

By Senator Bennett

21-1506-07

1 A bill to be entitled
 2 An act relating to counties; creating s.
 3 125.6401, F.S.; providing legislative findings
 4 and intent; providing that an amendment to a
 5 county charter which transfers or restricts
 6 certain powers of a municipality in the county
 7 will not take effect unless approved by the
 8 voters of the municipality and of the county;
 9 amending s. 163.3171, F.S.; deleting provisions
 10 allowing a charter county to exercise powers
 11 over municipalities and districts therein;
 12 amending s. 163.3174, F.S.; deleting provisions
 13 relating to the division of planning
 14 responsibility between a charter county and the
 15 municipalities therein; amending s. 171.044,
 16 F.S.; revising applicability of provisions
 17 relating to annexation in charter counties;
 18 providing an effective date.

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

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 22 Section 1. Section 125.6401, Florida Statutes, is
 23 created to read:

24 125.6401 Charter counties; limitations on exercise of
 25 functions within municipalities.--

26 (1) The Legislature finds that the citizens of this
 27 state vote voluntarily to create municipalities specifically
 28 to serve the unique needs of the citizens and their
 29 communities. The Legislature further finds that charter
 30 counties, through amendments to their charters, have
 31 increasingly sought to divest municipalities of the

1 governmental, corporate, and proprietary powers granted to
2 municipalities by their citizens. The Legislature concludes
3 that the involuntary divestiture or limitation through county
4 charter amendments of municipal authority to conduct
5 government, perform municipal functions, and render municipal
6 services undermines the will of the citizens who elect to
7 incorporate. It is the intent of the Legislature that
8 municipalities located within charter counties shall have all
9 governmental, corporate, and proprietary powers to enable them
10 to conduct municipal government, perform municipal functions,
11 and render municipal services and to remove all county charter
12 limitations, judicially imposed or otherwise, on the exercise
13 of municipal home rule powers.

14 (2) An amendment to the charter of a county which
15 transfers or restricts a governmental, corporate, or
16 proprietary power of a municipality located within the county
17 shall not be effective in the municipality unless the
18 amendment is approved by a vote of the electors of the
19 municipality and approved by a vote of the electors of the
20 charter county.

21 (3) This section does not apply to interlocal
22 agreements between municipalities and counties to temporarily
23 transfer a municipality's governmental, corporate, or
24 proprietary powers to a county.

25 (4) This section applies to Miami-Dade County and its
26 municipalities to the extent permitted by the home rule
27 charter established pursuant to s. 6(e), Art. VIII of the
28 State Constitution.

29 Section 2. Subsection (2) of section 163.3171, Florida
30 Statutes, is amended to read:

31 163.3171 Areas of authority under this act.--

1 (2) A county shall exercise authority under this act
2 for the total unincorporated area under its jurisdiction or in
3 such unincorporated areas as are not included in any joint
4 agreement with municipalities established under the provisions
5 of subsection (1). ~~In the case of chartered counties, the~~
6 ~~county may exercise such authority over municipalities or~~
7 ~~districts within its boundaries as is provided for in its~~
8 ~~charter.~~

9 Section 3. Subsection (1) of section 163.3174, Florida
10 Statutes, is amended to read:

11 163.3174 Local planning agency.--

12 (1) The governing body of each local government,
13 individually or in combination as provided in s. 163.3171,
14 shall designate and by ordinance establish a "local planning
15 agency," unless the agency is otherwise established by law.
16 Notwithstanding any special act to the contrary, all local
17 planning agencies or equivalent agencies that first review
18 rezoning and comprehensive plan amendments in each
19 municipality and county shall include a representative of the
20 school district appointed by the school board as a nonvoting
21 member of the local planning agency or equivalent agency to
22 attend those meetings at which the agency considers
23 comprehensive plan amendments and rezonings that would, if
24 approved, increase residential density on the property that is
25 the subject of the application. However, this subsection does
26 not prevent the governing body of the local government from
27 granting voting status to the school board member. The
28 governing body may designate itself as the local planning
29 agency pursuant to this subsection with the addition of a
30 nonvoting school board representative. The governing body
31 shall notify the state land planning agency of the

1 establishment of its local planning agency. All local planning
2 agencies shall provide opportunities for involvement by
3 applicable community college boards, which may be accomplished
4 by formal representation, membership on technical advisory
5 committees, or other appropriate means. The local planning
6 agency shall prepare the comprehensive plan or plan amendment
7 after hearings to be held after public notice and shall make
8 recommendations to the governing body regarding the adoption
9 or amendment of the plan. The agency may be a local planning
10 commission, the planning department of the local government,
11 or other instrumentality, including a countywide planning
12 entity established by special act or a council of local
13 government officials created pursuant to s. 163.02, provided
14 the composition of the council is fairly representative of all
15 the governing bodies in the county or planning area; however, +

16 ~~(a)~~ if a joint planning entity is in existence on the
17 effective date of this act which authorizes the governing
18 bodies to adopt and enforce a land use plan effective
19 throughout the joint planning area, that entity shall be the
20 agency for those local governments until such time as the
21 authority of the joint planning entity is modified by law.

22 ~~(b) In the case of chartered counties, the planning~~
23 ~~responsibility between the county and the several~~
24 ~~municipalities therein shall be as stipulated in the charter.~~

25 Section 4. Subsection (4) of section 171.044, Florida
26 Statutes, is amended to read:

27 171.044 Voluntary annexation.--

28 (4) The method of annexation provided by this section
29 shall be supplemental to any other procedure provided by
30 general or special law, except that this section does ~~shall~~
31 not apply to municipalities in counties as defined in s.

1 125.011 having ~~with~~ charters ~~that~~ ~~which~~ provide for an
2 exclusive method of municipal annexation.

3 Section 5. This act shall take effect July 1, 2007.

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6 SENATE SUMMARY

7 Provides that an amendment to a county charter which
8 restricts or transfers a governmental, corporate, or
9 proprietary power of a municipality therein is not
10 effective unless approved by the voters of the
11 municipality and those of the county. Deletes provisions
12 granting charter counties certain powers over the
13 municipalities therein.

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