)
- The *Study* does not appear to identify all current public service providers for the services identified in s. 165.041(1)(b)5., F.S., and cost estimates for each of those services. The *Study* appears to meet the requirement that it identify proposed services (pages 5, A5-A6, and Exhibit F). Based on information contained in the *Study*, we cannot ascertain whether it meets the requirement to identify estimated costs for the proposed services. The *Study* (pages A5-A6, and Exhibit F), notes that it will contract certain basic services including: police protection, fire protection, streets and roads maintenance and repair, stormwater, recreation, planning and zoning to include code enforcement, and certain general administration services from Bay County government. However, there are no memoranda of understanding or letters of agreement that indicate that Bay County government will provide the services identified in the *Study* and for the amount identified in the *Study*.

It should be noted that fire protection is currently funded through a municipal services taxing unit (MSTU) and could do so after incorporation. It also should be noted that the *Study* includes worksheets (Exhibits G-1 and G-2) identifying "costs per deputy" for 2005-06 and subsequent years. However, these worksheets include no endorsement from the Bay County Sheriff's office. In

addition, although Bay County government staff assisted in preparing the *Study*, discussion with staff indicated that this assistance should not be interpreted as an endorsement of the proposed budget for Southport.

- The *Study* does not meet the s. 165.041(1)(b)(7), F.S., requirement that it include the name and address of three persons submitting the proposal.
- The *Study* appears to meet some but not all elements of the requirement that it provide evidence of the fiscal capacity for the area proposed for incorporation with the following caveats:
  1. The *Study* addresses the majority of tax bases and revenue sources available to a municipality and provides revenue estimates for them. The amount of revenues that can be generated by certain revenue sources appear overstated. These and other revenue sources included in the *Study* require some clarification.
  2. Southport proposes to levy a “utility tax” of 8.5 percent on the purchase of electricity, water, cable television and telephone. Pursuant to s. 166.231(1), F.S., municipalities are authorized to levy, by ordinance, a public service tax on the purchase of electricity, metered natural gas, liquefied petroleum gas, manufactured gas, and water service. The tax rate cannot exceed 10 percent of payments received by the seller of the taxable item.

However, Southport cannot levy 8.5 percent on cable television and telephone. Pursuant to s. 202.19(1), F.S., (2005), a county or municipality may, by ordinance, levy a local communications services tax. The definition of communications services encompasses voice, data, audio, video, or any other information or signals, including cable services that are transmitted by any medium. For municipalities that have chosen to levy permit fees, the tax may be levied at a rate up to 4.98 percent; those municipalities without permit fees may levy the tax at a rate up to 5.1 percent. In accordance with s. 202.19(2)(c), F.S., municipalities may levy an additional rate of up to 0.12 percent if they elect not to require and collect permit fees for rightaway for utilities authorized pursuant to s. 337.401, F.S.

It is unclear whether Southport intends to impose an impact fee to offset costs associated with new infrastructure that will be needed to service proposed new developments. If the tax was levied at its maximum rate, of 5.22 percent, Southport would realize a reduction of approximately \$64,500. This shortfall could be addressed if Southport would increase the public service tax on water and electricity to its maximum rate of 10 percent. This would generate an estimated \$69,130 in additional revenues.

3. State shared revenues (SSR) are identified as revenue sources for Southport. In order to be eligible to participate in these programs, a municipality is required to meet certain criteria. These requirements include, among others, certain financial and audit reports and a minimum local taxing effort equal to the amount that would be generated by three mills of ad valorem property taxes. The *Study* presents the 2005 taxable value of property within Southport at \$179,949,817. Based on this projected taxable value, the three-mill equivalency for Southport is equal to approximately \$539,849. The *Study* requests that its estimated “utility tax” revenues be credited towards its three-mill equivalency requirement. The types of revenues that may be credited towards the three-mill equivalency are noted in s. 218.23(1)(c), F.S. Although utility tax is identified as an eligible revenue source, the term “utility tax” is not defined. As such, it is unclear whether revenues from local communication service taxes may be credited towards the three-mill equivalency requirement.

Without the communication service tax revenues, estimated revenues generated by the tax on water and electricity purchases (\$391,735.47) are insufficient to meet Southport’s

three-mill equivalency noted above. Crediting contributions for the fire MSTU serving the Southport area (\$45,222) is insufficient to meet the three-mill equivalency requirement.

4. The *Study* (pages A2-A3) requests a waiver until FY 2006-07 in order to enact required organization and administrative steps need to participate in state shared revenue programs. The requirements regarding financial and audit reporting requirements have been temporarily waived in the past until such reports are available. However, the Legislature, in most instances, has required that a proposed incorporation show a minimum local taxing effort in order to qualify for SSR programs.
  5. State revenue sharing estimates provided in the *Study* (page 7) are inconsistent with those estimates calculated by the Office of Research and Analysis, Florida Department of Revenue. The *Study* estimates Southport's Municipal Revenue Sharing revenues (reported as State Revenue Sharing) at \$515,746 and One-Half Cent Sales Tax revenues at \$489,536. The Office of Research and Analysis estimated Southport's 2005-06 Municipal Revenue Sharing and One-Half Cent Sales Tax distributions at \$248,798 and \$567,049, respectively. The Office of Research and Analysis estimated revenue from these two programs is approximately \$190,000 less than that proposed in the *Study*.
  6. The *Study* calculates estimates for several of its minor revenue sources (Mobile Home Licenses Tax, Alcoholic Beverage License Tax, court fines, and police education) at 80 percent of revenues reported by the City of Springfield, a municipality in Bay County with an estimated 2005 population of 9,039 residents. Using cities of similar size to estimate revenues and expenditures is a common practice. However, using a single city as a "model" to base its revenues may provide a skewed budget profile as a result of some unanticipated factors associated with the comparison city.
  7. The *Study* (page 8 and Exhibit F) appears to calculate estimated expenditures for the majority of its basic public services (Fire-Administration, Roads and Streets, Stormwater, Recreation, and Planning and Zoning) based on a proportional share of county budgeted expenditures for these services. The rationale for calculating expenditure estimates in this fashion is unclear.
- The *Study* does not include a five-year operational plan and budget as required by s. 165.041(1)(b)8.b., F.S., although it does provide estimated revenues and expenses for a three-year time period (pages 7 and 8). The revenue totals include funds projected from sources for which the proposed municipality may not be eligible to receive and, as noted above, include provisions for other entities to continue providing services or provide under contract or through interlocal agreement without providing evidence that these entities are willing to provide all such services for the amount identified in the budget. In addition, the three-year estimated revenues and expenses allocate relatively little funding for administrative salaries, operational costs, and planning and zoning.

Also, although the *Charter* includes numerous provisions for council member elections, referenda, and initiatives, neither the *Charter* nor the three-year budget specify how such elections will be administered or funded. Given this list of concerns, we cannot ascertain whether the requirement for the five-year operational plan and budget is adequately addressed.

- The *Study* appears to address portions of the requirement that it provide data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations. Concerns regarding methodology used in the analysis and estimated revenues and expenditures are addressed in Section 8 above. Given these concerns, we cannot ascertain whether the *Study* data and analysis meet this requirement.



- The *Study* does not meet the requirement for evaluating alternatives available to the area regarding the policy concerns.
- As noted above, the *Study* does not provide evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S. It does acknowledge, however, that certain criteria will need to be waived.

*The LCIR additionally evaluated whether the proposed revenues and expenditures contained in the Study are consistent with revenues and expenditures of municipalities of similar size:*

The *Study's* proposed budget includes revenue sources that a municipality is eligible to levy or receive. With the exception of state shared revenues (SSR) and other comments referenced above, the potential revenues identified in the *Study* appear consistent with statutory provisions.

The revenue and expenditure estimates for 10 "similarly sized" municipalities in Florida are compared with those for the proposed City of Southport in **Table 1**. Revenues estimates for Southport reflect altered tax rates on cable television and telephone and estimated SSR distributions calculated by the Office of Research and Analysis, Department of Revenue as noted above. Consequentially, Southport total expenditures are greater than total revenues. Differences between expenditures and revenues could be addressed through another tax source available to Southport such as ad valorem taxes.

As presented in **Table 1**, all comparison municipalities reported FY 2002-03 total expenditures greater than those projected for Southport. The estimated expenditures projected for Southport (\$1,777,169) is approximately one-sixth of the "average" reported expenditures for the 10 comparison municipalities (\$10,809,353).

**Table 1**

**Comparison of Total Revenues and Expenditures  
for 10 Municipalities with Populations Similar to the Population Estimate for the  
Proposed Municipality of Southport<sup>7</sup>**

<b>Municipality</b>	<b>2003 Pop. Est.<sup>8</sup></b>	<b>Revenues</b>	<b>Expenditures</b>
Southport	6,943	\$1,522,669	\$1,777,169
Dade City	6,476	\$7,630,247	\$7,152,018
Clewiston	6,572	\$19,962,974	\$20,136,882
Alachua	6,721	\$16,349,370	\$15,034,201
Fort Myers Beach	6,792	\$5,428,123	\$5,387,670
Perry	6,824	\$8,143,070	\$8,456,423
Arcadia	6,860	\$8,209,890	\$9,012,421
Islamorada	6,970	\$14,235,012	\$13,693,180
Inverness	7,020	\$7,406,563	\$9,521,411
Neptune Beach	7,217	\$7,663,681	\$8,057,037
Brooksville	7,297	\$9,713,576	\$11,642,289
<b>AVERAGE</b>	<b>6,875</b>	<b>\$10,474,251</b>	<b>\$10,809,353</b>

<sup>7</sup> FY 2002-2003 reported revenues and expenditures by the 10 comparison municipalities and projected 2006 revenue and expenditure estimate for Southport contained within the Southport Incorporation Feasibility Study. Southport revenue estimates were adjusted in accordance with State Revenue Sharing estimates calculated by the Office of Research and Analysis, Department of Revenue, and communication services tax revenues authorized by law.

<sup>8</sup> 2003 population counts for comparison municipalities reported by the Bureau of Economic and Business Research, University of Florida. Population estimates for Southport for calendar year 2005 contained within the Southport Incorporation Feasibility Study.

Sources: Florida LCIR using fiscal data submitted by municipalities to the Department of Financial Services; Florida Estimates of Population 2003, Bureau of Economic and Business Research, University of Florida, 2004; information contained within the Southport Incorporation Feasibility Study.

Two additional issues should be noted in this comparison. First, the projected expenditures for Southport does not include expenditures associated with costs for services that Bay County may continue to provide to the residents of Southport under the current county tax structure. If included, such costs would increase the proposed expenditures and somewhat reduce the expenditure differential between Southport and the comparison municipalities.

The second issue regarding the proposed expenditures is that the fiscal data for the 10 comparison municipalities reflect total reported revenues and expenditures for FY 2002-03, while the fiscal estimates for Southport are those projected for FY 2006-07. It can be assumed that total expenditures and revenues for these 10 municipalities will have increased during this time period, and as a result, the gap has increased between their "average" reported expenditures and those projected for Southport.<sup>9</sup>

*Lastly, the LCIR evaluated the distribution of State Shared Revenues (SSR) and impact the incorporation would have on existing local governments:*

While the statutory requirements for a feasibility study do not include identifying fiscal impacts to neighboring units of local government, such information is useful for these local governments as they begin to plan for their next budget cycle. A newly created municipality will impact the amount of funds that existing municipalities receive in the two major SSR programs: Local Government Half-Cent Sales Tax and the Municipal Revenue Sharing (MRS). The county government within which the new municipality is formed will realize fiscal impacts in two SSR programs: Local Government Half-Cent Sales Tax and County Revenue Sharing.

The Office of Research and Analysis, Department of Revenue, prepared SSR estimates for the proposed City of Southport and estimates on the impact from such an incorporation to SSR distribution to other units of local government within Bay County. As noted, if Southport had incorporated in 2005, Bay County government would realize a reduction in 2005-06 SSR distributions totaling an estimated \$495,297. The extent to which revenue reductions are offset by reductions in services is not known. Municipalities within the County would realize estimated SSR reductions ranging from a low of \$8,413 (Parker) to a high of \$64,996 (Panama City).<sup>10</sup>

### **Office of Economic and Demographic Research**

*The Office of Economic and Demographic Research reached the same conclusions as the LCIR with regard to its analysis, and so its comments have been omitted.<sup>11</sup>*

### **Department of Revenue**

*The Department of Revenue provided the following comments:*

The actual dates of events related to the incorporation of Southport are not dates certain, but may occur within stated time periods relative to other events that may also occur within stated time periods. This use of relative dates rather than dates certain makes it impossible to determine the date when certain key events will occur. It is recommended that dates certain be specified for the referendum, council elections, incorporation, and first council meeting and that the designated incorporation date be the first day of a month following the first council meeting.

### **Revenue Sharing**

Section 12(9) of the proposed Charter provides that Southport shall be entitled to participate in all state shared revenue programs effective on the date of incorporation. Section 12(2) provides that the City of Southport is created and established effective the date the Charter becomes effective.

<sup>9</sup> Detailed summaries of the FY 2002-02 revenue and expenditure data for the 10 municipalities are on file with the Local Government Council.

<sup>10</sup> Complete figures are on file with the Local Government Council.

<sup>11</sup> The review of the feasibility study conducted by the Office of Economic and Demographic Research is on file with the Local Government Council.

Section 218.21(3), F.S., requires that in order to be a "municipality" and thus be eligible for revenue sharing, a municipality "must have held an election for its legislative body pursuant to law and established such a legislative body, which meets pursuant to law. In this instance, s. 12(4) of the Charter provides that Southport's initial commission meeting shall be held no more than 30 days after the election of the commission is final. Thus, Southport will not be a municipality until that date uncertain and will not be entitled to revenue sharing until that date.

**It is recommended that a date certain for the first council meeting be stated in the Charter and that the initial date for revenue sharing participation be the first day of a month occurring after the first meeting of the council.**

Although the Charter does not specify when Southport will be incorporated, s. 12(9) of the Charter does waive s. 218.23, F.S., through the state fiscal year 2006-2007. It is possible that if the referendum is held in the summer of 2006 and the council is elected and takes office soon thereafter, then Southport's waiver could entitle it to revenue sharing beginning in the fall of 2006. However, if the incorporation occurs later and the council takes office after October 1, 2006, then Southport could not complete the full local fiscal year 2006-2007 and would not be entitled to participate in revenue sharing until the beginning of the 2008-2009 state fiscal year without a waiver of s. 218.23, F.S., through the end of state fiscal year 2007-2008.

**It is recommended that a date certain for the first council meeting be stated in the Charter and that the initial date for revenue sharing participation be the first day of a month occurring after the first meeting of the council. Additionally, the waiver of s. 218.23, F.S., should be extended through the state fiscal year 2007-2008.**

#### Gas Tax Revenues

**Section 12(10) of the Charter states that the beginning of distribution of gas tax shall be 1/1/07, which is not a date allowed by general law.** Section 336.025(4)(b), F.S., provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation, which could be as early as 10/1/06 if the referendum is prior to 10/1/06.

Section 336.025(4)(b), F.S., requires that gas tax distributions to newly incorporated municipalities are to be in accord with the default lane-mile formula unless provided otherwise by the local law providing for the incorporation. Section 336.025(3)(a)1, F.S., requires that interlocal agreements regarding local option gas tax distributions must be executed prior to June 1 of a year and s. 336.025(5)(a), F.S., requires that a certified copy of that interlocal agreement must be provided to the Department of Revenue by July 1 of that year, to become effective at the beginning of the next local fiscal year in October 1 of that year. Unless that interlocal agreement is entered into by Bay County and the other municipalities constituting a majority of the municipal population by 6/1/07, the distribution shall be in accordance with the default lane-mile formula specified in s. 336.025(4)(b), F.S. **If the intent is to determine Southport's share of the gas tax revenue in accord with an interlocal agreement rather than according to lane-mile formula, then language should be added to the charter stating that the interlocal shall be entered into prior to 6/1/07.**

#### Local Communications Services Tax

**The draft charter does not specifically address communications services tax.** Pursuant to s. 202.21 F.S., local communications services taxes imposed under s. 202.19, F.S., are effective with respect to taxable services dated on or after January 1 of a year. A municipality adopting, changing or repealing this tax must notify the Department of Revenue by September 1, prior to the January 1 effective date. It is unlikely that Southport could hold its referendum and elect and install its council quickly enough to be able to impose a communications services tax prior to the September 1, 2006 notification date in order to entitle Southport to participate in this revenue source on January 1, 2007.

Thus, the most likely notification date would be September 1, 2007, with the imposition beginning January 1, 2008.

**The charter language could also be added to provide for a sharing of the CST currently imposed by Bay County within the boundaries of Southport, beginning with the date of incorporation through December 31, 2007. The proportion could be based on the population of Southport compared to unincorporated population of Bay County before the incorporation of Southport.**

#### Discretionary Sales Surtax

Currently, Bay County imposes a .5 percent School Capital Outlay Surtax, which by statute cannot be shared with municipalities. In the future, if Bay County imposes a discretionary sales surtax that can be shared with the municipalities, that sharing will be determined by an interlocal entered into by municipalities with more than 50 percent of the incorporated population or if there is no interlocal, according to the formula provided in s. 218.62, F.S.

#### REVENUE ESTIMATES

The Department has prepared revenue sharing estimates for the 2005-2006 state fiscal year which are on file with the Local Government Council.

#### Department of Community Affairs

*The Florida Department of Community Affairs had the following comments, and suggestions for amending the proposed charter:*

Pursuant to s.163.3167(4), F.S., a new comprehensive plan must be adopted within three years of incorporation. The approximate cost of a new comprehensive plan for a City of this size is \$100,000. Pursuant to s. 63.3202(1), F.S. within one year of an adopted comprehensive plan, a new municipality must adopt land development regulations. The approximate cost of new land development regulations for a City of this size is \$200,000. In addition, new cities typically become responsible for providing and maintaining certain types of infrastructure and services.

**Section 12:** Pursuant to s.163.3167(4), F.S., a new comprehensive plan must be adopted within three years of incorporation.

**Section 12, Section (8)(c):** should be revised to state "Upon the City's incorporation, the City shall use Bay County's Comprehensive Plan and land development regulations. However, after the City's incorporation, any amendment to the County's comprehensive plan and land development regulations shall not apply to the City unless approved by the City Commission."

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES