

By the Committees on Rules; and Community Affairs; and Senator Yarborough

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1 A bill to be entitled
 2 An act relating to local government; amending s.
 3 163.3167, F.S.; prohibiting an initiative or
 4 referendum process in regard to any land development
 5 regulation; reordering and amending s. 171.031, F.S.;
 6 defining the term "feasibility study"; amending s.
 7 171.0413, F.S.; specifying the measurement of land
 8 during annexation procedures; amending s. 171.042,
 9 F.S.; replacing the term "report" with the term
 10 "feasibility study"; amending s. 171.051, F.S.;
 11 revising contraction procedures when qualified voters
 12 desire to be excluded from municipal boundaries;
 13 prohibiting contraction under certain circumstances;
 14 providing construction and applicability; amending s.
 15 171.204, F.S.; conforming a cross-reference; providing
 16 an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Subsection (8) of section 163.3167, Florida
 21 Statutes, is amended to read:

22 163.3167 Scope of act.—

23 (8) (a) An initiative or referendum process in regard to any
 24 development order is prohibited.

25 (b) An initiative or referendum process in regard to any
 26 land development regulation is prohibited.

27 (c) ~~(b)~~ An initiative or referendum process in regard to any
 28 local comprehensive plan amendment or map amendment is
 29 prohibited unless it is expressly authorized by specific

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30 language in a local government charter that was lawful and in
31 effect on June 1, 2011. A general local government charter
32 provision for an initiative or referendum process is not
33 sufficient.

34 (d)~~(e)~~ It is the intent of the Legislature that initiative
35 and referendum be prohibited in regard to any development order
36 or land development regulation. It is the intent of the
37 Legislature that initiative and referendum be prohibited in
38 regard to any local comprehensive plan amendment or map
39 amendment, except as specifically and narrowly allowed by
40 paragraph (c)~~(b)~~. Therefore, the prohibition on initiative and
41 referendum stated in paragraphs (a) and (c)~~(b)~~ is remedial in
42 nature and applies retroactively to any initiative or referendum
43 process commenced after June 1, 2011, and any such initiative or
44 referendum process commenced or completed thereafter is deemed
45 null and void and of no legal force and effect.

46 Section 2. Section 171.031, Florida Statutes, is reordered
47 and amended to read:

48 171.031 Definitions.—As used in this chapter, the following
49 words and terms have the following meanings unless some other
50 meaning is plainly indicated:

51 (1) "Annexation" means the adding of real property to the
52 boundaries of an incorporated municipality, such addition making
53 such real property in every way a part of the municipality.

54 (4)~~(2)~~ "Contraction" means the reversion of real property
55 within municipal boundaries to an unincorporated status.

56 (7)~~(3)~~ "Municipality" means a municipality created pursuant
57 to general or special law authorized or recognized pursuant to
58 s. 2 or s. 6, Art. VIII of the State Constitution.

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59 (8)~~(4)~~ "Newspaper of general circulation" means a newspaper
60 printed in the language most commonly spoken in the area within
61 which it circulates, which is readily available for purchase by
62 all inhabitants in its area of circulation, but does not include
63 a newspaper intended primarily for members of a particular
64 professional or occupational group, a newspaper whose primary
65 function is to carry legal notices, or a newspaper that is given
66 away primarily to distribute advertising.

67 (9)~~(5)~~ "Parties affected" means any persons or firms owning
68 property in, or residing in, either a municipality proposing
69 annexation or contraction or owning property that is proposed
70 for annexation to a municipality or any governmental unit with
71 jurisdiction over such area.

72 (6) "Feasibility study" means an analysis conducted by
73 qualified staff or consultants of the economic, market,
74 technical, financial, and management feasibility of the proposed
75 annexation or contraction, as applicable.

76 (10) "Qualified voter" means any person registered to vote
77 in accordance with law.

78 (11)~~(7)~~ "Sufficiency of petition" means the verification of
79 the signatures and addresses of all signers of a petition with
80 the voting list maintained by the county supervisor of elections
81 and certification that the number of valid signatures represents
82 the required percentage of the total number of qualified voters
83 in the area affected by a proposed annexation.

84 (12)~~(8)~~ "Urban in character" means an area used intensively
85 for residential, urban recreational or conservation parklands,
86 commercial, industrial, institutional, or governmental purposes
87 or an area undergoing development for any of these purposes.

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88 (14)~~(9)~~ "Urban services" means any services offered by a
89 municipality, either directly or by contract, to any of its
90 present residents.

91 (13)~~(10)~~ "Urban purposes" means that land is used
92 intensively for residential, commercial, industrial,
93 institutional, and governmental purposes, including any parcels
94 of land retained in their natural state or kept free of
95 development as dedicated greenbelt areas.

96 (3)~~(11)~~ "Contiguous" means that a substantial part of a
97 boundary of the territory sought to be annexed by a municipality
98 is coterminous with a part of the boundary of the municipality.
99 The separation of the territory sought to be annexed from the
100 annexing municipality by a publicly owned county park; a right-
101 of-way for a highway, road, railroad, canal, or utility; or a
102 body of water, watercourse, or other minor geographical division
103 of a similar nature, running parallel with and between the
104 territory sought to be annexed and the annexing municipality,
105 may shall not prevent annexation under this act, provided the
106 presence of such a division does not, as a practical matter,
107 prevent the territory sought to be annexed and the annexing
108 municipality from becoming a unified whole with respect to
109 municipal services or prevent their inhabitants from fully
110 associating and trading with each other, socially and
111 economically. However, nothing in this subsection may herein
112 ~~shall~~ be construed to allow local rights-of-way, utility
113 easements, railroad rights-of-way, or like entities to be
114 annexed in a corridor fashion to gain contiguity; and when any
115 provision ~~or provisions~~ of any special law prohibits ~~or laws~~
116 ~~prohibit~~ the annexation of territory that is separated from the

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117 annexing municipality by a body of water or watercourse, then
118 that law shall prevent annexation under this act.

119 (2)~~(12)~~ "Compactness" means concentration of a piece of
120 property in a single area and precludes any action which would
121 create enclaves, pockets, or finger areas in serpentine
122 patterns. Any annexation proceeding in any county in this ~~the~~
123 state must ~~shall~~ be designed in such a manner as to ensure that
124 the area will be reasonably compact.

125 (5)~~(13)~~ "Enclave" means:

126 (a) Any unincorporated improved or developed area that is
127 enclosed within and bounded on all sides by a single
128 municipality; or

129 (b) Any unincorporated improved or developed area that is
130 enclosed within and bounded by a single municipality and a
131 natural or manmade obstacle that allows the passage of vehicular
132 traffic to that unincorporated area only through the
133 municipality.

134 Section 3. Subsection (5) of section 171.0413, Florida
135 Statutes, is amended to read:

136 171.0413 Annexation procedures.—Any municipality may annex
137 contiguous, compact, unincorporated territory in the following
138 manner:

139 (5) If more than 70 percent of the acres of land in an area
140 proposed to be annexed is owned by individuals, corporations, or
141 legal entities which are not registered electors of such area,
142 such area may ~~shall~~ not be annexed unless the owners of more
143 than 50 percent of the acres of land in such area consent to
144 such annexation. Such consent must ~~shall~~ be obtained by the
145 parties proposing the annexation before ~~prior to~~ the referendum

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146 to be held on the annexation.

147 Section 4. Subsections (1) and (2) of section 171.042,
148 Florida Statutes, are amended to read:

149 171.042 Prerequisites to annexation.—

150 (1) Before ~~Prior to~~ commencing the annexation procedures
151 under s. 171.0413, the governing body of the municipality shall
152 prepare a feasibility study ~~report~~ setting forth the plans to
153 provide urban services to any area to be annexed, and the
154 feasibility study must ~~report shall~~ include the following:

155 (a) A map or maps of the municipality and adjacent
156 territory showing the present and proposed municipal boundaries,
157 the present major trunk water mains and sewer interceptors and
158 outfalls, the proposed extensions of such mains and outfalls, as
159 required in paragraph (c), and the general land use pattern in
160 the area to be annexed.

161 (b) A statement certifying that the area to be annexed
162 meets the criteria in s. 171.043.

163 (c) A statement setting forth the plans of the municipality
164 for extending to the area to be annexed each major municipal
165 service performed within the municipality at the time of
166 annexation. Specifically, such plans must ~~shall~~:

167 1. Provide for extending urban services except as otherwise
168 provided in this subsection ~~herein~~ to the area to be annexed on
169 the date of annexation on substantially the same basis and in
170 the same manner as such services are provided within the rest of
171 the municipality before ~~prior to~~ annexation.

172 2. Provide for the extension of existing municipal water
173 and sewer services into the area to be annexed so that, when
174 such services are provided, property owners in the area to be

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175 annexed will be able to secure public water and sewer service
176 according to the policies in effect in such municipality for
177 extending water and sewer lines to individual lots or
178 subdivisions.

179 3. If extension of major trunk water mains and sewer mains
180 into the area to be annexed is necessary, set forth a proposed
181 timetable for construction of such mains as soon as possible
182 following the effective date of annexation.

183 4. Set forth the method under which the municipality plans
184 to finance extension of services into the area to be annexed.

185 (2) Not fewer than 15 days before ~~prior to~~ commencing the
186 annexation procedures under s. 171.0413, the governing body of
187 the municipality shall file a copy of the feasibility study
188 ~~report~~ required by this section with the board of county
189 commissioners of the county in which ~~wherein~~ the municipality is
190 located. Failure to timely file the feasibility study ~~report~~ as
191 required in this subsection may be the basis for a cause of
192 action to invalidate ~~invalidating~~ the annexation.

193 Section 5. Subsections (2) and (4) of section 171.051,
194 Florida Statutes, are amended, and subsection (11) is added to
195 that section, to read:

196 171.051 Contraction procedures.—Any municipality may
197 initiate the contraction of municipal boundaries in the
198 following manner:

199 (2) A petition of 15 percent of the qualified voters in an
200 area desiring to be excluded from the municipal boundaries,
201 filed with the clerk of the municipal governing body, may
202 propose such an ordinance. The municipality to which such
203 petition is directed shall immediately undertake a feasibility

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204 study ~~of the feasibility~~ of such proposal and the governing body
205 shall, within 6 months, evaluate the feasibility study of such
206 proposal and either initiate proceedings under subsection (1) by
207 introducing a contraction ordinance or reject the petition as a
208 legislative decision, ~~specifically stating the facts upon which~~
209 ~~the rejection is based.~~

210 (4) If, at the meeting held for the such purpose of
211 considering the contraction ordinance introduced by the
212 governing body, a petition is filed and signed by at least 15
213 percent of the qualified voters resident in the area proposed
214 for contraction requesting a referendum on the question, the
215 governing body shall, upon verification, paid for by the
216 municipality, of the sufficiency of the petition, and before
217 passing such ordinance, submit the question of contraction to a
218 vote of the qualified voters of the area proposed for
219 contraction, or the governing body may vote not to contract the
220 municipal boundaries.

221 (11) If more than 70 percent of the acres of land in an
222 area proposed to be contracted is owned by individuals,
223 corporations, or legal entities that are not registered electors
224 of such area, such area may not be contracted unless the owners
225 of more than 50 percent of the acres of land in such area
226 consent to such contraction.

227 Section 6. The amendments made by this act to s. 171.051,
228 Florida Statutes, are intended to be prospective in nature and
229 apply only to petitions filed on or after July 1, 2023.

230 Section 7. Section 171.204, Florida Statutes, is amended to
231 read:

232 171.204 Prerequisites to annexation under this part.—The

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233 interlocal service boundary agreement may describe the character
234 of land that may be annexed under this part and may provide that
235 the restrictions on the character of land that may be annexed
236 pursuant to part I are not restrictions on land that may be
237 annexed pursuant to this part. As determined in the interlocal
238 service boundary agreement, any character of land may be
239 annexed, including, but not limited to, an annexation of land
240 not contiguous to the boundaries of the annexing municipality,
241 an annexation that creates an enclave, or an annexation where
242 the annexed area is not reasonably compact; however, such area
243 must be "urban in character" as defined in s. 171.031 ~~s.~~
244 ~~171.031(8)~~. The interlocal service boundary agreement may not
245 allow for annexation of land within a municipality that is not a
246 party to the agreement or of land that is within another county.
247 Before annexation of land that is not contiguous to the
248 boundaries of the annexing municipality, an annexation that
249 creates an enclave, or an annexation of land that is not
250 currently served by water or sewer utilities, one of the
251 following options must be followed:

252 (1) The municipality shall transmit a comprehensive plan
253 amendment that proposes specific amendments relating to the
254 property anticipated for annexation to the Department of
255 Economic Opportunity for review under chapter 163. After
256 considering the department's review, the municipality may
257 approve the annexation and comprehensive plan amendment
258 concurrently. The local government must adopt the annexation and
259 the comprehensive plan amendment as separate and distinct
260 actions but may take such actions at a single public hearing; or

261 (2) A municipality and county shall enter into a joint

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262 planning agreement under s. 163.3171, which is adopted into the
263 municipal comprehensive plan. The joint planning agreement must
264 identify the geographic areas anticipated for annexation, the
265 future land uses that the municipality would seek to establish,
266 necessary public facilities and services, including
267 transportation and school facilities and how they will be
268 provided, and natural resources, including surface water and
269 groundwater resources, and how they will be protected. An
270 amendment to the future land use map of a comprehensive plan
271 which is consistent with the joint planning agreement must be
272 considered a small scale amendment.

273 Section 8. This act shall take effect July 1, 2023.