

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 593 City of Panacea, Wakulla County
SPONSOR(S): Local Government Affairs Subcommittee, Beshears
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	12 Y, 0 N, As CS	Miller	Miller
2) Finance & Tax Committee	15 Y, 2 N	Wolfgang	Langston
3) Local & Federal Affairs Committee	15 Y, 0 N	Miller	Kiner

SUMMARY ANALYSIS

CS/HB 593 creates the City of Panacea in Wakulla County and sets out the City's charter. The charter provides the following information, authority, powers, and duties of the City:

- Corporate name; purpose of the charter; creation and establishment of the City of Panacea;
- Powers of the City;
- Corporate boundaries of the City;
- A council-manager form of government;
- City council, mayor, and vice mayor; powers and duties, composition of the council, eligibility, terms, compensation, council meetings, vacancies, forfeitures, judge of qualifications, and investigations;
- Administration by City manager, provision for City attorney, clerk, departments, personnel, planning;
- Ordinances and resolutions;
- Financial management, including budget administration and amendment; capital program; public records; annual audits; shortfalls;
- Nominations and qualifications; nonpartisan elections; five at large council seats;
- Powers of initiative and referendum;
- Amendments to the charter; severability; and
- Referendum election; initial council election; transition provisions; eligibility for state-shared revenues; local revenue sources; local option gas tax revenues; contractual services and facilities, including existing solid waste contracts; municipal services district.

The bill provides that the act takes effect only upon its approval by a majority vote of qualified electors residing within the corporate limits of the proposed city.

According to the Economic Impact Statement filed on March 3, 2015, the projected cost of funding the City government and municipal services will be \$144,929 for Fiscal Year 2015-2016 and \$147,828 for Fiscal Year 2016-2017.¹ Anticipated sources of combined local and state funding are projected to be \$239,965 for Fiscal Year 2015-2016 and \$244,764 for Fiscal Year 2016-2017.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

¹ The actual total of the itemized services and costs listed in the EIS filed on March 3, 2015 is \$199,168 for FY 2015-2016. Assuming the 2% cost increase for the following FY 2016-2017 as used in the EIS, the projected costs for that fiscal year would be \$203,151. On March 8, 2015, the proponents filed a revised EIS in which the total of the itemized costs now equals the stated total of \$144,929. The proponents attributed the inconsistency in the first EIS to a scrivener's error. This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Provisions of Law Controlling Municipal Incorporation

Constitutional Provisions

The Florida Constitution states municipalities² 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 necessary to conduct municipal government, perform municipal functions, and render municipal services. Additionally, municipalities are constitutionally authorized to exercise any power for municipal purposes except when expressly prohibited by general or special law.³ The power to tax is granted only by general law.⁴ The legislative body of a municipal government is constitutionally required to be elected.⁵

Municipal Home Rule Powers Act

The Municipal Home Rule Powers Act (Powers Act)⁶ acknowledges the constitutional grant of municipal powers and authorizations. Nothing in the Powers Act may be construed to permit any change in a special law or municipal charter without approval by referendum⁷ if the change affects any of the following:⁸

- The exercise of extraterritorial powers;
- An area that includes lands within and without a municipality;
- The creation or existence of a municipality;
- The terms of elected officers and their manner of election, except for the selection of election dates and qualifying periods for candidates and for changes in terms necessitated by change in election dates;
- The distribution of powers among elected officers;
- Matters prescribed by charter relating to appointive boards;
- Any change in form of government; or
- Any rights of municipal employees.

Formation of Municipalities Act

Florida law governing the formation and dissolution of municipal governments is found in the Formation of Municipalities Act (Formation Act).⁹ The stated purpose of the Formation Act is to provide standards, direction, and procedures for the incorporation, merger, and dissolution of municipalities so as to achieve the following:

- Orderly patterns of urban growth and land use;
- Adequate quality and quantity of local public services;
- Financial integrity of municipalities;

² Art. VIII, s. 2(a), Fla. Const. 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."

³ Art. VIII, s. 2(b), Fla. Const.

⁴ Art. VII, s. 9(a), Fla. Const.

⁵ Art. VIII, s. 2(b), Fla. Const.

⁶ Chapter 166, F.S.

⁷ As provided in s. 166.031, F.S.

⁸ S. 166.021(4), F.S.

⁹ Chapter 165, F.S.

- The elimination or reduction of avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
- Equity in the financing of municipal services.

Under the Formation Act, a municipal government may be established where no such government exists only if the Legislature adopts the municipal charter by special act after determining the appropriate standards have been met.¹⁰

Physical Requirements for Municipal Incorporation¹¹

The area proposed for incorporation must meet the following conditions in order to be eligible for incorporation:

- Be compact, contiguous, and amenable to separate municipal government.
- 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 75,000 or less, and of at least 5,000 persons in counties with a population of more than 75,000.
- 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.
- Have a minimum distance of at least two miles from the boundaries of an existing municipality within the county. Alternatively, it must have an extraordinary natural boundary that requires separate municipal governments.
- Have a proposed municipal charter that prescribes the form of government and clearly defines the responsibility for legislative and executive functions, and does not prohibit the legislative body from exercising its power to levy any tax authorized by the Florida Constitution or general law.
- Have a plan for incorporation honoring existing contracts for solid waste collection services in the affected areas for the shorter of five years or the remainder of the contract term.¹²

Procedural Requirements for Municipal Incorporation

Special Act

The Legislature has chosen to create the charter for a new municipality only by special act.¹³ Special acts are initiated as local bills in the House. A local bill is legislation relating to (or designed to operate only in) a specifically indicated part of the state or purporting to operate within classified territory when such classification is not permissible or legal in a general bill.¹⁴ To incorporate a municipality, the special act must include a proposed municipal charter prescribing the form of government and clearly defining the legislative and executive functions of city government. The special act may not prohibit or limit tax levies otherwise authorized by law.¹⁵

Unless conditioned to become effective only upon approval by qualified electors, no special act may be passed without prior publication of intent to seek such enactment.¹⁶ The notice of intent to file must be published in the manner provided by general law.¹⁷ The Legislature has required special acts creating

¹⁰ An exception to this principle is the home rule authority of Miami-Dade County, where the board of county commissioners has been granted the exclusive power to create municipalities within that county through the Florida Constitution. See s. 165.022, F.S., and Art. VIII, s. 6(e), Fla. Const. Adopted in 1957, the Miami-Dade County Home Rule Charter provides for the creation of new municipalities at Art. 6, s. 6.05.

¹¹ S. 165.061, F.S.

¹² In accordance with Art. I, s. 10, Fla. Const.

¹³ S. 165.041(1)(a), F.S.

¹⁴ *State ex rel. Landis v. Harris*, 163 So. 237, 240 (Fla.1934).

¹⁵ S. 165.061(1)(e)2., F.S.

¹⁶ Art. III, s. 10, Fla. Const.

¹⁷ S. 11.02, F.S., specifies the publication of notice must occur one time, at least 30 days prior to introduction of the local bill in the Legislature.

municipal incorporations to be subject to a referendum. A bill proposing creation of a municipality will be reviewed based on the statutory standards for municipal incorporation.¹⁸

Local Bill Process

As a local bill, a proposed municipal incorporation also must meet the House of Representatives' Local Bill Policy, which provides that no local bill may be considered by the Local Government Affairs Subcommittee – or other House committees or subcommittees – prior to the receipt of an original Economic Impact Statement and a Local Bill Certification Form.¹⁹ The Economic Impact Statement should assess the cost of implementation, state who will bear such cost, and identify who will benefit from the passage of the special act. The Local Bill Certification Form certifies the purpose of the bill cannot be accomplished locally, a public hearing has been held, all statutory and constitutional requirements have been met, and a majority of the local legislative delegation²⁰ approves the bill.

Feasibility Study

A feasibility study and a local bill proposing the municipal government charter must be submitted for consideration of incorporation. 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 (1) the area meets the statutory requirements for incorporation, and (2) incorporation is financially feasible. The feasibility study must be completed and submitted to the Legislature no later than the first Monday after September 1 of the year before the regular legislative session during which the municipal charter would be enacted.²¹

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:

- The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.
- The major reasons for proposing the boundary change.
- 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.
- 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.
- 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 current service.
- A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such proposed services.
- The names and addresses of three officers or persons submitting the proposal.
- Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:

¹⁸ S. 165.061, F.S.

¹⁹ Florida House of Representatives, Local Government Affairs Subcommittee, Local Bill Policies and Procedures Manual 2015-2016 (Tallahassee, Florida: The Florida House of Representatives, published annually).

²⁰ A legislative delegation is a group of legislators representing the same county.

²¹ Se. 165.041(1)(b), F.S. For any proposed incorporations to be considered during the 2015 Legislative Session, this deadline fell on September 8, 2014.

- 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.
- A five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets.
- 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.
- Evaluation of the alternatives available to the area to address its policy concerns.
- Evidence that the proposed municipality meets the standards for incorporation in s. 165.061, F.S.

In counties that have adopted a municipal overlay for municipal incorporation,²² such information must also be submitted to the Legislature. This information should be used to evaluate the feasibility of a proposed municipal incorporation in the geographic area.

The Proposed City of Panacea²³

Panacea is a historic fishing and tourist waterfront village on Florida's Gulf Coast. Located 28 miles southwest of Tallahassee in southwestern Wakulla County, Panacea is surrounded on the north and west by the St. Marks National Wildlife Refuge, to the east by Dickerson and Levy Bays, and to the south by marshlands merging into Ochlockonee Bay. According to the 2010 U.S. Census, the population of this Census Designated Place was 816.

Founded in 1895, Panacea takes its name from a number of small sulfurous mineral springs in the area purported to have healing properties. After a constitutional ban on fishing nets exceeding 500 square feet was adopted in 1994, the seafood industry in the area declined. After application was made by Wakulla County, in 2001 Panacea was designated a Waterfront Florida Partnership Community. Since that time interested parties have implemented the Partnership Committee as part of the Waterfront Florida designation, developed the Vision 2020 strategic document, and formed the current advocate for municipal incorporation, Panacea Waterfronts Florida Partnership, Inc.

The Panacea 2020 strategic planning document projected three economic engines for the community:

- Sustainable fishing village for commercial, sport, and recreational fishing/tourism;
- Ecological-friendly retirement/vacation community; and
- High value seafood.

Feasibility of the Proposed City of Panacea

Introduction

This section examines whether the proposed city meets the statutory criteria for the form and structure of the proposed municipal government and demonstrates sufficient fiscal integrity for self-governance.

The 2014 Feasibility Study: Evaluation and Responses

The proponents of municipal incorporation submitted their first feasibility study in 2013, which was found to contain a number of deficiencies. A revised feasibility study (2014 Study) was submitted timely in September 2014, evaluated by staff, and evaluations of the study were requested from the

²² Pursuant to s. 163.3217, F.S.

²³ The information in this section is drawn from the feasibility study, A Study of Municipal Incorporation of Panacea, Florida (rev. Aug. 2014), prepared by the Conservation Clinic at the University of Florida, Levin College of Law; Waterfronts Florida Partnership Program, Community Case Studies (2009), 64-69, at <http://www.floridajobs.org/Search?q=waterfronts>, and that memorandum submitted to Subcommittee staff by the Dept. of Economic Opportunity dated 1/29/2015.

Departments of Revenue (DOR) and of Economic Opportunity (DEO) and from the Office of Economic and Demographic Research (EDR).

As discussed in greater detail below, the 2014 Study provided information on each element required by statute.²⁴ However, while the draft municipal charter for the most part appeared to provide the elements required for municipal governance, one section providing for a private, non-profit entity to choose the interim city commission to serve from the date of incorporation until the general election of 2016 appeared problematic.²⁵ The timing of electing and seating the initial city commission affects the ability of DOR to distribute revenue sharing funds.²⁶

After the initial review by House staff, DOR, DEO, and EDR were requested to review and evaluate the 2014 Study and provide responses by February 1, 2015. Responses to the 2014 Study were received from DOR,²⁷ DEO,²⁸ and EDR.²⁹

The bill was filed on 2/4/2015 with a revised proposed charter providing for a special election of an interim city commission shortly after the referendum on incorporation. Because of the potential impact of this change on the evaluation of revenue sharing by DOR, a supplemental response was requested from the agency. DOR provided a supplement drawn to the filed bill³⁰ and a standard agency evaluation of pending legislation.³¹

After reviewing the agency responses and the initial Economic Impact Statement (First EIS) filed for the bill,³² the incorporation proponents were requested to provide additional information on the ability of the proposed City to meet its financial commitments and annual fiscal reporting obligations. The proponents' responses and additional materials were received by staff on 3/2, 3/4, and 3/5 and used in preparing this analysis.³³

Meeting the Statutory Criteria for Municipal Incorporation

The following chart summarizes the required statutory criteria for municipal incorporation and how each element is addressed in the 2014 Study.

Statute	Requirement	Provision in 2014 Feasibility Study	Page no.
165.041(1)(b)1.	The location of territory subject to boundary change and a map of the area which identifies the proposed change.	Full legal description of area proposed for incorporation, recited at lines 75-148 of the bill, together with boundary map. A copy of the general boundary map is attached to this analysis as Appendix B.	6-7
165.041(1)(b)2.	The major reasons for proposing the boundary change.	Due to its relatively isolated location in the county, the area seeks greater control over land use, planning, zoning, and economic development decisions.	7-10
165.041(1)(b)3.a.	A list of the current land use designations applied to the subject area in the county comprehensive plan.	As listed in the Wakulla County Comprehensive Plan, the area has property designated as Rural-2, Urban-1, Urban-2, and Public.	10

²⁴ Ss. 165.041(1)(b) & 165.061(1), F.S.

²⁵ Article III, section 11(a)(12), of the Florida Constitution prohibits any special law creating a private corporation or granting a privilege to a private corporation.

²⁶ S. 218.21(3), F.S.

²⁷ DOR Memorandum on Proposed Incorporation – City of Panacea (1/22/2015) (herein 2015 DOR Initial MM).

²⁸ Dept. of Economic Opportunity, Memorandum on Municipal Incorporation Feasibility Study for Panacea (1/29/2015) (herein 2015 DEO Response).

²⁹ Office of Economic and Demographic Research, Letter to Local and Federal Affairs Committee (2/2/2015, Feb. 1 having fallen on a Sunday) (herein 2015 EDR Response).

³⁰ DOR Supplemental Memorandum on Proposed Incorporation – City of Panacea (2/23/2015) (herein 2015 DOR Supplemental MM).

³¹ 2015 Department of Revenue Legislative Bill Analysis for HB 593 (2/27/2015) (herein 2015 DOR Bill Analysis).

³² Two EIS forms have been completed and filed. The First EIS on 3/3/2015 and the Second EIS on 3/8/2015.

³³ A list of materials received is attached as Appendix A to this Analysis.

Statute	Requirement	Provision in 2014 Feasibility Study	Page no.
165.041(1)(b)3.b.	A list of the current county zoning designations applied to the subject area.	Land within the proposed boundaries is zoned as: Conservation (P-2) Agriculture (AG) Rural Residential (RR-5) Semi-Rural Residential (RR-1 or RSU-1) Single-Family Residential (R-1) Multifamily Residential (R-3) Mobile Home Residential (RMH-1) Travel Trailer Park Commercial (CTTP) General Commercial (C-2) Heavy Commercial (C-3) Downtown Commercial (C-4) Light Industrial (I-1) Planned Unit Development Dist. (PUD)	11
165.041(1)(b)3.c.	A general statement of present land use characteristics of the area.	Subdivided lands with existing roadways, utilities; primarily residential and low density urban/commercial development.	11
165.041(1)(b)3.d.	A description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.	None at this time.	12
165.041(1)(b)4.	A list of all public agencies, such as local governments, school districts, and special districts, whose current boundary falls within the boundary of the territory proposed for the change or reorganization.	Wakulla County <ul style="list-style-type: none"> • Under County Commission: <ul style="list-style-type: none"> ➤ Emergency Medical Services ➤ Fire & Rescue ➤ Parks & Recreation ➤ Planning, Zoning, Development ➤ Solid Waste (Waste Pro) ➤ Road maintenance & repair ➤ Wastewater • Sheriff • Property Appraiser • Supervisor of Elections • Tax Collector • Clerk of Court • School District NW Fla. Water Management Dist. Opportunity Florida, Inc. Apalachee Regional Planning Council Capital Region Transportation Planning Agency Apalachee Region Metropolitan Planning Organization FWC Fla. DEP Fla. DOT	12
165.041(1)(b)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 current service.	The following services are, and will continue to be, provided by Wakulla County at no increased costs to residents or the City: EMS – Area annual cost \$21,402 Fire/Rescue – Volunteer, funded by County MSBU; annual rates \$75/residential unit, \$0.06/ft ² commercial, \$0.17/acre undeveloped land. Area annual cost \$40,275. Law Enforc. – Sheriff’s Office; area annual cost \$265,824. Solid Waste – County contract with Waste Pro, annual County assessment of \$196/residential unit. Area annual cost \$102,252. Transportation – Road maintenance by County, area does not benefit from other transportation	12-17

Statute	Requirement	Provision in 2014 Feasibility Study	Page no.
		services such as transit. Area annual cost \$44,295. Wastewater – County-wide sewer system, paid through water bills. Area annual cost \$134,412. Potable Water – Panacea Area Water System, Inc. Area annual cost \$161,100. Services to be assumed by City: Parks & Recreation – Area annual cost \$15,590. Planning & Development – Area annual costs \$7,800.	
165.041(1)(b)6.	A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such proposed services.	Present services provided by County will continue with the exception of Parks & Recreation and Planning & Development. Proposed City services and projected annual costs: Parks & Recreation - \$24,000 Planning & Development - \$7,800 Part-time City Attorney - \$24,000 City Manager - \$36,000 General Operations <ul style="list-style-type: none"> • PT admin. assistant - \$24,000 • Gen. Liab. Ins. - \$5,346 • Workers' Comp Ins. - \$360 • Proposed City Hall (will use existing facility) <ul style="list-style-type: none"> ➢ Utilities/Communications - \$5,000 ➢ Website & records - \$2,100 ➢ Facility, furniture, supplies - \$7,000 Equipment Lease/Purchase - \$18,000 Elections - \$2,700 biennially	17-22
165.041(1)(b)7	The names and addresses of three officers or persons submitting the proposal.	Information fully provided for Walter B. Dickson, Mark Mitchell, Fred Crum.	23
165.041(1)(b)8.a.	Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation: -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.	[Note: The following are estimates of annual revenues provided in the 2014 Study, projected to begin in FY 2015-2016 except as otherwise noted. Further analysis provided by DOR is discussed below.] State Shared Half-Cent Sales Taxes: \$26,283 <u>Participation will require waiver of reqs. of s. 218.63(1), F.S.</u> Communications Services Tax: \$27,259 (beginning in FY 2016-2017; per DOR analysis these collections would begin in FY 2017-2018). Public Services Taxes: \$95,880 Franchise Fees - \$64,442 State Revenue Sharing: \$12,610 Initial 3 mill levy of City ad valorem taxes: \$95,900 Business Taxes - \$4,303 Planning & Development Fees - \$7,687 Gas Taxes – revenues to which City could be entitled would instead continue to go to Wakulla County for continued road maintenance, per proposed interlocal agreement.	23-28
165.041(1)(b)8.b.	Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation: -A five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets.	Estimated revenues and expenses for first 5 years after incorporation project revenues to exceed expenses by at least \$100,000 annually, increasing City reserves each year.	28-30

Statute	Requirement	Provision in 2014 Feasibility Study	Page no.
165.041(1)(b)9	Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.	Sufficient detail provided. Projected area population for 2015 is 852 and population density is 0.36 person/acre. As discussed under s. 165.061(1)(b) & (c), F.S., below, and in the discussion, incorporation will require exemptions from these general legal reqs.	30-31
165.041(1)(b)10.	Evaluation of the alternatives available to the area to address its policy concerns.	The alternatives are to continue relying on the county to address local issues or to rely more on private entities to address these concerns. Neither provide the same degree of local control over fiscal and planning policies as does municipal incorporation.	31-32
165.041(1)(b)11./ 165.061(1)(a)	Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061: -New municipality is compact and contiguous and amenable to separate municipal government.	S. 165.041(1)(b)11., F.S., incorporates the statutory criteria for new municipal incorporations. As shown in the map attached as Appendix B, the area proposed for incorporation is contiguous and compact, with no outlying enclaves.	32
165.041(1)(b)11./ 165.061(1)(b)	Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061: -New municipality has a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 population in counties with a population of more than 75,000.	The area proposed for municipal incorporation does not meet this element, as the population is estimated at 852. The 2014 Study notes the population of Wakulla County overall is 30,776, and the proposed City of Panacea would have a population greater than the two present incorporated municipalities in the county. As of the 2010 U.S. Census, Sopchoppy had a population of 457 and St. Marks a population of 293. <u>Incorporation would require a waiver of this statutory requirement.</u>	33-34
165.041(1)(b)11./ 165.061(1)(c)	Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061: -New municipality has 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.	The area proposed for municipal incorporation does not meet this element, as the population density of the area is 0.38 person/acre. The population density of the other two municipalities in the county is 0.48 person/acre for Sopchoppy, and 0.24 person/acre for St. Marks. <u>Incorporation would require a waiver of this statutory requirement.</u>	34
165.041(1)(b)11./ 165.061(1)(d)	Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061: -New municipality has a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least two miles or has an extraordinary natural boundary which requires separate municipal government.	The area is not within two miles of any existing municipality. The City of Sopchoppy is nearest and is over nine miles away.	35
165.041(1)(b)11./ 165.061(1)(e)1.	Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061: -Proposed charter prescribes the form of government and clearly defines the responsibility for legislative and executive functions.	The 2014 Study incorporated a proposed charter as an appendix. The proposed municipal charter now is set out in the bill.	35
165.041(1)(b)11./ 165.061(1)(e)2.	Evidence that the proposed municipality meets the requirements for incorporation	Neither the 2014 Study nor the bill prohibits the city commission of the proposed City from levying any	35

Statute	Requirement	Provision in 2014 Feasibility Study	Page no.
	pursuant to s. 165.061: -Proposed charter does NOT prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.	authorized tax.	
165.041(1)(b)11./ 165.061(1)(f)	Per s. 10, Art. I, Fla. Const., plan honors existing solid-waste contracts in the affected geographic area subject to incorporation. (May provide for existing contracts for solid-waste-collection services to be honored only for five years or the remainder of the contract term, whichever is less, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or evergreen provisions, be provided to the municipality within a reasonable time after a written request to do so.)	As indicated in the sections on municipal services, the proposed City will continue to honor and rely upon the County's present contract for solid-waste services.	35
165.041(1)(c)	Incorporates information on county's municipal overlay adopted per s. 163.3217, F.S.	N/A ³⁴	N/A

To determine if the 2014 Study showed the proposed City would meet the necessary requirements for municipal incorporation, particularly as to sufficiency of revenue for services, DOR, DEO, and EDR were asked to evaluate the sufficiency and soundness of the proposal. Unless noted otherwise below, the responses of DEO³⁵ and EDR³⁶ indicated the provisions in the 2014 Study did not raise concerns and appeared to comply with the statute specified. For some cost components EDR was concerned the provisions of the 2014 Study were based on older data; the proponents were asked to address this concern and their responses are noted. The comments of DOR on the 2014 Study were limited to revenue issues;³⁷ on the bill, DOR commented primarily on bill sections 9 and 10.³⁸

Section 165.041(1)(b)1., F.S. – Location and Boundaries

DEO and EDR concluded the 2014 Study adequately addressed this requirement and DOR had no comment.

Section 165.041(1)(b)2., F.S. – Major Reasons for Boundary Change

DEO concluded the 2014 Study adequately addressed this requirement, EDR found no significant issue, and DOR had no comment.

Section 165.041(1)(b)3., F.S. – Land Use, Zoning Designations

DEO concluded the 2014 Study adequately addressed this requirement, EDR deferred to DEO's evaluation, and DOR had no comment.

³⁴ Wakulla County does not have a municipal overlay for the Panacea area. See Wakulla County Code of Ordinances at https://www.municode.com/library/fl/wakulla_county/codes/code_of_ordinances?nodeId=PTILADECO (accessed 3/7/2015). Apparently, a Special Municipal Overlay was considered for the area but not presently in effect. See, https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.mywakulla.com%2Fdocument_center%2F02_04_08_Panacea_Special_Overlay.doc (accessed 3/7/2015).

³⁵ 2015 DEO Response.

³⁶ 2015 EDR Response.

³⁷ 2015 DOR Initial MM; 2015 DOR Supplemental MM.

³⁸ 2015 DOR Bill Analysis.

Section 165.041(1)(b)4., F.S. – Public Entities Currently Within the Incorporation Area

DEO and EDR concluded the list in the 2014 Study appeared complete and adequately addressed this requirement, and DOR had no comment.

Section 165.041(1)(b)5., F.S. – Current Services and Costs

DEO concluded the 2014 Study adequately addressed this requirement and DOR had no comment. EDR expressed concern that the cost data appeared out of date and possibly unreliable.

Responding to a staff request for additional information based on EDR’s concerns,³⁹ the proponents reviewed the data sources suggested by EDR and revised the cost of services information for the proposed City based on 2014-2015 Wakulla County Budget data, as follows:

Service	2014 Study Estimate	3/2/2015 Estimate	Net Change
Emergency Medical	\$21,402	\$24,421	+ \$3,019
Fire/Rescue	\$40,275	\$34,447	- \$5,828
Law Enforcement	\$265,655	\$268,655	+ \$3,000
Parks & Recreation	\$15,549	\$14,608	- \$941
Planning & Development	\$7,800	\$7,909	+ \$109
Solid Waste Collection	\$105,252	\$104,761	- \$490
Transportation/Road Maintenance	\$44,295	\$49,332	+ \$5,037

The changes in the updated figures are attributed to an increase in overall county population and the impact of that change on per capita expenses for each item. Although the revised amounts indicate an overall increase of \$3,906 for the delivery of services in the Panacea area, the resulting adjustment in costs for those services the new City will take over responsibility (Parks & Recreation, Planning & Development) was actually lower by \$832 annually.⁴⁰

EDR also noted the 2014 Study presumed the majority of public services currently provided by the county would continue after incorporation with no additional cost to the Panacea residents. Unless and until the residents approve creation of the City and elect a board of city commissioners, there is no basis for an interlocal agreement⁴¹ for continuing provision of services.

Section 165.041(1)(b)6., F.S. – Proposed Services and Costs

DEO concluded the 2014 Study adequately addressed this requirement and DOR had no comment. EDR expressed concern that the cost data appeared out of date and possibly unreliable.

The First EIS, dated 3/3/2015, and the Second EIS, dated 3/8/2015, both attached to this analysis, state the following projected cost budgets for the indicated services:

Service	Budgeted Cost in First EIS	Budgeted Cost in Second EIS
Legal	\$24,000	\$24,000
Managerial	\$36,000	\$36,000

³⁹ Letter from Jon C. Moyle, Attorney for the Proponents (3/2/2015), including “Updated Financial Information from Wakulla County’s 2014-5 Budget.”

⁴⁰ Id.

⁴¹ An interlocal agreement is one entered into by a local government with one or more other agencies or local governments to provide services and facilities on the basis of mutual advantage and the most efficient use of their respective powers. S. 163.01(2), (3)(a), F.S. Such an agreement requires a duly authorized and existing local government exists to negotiate and enter such an agreement.

Service	Budgeted Cost in First EIS	Budgeted Cost in Second EIS
Planning	\$7,603	\$7,603
Parks & Recreation	\$46,314	\$24,000
General Operation	\$24,000	\$24,000
Utilities	\$49,931	\$4,931
Record Maintenance	\$2,081	\$2,081
Services & Supplies	\$1,040	\$1,040
Insurance	\$5,598	\$5,598
Elections	\$2,601	\$2,601
Contingency Fund	\$0	\$13,075
Total	\$199,168⁴²	\$144,929

For the following listed services or operations of the proposed City, the 2014 Study and the First EIS state different estimates, while the Second EIS estimates slightly lower costs than the 2014 Study:

Service	2014 Study Actual Present Cost	2014 Study Projected City Cost	3/2/2015 Response Actual Present Cost	First EIS Projected City Cost	Second EIS Projected City Cost
Admin. Assistant	N/A ⁴³	\$24,000	N/A	--	
General Operation	N/A	--	N/A	\$24,000	\$24,000
Parks & Recreation	\$15,549	\$24,000	\$14,608	\$46,314	\$24,000
Planning	\$7,800	\$7,800	\$7,909	\$7,603	\$7,603
Utilities	N/A	\$5,000	N/A	\$49,931	\$4,931
Total Projected City Costs for These Services	--	\$60,800	--	\$127,848	\$60,534

Section 165.041(1)(b)7., F.S. – Names of 3 Persons Submitting the Proposal

Other than an apparent misspelling, DEO and EDR concluded the list in the 2014 Study appeared complete and adequately addressed this requirement, and DOR had no comment.

Section 165.041(1)(b)8.a. & 8.b., F.S. – Fiscal Capacity and Organizational Plan

DEO concluded the 2014 Study adequately addressed this requirement as to both components. EDR deferred to DOR to comment on the revenue projections⁴⁴ but expressed concern that the cost data appeared out of date and possibly unreliable. EDR also noted the proposed five-year plan in the 2014 Study did not clearly show funding directed to local control over future economic growth and other stated goals for the proposed incorporation:

The Study (p. 2) also states that one of the important conclusions is that “the overarching catalyst for Panacea residents seeking formal municipal incorporation is to more directly influence and increase local authority over the future economic growth and community viability of Panacea, including waterfront and other small business development, expansion of tourism-based industries, significant infrastructure and other capital improvements, and community beautification efforts.” ***Funding for these community goals does not seem to be reflected in the five-year operational plan. An indication of which goals the community will attempt to achieve within the first five years and the associated expenses would help***

⁴² As explained above in note 1, the EIS stated the total costs for the City in FY 2015-2016 would be \$144,929, but the actual total of the itemized services and costs listed in the EIS is \$199,168.

⁴³ “N/A” = not applicable because the City does not yet exist.

⁴⁴ 2015 EDR Response, p. 4.

alleviate this concern. Further, an indication of the additional revenues that would be imposed and collected to pay for these expenses is necessary, if they are included in the operational plan. Absent answers to these questions, the validity of the revenue and expense figures presented in this element cannot be substantiated. The incorporation proponents and/or the Study's authors should consider correcting these deficiencies.⁴⁵

DOR extensively analyzed the fiscal capacity of the proposed City. The initial response focused on potential conflicts between the initial dates of eligibility for state revenue sharing and other tax distributions and when DOR could actually transmit such funds to the proposed City.⁴⁶ DOR also provided a table of estimated revenue sharing distributions to which the City would be entitled upon meeting (or waiving) the requirements of s. 218.23, F.S., as well as the impact of these distributions on the revenues of Wakulla County and the cities of St. Marks and Sopchoppy.⁴⁷

Revenue Sharing

To be eligible for revenue sharing, a municipality not only must exist but must have elected and seated its legislative body.⁴⁸ As a unit of local government, the municipality also must comply with the requirements of s. 218.23, F.S., including reporting its finances for its most recently completed fiscal year⁴⁹ and either levied ad valorem taxes of at least 3 mills or collected revenue from specified other sources equivalent to what would be raised by such an ad valorem assessment.⁵⁰

DOR noted the bill provides for the City to be eligible for revenue sharing beginning July 1, 2015, and waives the requirements of s. 218.23(1), F.S., through December 31, 2019. The bill also waives the financial reporting and annual audit of City financial accounts through fiscal year 2015-2016.⁵¹

Half-Cent Sales Tax

A newly-incorporated municipality not only must meet the statutory requirements for revenue sharing to participate in the local government half-cent sales tax distribution but also all applicable criteria for incorporation under s. 165.061, F.S.⁵² Although the proposed City does not meet the minimum levels for population⁵³ and population density,⁵⁴ DOR interprets the waivers of these requirements in the bill as meeting the criteria for the City to receive this distribution.

Gas Tax Revenues

A newly-created municipality entitled to receive distributions under ch. 218, Parts II (Revenue Sharing) and VI (Half-Cent Sales Tax), F.S., is entitled to receive distributions of certain gas taxes if levied by the county.⁵⁵ These distributions cannot begin until the new municipality's first full fiscal year.⁵⁶

Wakulla County imposes local option gas taxes⁵⁷ in which the City would be entitled to share. The 2014 Study states revenue from gas taxes is not estimated because the intent of the City would be for the

⁴⁵ 2015 EDR Response, p. 4 (emphasis in original).

⁴⁶ 2015 DOR Initial Response, p. 2-4.

⁴⁷ A copy of the table is attached to this analysis as Appendix C. In its supplemental response DOR affirmed the continuing accuracy of these estimates. 2015 DOR Supplemental Response, p. 4.

⁴⁸ S. 218.21(3), F.S.

⁴⁹ S. 218.23(1)(a), F.S. This report is submitted to the Dept. of Financial Services. S. 218.32, F.S.

⁵⁰ S. 218.23(1)(c), F.S.

⁵¹ 2015 DOR Supplemental Response, p. 2. DOR noted its uncertainty whether the bill referred to the fiscal year of the state or the City, since the City's fiscal year would run Oct. 1 – Sept. 30. As s. 218.23(1)(a), F.S., requires a local government report "for its most recently completed fiscal year," it would seem this waiver would be through September 30, 2016.

⁵² S. 218.63(1), F.S.

⁵³ S. 165.061(1)(b), F.S., requires a minimum population of 1,500 for municipal incorporation in counties with a population less than 75,000.

⁵⁴ S. 165.061(1)(c), F.S., requires a minimum population density of 1.5 person/acre.

⁵⁵ S. 336.025(4)(b), F.S.

⁵⁶ *Id.*

County to retain all such funds and continue to perform all road maintenance and repair. However, DOR noted a potential problem because the bill provides for the City to be entitled to receive such revenues beginning July 1, 2015. As the City otherwise would not be entitled to receive distributions until October 1, 2015, and as the city council will not be elected and seated until September 15, rather than create uncertainties as to what funds may accrue and be distributed DOR suggested the bill be revised to provide the entitlement to local option gas taxes begins on October 1, 2015. (This suggestion was accepted and the bill amended on March 10, 2015, by the Local Government Affairs Subcommittee to change the date to October 1, 2015.)

Local Communications Services Tax

Counties and municipalities by ordinance may levy a tax on communication services⁵⁸ which applies to taxable services after January 1 of a given year.⁵⁹ A municipality adopting, repealing, or changing such a tax must notify DOR by September 1 preceding the January 1 in which the change would go into effect.⁶⁰ Because of these requirements, and because the initial City commission meeting is scheduled for September 15, 2015, the City may not be able to adopt an ordinance imposing the tax in time to qualify for the tax to go into effect on January 1, 2016. If so, the earliest the City could begin to receive revenues from a communications services tax imposed by City ordinance would be after January 1, 2017.⁶¹ However, in the past DOR has accommodated municipalities adopting a taxing ordinance even in September because the necessary data would be updated effective as of the following January 1. If so, a tax ordinance adopted in September 2015 could be effective as of January 1, 2016.

DOR further noted the bill provides for the present tax imposed by Wakulla County to be shared with the City in proportion of the projected population of the City to the population of the unincorporated portion of the county before the incorporation took effect. For such an arrangement the county and City must update data on service addresses with DOR by September 1, 2015.⁶² However, because the present rate imposed in unincorporated Wakulla County is .0582 and the rate for the City likely would be .0060 because of the applicable statutory conversion rate,⁶³ the sharing plan in the bill could actually result in lower revenues both for the City and the unincorporated area.⁶⁴

Discretionary Sales Surtax

DOR noted neither the 2014 Study nor the proposed charter discussed the 1% Infrastructure Sales Surtax imposed by Wakulla County, which tax expires in December 2017 and currently is shared with the two existing cities, St. Marks and Sopchoppy.

The following table summarizes DOR’s estimates of revenue sharing distributions to which the City would be entitled in state fiscal year 2014-2015:⁶⁵

Type of Distribution	Estimated Amount
Municipal Revenue Sharing	\$15,903
Half-Cent Sales Tax	\$27,933
Total	\$43,836

The First EIS projected combined local and state funding for FY 2015-2016 to be \$239,965 and for FY 2015-2016 to be \$244,764. The Second EIS projected combined local and state funding for FY 2015-2016 to be \$239,965 and for FY 2015-2016 to be \$244,724.

⁵⁷ Wakulla County Code of Ordinances, Ch. 29, Art. II.

⁵⁸ S. 202.19(1), F.S. “Communication services” are defined by s. 202.11(1), F.S., with a number of exclusions such as one for internet access, electronic mail, or similar online computer services. S. 202.11(1)(h), F.S.

⁵⁹ S. 202.21, F.S.

⁶⁰ *Id.*

⁶¹ 2015 DOR Supplemental MM, p. 3.

⁶² 2015 DIR Supplemental MM, p. 3.

⁶³ Ss. 212.054 & 212.055, F.S.

⁶⁴ 2015 DOR Bill Analysis, p. 5-6.

⁶⁵ From Appendix C.

Section 165.041(1)(b)9, F.S. – Data and Analysis Showing Incorporation is Necessary and Feasible

DEO concluded the 2014 Study included sufficient data and analysis to show incorporation was both necessary and feasible. EDR generally concurred but again noted the reliance on older data in other calculations called into question the reliability of this analysis. DOR had no opinion.

Section 165.041(1)(b)10. – Evaluation of Alternatives to Incorporation

DEO found the 2014 Study adequately met this requirement, EDR took no position because this was a determination subject to the opinion of the reader,⁶⁶ and DOR took no position.

Section 165.041(1)(b)11., F.S. – Evidence the Proposed Municipality Meets the Requirements for Incorporation under s. 165.061(1), F.S.

Section 165.061(1)(a), F.S. – Compact, Contiguous, Amenable to Municipal Gov't.

DEO and EDR concurred the area proposed for incorporation met this requirement. DOR took no position.

Section 165.061(1)(b), F.S. – Minimum Population

A municipality created in a county with a population less than 75,000 must have a minimum population of 1,500 under this statute. As of April 1, 2014, the estimated population of Wakulla County was 31,285.⁶⁷ The 2014 Study estimates the population of the proposed City at 862. DEO, EDR, and DOR concur that the proposed City does not meet this requirement. A waiver will be required in order for the City to access certain revenue sharing distributions, as explained above.

Section 165.061(1)(c), F.S. – Minimum Population Density

Barring extraordinary circumstances, a proposed municipality must have an average population density of 1.5 persons/acre. The Panacea area has an estimated population density of 0.38 persons/acre. Both DEO and EDR note the proposed area does not meet the population density requirement. DEO observes “a community’s commitment to improving its economy, especially based on its existing assets ... could be considered ‘extraordinary conditions.’” A waiver will be required in order for the City to access certain half-cent sales tax distributions, as explained above.

Section 165.061(1)(d), F.S. – Minimum Distance from Existing Municipalities

DEO and EDR concurred the Panacea area is greater than two miles from an existing municipality. DOR took no position.

Section 165.061(1)(e)1. & (e)2. – Proposed Municipal Charter

DEO concluded the proposed charter both prescribed the form of government and did not prohibit the City commission from exercising its power to levy any tax authorized by the Florida Constitution or general law. EDR deferred to DEO; DOR took no position.

It appears the proposed charter established by the bill complies with this requirement.

Section 165.061(1)(f), F.S. – Solid Waste Contracts

⁶⁶ 2015 EDR Response, p. 5.

⁶⁷ Bureau of Economic and Business Research, University of Florida, *Florida Estimates of Population 2014*, p. 21, at <http://edr.state.fl.us/Content/population-demographics/reports/index.cfm> (accessed 3/8/2015).

Concerning existing contracts for solid waste disposal, the statute expressly incorporates the constitutional prohibition against any law impairing contracts.⁶⁸ The 2014 Study stated existing solid waste contracts would be honored and the bill takes no action to impair such contracts.

Section 165.041(1)(c), F.S. – Information on County Municipal Overlay

Wakulla County does not have a municipal overlay for the Panacea area.⁶⁹

Ability of Proposed City to Meet Annual Financial Reporting Requirements

As a local government entity, the City will be required to file with the Dept. of Financial Services a copy of its annual financial report for the previous fiscal year.⁷⁰ If the City's total revenues, or total expenditures and expenses, exceed \$250,000, it will have to have an annual financial audit by an independent certified public accountant.⁷¹

The proponents were asked to provide information on the proposed City's ability to meet its annual financial reporting obligations. The proponents state sufficient funds are included within the general operation expense item reported on the EIS (amount of \$24,000) to pay for the expenses necessary to prepare and file the annual financial report.⁷²

Effect of Proposed Changes

The bill creates the City of Panacea in a previously unincorporated area of Wakulla County, Florida, and provides a charter structuring the city government, providing powers and authority, and providing for a transition to the fully-functioning city government.

The charter provides for a council-manager form of government, with 5 city council members serving 4 year terms, elected in non-partisan elections. After each election the council will select two of their members to serve 2 year terms as mayor and vice-mayor, respectively. Council members are elected to 5 at large seats.

The council is the sole judge of the qualifications of the members, including forfeiture of office. Procedures are provided for determining and filling vacancies on the council. Council members are entitled to reimbursement as provided in general law for travel and per diem expenses. No compensation is established initially but the council is authorized to provide for compensation of its members; however, no such compensation may take effect until after the terms of members elected at the next regular election.

The council will employ a city manager, who serves as the chief administrative officer of the City, serves at the pleasure of the council, and who may also serve as city clerk. The city manager acts under the supervision of the council. The administrative section of the charter also provides for the office and duties of the city clerk, authorizes expenditures of City funds only on due appropriation, and authorizes the council to create or terminate boards and agencies.

The legislative power of the City is vested in the council. The city council is to conduct regular public meetings on due notice. Special meetings may be conducted on the call of the mayor or a majority of council members. Meetings of the council may not begin before 7:00 a.m. or after 10:00 p.m. The council exercises this authority through the adoption of ordinances and resolutions.

The charter provides for a fiscal year of October 1 – September 30. Under the City budget process, a minimum of 2 public hearings on the budget must be held before the council may adopt it. The City is

⁶⁸ Art. I, s. 10, Fla. Const.

⁶⁹ See, n. 34, supra.

⁷⁰ S. 218.32(1)(a), F.S.

⁷¹ S. 218.39(1), F.S.

⁷² Letter of Jon Moyle, Esq. (3/4/2015).

authorized to issue bonds and revenue bonds, and is required to perform an annual independent audit of all financial accounts.

The charter provides for an initial special election on August 18, 2015, to elect 5 council members. Those elected to seats 1, 3, and 5 will serve the remainder of 2 year terms ending in November 2016. Those elected to seats 2 and 4 will serve the remainder of 4 year terms ending in November 2018. Beginning with the general election in November 2016 city council members will be elected to full 4 year terms.

The referendum on creating the City will be held on June 30, 2015. If approved, the City is created and incorporated effective July 1, 2015.

The bill provides the following waivers of general law necessary to complete the incorporation and for the operation of this City:

- Waives the requirements of s. 218.23(1), F.S., from the date of incorporation (7/1/2015) to December 31, 2019, in order for the City to be eligible to receive revenue sharing funds.
- Waives the requirements of s. 218.23(1), F.S., for the purpose of auditing and financial reporting for fiscal year 2015-2016.
- Waives the minimum population requirement of s. 165.061(1)(b), F.S., based on the historic coastal character of the area.
- Waives the minimum population density requirement of s. 165.061(1)(c), F.S., for the same purpose.

The bill will result in new distributions of communications services tax, revenue sharing, local option gas tax, and half-cent sales tax funds to the new City, reducing certain amounts currently distributed to Wakulla County and the cities of St. Marks and Sopchoppy (see Appendix C). The bill is silent on the city's authority to levy ad valorem taxes. The Florida Constitution authorizes municipalities to levy 10 mills. The Florida Constitution and general law will control the city's ability to levy ad valorem taxes. The City plans to impose ad valorem taxes of 3 mills within its boundaries to fund operations. The 2014 Study relies on imposing and collecting such additional tax revenues to support the financial viability of the proposed city.⁷³

B. SECTION DIRECTORY:

- Section 1. Creates the City of Panacea, provides the charter for the City, establishes the form of government, and provides boundaries. The charter is divided into the following numbered subsections:
- (1) Creates the City, establishes the charter, and states the purposes for incorporation and the charter.
 - (2) Establishes the council-manager form of government.
 - (3) Establishes the physical boundaries of the City.
 - (4) Provides the broad municipal powers of the City.
- Section 2. Also divided into numbered subsections, provides for the city council, mayor, and vice-mayor.
- (1) Creates the 5 member city council, which exercises all charter powers of the City.
 - (2) Requires the city council, at the first regular meeting after each election, to choose one of the council members to serve as mayor for a 2 year term. Provides duties of the mayor.
 - (3) Requires the city council, at the first regular meeting after each election, to choose one of the council members to serve as vice-mayor for a 2 year term. Provides vice-mayor shall serve as acting mayor in absence of mayor.
- Section 3. Provides for election and term of office of city council members, with the exception of the initial special election provided in Section 7.

⁷³ 2014 Study, p. 26.

- (1) Provides 4 year terms for city council members, to be sworn in the 4th Tuesday of November.
- (2) Divides council into 5 at large seats.
- (3) States the qualifications necessary to run for a council seat.
- (4) Describes the circumstances under which vacancies may arise in the office of mayor, vice-mayor, or city council member, including forfeiture of office. Establishes procedures to council to determine the qualifications of members, filling of vacancies on the council. Provides for reimbursement of travel expenses or per diem as according to general law. Authorizes council to provide for compensation of members but such compensation does not go into effect until after the next regular election.

Section 4. Provides for City administration.

- (1) Designates city manager and city attorney as charter officers.
- (2) Provides for appointment, removal, compensation, and filling vacancy of charter officers. Prohibits charter officers from being a council member or candidate for city council while serving as officer.
- (3) Establishes the office of city manager, who serves at the pleasure of the council. Provides full administrative power to the city manager.
- (4) Establishes the qualifications of the city attorney and provides duties and responsibilities.
- (5) Provides for duties of city clerk and authorizes city manager to retain an employee or management firm or to perform the duties of clerk.
- (6) Requires proper appropriation for expenditure of City funds.
- (7) Authorizes the city council to establish or terminate boards and agencies.

Section 5. Provides for the legislative authority of the city council.

- (1) The council shall hold regular meetings that are public meetings.
- (2) Provides for special meetings at the call of the mayor or a majority of council members and notice for such meetings.
- (3) Limits the time of day during which a council meeting may begin.
- (4) Authorizes the council to set its own rules and order of business.
- (5) Provides a majority of council members is a quorum.
- (6) Actions of council are valid only by majority vote of the full council.
- (7) Vests the legislative powers of the City in the council.
- (8) Authorizes establishing City departments by ordinance.
- (9) Provides for adopting codes of technical regulations through the ordinance process.
- (10) Authorizes and provides process for emergency ordinances to meet matters affecting life, health, property, or public peace.
- (11) Authorizes emergency appropriations by resolution when necessary to meet an emergency affecting life, health, property, or public peace.
- (12) Requires recording full minutes of all council meetings as a public record. Provides for codification of City ordinances. Requires all ordinances be signed by council members and the city clerk.
- (13) Prohibits elected City officials from being employed by the City.
- (14) Prohibits council members from interfering with City employees in the course of their duties.

Section 6. Provides authority and process for adopting and implementing City budget.

- (1) Sets City fiscal year as 10/1 – 9/30.
- (2) Provides for adopting annual City budget after at least 2 public hearings. The resolution adopting the budget shall also act as appropriation of the necessary amounts.
- (3) Budgeted expenditures cannot exceed budgeted revenues.
- (4) Provides authority and restrictions on supplemental budgeting of revenue surpluses, actions necessary to revise budget in the event of revenue shortfalls. Prohibits reduction in amounts appropriated for debt service.

- (5) Authorizes city council to issue bonds subject to all legal requirements.
- (6) Authorizes issuing revenue bonds as provided in law.
- (7) Requires independent annual audit of all City accounts.

- Section 7. Provides authority and requirements for all elections under the charter.
- (1) Defines City electors as resident of the City.
 - (2) Requires all elections for city council to be nonpartisan.
 - (3) Sets dates for elections. On August 18, 2015, a special election will be held to fill seats 1, 3, and 5 for the remainder of 2 year terms, ending in 2016. Seats 2 and 4 will be filled for the remainder of 4 year terms ending in 2018. Beginning in 2016, council members will be elected to 4 year terms.
 - (4) Provides procedures to resolve elections where no person receives a majority of votes cast.
 - (5) Creates the City canvassing board.
 - (6) Provides for special elections, for which the city council will set the time by ordinance.
 - (7) Provides requirements and procedures for general elections. Provides oath of office for all elected officers. Provides for recall of council members by general law.
- Section 8. Provides general provisions and authority.
- (1) Provides for severability of any charter provision held invalid by the courts.
 - (2) Requires city manager to establish city personnel procedures.
 - (3) City cannot make any charitable contributions without council authorization.
 - (4) Provides for conforming language and interpretation.
 - (5) Defines "day" to mean "calendar day."
 - (6) Authorizes charter amendments as provided by law.
 - (7) Authorizes charter amendments by City elector initiative.
 - (8) Directs city council to use best efforts to preserve educational facilities and museums.
- Section 9. Creates the transition schedule to implement the charter after the City is created.
- (1) Provides for the referendum on creating the City to be held on June 30, 2015. Provides the ballot question. If approved, the City is created and established as of July 1, 2015.
 - (2) Provides for all codes, ordinances, and resolutions of Wakulla County applicable to the City to continue in effect as municipal codes, etc. until otherwise modified or replaced by the city council.
 - (3) Provides for initial special election of council members. Seats 1, 3, 5 will be elected to the remainder of 2 year terms ending in 2016. Seats 2 and 4 will be elected to the remainder of 4 year terms ending in 2018. Provides for qualifications of candidates in the special election. Provides procedures for the election.
 - (4) Specifies the creation of the City as of July 1, 2015, for purposes of s. 200.066, F.S.
 - (5) Authorizes the city council to borrow money for first year expenses of government.
 - (6) Provides for continuation of county ordinances, rules, regulations, as municipal ordinances, rules, regulations until revised or rescinded by city council. Prohibits any alteration, amendment, or repeal of county ordinances, rules, regulations existing as of September 1, which would affect the City, without the approval of the city council.
 - (7) Provides authority for temporary emergency ordinances, of limited duration, to implement the transition.
 - (8) Provides for continuation of county comprehensive plan and land use ordinances as the City's transitional plan and ordinances. Requires all planning functions, duties, and authority, on vote of 4 city council members, to be vested in the city council. Limits amendments, revisions, rescinding provisions of county comprehensive plan applicable to City.
 - (9) Provides for revenues under Wakulla County communication services tax to be shared with City on a proportionate basis.

- (10) Provides City is entitled to participate in state revenue sharing beginning on July 1, 2015. Waives requirements of s. 218.23(1), F.S. from date of incorporation through December 31, 2019, for the purpose of City receiving revenue sharing funds. Provides for information on population estimates.
- (11) Provides City is entitled to receive local option gas tax revenues beginning October 1, 2015.
- (12) Waives the requirements of s. 218.23(1), F.S., for purpose of conducting audits and financial reporting through fiscal year 2015-2016.

Section 10. Provides for continuation, merger, dissolution of existing districts and service providers.

- (1) Provides that portion of the Wakulla County Fire Rescue Municipal Service Taxing Unit within the boundaries of the City shall continue until City adopts a contrary ordinance. Provides City shall not establish a fire department without referendum.
- (2) Provides Wakulla County Sheriff's Office will continue providing law enforcement services until City adopts a contrary ordinance.

Section 11. Finds requirements for incorporation have been met except for two conditions.

- (1) Waives the minimum population requirement of s. 165.061(1)(b), F.S.
- (2) Waives the minimum population density requirement of s. 165.061(1)(c), F.S.

Section 12. Provides act takes effect upon approval by majority of qualified electors voting in June 30 referendum. Provides section 9, subsection (1), and section 12 take effect upon act becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? June 30, 2015

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

II. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides rulemaking authority nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

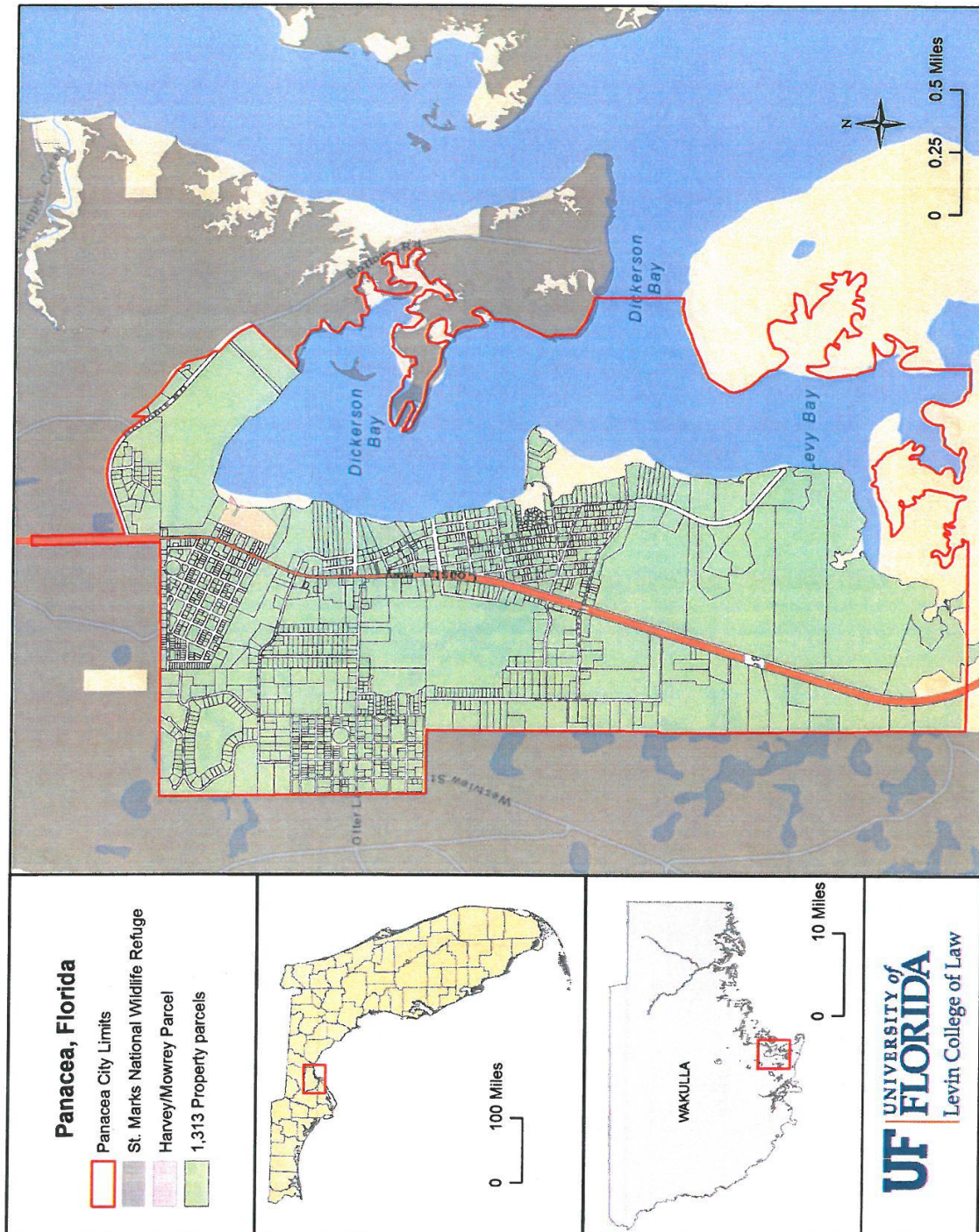
On March 10, 2015, the Local Government Affairs Subcommittee adopted an amendment making a technical change to the boundary description and changing the initial date for distribution of local option gas taxes to October 1, 2015. This amendment is drawn to the committee substitute.

APPENDIX A
MATERIALS RECEIVED

Document	Date	Author
A Study of Municipal Incorporation of Panacea, Florida (rev. 8/2014)	8/2014	Conservation Clinic at the University of Florida, Levin College of Law
Memorandum: Proposed Incorporation – City of Panacea, Wakulla County	1/22/2015	Dept. of Revenue
Memorandum: Municipal Incorporation Feasibility Study for Panacea	1/29/2015	Dept. of Economic Opportunity
Response to Request for Evaluation of 2014 Study	2/2/2015	Office of Economic and Demographic Research
Memorandum: Proposed Incorporation – City of Panacea, Wakulla County (Requested Supplement)	2/23/2015	Dept. of Revenue
2015 Department of Revenue Legislative Bill Analysis – HB 593	2/27/2015	Dept. of Revenue
Response to Comments Regarding HB 593	3/2/2015	Jon C. Moyle, Esq. Counsel for Proponents
First Economic Impact Statement	3/3/2015	Panacea Waterfronts Partnership, Inc.
Response to Questions Regarding HB 593	3/4/2015	Jon C. Moyle, Esq. Counsel for Proponents
Statement supporting incorporation fiscal feasibility	3/4/2015 (rec'd 3/5/2015)	William F. Underwood, II
Second Economic Impact Statement	3/8/2015	Panacea Waterfronts Partnership, Inc.

APPENDIX B
Map of Proposed City of Panacea (From 2014 Feasibility Study)

Panacea, Florida



Conservation Clinic / Levin College of Law / University of Florida

Appendix C
DOR Incorporation of Panacea Revenue Sharing Estimates

Any projections of state shared revenues beyond the current state fiscal year (2014-2015), are based on assumptions or projections independent of the Department of Revenue.

Incorporation of Panacea Revenue Sharing Estimates (Subject to meeting requirements of 218.23, F.S.)
State Fiscal Year - 2014-2015 (Annual Estimates)

Wakulla	4/1/2013 Revenue Sharing Population			Estimated 2014-2015 1/2 Cent Distributions			Estimated 2014-15 Discretionary Surtax 1%		
	Before Incorporation*	After Incorporation	Diff.	Before Incorporation*	After Incorporation	Diff.	Before Incorporation*	After Incorporation	Diff.
County's Share	26,668	25,825	-843	\$918,028	\$890,585	(\$27,443)	\$2,079,908	\$2,079,908	\$0
Unincorporated									
St. Marks	285	285	0	\$9,634	\$9,444	(\$190)	\$0	\$0	\$0
Sopchoppy	450	450	0	\$15,211	\$14,911	(\$300)	\$0	\$0	\$0
Panacea	0	843	843	\$0	\$27,933	\$27,933	\$0	\$0	\$0
Totals	27,403	27,403	0	\$942,873	\$942,873	\$0	\$2,079,908	\$2,079,908	\$0

Wakulla	Estimated 2014-15 Municipal Revenue Sharing			Estimated 2014-15 County Revenue Sharing			Total of Revenue Sources Estimated 2014- 15		
	Before Incorporation*	After Incorporation	Diff.	Before Incorporation*	After Incorporation	Diff.	Before Incorporation*	After Incorporation	Diff.
County's Share	n/a	n/a	n/a	\$602,179	\$591,158	(\$11,021)	\$1,520,207	\$1,481,743	(\$38,464)
Unincorporated									
St. Marks	\$25,816	\$25,816	(\$0)	n/a	n/a	n/a	\$35,450	\$35,260	(\$190)
Sopchoppy	\$34,165	\$34,165	(\$0)	n/a	n/a	n/a	\$49,376	\$49,076	(\$300)
Panacea	\$0	\$15,903	\$15,903				\$0	\$43,836	\$43,836
Totals	\$59,982	\$75,884	\$15,902	\$602,179	\$591,158	(\$11,021)	\$1,605,034	\$1,609,915	\$4,881

Assumptions provided by Feasibility Study Panacea
 population = 843
 taxable value = 33351806

* Source: Local Government Information Handbook 2014