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1
2 An act relating to the formation of local governments;
3 amending s. 165.031, F.S.; deleting definitions;
4 amending s. 165.041, F.S.; revising the deadline for
5 submission of a feasibility study of a proposed
6 incorporation of a municipality; revising a
7 requirement for the content of the study; creating s.
8 165.0615, F.S.; providing that qualified electors of
9 an independent special district that meets certain
10 criteria may commence a municipal conversion
11 proceeding by filing a petition with the governing
12 body of the independent special district; providing
13 criteria for the petition; providing that the petition
14 must be filed with the governing body of the
15 independent special district and submitted to the
16 supervisor of elections of each county in which the
17 district lands are located; requiring that the
18 supervisor of elections certify within a certain time
19 to the governing body the number of signatures of
20 qualified electors contained in the petition;
21 requiring the governing body to meet, prepare, and
22 approve by resolution a proposed elector-initiated
23 combined conversion and incorporation plan; providing
24 criteria for the plan; providing criteria for
25 approving the resolution; requiring the governing body
26 to provide notice and public access to the elector-
27 initiated combined municipal incorporation plan;
28 providing criteria for a public hearing on the
29 proposed elector-initiated combined municipal

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30 incorporation plan; providing notice of a final public
31 hearing, a descriptive summary of the elector-
32 initiated combined municipal incorporation plan, and a
33 reference to the public place where a copy of the plan
34 can be examined; authorizing the governing body to
35 amend the municipal incorporation plan after the final
36 hearing if notice and public hearing requirements are
37 met; requiring the governing body to approve the final
38 version of the plan within a certain time after the
39 final hearing; requiring the governing body to notify
40 the supervisor of elections of the county within which
41 the special district is located of the adoption of the
42 resolution; providing for notice of the referendum;
43 requiring that the referendum be held in accordance
44 with the election code; requiring the independent
45 special district to bear the costs associated with the
46 referendum; providing for the form of the ballot
47 question; providing for the counting of ballots,
48 making and canvassing of returns, and certifying of
49 the results; requiring a majority of the votes cast in
50 the independent special district for the incorporation
51 plan to take effect; requiring that the independent
52 special district notify the special district
53 information program and certain local general-purpose
54 governments that the plan was approved; prohibiting a
55 conversion process from being initiated for 2 years if
56 the referendum fails; providing for interim governance
57 of the district; providing for an effective date of
58 the incorporation; amending s. 257.171, F.S.;

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59 conforming a cross-reference; providing an effective
60 date.

61

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

63

64 Section 1. Section 165.031, Florida Statutes, is amended to
65 read:

66 165.031 Definitions.—The following terms and phrases, when
67 used in this chapter, shall have the meanings ascribed to them
68 in this section, except where the context clearly indicates a
69 different meaning:

70 ~~(1) "Unit of local government" means any local general-~~
71 ~~purpose government.~~

72 ~~(2) "Local general-purpose government" means a county,~~
73 ~~municipality, or consolidated city-county government.~~

74 (1)~~(3)~~ "County" means a political subdivision of the state
75 established pursuant to s. 1, Art. VIII of the State
76 Constitution.

77 (2)~~(6)~~ "Formation" means any one of the following
78 activities:

79 (a) "Incorporation"—The establishment of a municipality.

80 (b) "Dissolution"—The dissolving of the corporate status of
81 a municipality.

82 (c) "Merger"—The merging of two or more municipalities with
83 each other and with any unincorporated areas authorized pursuant
84 to this act to form a new municipality; the merging of one or
85 more municipalities or special districts, in any combination
86 thereof, with each other; or the merging of one or more counties
87 with one or more special districts.

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88 (3)~~(4)~~ "Municipality" means a municipality created pursuant
89 to general or special law authorized or recognized pursuant to
90 s. 2 or s. 6, Art. VIII of the State Constitution.

91 ~~(7) "Service delivery" means any mechanism used by a unit~~
92 ~~of local government to provide governmental services.~~

93 (4)~~(8)~~ "Newspaper of general circulation" means a newspaper
94 printed in the language most commonly spoken in the area within
95 which it circulates, which is readily available for purchase by
96 all inhabitants in its area of circulation, but does not include
97 a newspaper intended primarily for members of a particular
98 professional or occupational group, a newspaper the primary
99 function of which is to carry legal notices, or a newspaper that
100 is given away primarily to distribute advertising.

101 (5)~~(9)~~ "Parties affected" means any person owning property
102 or residing in a municipality proposing a formation or in the
103 territory that is proposed for a formation or any governmental
104 unit with jurisdiction over such area.

105 (6)~~(10)~~ "Qualified voter" means any person registered to
106 vote in accordance with law.

107 (7)~~(5)~~ "Special district" means a local unit of special
108 government, as defined in s. 189.403(1). This term includes
109 dependent special districts, as defined in s. 189.403(2), and
110 independent special districts, as defined in s. 189.403(3). All
111 provisions of s. 200.001(8) (d) and (e) shall be considered
112 provisions of this chapter.

113 ~~(11) "Sufficiency of petition" means the verification of~~
114 ~~the signatures and addresses of all signers of a petition with~~
115 ~~the voting list maintained by the county supervisor of elections~~
116 ~~and certification that the number of valid signatures represents~~

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117 ~~the required percentage of the total number of qualified voters~~
118 ~~in the area affected by a proposal pursuant to this chapter.~~

119 Section 2. Paragraph (b) of subsection (1) of section
120 165.041, Florida Statutes, is amended to read:

121 165.041 Incorporation; merger.—

122 (1)

123 (b) To inform the Legislature on the feasibility of a
124 proposed incorporation of a municipality, a feasibility study
125 shall be completed and submitted to the Legislature no later
126 than the first Monday after September 1 of the year ~~90 days~~
127 ~~before the first day of~~ the regular session of the Legislature
128 during which the municipal charter would be enacted. The
129 feasibility study shall contain the following:

130 1. The ~~general~~ location of territory subject to boundary
131 change and a map of the area which identifies the proposed
132 change.

133 2. The major reasons for proposing the boundary change.

134 3. The following characteristics of the area:

135 a. A list of the current land use designations applied to
136 the subject area in the county comprehensive plan.

137 b. A list of the current county zoning designations applied
138 to the subject area.

139 c. A general statement of present land use characteristics
140 of the area.

141 d. A description of development being proposed for the
142 territory, if any, and a statement of when actual development is
143 expected to begin, if known.

144 4. A list of all public agencies, such as local
145 governments, school districts, and special districts, whose

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146 current boundary falls within the boundary of the territory
147 proposed for the change or reorganization.

148 5. A list of current services being provided within the
149 proposed incorporation area, including, but not limited to,
150 water, sewer, solid waste, transportation, public works, law
151 enforcement, fire and rescue, zoning, street lighting, parks and
152 recreation, and library and cultural facilities, and the
153 estimated costs for each current service.

154 6. A list of proposed services to be provided within the
155 proposed incorporation area, and the estimated cost of such
156 proposed services.

157 7. The names and addresses of three officers or persons
158 submitting the proposal.

159 8. Evidence of fiscal capacity and an organizational plan
160 as it relates to the area seeking incorporation that, at a
161 minimum, includes:

162 a. Existing tax bases, including ad valorem taxable value,
163 utility taxes, sales and use taxes, franchise taxes, license and
164 permit fees, charges for services, fines and forfeitures, and
165 other revenue sources, as appropriate.

166 b. A 5-year operational plan that, at a minimum, includes
167 proposed staffing, building acquisition and construction, debt
168 issuance, and budgets.

169 9. Data and analysis to support the conclusions that
170 incorporation is necessary and financially feasible, including
171 population projections and population density calculations, and
172 an explanation concerning methodologies used for such analysis.

173 10. Evaluation of the alternatives available to the area to
174 address its policy concerns.

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175 11. Evidence that the proposed municipality meets the
176 requirements for incorporation pursuant to s. 165.061.

177 Section 3. Section 165.0615, Florida Statutes, is created
178 to read:

179 165.0615 Municipal conversion of independent special
180 districts upon elector-initiated and approved referendum.-

181 (1) The qualified electors of an independent special
182 district may commence a municipal conversion proceeding by
183 filing a petition with the governing body of the independent
184 special district proposed to be converted if the district meets
185 all of the following criteria:

186 (a) It was created by special act of the Legislature.

187 (b) It is designated as an improvement district and created
188 pursuant to chapter 298 or is designated as a stewardship
189 district and created pursuant to s. 189.404.

190 (c) Its governing board is elected.

191 (d) Its governing board agrees to the conversion.

192 (e) It provides at least four of the following municipal
193 services: water, sewer, solid waste, drainage, roads,
194 transportation, public works, fire and rescue, street lighting,
195 parks and recreation, or library or cultural facilities.

196 (f) No portion of the district is located within the
197 jurisdictional limits of a municipality.

198 (2) (a) The petition must include signatures of at least 40
199 percent of the qualified electors of the independent special
200 district and must be submitted as provided in subsection (3) not
201 later than 1 year after the start of the qualified elector-
202 initiated municipal conversion proceeding.

203 (b) The petition must comply with, and be circulated in,

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204 the following form:

205
206 PETITION FOR MUNICIPAL CONVERSION OF
207 INDEPENDENT SPECIAL DISTRICT
208

209 We, the undersigned electors and legal voters of
210 (...name of independent special district...),
211 qualified to vote at the next general or special
212 election, respectfully petition that there be
213 submitted to the electors and legal voters of (...name
214 of independent special district proposed to be
215 converted to a municipality...) for their approval or
216 rejection at a referendum held for that purpose, a
217 proposal to convert (...name of independent special
218 district...) and incorporate (...proposed name of
219 municipality...).

220
221 In witness thereof, we have signed our names on the
222 date indicated next to our signatures.

223
224 Date Name (print under signature) Home Address
225 _____
226 _____

227
228 (c) The petition must be validated by a signed statement by
229 a witness who is a duly qualified elector of the independent
230 special district, a notary public, or another person authorized
231 to take acknowledgements.

232 (d) A statement that is signed by a witness who is a duly

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233 qualified elector of the district shall be accepted for all
234 purposes as the equivalent of an affidavit. The statement must
235 be in substantially the following form:

236
237 "I, (...name of witness...), state that I am a duly
238 qualified voter of (...name of independent special
239 district...). Each of the (...insert number...)
240 persons who have signed this petition sheet has signed
241 his or her name in my presence on the dates indicated
242 above and identified himself or herself to be the same
243 person who signed the sheet. I understand that this
244 statement will be accepted for all purposes as the
245 equivalent of an affidavit and, if it contains a
246 materially false statement, shall subject me to the
247 penalties of perjury."

248
249 Date Signature of Witness

250
251 (e) A statement that is signed by a notary public or
252 another person authorized to take acknowledgements must be in
253 substantially the following form:

254
255 "On the date indicated above before me personally came
256 each of the (...insert number...) electors and legal
257 voters whose signatures appear on this petition sheet,
258 who signed the petition in my presence and who, being
259 by me duly sworn, each for himself or herself,
260 identified himself or herself as the same person who
261 signed the petition, and I declare that the foregoing

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262 information they provided was true."

263
264 Date Signature of Witness

265
266 (f) An alteration or correction of information appearing on
267 a petition's signature line, other than a signature that was not
268 initialed, and date, does not invalidate the signature. In
269 matters of form, this paragraph must be liberally construed, not
270 inconsistent with substantial compliance thereto and the
271 prevention of fraud.

272 (3) The appropriately signed petition must be filed with
273 the governing body of the independent special district. The
274 petition must be submitted to the supervisor of elections of the
275 county in which the district lands are located. The supervisor
276 of elections shall, within 30 business days after receipt of the
277 petition, certify to the governing body the number of signatures
278 of qualified electors contained on the petition.

279 (4) Upon verification by the supervisor of elections of the
280 county within which the independent special district lands are
281 located that 40 percent of the qualified electors have
282 petitioned for municipal conversion and that all such petitions
283 have been executed within 1 year after the date of the
284 initiation of the qualified-electror conversion process, the
285 governing body of the independent special district shall meet
286 within 30 business days to prepare and approve by resolution a
287 proposed elector-initiated combined conversion and incorporation
288 plan. The proposed plan must include:

289 (a) The name of the independent special district to be
290 converted to a municipality.

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291 (b) The name of the municipality to be created.

292 (c) The conversion schedule.

293 (d) Notwithstanding s. 165.061(1)(d), certification by a
294 licensed surveyor that the boundaries of the proposed
295 municipality do not overlap with any other municipal boundary
296 and are contained within a single county.

297 (e) The rights, duties, and obligations of the
298 municipality, and a feasibility study that contains the
299 requirements under s. 165.041(1)(b), except that the provisions
300 of s. 165.061(1)(b)-(d) do not apply if the buildout of the land
301 use allowed under the current county-approved comprehensive plan
302 and zoning designations will meet the population and density
303 requirements of s. 165.061(1)(b) and (c).

304 (f) The territorial boundaries of the proposed
305 municipality.

306 (g) The governmental organization of the proposed
307 municipality and independent special district as the
308 organization concerns elected and appointed officials and public
309 employees, along with a transitional plan and schedule for
310 elections and appointments of officials.

311 (h) An accounting of the independent special district's
312 assets, including, but not limited to, real and personal
313 property, and the current value of the property.

314 (i) An accounting of the independent special district's
315 liabilities and indebtedness, bonded and otherwise, and the
316 current value of the liabilities and indebtedness.

317 (j) Terms for addressing the ownership and obligations
318 related to existing assets, liabilities, and indebtedness of the
319 independent special district, jointly, separately, or in defined

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320 proportions.

321 (k) Terms for the common administration and uniform
322 enforcement of existing laws within the proposed municipality.

323 (l) An estimated date for final payment of any bonded
324 indebtedness of the independent special district, and if
325 maintained by the district after incorporation, the estimated
326 date of automatic dissolution of the independent special
327 district.

328 (m) The time and place for a public hearing on the proposed
329 incorporation.

330 (n) The effective date of the proposed incorporation.

331 (5) The resolution endorsing the proposed elector-initiated
332 municipal incorporation plan must be approved by a majority vote
333 of the governing body of the independent special district and
334 must be adopted at least 60 business days before any general or
335 special election on the proposed elector-initiated plan.

336 (6) Within 5 business days after the independent special
337 district approves the proposed elector-initiated municipal
338 incorporation plan, the governing body must:

339 (a) Cause a copy of the proposed elector-initiated
340 municipal incorporation plan, along with a descriptive summary
341 of the plan, to be displayed and be readily accessible to the
342 public for inspection in at least three public places within the
343 territorial limits of the independent special district, unless
344 the independent special district has fewer than three public
345 places, in which case the plan must be accessible for inspection
346 in all public places within the independent special district.

347 (b) If applicable, cause the proposed elector-initiated
348 municipal incorporation plan, along with a descriptive summary

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349 of the plan and a reference to the public places within the
350 independent special district where a copy of the plan may be
351 examined, to be displayed on a website maintained by the
352 district or otherwise on a website maintained by the county in
353 which the district is located.

354 (c) Arrange for a descriptive summary of the proposed
355 elector-initiated municipal incorporation plan, and a reference
356 to the public places within the district where a copy may be
357 examined, to be published in a newspaper of general circulation
358 within the independent special district at least once each week
359 for 4 successive weeks.

360 (7) The governing body of the independent special district
361 shall set a time and place for one or more public hearings on
362 the proposed elector-initiated combined municipal incorporation
363 plan. Each public hearing shall be held on a weekday at least 7
364 business days after the day the first advertisement is published
365 on the proposed elector-initiated merger plan. An interested
366 person residing in the respective district shall be given a
367 reasonable opportunity to be heard on any aspect of the proposed
368 merger at the public hearing.

369 (8) Notice of the final public hearing on the proposed
370 elector-initiated combined municipal incorporation plan must be
371 published pursuant to the notice requirements in s. 189.417 and
372 must provide a descriptive summary of the elector-initiated
373 municipal incorporation plan and a reference to the public
374 places within the independent special district where a copy of
375 the plan may be examined.

376 (9) After the final public hearing, the governing body of
377 the independent special district may amend the proposed elector-

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378 initiated municipal incorporation plan if the amended version
379 complies with the notice and public hearing requirements
380 provided in this section. The governing body shall approve a
381 final version of the plan within 60 business days after the
382 final hearing.

383 (10) After the final public hearing, the governing body
384 must notify the supervisor of elections of the county in which
385 district lands are located of the adoption of the resolution by
386 the governing body. The supervisor of elections shall schedule a
387 date for the referenda for the district.

388 (11) Notice of a referendum on the municipal incorporation
389 of the independent special district must be provided pursuant to
390 the notice requirements in s. 100.342. The notice must include:

391 (a) A brief summary of the resolution and elector-initiated
392 municipal incorporation plan;

393 (b) A statement as to where a copy of the resolution and
394 petition for municipal incorporation may be examined;

395 (c) The name of the independent special district to be
396 converted to a municipality and a description of the territory
397 included in the plan;

398 (d) The time and place at which the referendum will be
399 held; and

400 (e) Such other matters as may be necessary to call, provide
401 for, and give notice of the referendum and to provide for the
402 conduct of the referendum and the canvass of the returns.

403 (12) The referendum must be held in accordance with the
404 Florida Election Code and may be held pursuant to ss. 101.6101-
405 101.6107. The costs associated with the referendum must be borne
406 by the independent special district.

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407 (13) The ballot question in the referendum placed before
408 the qualified electors of the independent special district to be
409 incorporated must be in substantially the following form:

410
411 "Shall (...name of independent special district...) be
412 converted into (...name of newly created
413 municipality...), which will assume all authority,
414 powers, rights, and obligations of the district?

415 YES

416 NO"

417
418 (14) In any referendum held pursuant to this section, the
419 ballots must be counted, returns made and canvassed, and results
420 certified in the same manner as other elections or referenda for
421 the independent special district.

422 (15) The incorporation plan will not take effect unless a
423 majority of the votes cast in the independent special district
424 are in favor of the plan.

425 (16) If the incorporation plan is approved by a majority of
426 the votes cast in the independent special district, the district
427 shall notify the special district information program pursuant
428 to s. 189.418(2) and the local general-purpose governments in
429 which any part of the independent special district is situated
430 pursuant to s. 189.418(7).

431 (17) If the referendum fails, the conversion process under
432 this section may not be initiated for the same purpose within 2
433 years after the date of the referendum.

434 (18) An independent special district proposed for
435 conversion under an elector-initiated municipal incorporation

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436 plan must continue to be governed as before the approved
437 referendum until the effective date specified in the adopted
438 elector-initiated municipal incorporation plan.

439 (19) The effective date of the incorporation shall be as
440 provided in the elector-initiated combined conversion and
441 incorporation plan, as appropriate, and is not contingent upon a
442 future act of the Legislature.

443 Section 4. Section 257.171, Florida Statutes, is amended to
444 read:

445 257.171 Multicounty libraries.—Units of local government,
446 ~~as defined in s. 165.031(1),~~ may establish a multicounty
447 library. The Division of Library and Information Services may
448 establish operating standards and rules under which a
449 multicounty library is eligible to receive state moneys. For a
450 multicounty library, a local government may pay moneys in
451 advance in lump sum from its public funds for the provision of
452 library services only.

453 Section 5. This act shall take effect July 1, 2012.