Local Government Affairs Subcommittee

Wednesday, January 07, 2015
10:00 AM
Webster Hall (212 Knott)

Steve Crisafulli
Speaker

Debbie Mayfield
Chair

Tab 1

FLORIDA HOUSE OF REPRESENTATIVES

Local Government Affairs

Subcommittee

Rep. Mayfield
Chair (R-54)

Rep. Moraitis
Vice Chair (R-93)

Rep. Campbell
Democratic Ranking Member (D-108)

Rep.Caldwell
(R-79)

Rep. Diaz, J.
(R-116)

Rep. Dudley
(D-68)

Rep. Murphy
(D-36)

Rep. Pigman
(R-55)

Rep. Rader
(D-81)

Rep. Ray
(R-12)

Rep. Smith
(R-34)

Rep. Stone
(R-22)

Rep. Sullivan
(R-31)

Tab 2

LOCAL GOVERNMENT AFFAIRS SUBCOMMITTEE STAFF

Eric H. Miller, Policy Chief

A member of The Florida Bar since 1984, Mr. Miller practiced privately and in government agencies in a number of areas, including administrative, bankruptcy, civil, commercial, and constitutional law. He is Florida Bar Board Certified in State & Federal Government and Administrative Practice and also admitted to practice in all federal district courts in Florida. Mr. Miller previously served as Attorney to the House Rulemaking Oversight & Repeal Subcommittee, working on numerous issues concerning rule ratification and revisions to the Administrative Procedure Act. In addition to his legal degree, in 2012 Mr. Miller earned his Master's degree in history with a thesis on the homestead protection provision in the Florida Constitution. He also has authored or co-written several published articles and lectured on homestead, administrative law, and bankruptcy issues.

Jill Zaborske, Attorney

Jill Zaborske received her undergraduate degree from Lafayette College in 1997 and her law degree from Vermont Law School in 2001. She since has handled a diverse range of state, federal, and local legal matters. She began her legal career in Florida as a judicial law clerk for a United States District Court judge in the Northern District of Florida. Subsequently, she worked for a private law firm specializing in all areas of local government law, for a private law firm specializing in white collar criminal defense and civil litigation and appeals, and for a private law firm handling a wide range of civil litigation matters. She also has worked as an Assistant State Attorney and as a staff attorney for a non-profit handling civil litigation and appeals.

Jonathan Darden, Attorney

Jonathan Darden is a 2014 graduate of the Florida State University College of Law with a certificate in business law. During his time at Florida State, he was a member of the Journal of Land Use and Environmental Law, Moot Court, President of the Student Federal Bar Association, and served as an intern with the Leon County Attorney's Office and the Second Judicial Circuit. Mr. Darden is also a 2009 graduate of Emory University, receiving a Bachelor of Arts in Economics, and former research intern at the Federal Reserve Bank of Atlanta.

Mary Kassabaum, Administrative Assistant

Mary Kassabaum received her Bachelor of Arts from FSU in 2013. For the past two legislative sessions, Mary has worked for the Senate Committees on Community Affairs, Environmental Preservation and Conservation, and Commerce and Tourism.

Tab 3

LOCAL GOVERNMENT AFFAIRS SUBCOMMITTEE

2014 – 2016 SUBCOMMITTEE JURISDICTION

The Local Government Affairs Subcommittee considers matters related to Florida's local governments and has primary responsibility for the local bill process. This process is designed to ensure that each local bill complies with constitutional and statutory local bill requirements and House local bill policies and procedures, including requirements relating to public notice, public hearing, and economic impact analysis.

Tab 3A

Local Government Affairs Subcommittee
Related Programs Overview

The Local Government Affairs Subcommittee does not have direct responsibility for particular agencies but works with specific review and oversight functions housed within different entities in the course of managing the local bill process. The following descriptions summarize the principal oversight roles of the specified agencies and a brief synopsis of the entities overseeing local government financial reporting. Also provided is a summary of the changes made to chapter 189, F.S. (special districts) during the 2014 session.

- Dept. of Economic Opportunity (DEO), Special District Accountability Program
- Florida Land and Water Adjudicatory Commission (FLWAC)
- Legislative Auditing Committee (LAC)
- Office of Economic and Demographic Research (EDR)
- **Local Government Financial Reporting**
- **2014 Revisions to Ch. 189, F.S.**

Dept. of Economic Opportunity

Special District Accountability Program

Formerly known as the Special District Information Program, this serves as a centralized source of information for the more than 1,640 special districts in Florida. The Program website provides access to comprehensive information about all special districts, including user-customized lists, explanatory material, and current laws.

DEO is responsible for handling referrals from the Legislative Auditing Committee or the Auditor General when local governments, including special districts, fail to file required financial reports. DEO also is responsible for receiving reports from the State Board of Administration, when a special district fails to report certain information about a bond issue, and from the Department of Management Services, if a local government operating a retirement system or plan for public employees fails to file a required actuarial report.

Under amendments to chapter 189, F.S. (described below), to enforce the reporting duties of a special district DEO is authorized to bring an action for declaratory, injunctive, or other remedy provided by law in the circuit court of Leon County. Under certain circumstances, DEO also is authorized to declare special districts inactive.

Florida Land and Water Adjudicatory Commission

Created by s. 380.07, F.S., the FLWAC is comprised of the Governor and Cabinet. If a type of proposed independent special district called a "community development district" equals or exceeds 1,000 acres in area, the FLWAC has the sole authority to create such a district by administrative rule.

Legislative Auditing Committee

The Legislative Auditing Committee (LAC) is a standing joint committee created by joint rule of the Legislature. The role and oversight authority of the LAC is described on its website (located at the "Online Sunshine" website):

> In general, the responsibilities of the Committee are broad and affect all areas of government in Florida. The Committee's responsibilities are designed to provide continuous oversight of government operations, in part, through the auditing and review activities of the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA).

Continuing duties and authority of the LAC are set out in s. 11.40, F.S. The LAC has a significant role in monitoring and enforcing compliance by local governments with financial reporting requirements. When notified by the Auditor General (or other agencies responsible for specific reporting oversight) of noncompliance by a local governmental entity, school district, or charter school or technical center, the LAC may conduct a hearing into the issue. The LAC may

then determine if further action is required, including instructing the Dept. of Revenue to withhold certain funds payable to the subject entity until that entity complies with the law.

In 2014 (described below), the role of the LAC in overseeing special districts was expanded to provide for additional notices of noncompliance to the Speaker of the House and the Senate President, standing committees of the House and Senate as determined by the presiding officers, and those legislators representing all or a portion of the geographical area of the special district.

Office of Economic and Demographic Research

As described on its website:

> The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations.

EDR publishes and makes available on its website a number of annual reports of interest to local governments, including the *Local Government Financial Information Handbook,* "Review of Federal Funding to Florida," and "Utilization of Local Option Taxes by Florida Counties."

Outside of Miami-Dade County, only the Legislature may create and charter a municipality. Those seeking to incorporate a municipality must first submit a statutorily-required feasibility study to the Legislature by a date certain. LGAS reviews each feasibility study and requests additional comment and review from EDR, DEO, and the Dept. of Revenue.

Local Government Annual Financial Reporting

Certain local government entities (a board of commissioners or other legislative and governing body of a county, a municipality, certain housing authorities, and special districts), and all independent special districts, must file annual financial reports with the Dept. of Financial Services (DFS). Additionally, each county, school district, and certain charter schools or technical centers, municipalities, or special districts, must have an annual financial audit and file the audit report with the Auditor General. Both DFS and the Auditor General separately are required to notify the LAC and DEO if a local government entity fails to file a required financial report.

Local government entities participating in, operating, or administering a retirement system or plan for public employees must have an actuarial report prepared for such plan or system at least every three years. The report is filed with the Department of Management Services, which must report any failure to file to DEO.

Special districts authorized to issue bonds must report certain information with the State Board of Administration (SBA). Any failure to file such information is reported by SBA to the LAC and DEO.

2014 Revisions to Chapter 189, F.S.

In 2014, the Legislature passed and the Governor signed into law chapter 2014-22, Laws of Florida, extensively revising the general laws applicable to most special districts in chapter 189, F.S. Following are the significant changes:

- The new law reorganized chapter 189, F.S., into eight new parts and renumbered all sections and subsections. The law also made necessary conforming changes to a number of related statutes.

- The law made substantive changes to the oversight and enforcement of special district financial reporting, revised the type of enforcement proceedings that may be brought against noncompliant districts, and increased the notice provided to the legislative presiding officers. These changes expanded the role and responsibilities of LAC and revised the authority of DEO to pursue enforcement actions.

- The Governor's power to suspend county officers, and the power to suspend and remove certain municipal officers, was extended to permit suspension or removal of special district governing board members.

- The law revised the requirements for local government oversight and review of special districts.

- Under certain circumstances, DEO is required to declare a special district as having become inactive. Special districts declared inactive may not collect taxes, fees, or assessments unless the DEO declaration is withdrawn. A district may challenge the DEO declaration either in an administrative proceeding or by filing an action with the appropriate circuit court.

- To improve public access to information, by October 1, 2015, each special district will be required to establish, update, and maintain an internet website. The information provided must include:

  - The full legal name of the district, its public purpose, and the full text of the district charter;
  - Contact information for each member on the district's governing body;
  - A description of the district's boundaries;
  - A listing of all taxes, fees, assessments, and charges imposed by the district;
  - The code of ethics applicable to the district;
  - A list of all governmental entities with oversight authority for the district; and
  - The district's annual budget and financial reports.

Tab 4

HOUSE LOCAL BILL PROCESS

SUMMARY

Generally:

- A general bill usually applies statewide, affecting the entire population of the state.
- Local bills, on the other hand, apply to only a specified part of the state and are subject to notice or referendum requirements.
- If there is a question as to whether a proposal is a local or general bill, the answer usually may be found through the staff of the Local Government Affairs Subcommittee or the House General Counsel.
- Local bills do not count towards a member's limit of filing no more than six bills imposed by the House Rules. See House Rule 5.3(b).

WHY ARE LOCAL BILLS PROPOSED?

Generally, local bills are proposed when:

- A local government cannot do what it wants or needs to do within its existing authority;
- An area wishes to be exempted from the restrictions of general law; or
- The Legislature has retained authority to decide the local issue by special act. Examples of this are special acts to create new municipalities or independent special districts.

Historical Note - Prior to 1968, counties and municipalities did not have the authority to re-draw commission seat boundaries or perform other essential functions. Consequently, the Legislature considered anywhere from 3,000 to 5,000 local bills during its biennial sessions. The 1968 Florida Constitution authorized the Legislature to grant counties and cities home rule authority, which was done by statute in the early 1970s.

Prohibited local bill subject matter:

The Florida Constitution and certain statutes restrict the subject matter of local bills. For a discussion of the prohibited subjects, refer to the *Local Bill Policies and Procedures Manual* (see index on page 7).

WHAT STEPS MUST BE TAKEN TO HAVE A LOCAL BILL INTRODUCED?

Typically:

- An interested party may submit a request for a local bill to the local legislative delegation either verbally or in writing.

- The local legislative delegation has the discretion to hear or not hear the issue being proposed for a local bill.

- If the local delegation agrees to hear the specifics of the issue, a local public hearing is noticed and scheduled in the area affected by the local bill.

- The local legislative delegation must agree to the proposal and select an individual Member to sponsor the measure. Custom and courtesy suggest a member of the delegation in the area affected by the proposed bill act as the sponsor.

- A notice of intent to file the bill must be advertised 30 days prior to introduction, as prescribed by general law. Alternatively, the bill must be voted on by the people in the area affected.

- The Member sponsoring the measure must submit the proposal to House Bill Drafting, like any other bill request.

- The bill, when ready for filing with the Clerk, must be accompanied by proof that the ad has been published. This is accomplished by delivery of an affidavit of publication from the newspaper.

- The forms required by the House must be received by the Local Government Affairs Subcommittee prior to the bill being heard in its first committee or subcommittee of reference.

- If a substantive amendment is anticipated, the amendment should be checked to ensure it conforms to the scope of the advertised bill, and a local bill amendment form must be completed, signed by the local delegation chair, and filed with the Local Government Affairs Subcommittee.

Public hearing/delegation meeting notices:

- The public hearing at which the local delegation votes to request introduction of the local bill must be noticed and open to the public.

- Depending on the rules adopted by the legislative delegation, a majority of the delegation must approve the proposed local bill for introduction. Some delegations choose to require a unanimous vote.

Drafting the local bill:

- Once the local legislative delegation agrees to support the issue and introduce the local bill, the proposal typically is formulated into bill language by county or municipal attorneys, or other appropriate local officials.

- After the local public hearing is held and delegation approval is gained, the draft proposal must be submitted to House Bill Drafting by the bill sponsor.

- House Bill Drafting Services reviews all drafts, corrects technical errors, and makes other changes in form as required to conform to the requirements of the Florida Constitution, statutes, and House rules.

House forms:

Each incoming Speaker reviews and approves the local bill forms and the policies implemented and administered by the Local Government Affairs Subcommittee. Two basic forms must be submitted with every local bill:

1. The **Local Bill Certification** form, establishing:

    a. The purpose of the bill cannot be accomplished at the local level;
    b. The local delegation has agreed to the bill;
    c. A public hearing was held in the area affected by the bill; and
    d. The required notice of intention to seek enactment of the bill was properly published or the bill is subject to referendum approval.

    This form must be signed by the chair of the delegation attesting to these circumstances.

2. The **Economic Impact Statement** form outlines any economic impact the bill may have. The form must be prepared at the local level by an individual who is qualified to establish fiscal data and impacts.

Notice requirements for the local bill:

- In most instances, the entity requesting the local bill, whether a city, county, special district, or group of advocates for a municipal incorporation initiative, is responsible for placing the legal advertisement in a newspaper of general circulation.

- If the bill itself is subject to a vote of the citizens, legal advertisement is not required.

- General law requires the advertisement be placed in a newspaper of general circulation in the area affected by the local bill at least 30 days prior to legislative

introduction.

- The function of this requirement is to provide reasonable notice to everyone whose interests may be affected directly by the proposed legislation so that such people may inquire further into the details of the local bill. If so desired, people affected by the bill may seek to prevent enactment or to persuade the Legislature to change the substance of the proposed bill.

- Evidence that a notice has been properly published is routinely provided by the newspaper. Samples of this affidavit are available in the Committee's *Local Bill Policies and Procedures Manual*.

Notice contents:

- The substance of a proposed local bill must be in the advertised notice. Care should be taken to ensure the language in the advertised notice is broad enough to include all matters contained in the body of the proposed legislation.

- It is not necessary to include the specific provisions of the proposed bill in detail. Such detail could create a situation in which the notice is rendered faulty because subsequent amendments to the bill either change or broaden those provisions that had been noticed in the original advertisement.

WHAT HAPPENS WHEN THE BILL IS FILED?

Bill filing deadlines:

Under House rule 5.2(a) all local bills must be filed with the Clerk by noon of the first day of the regular session.

Process:

- A local bill follows the same process as a general bill. The bill is introduced and referred to committees and/or subcommittees.

- Any amendments to a local bill, except technical, clarifying or conforming amendments, must be accompanied by a **Local Bill Amendment Form**. The form states that the delegation is aware of the amendment, the need for the amendment, and the intent of the amendment. This process was developed to resolve potentially contentious substantive changes to a local bill by those most closely associated with the issue.

- After a local bill is reported out of all referred committees and subcommittees by means of an affirmative vote or withdrawal, the bill then proceeds to the House calendar.

ARE LOCAL BILLS INTRODUCED IN THE SENATE?

- Local bills are introduced in the Senate, but to a lesser extent than are introduced in the House. Senate bills with House companions enable the research of the Senate bill to be accomplished more quickly. Most of the time, a Senate local bill is held in the first committee to which it is referred until the House passes and sends to the Senate its version of the bill.

- The Senate does not have a local bill process similar to the House process. Senate Bill Drafting reviews local bills for constitutionality. Senate local bills generally are referred to the Senate Rules and Calendar Committee where they are analyzed only for compliance with the notice provisions.

- However, local bills creating an exemption from general law or dealing with more than one county may have a substantive Senate committee hearing. Thus, for local bills falling into one of these categories, it is recommended a bill be filed in the Senate as a companion bill to the one filed in the House. If not, there is a risk the Senate substantive committees will no longer be meeting by the time the bill is passed by the House,. This may affect whether the bill is passed by the Legislature.

CAN THE LEGISLATURE ENACT SPECIAL ACTS RELATING TO MIAMI-DADE COUNTY?

- The Legislature may enact general acts applicable to all counties and municipalities within the state.

- The present Florida Constitution restricts the Legislature's power to enact a local bill relating only to Miami-Dade County.

- Miami-Dade County Commissioners may abolish boards or governmental units created by legislative special acts applicable only to Miami-Dade County.

- Miami-Dade County Commissioners may also change any duties, functions, benefits, or regulatory or restrictive effects of such acts. See, *Chase v. Coward*, 102 So. 2d 147 (Fla. 1958).

For more in-depth information on local bills and the process, please refer to the *Local Bill Policies and Procedures Manual*.

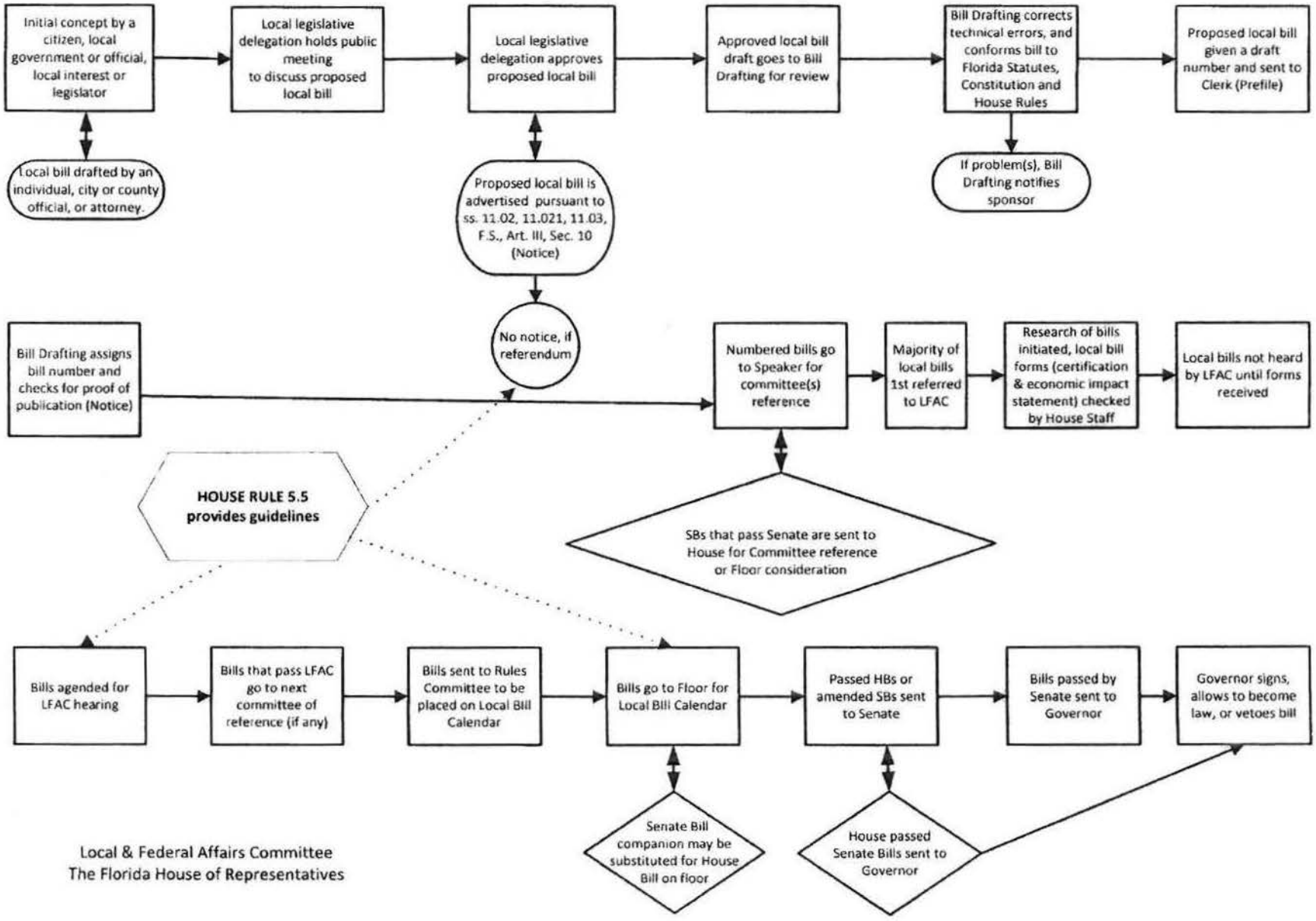
List of LGAS General Publications

The following listed documents are available through the House website at myfloridahouse.gov. Click "Committees," then "Local Government Affairs Subcommittee." Select "Regular Session 2015" from the dropdown menu, then click "General Publications."

- 2015-2016 Local Bill Policies and Procedure Manual
- 2015-2016 Local Government Formation Manual
- 2015 Local Bill Certification Form
- 2015 Economic Impact Statement Form
- 2015 Local Bill Amendment Form
- 2015 Model Affidavit of Publication
- 2015 Chapter 189, F.S. Tracing Table
- 2015 Local Legislative Delegations

Tab 4A

Local Bill Process Flow Chart



Local & Federal Affairs Committee
The Florida House of Representatives

Tab 4B

LOCAL BILL POLICIES AND PROCEDURES MANUAL 2015-2016

Local and Federal Affairs Committee

Representative Dennis K. Baxley, Chair

Local Government Affairs Subcommittee

Representative Debbie Mayfield, Chair

317 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300

(850) 717-4861

http://www.myfloridahouse.gov

PREFACE

This manual outlines the policies and procedures of the Florida House of Representatives for the drafting and filing of local bills. Additionally, the manual provides constitutional and statutory requirements for local bills, discusses the creation of independent special districts, and details the codification of special district charters.

More information is available at the following Legislative offices:

Local Government Affairs Subcommittee
Florida House of Representatives
317 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300
(850) 717-4861

House Bill Drafting Service
Florida House of Representatives
1501 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300
(850) 717-5300

Table of Contents

CHAPTER 1
Local Bill Basics

I. INTRODUCTION TO LOCAL BILLS

1. DEFINITION

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.[1] Local bills, when passed by the Legislature and not vetoed by the Governor, result in local laws. These are commonly referred to as "special acts."

2. PURPOSE OF LOCAL BILLS

Local bills generally are proposed in the following circumstances:

- A local government is limited in its authority to accomplish a specific goal and must ask the Legislature for a special act;
- An area wishes to be exempted from a general law;[2] or
- The Legislature has retained authority to decide the local issue by special act (e.g., municipal incorporation and creation of independent special districts).

3. INITIATING A LOCAL BILL

A local bill usually is requested by one of the following:

- A member of a local legislative delegation;
- The county governing body;
- The municipal governing body;
- A locally elected official;
- A special district or other local entity; or

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[1] *State ex rel. Landis v. Harris*, 163 So. 237, 240 (Fla.1934).
[2] The bill should identify the specific sections and subsections of statute from which the local area is being exempted.

- A member of the public.

4. LOCAL BILL FILING PROCESS IN THE HOUSE

An interested party may submit a request for a local bill either verbally or in writing to the local legislative delegation[3] or to any member of the delegation.

The local legislative delegation has discretion whether to hear the issue being proposed for a local bill. If the local delegation agrees to consider the proposed local bill, a local public hearing is scheduled. Although the public hearing is not required by law, House policy requires all proposed local bills to be heard by the local legislative delegation at a public hearing in the area that would be subject to the legislation. Once an issue has been discussed and the intent of the bill is clear, the legislative delegation votes on whether or not to support the bill.

A local legislative delegation's rules govern the requirements for approval of a local bill for introduction. Usually, a majority of the legislative delegation must approve the proposed local bill for introduction; however, a delegation's rules may require unanimous approval.

Custom and courtesy dictate that a member of the local legislative delegation in the area affected by a proposed bill sponsor the bill. County or municipal attorneys, or other appropriate local officials, are expected to draft local bills. House Bill Drafting reviews all drafts, correcting any technical errors and making other changes to conform to the requirements of the Florida Constitution, Florida Statutes, and House Rules.

If the local legislative delegation agrees to support the issue and introduce the local bill, the legislative delegation, or the local entity requesting the local bill (e.g., city, county, special district, incorporation study commission), is responsible for placing a legal advertisement in a newspaper of general circulation and ensuring proper notice.

A legal advertisement of the proposed bill **must** be placed in a newspaper of general circulation at least 30 days prior to introduction of the local bill in the House or Senate. If the bill is subject to a vote of the citizens (referendum), this legal advertisement is not required.

An affidavit of proof of publication of the legal advertisement is furnished by the newspaper that published the notice.

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[3] A legislative delegation is a group of legislators who represent parts of the same county or geographical area, meet to hear issues, consider requests for funding, and afford citizens an opportunity to discuss issues of concern. A list of the local legislative delegations is found at http://www.myfloridahouse.gov.

An original proof of publication must be provided to House Bill Drafting Services along with the bill drafting request for the local bill.

The proof of publication is attached to the original copy of the bill when filed with the House Clerk or Senate Secretary.

Pursuant to House Rule 5.2, all local bills **must** be filed with the Clerk by noon of the first day of the regular session.

The House of Representatives' Local Bill Policy requires a completed, original, and signed **Local Bill Certification Form** and a completed, original, and signed **Economic Impact Statement** be provided to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. (The forms are available at http://www.myfloridahouse.gov.)

5. Local Delegation Meeting Requirements and Guidelines

All meetings at which the local legislative delegation discusses and/or votes on a proposed local bill must be noticed and open to the public. The delegation should provide sufficient notice of the meeting so that all interested parties have an opportunity to address the delegation. The type of notice provided depends upon the facts of the situation, but each notice should be designed to reach all persons who are interested in the bill. In some instances, posting of the notice in an area set aside for that purpose may be sufficient; in others, publication in a local newspaper may be advisable.

The Florida Attorney General has suggested the following guidelines:[4]

- The notice should contain the time and place of the meeting and, if available, an agenda (or if no agenda is available, subject matter summaries may be used).

- The notice should be displayed prominently in an area set aside for that purpose (e.g., for cities, in city hall).

- An emergency meeting should be afforded the most appropriate and effective notice under the circumstances. Special meetings should provide at least 24 hours reasonable notice to the public.

- The use of press releases and/or phone calls to wire services and other media is highly effective. On matters of critical public concern such as rezoning, budgeting, taxation, and the appointment of public officers, advertising in the local newspapers of general circulation is appropriate.

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[4] 94-62 Fla. Op. Att'y Gen. (1994) *available at* http://www.myfloridalegal.com/ago.nsf/Opinions/305C1550D66DBD5E85256221004C238B.

II. NOTICE REQUIREMENTS FOR LOCAL BILLS

Before a local bill may be introduced into the Legislature, the requirements of article III, section 10, of the Florida Constitution,[5] as well as relevant provisions of ch. 11, F.S., must be met. In limited situations, a referendum in lieu of notice may be appropriate.[6]

1. STATUTORY NOTICE REQUIREMENTS

A notice advertising intent to seek enactment of local legislation and describing the substance of the contemplated law **must be published one time, at least 30 days prior to the bill's introduction** in the Legislature.[7]

Publication may be either by advertisement in a newspaper of general circulation in each affected county or, if no such newspaper is published in or circulated throughout an affected county, by posting the notice for 30 days in three public places in that county, including the courthouse.

In order to qualify as a newspaper of general circulation, a publication must conform to the following:[8]

- Be printed and published at least once a week;
- Contain at least 25 percent of its words in the English language;
- Be entered or qualified to be admitted and entered as periodicals matter at a post office in the county where it is published;
- Be for sale and available to the public generally for publication of official or other notices;
- Customarily contain information of a public character, or of interest or value to the residents or owners of property in the county where published, or of interest or of value to the general public; and
- Have been in existence for one year or longer (certain exceptions may apply).

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[5] FLA. CONST. art. III, s. 10. **"Special laws.**—No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the affected area." Section 11.02, F.S., implements this constitutional requirement.

[6] *See* Chapter 1, Section III, Part 1 of this manual for more information.

[7] Section 11.02, F.S., implementing article III, section 10, Florida Constitution.

[8] Ss. 50.011 & 50.031, F.S.

For a local bill not subject to referendum, evidence the notice was properly published must be established in the Legislature by attaching an affidavit of proof of publication to the proposed local bill when it is introduced into the House or Senate.[9] A sample affidavit of proof of publication is provided in s. 11.03, F.S., and a link also appears in Appendix B of this manual.

2. NOTICE OF LEGISLATION FORMAT

An example of a notice of legislation is as follows:

> **NOTICE OF LEGISLATION [or]**
>
> **NOTICE OF INTENT TO SEEK LEGISLATION**
>
> **TO WHOM IT MAY CONCERN**: Notice is hereby given of intent to apply to the 2014 Legislature for passage of an act relating to Lee County, amending chapter 2000-000, Laws of Florida, relating to sales at auction, to exempt from the provisions thereof specified persons and firms; providing an effective date.

A local bill not passed during the regular session for which it is advertised may be heard during a subsequent special or extended session. Therefore, it is recommended that the notice include language that broadens the applicability to special or extended sessions, i.e., "intent to seek legislation before the 2014 Legislature, or 2014 Legislative Sessions, or 2014 Legislature and any Special or Extended Sessions."

For more information on the notice provision and drafting local bills, see *Guidelines for Bill Drafting* (2011), pp. 8 – 12, and *Drafting Local Legislation in Florida* (1995), both published by House Bill Drafting Service.

3. SUBSTANCE INCLUDED IN THE NOTICE

The substance of a proposed local bill must be summarized in the advertised notice. The notice must include all matters contained in the body of the proposed legislation, although the specific contents need not be listed in detail. The function of the notice requirement is to provide reasonable notice to a person whose interests may be directly affected by the proposed legislation so that he or she may inquire further into the details

[9] Ss. 11.021 & 11.03, F.S.

of the local bill and, if he or she so desires, seek to prevent enactment or to persuade the Legislature to change the substance of the proposed bill.

4. SUBSTANTIVE AMENDMENTS MUST CONFORM TO NOTICE REQUIREMENTS

Any substantive amendments to a local bill must conform to the notice requirements set out in article III, section 10, of the Florida Constitution, and s. 11.02, F.S. If an amendment substantially changes a bill as it was noticed, a constitutional problem may be created.

To avoid a potential constitutional challenge a bill should be advertised in a broad manner. A narrow, specific advertisement for a bill may limit the scope of substantive amendments for consideration. For example, if a local bill excludes a specific tract of property from a district, rather than advertising "excluding one tract of property from the district," the advertisement might state "excluding property from the district." Such an advertisement allows for unforeseen controversies to be resolved by amending the bill without affecting its notice.

There are times when a local bill passes the House with provisions that may create a defective notice. Once the bill is received by the Senate, the engrossed bill is reviewed by Senate staff. Constitutional concerns may be brought to the attention of the Senate, and the Senate may remove those provisions by amendment, thus correcting a potentially defective notice.

5. NOTICE ARRANGEMENT AND PAYMENT

Those parties most interested in the passage of the bill (a member of the Legislature, a citizens' group, a local official, etc.) generally assume this responsibility. Neither the Florida Constitution nor Florida Statutes impose a duty on any particular person to arrange and pay for the notice.

III. REFERENDUM REQUIREMENTS FOR LOCAL BILLS

1. REFERENDUM IN LIEU OF NOTICE

Under article III, section 10 of the Florida Constitution, any local bill not properly advertised in advance must be conditioned upon approval of the affected voters. In such bills, the effective date is replaced with a section calling for a referendum and basing the effectiveness of the act on the outcome of the election.

While referendum approval is not required for most local bills, in the case of certain bills (such as bills that create municipalities), legislators often allow the affected voters to decide and place a referendum requirement in a local bill as a matter of policy.

2. BOTH REFERENDUM AND NOTICE MAY BE REQUIRED

A referendum must be held for a local bill, even if the local bill is properly advertised in a newspaper, whenever the bill does the following:

- Creates or revises certain ad valorem taxing power, authorizes certain ad valorem millage rates, or provides for issuance of certain bonds.[10]

- Establishes, amends, or repeals a county charter.[11]

- Allows the selection of county officers in a manner other than by election when provided by county charter or by special law approved by the county electorate.[12]

- Consolidates municipal and county government. The referendum may involve the electors of the county in a single vote, or the electors of the county and municipality (or municipalities) voting separately, as provided in the consolidation plan.[13]

- Combines school districts. For purposes of the statewide system of public education, the Florida Constitution authorizes two or more contiguous counties to combine themselves into one school district. This could be accomplished locally or by a local bill or general bill of local application. This action must be approved by the electors of each county.[14]

- Provides for an appointed (rather than elected) school superintendent. If authorized by special law or by resolution of the district school board, the school district may change the superintendent selection method from an election to direct employment by the district school board. Such a special law or resolution also must be approved by the voters in the district.[15]

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[10] Fla. Const. art. VII, ss. 9(b) and 12(a). *See, City of Parker v. State,* 992 So. 2d 171, 179-180 (Fla. 2008); *State v. Miami Beach Redevelopment Agency,* 392 So. 2d 875, 893-899 (Fla. 1980). Certain revisions to taxing authority within existing millage limits, both of which were previously approved by referendum, may not require a new referendum. *Bailey v. Ponce de Leon Port Authority*, 398 So. 2d 812, 814-815 (Fla. 1981).
[11] Fla. Const. art. VIII, s. 1(c).
[12] Fla. Const. art. VIII, s. 1(d). This section also authorizes abolition of a county office when all of the duties of the office prescribed by general law are transferred to another office.
[13] Fla. Const. art. VIII, s. 3.
[14] Fla. Const. art. IX, s. 4(a).
[15] Fla. Const. art. IX, s. 5.

IV. REQUIRED HOUSE FORMS

1. REQUIRED LOCAL BILL FORMS

House policy requires that an original (1) Local Bill Certification Form and (2) Economic Impact Statement Form be submitted to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Local bill policy requires that no local bill be considered by the Local & Federal Affairs Committee or any other House committee or subcommittee without these completed forms. The Committee serves as the central repository and distribution point for these forms in the event a local bill is referred to other committees or subcommittees. The Rules of the House require all local bills, including local claim bills, not providing for a ratifying referendum must be accompanied by an affidavit certifying proper advertisement of the notice of seeking enactment of the bill.

a. Local Bill Certification Form

The Local Bill Certification Form is used by a local legislative delegation to certify the purpose of the bill cannot be accomplished at the local level; a public hearing has been held in the area affected by the bill; all constitutional, statutory, and policy requirements have been satisfied; and the required number of legislative delegation members have approved the bill.

b. Economic Impact Statement

The Economic Impact Statement provides a description of any economic impacts that may be created by the bill. House policy requires this form be prepared at the local level by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government).

c. Affidavit of Proper Advertisement

As more fully discussed above in Part II, section 1 of this manual, the constitutional requirement for publishing notice of a proposed local bill is implemented by statute.[16] For those local bills not providing for a ratifying referendum, House Rule 5.5(c) requires the affidavit of proper advertisement accompany the bill.

2. REQUIRED LOCAL BILL AMENDMENT FORMS

House policy requires all amendments to local bills, except technical amendments, must be accompanied by a Local Bill Amendment Form. This form explains the intent of and

[16] *See,* FLA. CONST art. III, s. 10 and ss. 11.02, 11.021, and 11.03, F.S. Section 11.03, F.S., provides a suggested form for the affidavit of publication.

need for the amendment, attests that the local legislative delegation has approved the amendment, and is signed by the legislative delegation chair. This policy applies to committee/subcommittee and floor amendments to local bills.

These amendments and forms must be reviewed by Local Government Affairs Subcommittee staff prior to consideration.

V. CONSTITUTIONAL & STATUTORY PROVISIONS FOR LOCAL BILLS

1. CONSTITUTIONAL AND STATUTORY NOTICE PROVISIONS

- Article III, section 4(e), of the Florida Constitution.
- Article III, section 10, of the Florida Constitution.
- Sections 11.02, 11.021, and 11.03, F.S.
- Sections 50.011 and 50.031, F.S.

2. LOCAL BILL STRUCTURE

According to article III, section 6, of the Florida Constitution:

- A bill must consist of one subject and matter properly connected therewith.
- A bill must have a title and the subject of the bill must be properly expressed in its title.
- No existing law may be amended by reference to its title only.
- In order to amend an existing law, that portion of the law being amended must be set out in full.
- Every bill must have an enacting clause that reads “Be It Enacted by the Legislature of the State of Florida.

3. LOCAL BILL EFFECTIVE DATE

Article III, section 9, of the Florida Constitution, provides that a law either takes effect 60 days after final adjournment of the Legislature or as provided in the act. Unlike the enacting clause, an effective date is not an essential component of a bill. However, nearly every bill includes such a date, or provides that the bill is effective upon becoming law, in its final section.

4. CONSTITUTIONAL PROVISIONS FOR SUBJECT MATTER

a. Local Bill Constitutionally Prohibited Subjects

Article III, section 11(a), of the Florida Constitution, states: "There shall be no special law or general law of local application pertaining to:

(1) Election, jurisdiction, or duties of officers (except officers of municipalities, chartered counties, special districts, or local governmental agencies);

(2) Assessment or collection of taxes for state or county purposes, including extension of time thereof, relief of tax officers from due performance of their duties, and relief of their sureties from liability;

(3) Rules of evidence in any court;

(4) Punishment for crime;

(5) Petit juries, including compensation of jurors, except establishment of jury commissions;

(6) Change of civil or criminal venue;

(7) Conditions precedent to bringing any civil or criminal proceeding, or limitations of time thereof;

(8) Refund of money legally paid or remission of fines, penalties, or forfeitures;

(9) Creation, enforcement, extension, or impairment of liens based on private contracts, or fixing of interest rates on private contracts;

(10) Disposal of public property, including any interest therein, for private purposes;

(11) Vacation of roads;

(12) Private incorporation or grant of privilege to a private corporation;

(13) Effectuation of invalid deeds, wills, or other instruments, or change in the law of descent;

(14) Change of name of any person;

(15) Divorce;

(16) Legitimation or adoption of persons;

(17) Relief of minors from legal disabilities;

(18) Transfer of any property interest of persons under legal disabilities or transfer of estates of decedents;

(19) Hunting or fresh water fishing;

(20) Regulation of occupations which are regulated by a state agency; or

(21) Any subject when prohibited by general law passed by three-fifths vote of the membership of each house. Such law may be amended by like vote."[17]

It is good practice to check this list before initiating a local bill. However, the reader should not assume a local bill on a particular topic not found on the "prohibited subjects list" is acceptable constitutionally.

b. Additional Constitutional Requirements

Local bills may have additional constitutional requirements or prohibitions depending on their subject matter. For example, no general law or special law may create an office having a term greater than four years.[18]

c. Constitutional Restrictions for Local Bills Relating to Miami-Dade County

The Legislature may enact general acts applicable to all counties and municipalities within the state. However, the Florida Constitution *limits the Legislature's power to enact a local bill relating only to Miami-Dade County.*[19]

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[17] The Legislature has used this authority to restrict local legislation on various subjects, as follows:
(1) Protection of public employee retirement benefits (s. 112.67, F.S.).
(2) State-administered or state-supported retirement systems (s. 121.191, F.S.).
(3) Compensation of designated county officials (s. 145.16, F.S.).
(4) Independent special districts (s. 189.031(2), F.S.).
(5) The creation of a special district having the power enumerated in two or more paragraphs of s. 190.012, F.S. (s. 190.049, F.S.).
(6) The maximum rate of interest on bonds (s. 215.845, F.S.).
(7) Grant of authority, power, rights or privileges to a water control district formed pursuant to ch. 298, F.S. (s. 298.76(1), F.S.).
(8) Allocation of millage for water management purposes (s. 373.503(2)(b), F.S.). Taxation for school purposes and the Florida Education Finance Program (s. 1011.77, F.S.).
(9) State Building Code for Public Educational Facilities Construction (s. 1013.37(5), F.S.).

[18] Fla. Const. art. III, s. 13.

Conversely, Miami-Dade County may abolish boards or governmental units created by legislative special act applicable only to Miami-Dade County. The County also may change any duties, functions, benefits, or regulatory or restrictive effect of such an act.[20]

VI. HOUSE RULES REGARDING LOCAL BILLS

1. RULE 5.2—FILING DEADLINES

(a) No general bill, *local bill*, joint resolution, concurrent resolution (except one relating to extension of a session or legislative organization or procedures), substantive House resolution, or memorial shall be given first reading unless approved for filing with the Clerk no later than noon of the first day of the regular session.[21]

(b) No ceremonial resolution shall be given first reading unless approved for filing with the Clerk before the 46th day of the regular session.

2. RULE 5.3—LIMITATION ON MEMBER BILLS FILED

(a) A member may not file more than six bills for a regular session. Of the six bills, at least two must be approved for filing with the Clerk no later than noon of the 6th Tuesday before the first day of the regular session. For purposes of this rule, the member considered to have filed a bill is the first-named sponsor of the bill.

(b) Bills not counted toward these limits include: (1) Local bills, including local claim bills.

3. RULE 5.5—LOCAL BILLS

(a) A committee or subcommittee may not report a local bill favorably if the substance of the local bill may be enacted into law by ordinance of a local governing body without the legal need for a referendum.

(b) A local bill providing an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

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[19] FLA. CONST. art. VIII, s. 11 (1885), retained by reference in FLA. CONST. art. VIII, s. 6(e) (1968). *See*, *State ex rel. Worthington v. Cannon,* 181 So. 2d 346 (Fla. 1965), cert. den. 384 U.S. 981, 86 S.Ct. 1881, 16 L.Ed.2d 691 (1966); *Homestead Hospital, Inc. v. Miami-Dade County*, 829 So. 2d 259 (Fla. 3d DCA 2002).

[20] *Chase v. Cowart*, 102 So. 2d 147 (Fla. 1958).

[21] House Bill Drafting Service establishes a "bill drafting" deadline which usually is three weeks before the filing deadline established by rule. In addition, there may be deadlines established by each local legislative delegation. Persons interested in scheduling local bills for a local hearing should contact their legislative delegation for that information.

(c) All local bills, including local claim bills, must either, as required by Section 10 of Article III of the State Constitution, embody provisions for a ratifying referendum (stated in the title as well as in the text of the bill) or be accompanied by an affidavit of proper advertisement, securely attached to the original bill ahead of its first page.

4. RULE 5.11—REQUIREMENTS FOR INTRODUCTION

(a) All bills … shall either be prepared or, in the case of local bills, reviewed by the House Bill Drafting Service. After completion and delivery by the House Bill Drafting Service, no change may be made in the text or title of the bill without returning the bill to the House Bill Drafting Service before filing.

VII. LOCAL BILL PROCESS IN THE HOUSE

1. HOUSE PROCEDURAL REQUIREMENTS FOR LOCAL BILLS

The Local Government Affairs Subcommittee or the first committee/subcommittee of reference is required to verify the following:

- The required notice has been published; or
- A referendum, if required, is provided in the bill; and
- The required House forms have been filed.[22]

A local bill follows the same process as a general bill. The bill is introduced and referred by the Speaker to committees and subcommittees. After being recommended favorably by or withdrawn from the committees or subcommittees to which it was referred, a local bill proceeds to the House calendar.

2. LOCAL BILL AMENDMENTS

All substantive amendments to local bills must be accompanied by a completed Local Bill Amendment Form, signed by the chair of the legislative delegation. The form explains the intent of and need for the amendment and ensures that the local legislative delegation has approved the amendment. This form is needed for all local bill amendments, including floor amendments, with the exception of technical amendments. All amendments to local bills must be reviewed by Local Government Affairs Subcommittee staff before consideration by committees, by subcommittees, or on the floor.

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[22] See page 8 for a discussion of the forms required by House local bill policy.

3. EXPEDITED LOCAL BILL CALENDAR

The expedited local bill calendar consists of local bills that do not contain exemptions from general law (House Rule 5.5), constitutional issues, or floor amendments. This calendar provides a means for House members to move large numbers of non-contentious local bills to the Senate in an expeditious manner. When a sufficient number of these bills are either voted out of or withdrawn from committees/subcommittees, the Special Order Calendar may designate an expedited "local bill calendar."

Voting on the expedited local bill calendar is achieved by a single roll call vote rather than individual votes on each bill. The single roll call vote is taken at the conclusion of the reading of the bills on the expedited local bill calendar.

Any member wishing to vote "no" on a local bill on the expedited calendar must file the appropriate form with the Clerk. The Clerk then adjusts the expedited local bill calendar vote count accordingly to reflect all registered "no" votes.

Removing a bill from the expedited calendar requires notice by five members during consideration of the bill. The notice may be presented by a raising of hands during the reading of the bill or in written form delivered to the chair of the Rules & Calendar Committee prior to the reading. A bill removed from the expedited calendar is placed at the end of the Special Order Calendar for that day.

VIII. SENATE LOCAL BILL PROCESS

Local bills are introduced in the Senate but to a lesser extent than in the House. Senate local bills typically are referred to the Senate committee responsible for rules and calendar (usually called "Rules," or "Rules and Calendar") but occasionally are referred first to the Community Affairs Committee. Most of the time, a Senate local bill is then held in the first committee to which it is referred until the House passes and sends to the Senate its version of the bill. Upon receipt in the Senate, the House bill will be referred to the Senate Rules Committee (even if the Senate version is pending in a different committee), immediately withdrawn from the Rules Committee, placed on the Senate Local Calendar, and subsequently proceed to final vote in the Senate.

A Senate local bill usually is analyzed only to determine whether it complies with the legal requirements for a local bill. However, local bills creating an exemption from general law or relating to more than one county may be required to have a substantive Senate committee reference. Thus, it is strongly recommended that local bills with these characteristics be filed in both the House and Senate. This strategy reduces the possibility of the bill not being heard if Senate substantive committees are no longer meeting by the time the bill is passed by the House.

CHAPTER 2
Special Districts

I. DEFINITION

A special district is a unit of local special-purpose government that operates within limited boundaries and has a governing board. Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission (FLWAC);[23]

The following entities are not special districts:

- Units of local general-purpose government (municipalities and counties);
- School districts;
- Community college districts;
- Municipal service taxing or benefit units;[24]
- Seminole and Miccosukee tribe special improvement districts created under s. 285.17, F.S.; and
- Boards providing electrical services and are political subdivisions of a municipality or part of a municipality.

II. DEPENDENT VERSUS INDEPENDENT SPECIAL DISTRICTS

A dependent special district has at least one of the following characteristics:[25]

- Governing body identical to the governing body of a single county or a municipality.
- Governing body appointed by the governing body of a single county or a municipality.

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[23] Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least 2 Cabinet members.
[24] As specified in s. 125.01, F.S.
[25] S. 189.012, F.S.

- Governing body members subject to removal by the governing body of a single county or municipality during unexpired terms.

- Budget requires approval through an affirmative vote by the governing body of a single county or municipality.

- Budget may be vetoed by the governing body of a single county or municipality.

An independent special district does not have any characteristics of a dependent special district but may have one or more of the following characteristics:

- Boundaries covering more than one county.

- Boundaries exceeding those of a single municipality.

- Operating as an independent political subdivision within defined district boundaries.

- Having revenue raising authority such as ad valorem taxation, non-ad valorem assessments, fees, or charges on benefited property.

III. CREATING SPECIAL DISTRICTS

Independent special districts are created by the Legislature unless general law provides otherwise.[26] Dependent special districts may be created by an ordinance of a county or municipality having jurisdiction over the affected area.[27]

1. REQUIREMENTS FOR LEGISLATIVELY CREATED DISTRICTS

Certain unique requirements exist for legislatively created special districts. Statutory requirements relating to the creation of independent special districts by special act are contained in ch. 189, F.S.[28] The law prohibits the creation of independent special districts not conforming to the minimum statutory requirements. These requirements include the following:

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[26] S. 189.031, F.S.
[27] S. 189.02(1), F.S.
[28] In 2014 the Legislature extensively revised ch. 189, F.S., including renumbering each statutory section and organizing them into eight parts. Ch. 2014-22, Laws of Fla., *passim*. While currently the law, these amendments will be enacted as the official statute law of the state during the 2015 regular session. *See*, s. 11.2421, F.S. (2013). For ease of reference, this manual refers to the renumbered sections in chapter 2014-22, Laws of Florida, for the current law.

- Providing a statement regarding the creation of the district; [29]
- Minimum charter requirements;[30] and
- Prohibiting certain exemptions.[31]

2. STATEMENT REGARDING THE CREATION OF A DISTRICT

The proposed creation of the independent special district must include a statement to the Legislature documenting the following:

- The purpose of the proposed district;
- The authority of the proposed district;
- An explanation of why the district is the best alternative; and
- A resolution or official statement of the appropriate local governing body in which the proposed district is located stating the following:
    - The creation of the proposed district is consistent with approved local government plans of the local governing body; and
    - The local government has no objection to the creation of the proposed district.

3. MINIMUM CHARTER REQUIREMENTS

Local bills enacted after September 30, 1989, creating independent special districts must include the following minimum charter elements:[32]

- The district's purpose;
- The district's powers, duties, and functions regarding the following:
    - Ad valorem taxation;
    - Bond issuance;
    - Other revenue raising capabilities;

[29] S. 189.031(2)(e), F.S.
[30] S. 189.031(2)(a), F.S.
[31] S. 189.031(2)(b)-(d), F.S.
[32] S. 189.031(3), F.S.

- Budget preparation and approval;
- Liens and foreclosure of liens;
- Use of tax deeds and tax certificates for non-ad valorem assessments; and
- Contractual agreements;

- The method for establishing the district;
- The methods for amending the district's charter;
- The membership and organization of the district's governing board;
- The maximum compensation of the district's governing board members;
- The administrative duties of the district's governing board;
- The financial disclosure, noticing, and reporting requirements for the district;
- The procedures and requirements for issuing bonds, if the district has such authority;
- The district's election and referendum procedures and the qualifications to be a district elector;
- The district's financing methods;
- The authorized millage rate for a district which can levy ad valorem taxes;[33]
- The methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- Geographic boundary limitations.

After October 1, 1997, all special district charters must contain a status statement indicating whether the district is dependent or independent.[34]

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[33] Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by vote of the electors of the district, need not be included.
[34] S. 189.031(5), F.S.

4. LAWS THAT MAY NOT BE EXEMPTED BY A LOCAL BILL CREATING AN INDEPENDENT SPECIAL DISTRICT

Pursuant to s. 189.031(2), F.S., local bills or general laws of local application creating an independent special district cannot exempt the district from the following general law provisions:

- The minimum requirements of s. 189.031(3), F.S.;
- The requirements and procedures for elections (s. 189.04, F.S.);
- Special district bond referenda requirements (s. 189.042, F.S.);
- Bond issuance reporting requirements (s. 189.051, F.S.);
- Special district public facilities reports (s. 189.08, F.S.);
- Special district meetings and notice (s. 189.015, F.S.); and
- Special district reports, budgets, and audits (s. 189.016, F.S.).

5. REFERENDUM REQUIREMENT TO CREATE AN INDEPENDENT SPECIAL DISTRICT

If properly noticed, a bill creating a new independent special district is not required to be approved by referendum unless the district is authorized to levy ad valorem taxes.

6. SPECIAL DISTRICTS STATUTORY PROVISIONS

Numerous Florida Statutes pertain to special districts. These laws include, but are not limited to, the following:

- Chapter 189, F.S.: Special Districts: General Provisions
- Chapter 190, F.S.: Community Development Districts
- Chapter 191, F.S.: Independent Special Fire Control Districts
- Chapter 298, F.S.: Drainage and Water Control
- Chapter 348, F.S.: Expressway and Bridge Authorities
- Chapter 374, F.S.: Navigation Districts
- Chapter 388, F.S.: Mosquito Control
- Chapter 421, F.S.: Public Housing
- Chapter 582, F.S.: Soil and Water Conservation

CHAPTER 3
Codification of Special District Charters

I. CODIFICATION BASICS

1. DEFINITION

Codification is the process of collecting and systematically arranging the various special acts comprising a special district's charter. The Florida Statutes are codified, compiled into several volumes, and published on a yearly basis to provide a complete, up-to-date presentation of the current state of the laws of a general and permanent nature. This process does not include special acts.

Special acts are located in the Laws of Florida and are not codified. After the Legislature passes the initial enabling act, subsequent special acts may amend or alter previously enacted special acts. To ascertain the current status of any special act, it is necessary to research all amendments made to the act since its original passage.

Codification of a district's charter allows researchers and those served by the district to refer to one special act to determine the current charter of a district. The purpose of the special district codification effort is to produce an up-to-date and reader-friendly document.[35]

2. REQUIREMENTS FOR CODIFYING SPECIAL DISTRICT CHARTERS

By December 1, 2004, each special district must have submitted a draft codified charter to the Legislature for reenactment.[36] The codified act is filed with the Department of Economic Opportunity within 30 days after adoption.[37]

3. STATUTORY DEADLINE FOR CODIFIED CHARTERS

The statutory deadline for submitting charters to the Legislature for codification was December 1, 2004. However, any special district that has not yet submitted a draft codified charter to the Legislature for consideration is encouraged to do so – even after the statutory deadline. Submission of a draft codified charter is recommended for all special districts required to submit such a draft by December 1, 2004, and for which no codified charter has been enacted into law.

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[35] For a general example of an enacted charter recodification law, see chapter 2014-241, Laws of Florida, rechartering the Canaveral Port District.
[36] S. 189.019(1), F.S.
[37] S. 189.016(2), F.S.

4. STATUS STATEMENT

The charter of any newly created special district shall contain, and the charter of a preexisting special district must be amended as practical to contain, a statement of the special district's status as dependent or independent.[38] When necessary, the status statement must be amended to conform to the Department of Economic Opportunity's determination or declaratory statement regarding the status of the district. If the district fails to have a status statement within the district's codification bill, the statement may be amended into the bill after consulting with the district and the sponsor of the measure.

5. SUBSTANTIVE CHANGES DURING CODIFICATION

Substantive changes to the charter may be made when codifying. It is advisable to identify any changes in background materials or information provided to the public, the governing board, and the Legislature.

6. CODING A CHARTER CODIFICATION BILL

"Coding" is the drafting process whereby all proposed new language in a bill is underlined and unwanted current language is struck through.[39] This technique allows an analyst to readily identify changes proposed by a bill. A district should submit a coded copy of a charter codification bill to the Local Government Affairs Subcommittee.

When the Local Government Affairs Subcommittee receives a charter codification bill, all prior special acts are com
piled and merged into one document. Which prior acts have been repealed is determined. A line-by-line analysis is then performed between the bill and current charter.

II. PREPARING & DRAFTING A CHARTER CODIFICATION BILL

The district is responsible to prepare the initial draft for submission to the local legislative delegation. Some important points for the preparation of a charter codification bill are as follows:

- A charter codification bill is a local bill and must meet the notice requirements of article III, section 10, of the Florida Constitution, and ch. 11, F.S.

- All local bills must be accompanied by the following:

[38] S. 189.031(5), F.S. The status statement is required to appear in the charter of any special district created after October 1, 1997.
[39] For an example of bill coding, see chapter 2014-22, Laws of Florida.

- Proof of publication;
- Completed and signed Local Bill Certification Form; and
- Completed and signed Economic Impact Statement.

- Because it is a local bill, a codification bill must be approved by the local legislative delegation.
- All the required special act provisions relating to the district must be accounted for in the codified bill.
- The bill must include a repeal of all existing special acts as one of its last sections.
- The special acts being repealed may contain certain provisions that should be left intact. This language must be included in the bill.
- A status statement must be provided in the bill.
- The provisions of the codification bill should be checked to determine whether general law is being preempted or exempted.

III. SOME SPECIAL CONSIDERATIONS FOR CODIFYING A SPECIAL DISTRICT CHARTER

1. DISTRICT BOUNDARY CHANGES

Some districts have charter authority to alter their original boundaries without legislative approval. These boundary changes may result in the codification bill containing a different district boundary description than the original charter. Therefore, the Local Government Affairs Subcommittee requires a written notice from the district's attorney or district staff if a codification bill changes a district's boundaries.

2. REPEALING EXISTING CHAPTER LAWS

Generally, all existing special acts relating to a special district should be repealed when codifying the charter. Special care must be taken when repealing a district's existing special acts which govern or amend the district's charter provisions relating to bonds or tax authority. The repealer language, if used, should be clear and expressly repeal and cite all special acts (e.g., "chapters 2001-001, 2001-002, and 2001-003, Laws of Florida, are hereby repealed"). Do not use language such as "unless reenacted herein."

3. REFERENDUM PROVISIONS IN PRIOR SPECIAL ACTS

If any of the district's prior special acts required referenda to become effective, the outcome of those referenda must be determined when codifying the charter. To determine the current status of any bill provisions effectuated by referendum, the bill drafter should contact the Supervisor of Elections in each affected county. The bill drafter should forward their findings to the Local Government Affairs Subcommittee.

IV. DRAFTING A CHARTER CODIFICATION BILL

All charter sections are numbered independently from the rest of the bill and contained in a single bill section, as illustrated by "Section 3" below. This method is preferred by House Bill Drafting Service because it keeps the charter's provisions and the bill's provisions separate.

The following is an example of a special district codification bill format:

- Section 1: *Intent language*. For example, "Pursuant to s. 189.019, F.S., this act constitutes the codification of all special acts relating to . . . ."
- Section 2: *Codifying, reenacting, amending, and repealing the specific special acts of the district's charter*.
- Section 3: *Codification language*. For example, "The (name of district) District is reenacted, and the charter for the district is recreated and reenacted to read:"
    - Section 1: District Charter First Section.
    - Section 2: District Charter Second Section
    - …
- Section 4: *Repeal of prior special acts*.
- Section 5: *Effective date*.

Additional provisions may be included as sections of the bill depending on an individual district's circumstances, such as providing for the liberal construction of the bill's language. The above sample language does not contain all bill requirements, such as the title and the enacting clause.

V. CHARTER CODIFICATION BILL CHECKLIST

1. Was the proposed bill approved by the local delegation?

2. Have the notice requirements for local bills been met?

3. Is the bill's "notice of legislation" broad enough to allow subsequent amendments?

4. Have the Economic Impact Statement, Local Bill Certification Form, and Proof of Publication been completed and provided to the Local Government Affairs Subcommittee?

5. Is a status statement included in the codification bill?

6. Are the charter provisions numbered as part of the charter (rather than numbered as a bill section) and contained in one bill section?

7. Is the bill properly coded?

8. Does the bill preempt or exempt general law?

9. Does the bill include all valid provisions from prior special acts?

10. Have prior acts that have been repealed been identified?

11. Do the bill's repealer provisions expressly repeal all prior special acts pertaining to the district's charter?

12. If any existing provisions should be left intact, is that language included?

13. Has all information regarding the outcome of all prior required referenda been provided to the Committee?

14. If the district's boundaries have been changed or modified since the district's creation, has the proper documentation been submitted?

15. If the bill makes substantive changes to the charter, are those changes properly listed and provided?

APPENDIX A

The Role of Legislative Delegations

Florida's local legislative delegations serve important functions such as providing a public forum to identify local bills. Although legislative delegations are not statutorily defined, various Florida Statutes assign duties to legislative delegations.[40]

The legislative delegations are comprised of both House and Senate members from the county (or counties) they represent. Many legislative delegations are well organized, having a chair, vice-chair, and a legislative liaison. Other legislative delegations operate on a more informal basis. Ordinarily, the organizational structure of a legislative delegation changes each election year.

Most legislative delegations meet several times prior to an upcoming legislative session to discuss local issues that may become local bill proposals. These meetings often produce meaningful dialogue between representatives of local government, citizens, and legislative delegation members regarding the language and intent of a local bill.

The Local Government Affairs Subcommittee updates a list of Florida's legislative delegations as changes are submitted by the delegations. The list of local legislative delegation members is available online at http://www.myfloridahouse.gov.

[40] *See*, for example, s. 125.61, F.S.

APPENDIX B

Required House Forms

The following forms are available at http://myfloridahouse.gov/Sections/Committees/committees.aspx.

Local Bill Certification Form

Economic Impact Statement

Sample Affidavit of Notice of Publication

Local Bill Amendment Form

APPENDIX C

Resources for Local Bills

Local Government Affairs Subcommittee staff is available to answer questions about local bill policies and procedures. House Bill Drafting Service should be contacted with technical questions regarding the drafting of local bills.

Local Government Affairs Subcommittee
Florida House of Representatives
317 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300
(850) 717-4861

House Bill Drafting Service
Florida House of Representatives
1501 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300
(850) 717-5300

The Local Government Formation Manual, 2015-2016, prepared by the Local Government Affairs Subcommittee, Florida House of Representatives, Tallahassee, Florida.

Special Districts & the Delivery of Municipal Services, April 1996, prepared by the Committee on Community Affairs, Florida House of Representatives, Tallahassee, Florida.

Drafting Local Legislation in Florida, 1995, prepared by House Bill Drafting Service, Florida House of Representatives, Tallahassee, Florida.

Guidelines for Bill Drafting, 2011, prepared by House Bill Drafting Service, Florida House of Representatives, Tallahassee, Florida.

APPENDIX D

Examples of Local Bills

For samples illustrating the format and general organization of local bills, please see the following:

- Bill Amending Current Law – Ch. 2014-243, Laws of Fla. (2014 CS/HB 1145)
- Bill Repealing Current Law – Ch. 2014-231, Laws of Fla. (2014 HB 809)
- Bill Amending a Law Previously Amended – Ch. 2014-245, Laws of Fla. (2014 HB 1297)
- Bill Containing a Land Description – Ch. 2014-242, Laws of Fla. (2014 CS/HB 1143)
- Bill Containing WHEREAS Clauses – Ch. 2014-232, Laws of Fla. (2014 HB 817)
- Bill Containing All New Text – Ch. 2014-244, Laws of Fla. (2014 HB 1199)
- Bill Containing Codification Language – Ch. 2014-241, Laws of Fla. (CS/HB 1023)

APPENDIX E

Prohibited Special Laws "Like Vote" Provision

Article III, section 11(a)(21), of the Florida Constitution prohibits special laws or general laws of local application pertaining to "any subject when prohibited by general law passed by a three-fifths vote of the membership of each house." Furthermore, "[s]uch law may be amended or repealed *by like vote*." (emphasis added).

The law is unsettled on the implementation of this "like vote" requirement. Under one interpretation, amending or repealing "such law" prohibiting a special law or general law of local application on a particular subject may be achieved only by directly amending or repealing the original general law by a three-fifths vote. Under a second approach, amending or repealing "such law" prohibiting a special law or general law of local application on a particular subject may be achieved through any general or special law passed by a three-fifths vote. There is no relevant case law and Florida attorneys general at various times appear to have taken both positions.

In 1969 the Attorney General was asked whether the Legislature could pass special legislation providing for compensation of certain county officers listed in s. 145.16(2), F.S.,[41] although the statute expressly prohibited such legislation, was enacted as a general law under authority of article III, section 11(a)(21) of the Florida Constitution, and was passed by three-fifths vote in each chamber. The Attorney General opined ch. 69-211, Laws of Fla., prohibited and prevented the effectiveness of any special act on the specified subject "until amendment or repeal of Ch. 69-211."[42] The opinion went on to conclude the constitutional provision thus prohibited special acts on the subject as specified by s. 145.16(2), F.S., but permitted "amendment thereof, direct or indirect, only by acts passed by like vote." The opinion could be interpreted as narrowly applying the "like vote" requirement to allow alteration of a statutory prohibition only by amending or repealing the original statute. However, the opinion is less clear because the Attorney General also found the constitutional provision permitted "direct or *indirect*" amendment of a statutory prohibition "by acts passed by like vote."

In a 1983 opinion the Attorney General quoted the 1969 opinion and concluded:

---

[41] Current officials include members of the Board of County Commissioners, Clerk of the circuit court, Sheriff, Superintendent of Schools, Supervisor of elections, Property appraiser, Tax Collector, and District school board members. S. 145.16(2)(a)-(h), F.S. (School board members were added to the statute in 1993. Chapter 93-146, s. 2, Laws of Fla.

[42] 69-80 Fla. Op. Att'y Gen. 111 (August 28, 1969).

> Therefore I am of the view, until judicially determined to the contrary, that a general law passed by a three-fifths vote of the Legislature prohibiting special or local laws on the same subject may be amended or repealed by a special act which has passed by a like vote, i.e., by a three-fifths vote of each house of the Legislature.[43]

In 2003, the Board of Trustees for the Orlando Firefighters Pension Fund asked whether by special act the Legislature could authorize broader investment powers for the Board without jeopardizing the receipt of amounts from the Police Officers' and Firefighters' Premium Tax Trust Fund. Turning to ch. 112, part VII, F.S., the Attorney General noted s. 112.67, F.S., prohibited special laws or general laws of local application conflicting with part VII unless passed by three-fifths majority in each chamber. Accordingly, the opinion concluded a special act or general law of local application conflicting with the statute would require passage by three-fifths majority in each chamber.[44]

The Attorney General is authorized to provide specific state officers, including those of a county, municipality, or other unit of local government, with an official opinion and legal advice in writing on questions of law relating to the official duties of the requesting officer.[45] Although not bound by such opinions, Florida courts give them great weight when interpreting the laws and statutes.[46]

The 1983 opinion raised concerns with both House and Senate bill drafting offices. Senate Bill Drafting promptly expressed disagreement with the opinion in a memorandum dated May 10, 1983. The current Senate *Manual for Drafting Legislation* states:

> Section 11(a)(21), Article III of the State Constitution provides that the Legislature may, by a general law enacted by a three-fifths vote of the membership of each house, prohibit special laws on a particular subject. The prohibition contained in the general law may be amended or repealed only by a like vote. Consequently, the Legislature may not pass a local law on a subject prohibited by a general law enacted by this procedure until it has expressly amended or repealed that general law by a three-fifths vote of the membership of each house.[66] (in original)

[66](in original) The Attorney General, in Attorney General Opinion 83-27, opined that a local law prohibited under this provision may be enacted if it is passed by a three-fifths vote of the membership of each house of the Legislature. The Office of Bill Drafting Services, however, feels

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[43] 83-27 Fla. Op. Att'y. Gen. 69 (May 5, 1983).
[44] 2003-54 Fla. Op. Att'y. Gen. (November 3, 2003).
[45] S. 16.01(3), F.S.
[46] *Beverly v. Div. of Beverage of the Dept. of Business Regulation*, 282 So. 2d 657, 660 (Fla. 1st DCA 1973).

> strongly that this opinion is wrong and agrees with an earlier Attorney General Opinion (69-80) which reached the opposite conclusion.

In its manual entitled Drafting Local Legislation in Florida (1985), House Bill Drafting also took issue with the 1983 opinion and argued that the interpretation therein "negates the whole point of the constitutional provision."[47]

Notwithstanding these expressions of disagreement with the position taken in the 1983 and 2003 Attorney General Opinions on the meaning of "like vote," the Legislature has continued to pass special acts on matters prohibited by general laws enacted pursuant to the article III, section 11(a) (21), of the Florida Constitution, by more than three-fifths vote. The concerns noted above may be partially alleviated by House Rule 5.5(b), which provides:

> A local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

Those wishing to create a local exception to a general law creating a prohibited subject as provided in article III, section 11(a) (21), of the Florida Constitution should note this difference of opinion exists and are advised that amendment or repeal for a local area through the vehicle of a local bill involves some risk, particularly if the bill is controversial.

---

[47] More recently, the House Bill Drafting Service has not expressed a position on the interpretation of article III, section 11(a)(21), of the Florida Constitution. *See*, House Bill Drafting, *Guidelines for Bill Drafting* (2011), and *Drafting Local Legislation in Florida* (1995).

1-Model Affidavit

AFFIDAVIT

PLACE COPY OF ADVERTISEMENT HERE

STATE OF FLORIDA,
COUNTY OF _____ }

BEFORE ME, the undersigned authority, personally appeared _____

_____, who,

on due solemn oath or affirmation, attests that a notice stating the substance of a contemplated law or proposed bill relating to

_____
_____
_____
_____
_____
_____
_____

was published in the issue of (date) _____ 20____ of the _____

_____, a newspaper published in _____ County, Florida, where the matter or thing to be affected by the contemplated law is situated, and that a copy of the published notice is attached and made a part of this affidavit.

(Signed) _____

(Title) _____

Sworn to or affirmed and subscribed before me this _____ day of _____, 20___.

(SEAL) _____
Notary Public State of Florida at Large

My commission expires _____

2-Local Bill Cert.

HOUSE OF REPRESENTATIVES

2015 LOCAL BILL CERTIFICATION FORM

BILL #: _____

SPONSOR(S): _____

RELATING TO: _____

[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: _____

CONTACT PERSON: _____

PHONE NO.: (___)_____ **E-Mail:** _____

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES [ ] NO [ ]

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [ ] NO [ ]

Date hearing held: _____

Location: _____

(3) Was this bill formally approved by a majority of the delegation members?

YES [ ] NO [ ]

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [ ] NO [ ] DATE _____

Where? _____ **County** _____

Referendum in lieu of publication: YES [ ] NO [ ]

Date of Referendum _____

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [ ] NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [ ] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [ ]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local Government Affairs Subcommittee.

_____ _____

Delegation Chair (Original Signature) Date

_____

Printed Name of Delegation Chair

3-EIS

HOUSE OF REPRESENTATIVES

2015 ECONOMIC IMPACT STATEMENT FORM

Read all instructions carefully.
House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: _____

SPONSOR(S): _____

RELATING TO: _____
[Indicate Area Affected (City, County or Special District) and Subject]

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	FY 15-16	FY 16-17
Revenue decrease due to bill:	$ _____	$ _____
Revenue increase due to bill:	$ _____	$ _____

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

FY 15-16	FY 16-17
$_____	$ _____

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

_____

_____

_____

III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	FY 15-16	FY 16-17
Local:	$ _____	$ _____
State:	$ _____	$ _____
Federal:	$ _____	$ _____

III. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: _____
2. Advantages to Businesses: _____
3. Advantages to Government: _____

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: _____

_____

_____

2. Disadvantages to Businesses: _____

_____

_____

3. Disadvantages to Government: _____

_____

_____

IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

.

1. Impact on Competition:

_____

_____

_____

2. Impact on the Open Market for Employment:

_____

_____

_____

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

_____

_____

_____

PREPARED BY: _____

[Must be signed by Preparer]

Print preparer's name: _____

_____

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

_____

REPRESENTING: _____

PHONE: _____

E-MAIL ADDRESS: _____

4-Local Bill Amend.

HOUSE OF REPRESENTATIVES

2015 LOCAL BILL AMENDMENT FORM

Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Local Government Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.

BILL NUMBER: _____

SPONSOR(S): _____

RELATING TO: _____

[Indicate Area Affected (City, County or Special District) and Subject]

SPONSOR OF AMENDMENT: _____

CONTACT PERSON: _____

PHONE NO: _____ **E-MAIL:** _____

REVIEWED BY STAFF OF THE LOCAL GOVERNMENT AFFAIRS SUBCOMMITTEE [ ]

Must Be Checked

I. BRIEF DESCRIPTION OF AMENDMENT:
(Attach additional page(s) if necessary)

II. REASON/NEED FOR AMENDMENT:
(Attach additional page(s) if necessary)

III. NOTICE REQUIREMENTS

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES [ ] NO [ ] NOT APPLICABLE [ ]

B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES [ ] NO [ ] NOT APPLICABLE [ ]

IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?

YES [ ] NO [ ]

NOTE: If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Local Government Affairs Subcommittee prior to consideration of the amendment.

V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?

YES [ ] NO [ ] UNANIMOUSLY APPROVED [ ]

_____ _____

Delegation Chair *(Original Signature)* Date

_____

Print Name of Delegation Chair

Tab 4C

THE LOCAL GOVERNMENT FORMATION MANUAL 2015-2016

Local and Federal Affairs Committee

Representative Dennis K. Baxley, Chair

Local Government Affairs Subcommittee

Representative Debbie Mayfield, Chair

317 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300

(850) 717-4861

http://www.myfloridahouse.gov

PREFACE TO 2015 – 2016 EDITION

A number of revisions were made to this edition of the Local Government Formation Manual. The content of each chapter was reviewed and conformed to current law. Supporting source materials, including publication citations and internet web addresses, were reviewed to verify their continuing reliability. References to source materials that are no longer readily available were removed.

In chapter 2014-22, Laws of Florida, the Legislature revised, restructured, and reorganized the Uniform Special District Accountability Act, chapter 189, F.S. Accordingly, Chapter 5 of this manual was revised extensively to incorporate these changes and includes a separate section on the 2014 law. A table tracing the former sections of chapter 189, F.S., to the renumbered sections created by the new law, and to the sections of the law where those changes are made, is included as a new Appendix J.

To improve the clarity and readability of the text, a number of lists and charts previously incorporated into the text were removed and reconstituted as new appendices. Some existing appendices were renumbered, but former Appendices E, F, and G (providing various statistics on special districts) were deleted as the information provided is more readily available (and more current) at the website of the Florida Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, at http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-accountability-program.

TABLE OF CONTENTS

CHAPTER 1
COUNTY GOVERNMENT

I. SUMMARY

This chapter discusses the history of county formation in Florida, including constitutional and statutory authority for county establishment, modification of county boundaries, and the differences between charter and non-charter counties.

II. HISTORY OF COUNTY FORMATION

Florida's first counties, Escambia and St. Johns, were established July 21, 1821, by the adoption of an ordinance by then-provisional Governor Andrew Jackson, who obtained possession of Florida from Spain four days earlier.[1] This ordinance established in Florida the American form of government known as the "county," established a county judicial system, and provided for the appointment of county judges, clerks and sheriffs. Government in the two counties was administered through the court system by five justices of the peace.[2]

Congress replaced Governor Jackson's provisional government in 1822 with a territorial council consisting of a Governor and 13 presidential appointees.[3] During that year, the territorial council provided for three more counties: Escambia County encompassed the territory west of the Choctawhatchee River; Jackson County encompassed the territory east of Choctawhatchee River and west of the Suwannee River; and Duval County was created by dividing St. Johns County.[4]

Florida entered the Union in 1845 organized under a constitution, the development of which was begun by the territorial council in 1838. The 1838 Florida Constitution did not provide for counties; however, upon attaining statehood the General Assembly, consisting of the House of Representatives and the Senate, established boards of county commissioners.[5]

The Florida Constitution of 1861 gave counties constitutional status for the first time.[6] However, not until passage of the 1885 Florida Constitution were provisions

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[1] Steven L. Sparkman, "The History and Status of Local Government Powers in Florida," *U. Fla. L. Rev.*, Vol. 25 (1973), p. 271.
[2] *Id.*; *See,* Charlton W. Tebeau & William Marina, *A History of Florida* (3d ed.) (University of Miami Press, Coral Gables, FL, 1999).
[3] Ch. 13, "An Act for the establishment of a territorial government in Florida," 3 Stat. 654 (March 30, 1822).
[4] Allen Morris, Joan Perry Morris, and The Florida House of Representatives, Office of the Clerk, *The Florida Handbook 2013 – 2014 (34th ed.)* (Tallahassee, FL, 2014), p. 311.
[5] Ch. 11, Laws of Fla. (1845).
[6] FLA. CONST. (1861) art. IV, s. 27, and art. V, ss. 6, 8, 9, pertaining to courts and officials established in counties; art. V, s. 18, authorizing the General Assembly to establish a Board of Commissioners in each county responsible for county business; art. VIII, s. 4, providing for counties and incorporated towns to be authorized to impose taxes for local purposes; art. IX, ss. 3 & 4, pertaining to the organization of senatorial districts and apportionment necessary for representation, http://www.law.fsu.edu/crc/conhist/1861con.html (last visited Sept. 24, 2014). The 1861 Florida

for cities and counties included in a separate article.[7] Counties were recognized as legal subdivisions of the state and the Legislature was granted the power to create new counties and alter county boundaries. By 1925, county boundaries were fixed and have, with a few minor changes, remained unchanged. The last county to be formed was Gilchrist County, which was created by special act of the Legislature in 1925 under the provisions of the amended 1885 Florida Constitution.[8]

In the history of Florida, only one county has been abolished: Fayette County was created in 1832, and dissolved in 1834. The area was reincorporated into Jackson County. Several counties have changed their names, but continue to exist in some form. New River County is now Baker and Bradford Counties; Benton County returned to its original designation as Hernando County; Mosquito County is now Orange County; and Dade County is now Miami-Dade County.[9] Unsuccessful efforts were made to establish four additional counties (Bloxham, 1917; Call, 1928; Kennedy, 1965; and Hialeah, 1999 & 2000).[10] Florida currently has 67 counties. Appendix B contains a list of counties and their dates of establishment.

A 1956 amendment to the 1885 Florida Constitution authorized Dade County "to adopt, revise and amend from time to time a home rule charter government for Dade County." The voters of Dade County approved that charter on May 21, 1957.[11] This was the first evidence that Florida was moving toward recognition of home rule authority for counties. Until this time, local governments had no power to enact local laws (ordinances); the Legislature controlled local laws through the passage of numerous special legislative acts (local bills) directed at specific locales. For example, during the 1965 legislative session 2,107 local bills were introduced.[12]

The framers of the 1968 revised Florida Constitution deleted the provisions allowing counties to be established by constitutional authority and simply provided for counties to be "created, abolished or changed by law, with provision for payment or apportionment of the public debt."[13] The revised Constitution also allowed for the passage of local ordinances consistent with the idea of "home rule."

III. FORMATION OF NEW COUNTIES

The Florida Constitution requires the Legislature to divide the state into counties.[14] Chapter 7, F.S., divides the entire State of Florida into 67 counties, establishing their boundaries by providing the exact legal description of each county.

Constitution, adopted on January 10, 1861, by the convention called to determine whether Florida should attempt to withdraw from the United States, incorporated the Ordinance of Secession.

[7] FLA. CONST. art. VIII (1885).

[8] Ch. 11371, Laws of Fla. (1925).

[9] *Florida Handbook 2013 – 2014*, p. 611.

[10] Fernald, Edward A. and Elizabeth D. Purdum, Eds., *Atlas of Florida*, (Gainesville, Florida: University Press of Florida, 1992), p. 99; HB 857 and SB 88 (1999) and HB 451 and SB 1272 (2000).

[11] Miami-Dade County Home Rule Charter, *available at* https://library.municode.com/index.aspx?clientId=10620 (last visited Oct. 7, 2014).

[12] "The History and Status of Local Government Powers in Florida," 286.

[13] FLA. CONST. art. VIII, s. 1 (1968).

[14] FLA. CONST. art. VIII, s. 1(a).

The Legislature also may create, abolish, or change counties by law.[15] Because the boundaries for all Florida counties are established by general law, changing any existing county boundary also must be by general law.[16] Although specific statutes provide express guidance for those seeking to create a new municipality,[17] no similar statutory guidance exists pertaining to the creation of a county.

IV. CHANGES IN COUNTY BOUNDARIES

Adjusting the legal descriptions of one or more counties requires an amendment to general law. The Legislature has passed several acts changing existing county boundaries by amending the appropriate section of ch. 7, F.S. Since 1925, 33 formal boundary adjustments have been enacted by Legislature.[18] These boundary adjustments are listed in Appendix D.

When seeking changes to county boundaries, it is advisable to include accurate legal descriptions of the real property being affected. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

V. CONSTITUTIONAL POWERS AND DUTIES OF COUNTIES

Pursuant to general or special law, a county government may be established by charter, which must be adopted, amended or repealed only upon a vote of the electors of the county in a special election called for that purpose.[19] Each county must designate a county seat where the principal offices of the county are located and permanent records of all county officers are maintained.[20]

The Florida Constitution recognizes two types of county government in Florida: those operating under a county charter and those without a charter. The Florida Constitution provides the following:

- Non-Charter Government: Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special

[15] *Id*. The law making such change must provide for payment or apportionment of the public debt.
[16] *See*, ch. 2012-45, Laws of Fla. (transferring part of St. Lucie County to Martin County); ch. 2007-222, Laws of Fla. (transferring part of Palm Beach County to Broward County).
[17] Ch. 165, F.S.
[18] Fernald and Purdam, p.99, and data from the Florida House of Representatives, Local Government Affairs Subcommittee. *See generally,* Long, John H. & Sinko, Peggy Tuck, *Florida Atlas of Historical County Boundaries: Consolidated Chronology of State and County Boundaries*, available at http://publications.newberry.org/ahcbp/documents/FL_Consolidated_Chronology.htm (last visited Sept. 18, 2014).
[19] FLA. CONST. art. VIII, s. 1(c).
[20] FLA. CONST. art. VIII, s. 1(k).

law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.[21]

- Charter Government: Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.[22]

In addition, a special constitutional provision provides unique authorization for the Miami-Dade County home rule charter.[23]

The most significant distinction between charter and non-charter county power is the constitutional provision for direct power of self-government to a county upon charter approval, whereas a non-charter county has "such power of self-government as is provided by general or special law." As such, charter counties possess greater home rule authority than non-charter counties as shown by the following:

- A special act of the Legislature may not diminish the home rule powers of a charter county unless the act is approved by electors in the county.[24]

- A county's charter may authorize the county to regulate an activity on a countywide basis and provide that the county regulation prevails over any conflicting municipal ordinance.[25]

- A charter county may levy any tax within its jurisdiction that is authorized by general law for a municipality unless the general law prohibits levy by a county.[26]

Unlike charter counties, non-charter counties do not have the flexibility to establish their form of government. Non-charter counties are granted home rule powers in general law.[27] These counties must organize their governing body either in the traditional commission form or the commission-administrator form of county government, which may be enacted by county ordinance.[28]

In a non-charter county, article VIII, section 1(e) of the Florida Constitution requires the county's governing body to be composed of a five or seven member board of county commissioners serving staggered terms of four years. After each decennial

[21] FLA. CONST. art. VIII, s. 1(f).
[22] FLA. CONST. art. VIII, s. 1(g).
[23] *See,* FLA. CONST. art. VIII, s. 11 (1885), retained by reference in FLA. CONST. art VIII, s. 6(e) (1968).
[24] FLA. CONST. art. VIII, s. 1(g) (1968).
[25] *Id*.
[26] *Primer on Home Rule and Local Government Revenue Sources*, Nabors, Giblin, & Nickerson, P.A., April 2010.
[27] Primarily described in ch. 125, part 1, F.S.
[28] *See*, ss. 125.01(1), 125.72, F.S.

census, the board of county commissioners must divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district must be elected as provided by law. On the other hand, if a county operates under a county charter, the charter may vary the number of members serving on the county's governing body and provide selection procedures for county officers.

A charter county may also abolish any county office when its duties are transferred to another county office. If a charter county wishes to alter its basic structure, the county charter must be amended.[29]

Charter counties are authorized to establish salaries for their county officials independent of state mandate, whereas salaries of non-charter county officials are set by ch. 145, F.S.[30] Charter counties may manage administrative functions under centralized control of the county governing board. Non-charter counties divide the administrative functions individually among the various constitutional officers unless a special law approved by vote of the electors provides otherwise.

Section 125.01, F.S., outlines the powers and duties of chartered and non-chartered counties. This section empowers a county commission to carry on county government to the extent not inconsistent with general or special law. The authority includes, but is not restricted to, power to do the following:

- Adopt rules of procedure, select officers, and set the time and place of official meetings;
- Provide for the prosecution and defense of legal causes on behalf of the county or state, retain counsel, and set their compensation;
- Provide and maintain county buildings;
- Provide fire protection, including enforcement of the Florida Fire Prevention Code;
- Provide hospitals, ambulance service, and health and welfare programs;
- Provide parks, preserves, playgrounds, recreational areas, libraries, museums, historical commissions, other recreation and cultural facilities, and programs;
- Prepare and enforce comprehensive plans for the development of the county;
- Establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public;

[29] FLA. CONST. art. VIII, s. 1(d) (1968).
[30] S. 145.012, F.S.

- Adopt, by reference or in full, and enforce housing and related technical codes and regulations;

- Establish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control, air pollution control, and navigation and drainage, and cooperate with governmental agencies and private enterprises in developing and operating such programs;

- Provide and regulate waste and sewage collection and disposal, water and alternative water supplies, and conservation programs;

- Provide and operate air, water, rail, and bus terminals; port facilities; and public transportation systems;

- Provide and regulate arterial, toll and other roads, bridges, tunnels and related facilities; eliminate grade crossings; regulate the placement of signs, lights and other structures within the right-of-way limits of the county road system; provide and regulate parking facilities; and develop and enforce plans for the control of traffic and parking;

- License and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire operating in the unincorporated areas of the county;

- Establish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas of the county pursuant to general law;

- Enter into agreements with other governmental agencies within or outside the boundaries of the county for joint performance, or performance by one unit in behalf of the other, of any of either agency's authorized functions;

- Establish, and subsequently merge or abolish, municipal service taxing or benefit units for any part or all of the unincorporated area of the county. Services provided by these units may include: fire protection, law enforcement, beach erosion control, recreation service and facilities, water, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, indigent health care services, mental health care services and other essential facilities and municipal services;

- Levy and collect taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit, and special assessments; borrow and expend money; and issue bonds, revenue certificates and other obligations of indebtedness;[31]

[31] This power must be exercised according to general law. A referendum is not required for the levy by a county of ad valorem taxes for county purposes or for the providing of municipal services within any municipal service taxing unit.

- Make investigations of county affairs; inquire into accounts, records and transactions of any county department, office or officer; and, for these purposes, require reports from any county officer or employee and the production of official records;

- Adopt ordinances and resolutions necessary to exercise its powers and prescribe fines and penalties for the violation of ordinances in accordance with law;

- Create civil service systems and boards;

- Require every county official to submit annually, at such time as it may specify, a copy of the operating budget for the succeeding fiscal year;

- Employ an independent accounting firm to audit any funds, accounts and financial records of the county, its agencies and governmental subdivisions;

- Place questions or propositions on the ballot at any primary, general, or otherwise called special election, with respect to matters of substantial concern, when agreed to by a majority vote of the governing body;[32]

- Approve or disapprove the issuance of industrial development bonds authorized by law for entities within its geographic jurisdiction;

- Use ad valorem tax revenues for purchase of any or all interests in land for the protection of natural floodplains, marshes, estuaries, wilderness or wildlife management areas; restoration of altered ecosystems; or for preservation of significant archaeological or historic sites;

- Enforce the Florida Building Code and adopt and enforce local technical amendments;

- Prohibit businesses, other than a county tourism promotion agency, from using certain tourism-related names; and

- Perform any other acts which are in the common interest of the people of the county and are not inconsistent with law, and exercise all powers and privileges not specifically provided by law.

The governing body of a county also has the power to establish, and subsequently merge or abolish, dependent special districts including both incorporated and unincorporated areas. Inclusion of an incorporated area is subject to the approval of the governing body of the affected municipality.[33] The district may provide municipal

[32] However, no special election may be called for the purpose of conducting a straw ballot.
[33] S. 189.02(2), F.S. *See,* ch. 2014-22, s. 16, Laws of Fla. In 2014 the Legislature extensively revised ch. 189, F.S., including renumbering each statutory section and organizing them into eight parts. Ch. 2014-22, Laws of Fla., *passim*. While currently the law, these amendments will be enacted as the official statute law of the state during the 2015 regular session. *See*, s. 11.2421, F.S. (2013). For

services and facilities from service charges, special assessments or taxes collected within its area. Ad valorem taxes levied by dependent special districts are included within the county's maximum allowed millage.[34]

VI. *STATUTES RELATING TO ADOPTION OF COUNTY CHARTERS*

A county without a charter form of government may initiate and locally adopt a county home rule charter pursuant to ss. 125.60 - 125.64, F.S. In addition to satisfying multiple statutory requirements, the charter must be adopted by a majority vote of the qualified electors of the county. The charter must include the following:

- The creation of a charter commission (ss. 125.61 and 125.62, F.S.).
    - Following the adoption of a resolution by the board of county commissioners, or upon the submission of a petition to the county commission signed by at least 15 percent of the qualified electors of the county requesting that a charter commission be established, a charter commission must be appointed within 30 days of the adoption of the resolution or filing of the petition.
    - The charter commission must be composed of an odd number of not less than 11 or more than 15 members.
    - The members of the commission must be appointed by the board of county commissioners of the county or, if so directed in the initiative petition, by the legislative delegation.
    - No member of the Legislature or board of county commissioners may be a member of the charter commission. Vacancies must be filled within 30 days in the same manner as the original appointments.
    - Members of the commission receive no compensation but are reimbursed for necessary expenses pursuant to law.
    - Expenses of the charter commission are verified by a majority vote of the commission and are forwarded to the board of county commissioners for payment from the general fund of the county.
    - The charter commission may employ a staff, consult and retain experts and purchase, lease or otherwise provide for such supplies, materials, equipment and facilities, as it deems necessary and desirable.

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ease of reference, this manual refers to the renumbered sections in chapter 2014-22, Laws of Florida, for the current law.

[34] Ss. 200.001(5), (8)(d), F.S. *See also*, ss. 200.071, 200.091, and 200.101, F.S.

- The board of county commissioners may accept funds, grants, gifts and services for the charter commission from the state, the federal government or other public or private sources.

- The duties of the charter commission (ss. 125.62 and 125.63, F. S.).

  - The charter commission must meet within 30 days after appointment for organizational purposes, and elect a chair and vice chair from its membership.

  - All meetings of the Charter Commission must be open to the public.

  - The charter commission must conduct a comprehensive study of county government operations and of the ways in which county government might be improved or reorganized.

  - Within 18 months of its initial meeting, unless such time is extended by resolution of the board of county commissioners, the charter commission must present a proposed charter to the board of county commissioners.

  - The charter commission must conduct three public hearings at intervals of not less than 10 nor more than 20 days regarding the proposed charter. At the final hearing, the charter commission incorporates any amendments it deems desirable, votes upon a proposed charter and forwards the charter to the board of county commissioners for the holding of a referendum election.

- The submission of the charter to the voters (s. 125.64, F.S.).

  - Once the charter commission submits a charter, the board of county commissioners must call a special election for the purpose of determining whether the qualified electors approve the proposed charter. The referendum election must be held at least 45 days, but not more than 90 days, after the county commission receives the proposed charter. Notice of the election on the proposed charter is published in a newspaper of general circulation in the county not less than 30 nor more than 45 days before the election.

  - If a majority of those voting on the question favor the adoption of the new charter, it becomes effective January 1 of the succeeding year or at such other time as provided by the charter. Once adopted by the electors, the charter may be amended only by vote of the county electors.

  - If a majority of those voting on the question disapprove the proposed charter, a new referendum may not be held for two years following the date of the referendum.

Upon acceptance or rejection of the proposed charter by the qualified electors, the charter commission is dissolved, and all property of the charter commission becomes the property of the county. Appendix C lists charter counties (or in the case

of City of Jacksonville/Duval County, a consolidated city) and the year in which their charters became effective.

VII. SUGGESTED READING

Charter Counties

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Syara, James H., "The Model City and County Charters: Innovation and Tradition in the Reform Movement," *Public Administration Review*, Vol. 50, No. 6 (Nov-Dec 1990), pp. 688-692.

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County Demographics and Statistics

Fernald, Edward A., and Purdum, Elizabeth D., Ed., *Atlas of Florida* (University Press of Florida, Gainesville, 1992).

Bureau of Economic and Business Research, Warrington College of Business Administration, University of Florida, "Florida Statistical Abstract 2009," (http://www.bebr.ufl.edu/publications/list).

General Governance Issues Relating to Counties

Menzel, Donald C., et al., "Setting a Research Agenda for the Study of the American County," *Public Administration Review*, Vol. 52, No. 2 (March/April 1992), pp. 173-182.

[35] Currently out of print, but available as a pdf file upon request from the National Civic League.

U.S. Advisory Commission on Intergovernmental Relations, "Counties," *Intergovernmental Perspective*, Vol. 17, No. 1 (Winter 1991), pp. 5-45.

History of Counties

Morris, Allen, Morris, Joan Perry, and The Florida House of Representatives, Office of the Clerk, *The Florida Handbook 2013 – 2014 (34th ed.)*, (Tallahassee, Florida, 2014).

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Home Rule

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Lieberman, Ilene S. and Morrison, Harry, Jr., "Twenty-Five Years and Counting: A Symposium on the Florida Constitution of 1968, Warning: Municipal Home Rule is in Danger of Being Expressly Preempted by...," *Nova L. Rev*., Vol. 18 (1994), p. 1437.

Lincoln, Robert, AICP, "Executive Decision making by Local Legislatures in Florida: Justice, Judicial Review and the Need for Legislative Reform," *Stetson L. Rev.,* Vol. 25 (1996), p. 627.

Marsicano, Ralph, "Development of Home Rule," *Florida Municipal Record*, Vol. 57, No. 10 (April 1984), p. 7.

Wolff, Mark J., "Home Rule in Florida: A Critical Appraisal," *Stetson L. Rev*., Vol. 19, No. 3 (Summer 1990), pp. 853-898.

VIII. FOR FURTHER INFORMATION

General Information

Florida Association of Counties
100 S. Monroe Street
Post Office Box 549
Tallahassee, Florida 32302-0549
850-922-4300
http://www.fl-counties.com

Local Government Affairs Subcommittee
Florida House of Representatives
317 House Office Building
402 S. Monroe Street

Tallahassee, Florida 32399-1300
850-717-4861
http://www.myfloridahouse.gov

County Demographics and Statistics

Bureau of Economic and Business Research
University of Florida
221 Matherly Hall
Post Office Box 117145
Gainesville, Florida 32611-7145
352-392-0171 Fax: 352-392-4739
http://www.bebr.ufl.edu

Office of Economic and Demographic Research
The Florida Legislature
574 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-6588
850-487-1402 Fax: 850-922-6436
http://www.edr.state.fl.us

County Tax Information

Finance & Tax Committee
Florida House of Representatives
221 The Capitol
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-717-4812
http://www.myfloridahouse.gov

Office of Tax Research
Department of Revenue
2450 Shumard Oak Boulevard
Tallahassee, Florida 32399
850-617-8322 Fax: 850-487-3670
http://dor.myflorida.com/dor/taxes

History of the Creation of Florida Counties

Division of Library and Information Services
Department of State
500 S. Bronough Street
R. A. Gray Building
Tallahassee, Florida 32399-0250
850-245-6600 Fax: 850-245-6651
http://dlis.dos.state.fl.us/index.cfm

Office of the Clerk
Florida House of Representatives
513 The Capitol
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-717-5400
http://www.myfloridahouse.gov

CHAPTER 2
MUNICIPAL GOVERNMENT

I. SUMMARY

This chapter provides historical information on the origins of municipal government; describes the legal requirements for the creation, dissolution, and merger of municipalities in Florida; and discusses recent municipal formation activity.

A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term "municipality" may be used interchangeably with the terms "town," "city" and "village."

Typically, incorporation efforts are undertaken by a group of residents working through their elected state representatives. Such groups often seek greater levels of urban services and infrastructure expansion than can reasonably be provided through county government. Municipalities have an advantage in providing urban services by virtue of their traditionally compact and contiguous nature. However, municipal residents must pay ad valorem taxes levied separately by municipal and county governments, generally resulting in increased taxes for property owners within a newly created city. The decision to incorporate requires careful consideration by communities to ensure the desired result.

II. HISTORY

The origins of American municipal government are rooted in English history. As England emerged from the non-urbanized medieval period, citizens sought authority from the King to exercise some control over local affairs. In response, the King granted "charters," which were a form of business contract, empowering local citizens to initiate local improvements and to regulate certain aspects of community life. Eventually, these chartered groups came to be recognized as "municipal corporations," similar to private, commercial corporations, which also were authorized by the King. This pattern for the formation of English municipal governments was extended to the American colonies.[36]

In Florida, counties historically were created as subdivisions of the state to carry out central (i.e., state) government purposes at the local level. Municipalities were created by the Legislature to perform additional functions and provide additional services for the particular benefit of the population within the municipality. Originally, counties provided state services (i.e., courts, tax collection, sheriff functions, health and welfare services) uniformly throughout the county, while municipalities provided

[36] *The Florida Municipal Officials' Manual*, (Florida League of Cities, http://www.floridaleagueofcities.com/Publications.aspx?CNID=176), Section 1-2.

services, such as utilities and transportation, only within the boundaries described in the municipal charter.[37]

St. Augustine and Pensacola were established during the Spanish era of Florida history. Provisional Governor Andrew Jackson recognized these cities as governmental entities after receiving possession of Florida from the Spanish in 1821.[38] A territorial council replaced Governor Jackson's provisional government in 1822.[39] This council granted municipal charters for several cities, including Apalachicola and Key West.[40]

Historically, municipalities in Florida were created by special acts of the Legislature. The 1885 Florida Constitution limited municipal authority to that expressly granted by the Legislature. Any reasonable doubt regarding a municipality's right to exercise power was to be resolved by a court against the municipality. This limitation of municipal authority was widely known as "Dillon's Rule" and prevailed generally throughout the United States.[41] Municipalities were not authorized to enact local laws (ordinances); therefore, all ordinances were made through the passage of special legislative acts directed at specific locales.

The 1968 Florida Constitution began the process of granting what is referred to as "municipal home rule." With the 1973 enactment of ch. 166, F.S., the Legislature granted municipalities all governmental, corporate, and proprietary powers necessary to function independently and provide services. Today, the Legislature must create a municipality through passage of a special act enacting a municipality's charter (with the exception of Miami-Dade County), but subsequent special acts are not required to grant specific powers to conduct municipal government.

Currently, there are approximately 411 municipalities in Florida. Appendix E lists these cities and their dates of incorporation.

III. CONSTITUTIONAL/STATUTORY PROVISIONS

1. CONSTITUTIONAL PROVISIONS

Article VIII, section 2, of the Florida Constitution authorizes the Legislature to establish or abolish municipalities or amend their charters by general or special law. However, in the case of Miami-Dade County, Article VIII, section 6(e) of the Florida

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[37] *See*, *City of Miami v. Rosen,* 10 So. 2d 307, 309, 151 Fla. 677, 682 (1942); *City of Tampa v. Prince,* 58 So. 542, 543, 63 Fla. 387, 388 (1912); *Basic Energy Corporation v. Hamilton County,* 652 So. 2d 1237, 1239 (Fla. 1st DCA 1995). *See also,* Joseph W. Little. "Florida Local Government in the 1990s," in Proceedings of the Governor's Conference on Local Governments in the 1990s, (Gainesville, Florida: The Center for Governmental Responsibility, University of Florida College of Law, January 1989), p. 102.

[38] *The Florida Municipal Officials' Manual*, p. I-B-1.

[39] Congress established the first territorial government for Florida in 1822. Ch. 13, "An Act for the establishment of a territorial government in Florida," 3 Stat. 654 (March 30, 1822).

[40] *See, The Florida Municipal Officials' Manual*, p. I-B-2.

[41] *City of Boca Raton v. State*, 595 So. 2d 25, 27 (Fla. 1992); *See, The Florida Municipal Officials' Manual*, p. I-B-3.

Constitution, by reference to Article VIII, section 11(e) of the 1885 Florida Constitution, authorizes the board of county commissioners to provide a method for establishing new municipalities and prescribing their jurisdiction and powers.

The Constitution grants municipalities all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by law.[42] The power to tax may be granted only by general law.[43] Each municipal legislative body must be elected by qualified voters.[44] When any municipality is abolished, provision must be made to protect its creditors.[45]

2. STATUTORY PROVISIONS

a. Municipal Home Rule Powers Act, Chapter 166, F. S.

The Municipal Home Rule Powers Act acknowledges the constitutional grant to municipalities of governmental, corporate, and proprietary power necessary to conduct municipal government, functions, and services. The Florida Constitution authorizes municipalities to exercise any power for municipal purposes except as otherwise provided by law.[46] The purpose of ch. 166, F.S., is to provide municipalities with as broad a grant of powers as is consistent with the Florida Constitution, applicable laws and county charters, other than those expressly prohibited.[47] However, nothing in the statutes may be construed to permit any change in a special law or municipal charter without approval by referendum if the change affects the following:

- The exercise of extraterritorial powers;
- An area which 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 the municipal charter relating to appointive boards;
- Any change in form of government; or

[42] FLA. CONST. art. VIII, s. 2(b).
[43] FLA. CONST. art. VII, ss. 1(a), 9(a).
[44] FLA. CONST. art. VIII, s. 2(b).
[45] FLA. CONST. art. VIII, s. 2(a).
[46] FLA. CONST. art. VIII, s. 2(b).
[47] S. 166.021(4), F.S.

- Any rights of municipal employees.[48]

b. Formation of Municipalities Act, Chapter 165, F.S.

Florida law governing the formation and dissolution of municipal governments is found in ch. 165, F.S., the "Formation of Municipalities Act" (enacted in 1974). The chapter provides general standards, direction, and procedures for the incorporation, merger, and dissolution of municipalities, to achieve the following goals:

- Allowing orderly patterns of growth and land use;
- Assuring adequate quality and quantity of local public services;
- Ensuring financial integrity of municipalities;
- Eliminating or reducing avoidable and undesirable differences in fiscal capacity among neighboring local governmental jurisdictions; and
- Promoting equity in the financing of municipal services.

A municipality may be created where one did not previously exist only by special act of the Legislature adopting a charter for incorporation after determining the statutory standards for incorporation have been met.[49] Miami-Dade County has the exclusive power to create cities in that county under its constitutional home rule powers.[50]

A special act is a law that applies to a limited geographic area. A proposed special act is filed by a member of the Legislature in the form of a local bill. For municipal incorporation purposes, 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.[51]

For each special act, the Florida Constitution requires either a notice of intent to file the proposed special act be published in the manner provided by general law[52] or the act be conditioned to become effective only upon approval by qualified electors.[53] The Legislature has required special acts creating municipal incorporations to be subject to a referendum of the qualified electors in the proposed

[48] S. 166.021(4), F.S.
[49] S. 165.041(1), F.S.
[50] *See*, s. 165.022, F.S. *See also,* FLA. CONST. art. VIII, s. 11 (1885), retained by reference in FLA. CONST. art. VIII, s. 6(e) (1968).
[51] S. 165.061(1)(e), F.S.
[52] S. 11.02, F.S., specifies that the publication of notice must occur one time, at least 30 days prior to introduction of the local bill.
[53] FLA. CONST. art. III, s. 10.

municipal area.[54] The bill proposing creation of a municipality will be reviewed based on standards for municipal incorporation established in s. 165.061, F.S. A feasibility study must be completed and submitted to the Legislature.[55]

It is advisable to include accurate legal descriptions of the real property being affected by the formation of a municipality. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

In addition, as a local bill, a proposed municipal incorporation 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.[56]

IV. MUNICIPAL INCORPORATION

1. STANDARDS FOR MUNICIPAL INCORPORATION

The standards in s. 165.061, F.S., require the area to be incorporated:

- 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 or have an extraordinary natural boundary that requires separate municipal government; and
- Have a proposed municipal charter prescribing the form of government and clearly defining 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.

[54] *See,* chs. 2000-475 (Town of Southwest Ranches), 2004-454 (City of West Park), 2006-328 (Town of Loxahatchee Groves), 2006-348 (Town of Grant-Valkaria), 2014-249 (Village of Estero), Laws of Fla.
[55] S. 165.041(1)(b), F.S.
[56] Florida House of Representatives, Local Government Affairs Subcommittee, *Local Bill Policies and Procedures Manual*. (Tallahassee, Florida, published annually).

The plan for any incorporation must honor existing contracts for solid waste collection services in the affected areas for five years or the remainder of the contract term, whichever is shorter.[57]

2. FEASIBILITY STUDY

A feasibility study is an analysis of the proposed area to be incorporated. The purpose of the study is to enable the Legislature to determine whether the area: 1) meets the statutory requirements for incorporation, and 2) is financially feasible. Historically, citizen groups seeking the incorporation pay for the feasibility study. A 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.[58]

Under the statute, the feasibility study must include the following:

- 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;

[57] S. 165.061(1)(f), F.S.
[58] S. 165.041(1)(b), F.S.

- 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 the following:

  - 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; and

- Evidence that the proposed municipality meets the standards for incorporation in s. 165.061, F.S.

In counties having adopted a municipal overlay for municipal incorporation pursuant to s. 163.3217, F.S., such information must be submitted to the Legislature in conjunction with any proposed municipal incorporation in the county.[59]

Once a feasibility study is submitted, the Local Government Affairs Subcommittee coordinates a review of the study and proposed charter with various legislative entities and state agencies. If a local bill proposing the incorporation is filed and referred, the Local Government Affairs Subcommittee prepares an analysis of the information for use by legislators in considering the proposal. The Senate generally does not prepare an analysis for local bills, including those proposing a new municipal incorporation.

3. PROPOSED CHARTER

As noted above, a proposed municipal charter must clearly prescribe and define the form of government, and its functions, and may not prohibit or restrict the levy of authorized taxes. However, several practical matters not addressed in the statute are important to consider when proposing a local bill creating a new municipality. First is the content of the charter. A charter should contain matters of such importance that they should not be subject to change by simple ordinance. For example, each municipality must provide procedures for filling a vacancy in an

[59] S. 165.041(1)(c), F.S.

elected office caused by death, resignation, or removal from office.[60] While this requirement may be satisfied through the passage of an ordinance, the issue is fundamental enough to the governance of a municipality to be included in its charter.

The National Civic League recommends a municipal charter include an article on each of the following topics:

- Powers of the city;
- City council;
- City manager;
- Departments, offices, and agencies;
- Financial management;
- Elections;
- Charter amendment; and
- Transition and severability.[61]

The Local Government Affairs Subcommittee recommends the local bill creating the new municipality should have all provisions of the proposed municipal charter in one section of the bill. This method is preferred by House Bill Drafting Service because it keeps the charter's provisions and the bill's provisions separate. For example:

> Section 1. LEGISLATIVE INTENT – The Legislature hereby finds and declares that . . .
>
> Section 2. INCORPORATION OF MUNICIPALITY; CORPORATE LIMITS – There is hereby created, effective _____, in _____ County, a new municipality to be known as _____, which shall have a _____ form of government. The corporate boundaries of _____ shall be as described in section 2 of the charter.
>
> Section 3. SHORT TITLE – This act, together with any future amendments thereto, shall be known and may be cited as the "_____ Charter," hereinafter referred to as "the charter." The charter of _____ is created to read:
>
> Section 1. MUNICIPAL POWERS
>
> Section 2. MUNICIPAL BOUNDARIES [This should include an

[60] S. 166.031(6), F.S.

[61] *See*, National Civic League, "Model City Charter (8th ed.)" (2003), *available at* http://www.ebookszip.com/view/eighth-edition-model-city-charter-center-for-governmental.html (last visited Sept. 25, 2014).

accurate legal description of the real property being affected by the formation of a municipality.]

Section 4. TRANSITION PROVISIONS

Section 5. SEVERABILITY CLAUSE

Section 6. REFERENDUM PROVISION

The purpose of this example is to illustrate how the local bill should be formatted and does not include all provisions that should appear in a charter.

Copies of current Florida city charters may be obtained from the cities, usually from the office of the city clerk. Some charters and codes of ordinances can be obtained at http://www.municode.com.

4. ADDITIONAL DRAFTING CONSIDERATIONS FOR MUNICIPAL CHARTERS

In 2000, the Legislative Committee on Intergovernmental Relations reviewed the process for municipal incorporation in Florida.[62] The resulting report provided historical context for current standards of municipal incorporation and exemptions from such standards, and suggested practices for use in future incorporation initiatives, particularly on the required feasibility study and charter. The following recommendations were made regarding municipal charter drafting:

- Place all "charter-related" sections in one section of the special act adopting the charter, with "non-charter" issues placed in other sections.
- Clearly state and define the form of municipal government and officials' powers, responsibilities, and duties.
- Be consistent with the establishment date and the date the municipality is eligible for revenue sharing.
- Be specific regarding revenue-sharing formulas.
- Be realistic in determining municipal fiscal resources.
- Affirmatively state the applicability of all election laws.
- Include a clear and unambiguous referendum provision.
- Further develop intergovernmental relations regarding service delivery and growth management issues.

[62] *See*, Legislative Committee on Intergovernmental Relations, "Overview of Municipal Incorporations in Florida" (February 2001), for more detailed information. A copy of the report is on file with the Local Government Affairs Subcommittee

- Research and review previous municipal incorporation efforts and existing charters.

5. OTHER FACTORS TO CONSIDER FOR CREATION OF A MUNICIPALITY

Several steps not addressed in the law may aid in the passage of an incorporation special act. In most cases, interested citizens' groups are better positioned to convince their local Representatives and Senators (the local legislative delegation) of the benefits in establishing a particular municipal government. This is critical as House policy requires all local bills be approved by the local legislative delegation. Usually, a majority of the delegation must approve a proposed local bill. A delegation's rules on this point may differ, however.[63]

The following steps are helpful in obtaining, but do not guarantee, approval of the proposed incorporation charter by the local legislative delegation:

- Support groups should prepare, or contract for the preparation of, a feasibility study identifying and analyzing the local tax base and population data, anticipated available revenues, anticipated costs of start-up and operation, capital requirements, etc., for the proposed municipality.

- Support groups should prepare, or contract for the preparation of, a written charter (from which the local bill will be drafted) containing the basic provisions for organizing the municipal government. While the technical process of writing the final draft of the charter may be left to professionals, the decisions necessary to this process should involve the community, as much as possible, through such activities as public hearings and workshops.

- Support groups should prepare, or contract for the preparation of, accurate legal descriptions of the real property being affected. Proper description of the area affected by the bill enables effective notice to those whose interests are affected substantially by the proposed governmental change.

- Support groups should gain approval from the county governing body. While not mandatory, this is recommended as state legislators seriously consider the positions of their local counterparts.

- To indicate support for the incorporation effort, citizens may circulate petitions in the area affected for presentation to the local legislative delegation and/or the county governing body.

- The special act enacting the charter should be subject to a referendum of the people affected in order to indicate political support for the incorporation.

[63] A detailed explanation of local bill requirements may be found in the Florida House of Representatives' *Local Bill Policies and Procedures Manual*.

V. AMENDING A MUNICIPAL CHARTER

After a charter is enacted by the Legislature and approved by the affected voters in the area, a municipality may amend its charter notwithstanding any charter provisions to the contrary.[64] The governing body of a municipality may, by ordinance, submit a proposed charter amendment to the electors. Alternatively, the electors of a municipality, by petition signed by 10 percent of the registered electors as of the last municipal general election, may submit a proposed charter amendment to the electors. Such an amendment may be to any part or all of the charter except that part describing the boundaries of the municipality.[65] The governing body of the municipality must place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election or at a special election called for such purpose.[66]

Once an amendment to the municipal charter is adopted, the governing body of the municipality must incorporate the amendment into the charter and file the revised charter with the Department of State. All amendments are effective on the date specified in the amendment or as otherwise provided in the charter.[67]

Without referendum and by unanimous vote of its governing body, a municipality may abolish municipal departments provided in the municipal charter. A municipality also may amend provisions out of the charter if the provisions are judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the Florida or Federal Constitution.[68]

VI. MERGING MUNICIPALITIES

The statutes authorize merger of two or more existing municipalities to create a new municipality.[69] The purpose of the statutory merger process is to provide broad citizen involvement in both initiating and developing their local government; therefore, establishment of appropriate citizen advisory committees, as well as other mechanisms for citizen involvement, by the governing bodies of the units affected is specifically authorized and encouraged. To merge two or more municipalities and associated unincorporated areas, the governing bodies of the municipalities involved must pass concurrent ordinances setting forth the proposed new charter. The merger of one or more cities or counties with one or more special districts may be accomplished in a similar manner. The special acts relating to any special district subject to a merger must be modified or repealed by the Legislature.[70]

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[64] S. 166.031(3), F.S.
[65] Such changes must be accomplished through annexation or deannexation as described in Chapter 3 of this manual. A municipality may, by ordinance and without referendum, redefine its boundaries to include those lands previously annexed. *See*, s. 166.031(3), F.S.
[66] S. 166.031(1), F.S.
[67] S. 166.031(2), F.S.
[68] S. 166.031(5), F.S.
[69] S. 165.041(2), F.S.
[70] *See,* Chapter 5 of this manual.

Municipal incorporation by merger may be initiated in one of two ways: 1) the governing body of an area to be affected adopts a resolution for merger, or 2) 10 percent of the qualified voters in the affected area petition for a merger. If a qualifying petition is filed with the clerks of the governing bodies concerned, a feasibility study must be undertaken by those governing bodies. Within six months of receipt of the petition, the governing bodies must either adopt the concurrent formation ordinances or formally reject the petition. If the petition is rejected, the governing bodies must state the factual basis for such rejection.[71]

The concurrent ordinances for merger must provide for the charter and its effective date, the financial or other adjustments required, and a referendum to be passed by a majority of voters in each affected unit or area. The ordinances also must provide for the date of the referendum, which should be the next regularly scheduled election or special election held prior to such election, if approved by a majority of the members of the governing body of each governmental unit affected, but no sooner than 30 days after passage of the ordinance. If the ordinance does not provide a date for the referendum, the referendum is held at the next regularly scheduled election. Notice of the referendum must be published at least once each week for two consecutive weeks immediately prior to the election, in a newspaper of general circulation in the affected area. The notice must include the time and places for the referendum.

A general description in the form of a map, clearly showing the area to be covered by the municipality, also must be included in the notice.[72] It is advisable to include accurate legal descriptions of the real property being affected by the merger. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

Somewhat different general standards apply than those for a regular municipal incorporation if two or more cities seek to merge. As with a municipal incorporation, the total area of the proposed merger must be compact, contiguous, and susceptible to the provision of urban services. The merger plan must include provisions on the bonded indebtedness and the status and pension rights of employees of the merging units of government. However, other standards for incorporation do not apply.[73]

A municipal incorporation through merger must honor existing solid waste contracts in the affected geographic subject area. The newly created city may provide that the existing contracts be honored only for five years or the remainder of the contract term, whichever is shorter.[74]

VII. DISSOLVING MUNICIPALITIES

Article VIII, section 2(a) of the Florida Constitution provides that a municipality may be abolished or its charter amended pursuant to general or special law. When a

[71] S. 165.041(3), F.S.
[72] S. 165.041(2), F.S.
[73] S. 165.061(2), F.S.
[74] S. 165.061(2)(d), F.S.

municipality is abolished, the Constitution requires the Legislature to provide for the protection of the municipality's creditors.

A municipal charter may be revoked, dissolving the municipality, by the following two methods:[75]

- The Legislature passes a special act repealing the enabling act of the municipality and any subsequent amendatory acts. This method is subject to all requirements for the consideration and enactment of any special act.

- The governing body of the city seeking dissolution may pass an ordinance dissolving the municipality, subject to approval of the qualified voters in the affected area.

    - The municipal governing body must set the date for the referendum. If the municipal governing body does not act within 30 days of passing the ordinance, the governing bodies in each of the counties in which the municipality is located must set the date of the referendum.

    - The referendum must be held at the next regularly scheduled election or may be held at a special election prior to the next scheduled election, if the special election is approved by a majority of the members of the governing bodies for each governmental unit affected. The date of the referendum must be at least 30 days after the passage of the ordinance.

    - Notice of the referendum must be published in a newspaper of general circulation in the municipality at least once each week for two weeks prior to the referendum.

A municipality also may voluntarily dissolve its charter. The following three general requirements must be met:[76]

- The municipality must not be substantially surrounded by other cities;
- The county or another city must be able to provide the necessary municipal services to the municipal area proposed for dissolution; and
- The municipality to be dissolved must make arrangements to resolve its bonded indebtedness and the vested rights of employees.

In addition, the Legislature should be notified regarding obsolete special acts which should be repealed.

Regardless of the method chosen, including an accurate legal description of the real property being affected by the dissolution is advisable. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

[75] S. 165.051, F.S.
[76] S. 165.061(3), F.S.

The Department of Financial Services must notify the President of the Senate and the Speaker of the House of Representatives of any municipality that is financially inactive for the preceding four fiscal years. Such notice is sufficient to initiate statutory dissolution procedures.[77]

VIII. MUNICIPAL CONVERSION OF INDEPENDENT SPECIAL DISTRICTS

Municipal conversion of independent special districts is possible by a new elector initiative and referendum process. *See Chapter 5, Section XVIII of this manual for a complete discussion of this process.*

IX. MUNICIPAL FORMATION AND DISSOLUTION ACTIVITY IN FLORIDA

Since the adoption of the current law on municipal formation,[78] 27 municipalities have been established, 19 by special act.[79] At least 4 separate mergers of pre-existing municipalities were completed and 8 municipalities were dissolved (one under authority of the Miami-Dade County Charter). Appendix F lists successful municipal incorporations, mergers, and dissolutions. During this same period, Floridians also voted down 14 other incorporation attempts, listed in Appendix G.

X. CITIES ESTABLISHED IN MORE THAN ONE COUNTY

With three exceptions, each Florida municipality is created and exists in a single county. Each of the following three cities was created in two adjacent counties:

Municipality	Counties	Year Incorporated
Marineland	Flagler and St. Johns	1941
Longboat Key	Sarasota and Manatee	1955
Fanning Springs[80]	Gilchrist and Levy	1965

All three were created under the power authorized by article VIII, section 8, of the Florida Constitution (1885):

> The Legislature shall have power to establish and to abolish municipalities, to provide for their government, to prescribe their jurisdiction and powers, and to alter or amend the same at any time. When any municipality shall be abolished, provision shall be made for the protection of its creditors.

The current language of the Constitution states:

[77] S. 218.32(3), F.S.
[78] The Formation of Municipalities Act, ch. 165, F.S., was created in 1974. *See*, ch. 74-192, F.S.
[79] Nine municipalities were created by Miami-Dade County under its home rule charter.
[80] Incorporated as the Town of Suwannee River.

> Municipalities may be established or abolished and their charters amended pursuant to general or special law. When any municipality is abolished, provision shall be made for the protection of its creditors.[81]

The Legislature is authorized to create, abolish, or change counties by law.[82] While the current version of the Florida Constitution does not expressly prohibit the formation of a single municipality encompassing an area lying in more than one county, that question has not been interpreted by a court. Since 1968, no municipality lying in more than one county has been created. In 1994, the Legislature passed a law authorizing the creation of the proposed City of Port LaBelle, which would have occupied areas in Glades and Hendry counties. The proposed municipality apparently was rejected by a referendum of affected residents.[83]

XI. SUGGESTED READING

General Information

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The Florida League of Cities and John Scott Dailey Florida Institute of Government, The Florida Municipal Officials' Manual, (Tallahassee, FL, 2013), *available at* http://www.floridaleagueofcities.com/Publications.aspx?CNID=176 (last visited Oct. 7, 2014).

Municipal Demographics and Statistics

Fernald, Edward A., and Purdum, Elizabeth D., Ed., *Atlas of Florida*, (University Press of Florida, Gainesville, FL, 1992).

Bureau of Economic and Business Research, Warrington College of Business Administration, University of Florida, "Florida Statistical Abstract 2009*,"* (http://www.bebr.ufl.edu/publications/list*).*

Home Rule

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[81] FLA. CONST. art. VIII, s. 2(a).
[82] FLA. CONST. art. VIII. s. 1(a).
[83] Ch. 94-480, Laws of Florida.

Marsicano, Ralph, “Development of Home Rule,” *Florida Municipal Record*, Vol. 57, No. 10 (April 1984), p. 7.

Wolff, Mark J., “Home Rule in Florida: A Critical Appraisal,” *Stetson L. Rev.*, Vol. 19, No. 3 (Summer 1990), pp. 853-898.

Municipal Charters

Chapter 2000-475, Laws of Florida: creating the Town of Southwest Ranches.

Chapter 2004-454, Laws of Florida: creating the City of West Park.

Chapter 2006-328, Laws of Florida: creating the Town of Loxahatchee Groves.

Chapter 2006-348, Laws of Florida: creating the Town of Grant-Valkaria.

Chapter 2014-249, Laws of Florida: creating the Village of Estero.

National Civic League, *Model City Charter*, (Eighth Edition) (National Civic League Press, Denver, CO, 2003).

Feasibility Studies for Proposed Municipalities

Captiva Island Incorporation Feasibility Study: Captiva Incorporation Committee, Inc. (November 14, 2002).

City of West Park Incorporation Feasibility Study: Broward County Board of County Commissioners (December 2003).

Ruskin Incorporation Feasibility Study: Ruskin Community Development Foundation (October 2005).

Loxahatchee Groves Feasibility Study: The Committee to Incorporate Loxahatchee Groves, Inc. (October 2005).

City of Southport Revised Feasibility Study: Mary Dayton, Ashley Stukey, & Debbie Cuthbert (April 10, 2006).

Celebration Incorporation Feasibility Study: Celebration Incorporation Task Force, Inc. (November 20, 2006).

Estero Incorporation Feasibility Study: Estero Council of Community Leaders (August 2013).

Drafting of Local Bills (Special Acts)

Florida Legislature, Bill Drafting Service, *Drafting Local Legislation in Florida* (Tallahassee, Florida 1995).[84]

Florida House of Representatives, Local Government Affairs Subcommittee, *Local Bill Policies and Procedures Manual* (Tallahassee, Florida - updated annually).

XII. FOR FURTHER INFORMATION

General Information

Florida League of Cities
301 S. Bronough Street, Suite 300
Post Office Box 1757
Tallahassee, Florida 32302-1757
850-222-9684 Fax: 850-222-3806
http://www.flcities.com

Local Government Affairs Subcommittee
Florida House of Representatives
317 House Office Building
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-717-4861
http://www.myfloridahouse.gov

National Civic League
6000 East Evans Avenue, Suite 3-012
Denver, Colorado 80222
303-571-4343
http://www.ncl.org

Municipal Demographics and Statistics

Bureau of Economic and Business Research
University of Florida
221 Matherly Hall
Post Office Box 117145
Gainesville, Florida 32611-7145
352-392-0171 Fax: 352-392-4739
http://www.bebr.ufl.edu

Office of Economic and Demographic Research
The Florida Legislature
574 Pepper Building
111 W. Madison Street

[84] On file with Local Government Affairs Subcommittee.

Tallahassee, Florida 32399-6588
850-487-1402 Fax: 850-922-6436
http://www.edr.state.fl.us

Comprehensive Planning Information

Office of Community Planning
Division of Community Development
Department of Economic Opportunity
Caldwell Building
107 E. Madison Street, MSC-160
Tallahassee, Florida 32399-4128
850-717-8475 Fax: 850-717-8522
http://www.floridajobs.org/community-planning-and-development/programs/comprehensive-planning

CHAPTER 3
MUNICIPAL ANNEXATION OR CONTRACTION

I. SUMMARY

This chapter discusses how Florida municipalities change their boundaries through either the addition (annexation) or subtraction (contraction) of land. Annexation is the addition of real property to the boundaries of an incorporated municipality, where such an addition becomes, in every way, a part of the annexing municipality. Contraction, also referred to as deannexation, is the reversion or removal of real property from municipal boundaries. The removed area becomes unincorporated and its governance reverts to the county.

II. ANNEXATION HISTORY

Annexation is one of the primary tools used by American cities to adjust to urban population growth and to meet the needs for government services on the periphery of a city. Through annexation, a city may increase its tax base, expand its service delivery area, maintain a unified community, allow additional persons to vote in elections affecting their quality of life, and control growth and development.

The constitutions and laws of the 50 states regulate the establishing and revising of local government boundaries. There are many variations in how boundaries are changed across the United States. In some instances, the process favors municipal expansion through easy annexation. In other states, annexation is more difficult. In Virginia, for example, the courts adjudicate such proposals. Some state legislatures act directly to establish local governments and adjust their boundaries.[85]

Prior to the 1960s, the U.S. Supreme Court treated municipal annexations as the exclusive domain of the states. This began to change as the Court acted to protect the right to vote from racially discriminatory policies masquerading as municipal annexations or contractions. In one instance, the Alabama Legislature redrew the boundaries of Tuskegee, Alabama, in a highly unusual way to disenfranchise most of the city's 400 minority voters. The Court held that municipal annexations could not be used to circumvent federally protected rights.[86] In 1965, Congress passed the Voting Rights Act[87] to stop local governments from discriminating against citizens.

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[85] "Local Boundary Commissions: Status and Roles in Forming, Adjusting and Dissolving Local Government Boundaries," (Washington, D.C.: U.S. ACIR, May 1992).

[86] *Gomillion v. Lightfoot*, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed. 2d 110 (1960).

[87] Formerly codified in 42 U.S.C. sections 1973 to 1973aa-6, the Act was transferred to new Title 52, U.S.C. Prior to 2013 sections 4(b) and 5 of the Act required cities located in specific states or counties found to have engaged in voting-rights violations to obtain federal approval for any action affecting voters and voting behavior, including municipal annexations. In Florida, these strictures applied to Collier, Hardee, Hendry, Hillsborough, and Monroe Counties. *See*, 52 U.S.C. s. 10303(b); 28 CFR Part I, Appx. (7/1/2013). In 2013, the U.S. Supreme Court ruled the coverage formula in s. 4(b) of the Voting Rights Act, 52 U.S.C. s. 10303(b), was unconstitutional. *Shelby v. Holder*, 570 U.S. ---, 133 S.Ct. 2612, 2631, 186 L.Ed.2d 651 (2013). As of this writing, Congress has not yet taken legislative action nor has the U.S. Dept. of Justice revised the applicable federal regulations in response to the decision.

III. CONSTITUTIONAL/STATUTORY PROVISIONS RELATING TO ANNEXATIONS

The Legislature is authorized to annex unincorporated property into a municipality by special act as well as to establish procedures in general law for the annexation of property by local action.[88] Miami-Dade County, however, has exclusive jurisdiction over its municipal annexations under Article VIII, sections 11(1)(c), (5), and (6) of the 1885 Florida Constitution, as incorporated by reference in Article VIII, section 6(e) of the 1968 Florida Constitution.

The Legislature established local annexation procedures by general law in 1974.[89] Chapter 171, part I, F.S., the "Municipal Annexation or Contraction Act," describes the manners in which property may be annexed or deannexed by cities without requiring an act of the Legislature, and creates two types of annexations in Florida: by ordinance of the annexing municipality[90] and by voluntary petition.[91] With voluntary annexations, all property owners in the area proposed for annexation formally seek the annexation by petition. For annexation by ordinance, at least a majority of the electors in the area proposed for annexation must vote in favor of the annexation. The municipality may submit the annexation ordinance to the voters of the annexing municipality, but that vote is discretionary. Under ch. 171, F.S., a valid annexation must take place only within the boundaries of a single county.[92] Chapter 171, part II, F.S., the "Interlocal Service Boundary Agreement Act," enacted in 2006,[93] provides an alternative procedure for municipal annexation.

Florida annexation laws have a twofold purpose: 1) to set forth local annexation/contraction procedures, and 2) to establish criteria for achieving the legislative goals of sound urban development, uniform legislative standards, the efficient provision of urban services, and ensuring no area is annexed unless municipal services may be provided in that area.[94]

IV. VOLUNTARY ANNEXATION

The property owners within an unincorporated area may petition for voluntary annexation under the statute, except in those counties with charters providing an exclusive method for municipal annexation.[95] The statute requires the following:

- Submission to the municipal governing body of a petition seeking annexation, signed by all property owners in the area proposed to be annexed; and

[88] FLA. CONST. art. VIII, s. 2(c).
[89] Ch. 74-190, Laws of Fla.
[90] S. 171.0413, F.S.
[91] S. 171.044, F.S.
[92] S. 171.045, F.S.
[93] Ch. 2006-218, Laws of Fla.
[94] S. 171.021, F.S.
[95] S. 171.044(4), F.S.

- After first publishing notice of the proposed annexation in the manner and for the time required by statute, adoption by the municipal governing body of a nonemergency ordinance annexing the property.[96]

In addition, the annexation must not create enclaves, defined as:

- Any unincorporated, improved, or developed area enclosed within and bounded on all sides by a single municipality; or

- Any unincorporated, improved, or developed area enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.[97]

Upon publishing notice of the ordinance, the governing body of the municipality must provide a copy to the board of county commissioners of the county where the municipality is located.[98] Within seven days after adoption, the ordinance must be filed with the Clerk of the Circuit Court, the chief administrative officer of the county, and the Department of State.[99]

It is advisable to include accurate legal descriptions of the real property being affected by the annexation. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

V. ANNEXATION BY ORDINANCE[100]

By statute, municipalities may annex property on their own initiative. In general, the requirements for such annexation are as follows:

- The adoption by the annexing municipality's governing body of an ordinance annexing a contiguous, compact, unincorporated area;[101]

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[96] S. 171.044(2), F.S. The length of time the municipality must wait before adopting the ordinance of annexation varies depending on the manner of publication. The notice must give the ordinance number, a brief description of the area to be annexed, include a map of the proposed annexation area, and state the complete legal description and full text of the proposed ordinance are available from the city clerk. *Id*.

[97] S. 171.031(13), F.S.

[98] S. 171.044(6), F.S.

[99] S. 171.044(3), F.S.

[100] Sometimes referred to as "Involuntary Annexation." *See, e.g.,* Alison Yurko, "A Practical Perspective About Annexation in Florida," *Stetson L. Rev.*, Vol. 25 (Spring 1996), p. 699, 700, and "A Practical Perspective About Annexation in Florida – Making Sense of Florida Statutes Chapters 164 and 171 in 2003 and Beyond," *Stetson L. Rev.,* Vol. 32 (2003), p. 517, 518. However, because section 171.0413, F.S., refers merely to annexation procedures and requires an affirmative vote by a majority of the qualified electors within the proposed annexation area, this manual uses the more precise phrase "annexation by ordinance."

[101] S. 171.0413(1), F.S.

- Prior to adopting an annexation ordinance, the municipality's governing body must hold at least two advertised public hearings, with the first hearing being held on a weekday at least seven days after the first advertisement and the second hearing being held on a weekday at least five days after the second advertisement; and

- Once adopted, submission of the ordinance to a vote of the registered electors of the area proposed to be annexed.[102]

As with voluntary annexations, it is advisable to include accurate legal descriptions of the real property being affected by the annexation. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

A separate referendum for the qualified electors in the annexing municipality and their subsequent approval are not required to complete a proposed annexation. The holding of such a "dual referendum" is at the discretion of the governing body of the annexing municipality.[103]

If a majority in the area proposed to be annexed votes in favor of annexation, the area becomes a part of the city. If the municipality's governing board chose to submit the ordinance to a separate referendum of the municipal electors, a majority of those so voting must also approve the annexation. If a majority in the area proposed for annexation, or a majority of municipal electors in the case of a dual referendum, disapprove the annexation, that area cannot be made the subject of another annexation proposal for two years from the date of the referendum.[104]

1. CONSENT PROVISIONS FOR PROPERTY OWNERS

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations, or legal entities that are not registered electors, the area may not be annexed unless the owners of more than 50 percent of the land in the area consent to such annexation. The parties proposing the annexation must obtain such consent prior to the required referendum.[105]

If an area proposed to be annexed *does not have any registered electors* on the date the municipality's governing board adopts an annexation ordinance, a referendum within the area obviously cannot take place. In this case, the area may not be annexed unless the owners of more than 50 percent of the parcels of land

[102] S. 171.0413(2), F.S.
[103] S. 171.0413(2), F.S. Prior to 1999, a "dual referendum" was required if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality, or cumulatively exceeded more than five percent of the municipal population. If so, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was required to be submitted for a separate vote of the registered electors of the annexing municipality. S. 171.0413(2), F.S. (Supp. 1998). This requirement was repealed by chapter 99-378, section 12, Laws of Florida.
[104] S. 171.0413(2)(e), F.S.
[105] S. 171.0413(5), F.S.

within the area consent to annexation. The required property owner approval must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance. In addition, the annexing municipality may submit the ordinance to a vote of the registered electors of the annexing municipality. The annexation ordinance is effective upon becoming a law or as otherwise provided in the ordinance.[106]

2. STATUTORY PREREQUISITES TO MUNICIPAL ANNEXATION

Before local annexation procedures may begin, the governing body of the annexing municipality must prepare a report containing the city's plans for providing urban services to the area proposed to be annexed.[107] A copy of the report must be filed with the board of county commissioners where the municipality is located.[108] This report must include appropriate maps, timetables, and financing methodologies. The report must also certify the area meets the statutory criteria for annexation.[109]

For all annexations by municipal ordinance, the area proposed for annexation must be as follows:

- Unincorporated;
- Reasonably compact;
- Contiguous[110] to the boundary of the annexing municipality;
- Completely outside the boundary of any other municipality;[111] and either
    - Developed for urban purposes in whole or in part,[112] or
    - At least 60 percent of its external boundary borders any combination of the municipal boundary and a developed area or the area proposed for annexation provides a necessary bridge between the municipality and another area which is developed for urban purposes.[113]

For these objectives, urban purposes are defined as the following:

- Having a population of at least two persons per acre;
- If 60 percent of the subdivided lots or tracts in the area are one acre or less, having a density of one person per acre; or

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[106] S. 171.0413(6), F.S.
[107] S. 171.042(1), F.S.
[108] S. 171.042(2), F.S.
[109] *See*, s. 171.043, F.S.
[110] Subject to specific exceptions, a substantial part of the boundary of the area to be annexed must have a common boundary with the municipality. S. 171.031(11), F.S.
[111] S. 171.043(1), F.S.
[112] S. 171.043(2), F.S.
[113] S. 171.043(3), F.S.

- Having at least 60 percent of the subdivided lots used for urban purposes and at least 60 percent of the total urban residential acreage is divided into lots of five acres or less.[114]

Annexed areas are subject to municipal taxation (and the existing indebtedness of the annexing municipality) for the current year on the effective date of the annexation. However, the annexed area is not subject to ad valorem taxation for the current year if the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal *contractions,* the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value, and the manner of transfer and financing.[115]

VI. ANNEXATION OF ENCLAVES

Enclaves[116] may create significant problems in planning, growth management, and service delivery. To facilitate eliminating enclaves of small land areas (10 acres or less), the Legislature created a separate statutory process.[117] Using this process, a municipality may annex an enclave by interlocal agreement with the county having jurisdiction of that small area. An enclave with fewer than 25 registered voters may be annexed by municipal ordinance if at least 60 percent of such voters approve the annexation in a referendum. These procedures do not apply to undeveloped or unimproved real property.

VII. ANNEXATION BY SPECIAL ACT

The statutory procedures for voluntary annexation supplement "any other procedure provided by general or special law."[118] Florida has several special laws pertaining to annexation; hence, municipalities should consult applicable special laws prior to beginning annexation procedures. The Legislature may allow municipalities to annex property and may modify or waive any and all statutory requirements.[119]

VIII. EFFECT OF ANNEXATION ON AN AREA

Immediately upon being annexed, an area is subject to all laws, ordinances, and regulations applicable to other city areas. As an exception, the county land use plan and zoning or subdivision regulations of the unincorporated area remain in effect (after the annexation is approved) until the annexing municipality adopts a local comprehensive plan amendment to include the new area. In contractions, excluded territory is subject immediately to county laws, ordinances and regulations. Finally,

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[114] S. 171.043(2), F.S.
[115] S. 171.061, F.S.
[116] S. 171.031(13), F.S.
[117] S. 171.046, F.S., created by ch. 93-206, Laws of Fla.
[118] S. 171.044(4), F.S.
[119] For example, the Legislature has recognized a community of common interest in an unincorporated area and required approval by a majority of all electors in the identified area for any future annexation, even of only a portion of the area. *See*, ch. 2012-243, Laws of Fla., pertaining to the East Lake Tarpon Community in Pinellas County. *See also,* Yurko, "A Practical Perspective About Annexation in Florida," *Stetson L. Rev.*, Vol. 25 (Spring 1996), 700.

any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.[120]

IX. JUDICIAL REVIEW OF ANNEXATION OR CONTRACTION

Those affected by a municipal annexation or contraction who believe they will suffer material injury because the city failed to comply with the applicable laws, as applied to their property, may seek judicial review of the annexation ordinance. Within 30 days following the passage of the annexation ordinance the party must file a petition for review by certiorari with the circuit court for the county in which the municipality is located. A prevailing petitioner is entitled to reasonable costs and attorney's fees.[121] However, if a governmental entity petitions for review of the ordinance as an affected party, the prevailing side is entitled to reasonable costs and attorney's fees.[122]

X. SOLID WASTE COLLECTION AFTER ANNEXATION

At the time of annexation, an exclusive franchised solid waste collection service in effect for six months or longer may continue to provide service to the newly annexed area either for five years or the remainder of the franchise term, whichever is shorter, if certain statutory requirements are met.[123] The municipality may allow the franchisee to continue servicing the area under the present agreements, or the city may terminate the franchise if the franchisee does not agree to comply with certain statutory provisions relating to the quality or cost of services.[124]

A party with a solid waste collection contract in effect at least six months prior to the annexation may continue to provide services to the annexed area for five years or the remainder of the contract, whichever is shorter. The solid waste collection provider must produce written evidence of the contract duration, excluding any automatic renewals or "evergreen" provisions, within a reasonable time of a written request from the annexing municipality. The statute excludes single-family residential properties in specified enclaves.[125]

XI. LIMITED PROTECTION AGAINST ANNEXATION FOR INDEPENDENT SPECIAL DISTRICTS

Independent special districts have certain limited protections from municipal annexation. Frequently, independent special districts receive no financial protection from annexing municipalities even though the district remains liable for its debts. As an independent special district's tax base decreases due to annexations and loss of territory, the district may become economically inefficient and unstable. A situation may arise where an independent special district no longer has any property within its

[120] S. 171.081, F.S.
[121] S. 171.081(1), F.S.
[122] S. 171.081(2), F.S.
[123] S. 171.062(4)(a), F.S.
[124] S. 171.062(4)(b), (4)(c), F.S.
[125] S. 171.062(5), F.S.

boundaries due to annexations. To address these concerns, the Legislature allowed an independent special district to factor the decreased property base into its budget while at the same time not restricting municipalities' ability to annex.[126]

The statute provides for an orderly and equitable transition of special district service responsibilities to an annexing municipality. Upon annexation of property within a special district's boundaries, a municipality may elect to assume the special service responsibilities. If so, the municipality and special district may enter into an interlocal agreement to address the transition. If no interlocal agreement can be reached, then the district remains the service provider in the annexed area for a period of four years. During this time, the municipality pays the district an amount equal to the ad valorem taxes or assessment that would have been collected had the property remained in the district. At the end of the four years, or other agreed upon extension, the municipality and district must enter into an agreement regarding the transfer of district property located within the municipality. If no agreement is reached the matter must be brought before the circuit court. District service and capital expenditures within the annexed area must rationally relate to the annexed area's service needs, and those service and capital expenditures must also relate to received revenues. In addition, a district is prohibited from having a capital expenditure of more than $25,000 for use primarily within the annexed area without the express consent of the municipality.

If the municipality does not elect to assume district responsibilities, the district continues to provide service to the annexed area. In addition, the annexed area remains within the district's boundaries. Finally, the district is allowed to continue assessing user charges and impact fees within the annexed area while it remains the service provider.

These annexation provisions do not apply to community development districts and water management districts.[127]

XII. MUNICIPAL CONTRACTION OR DEANNEXATION

Municipalities also may redraw their boundaries through the *contraction* process.[128] *Contraction*, also referred to as *deannexation*, is the reversion or removal of real property from municipal boundaries so that the removed section becomes an unincorporated area and is governed by the county. In contractions, excluded territory is subject immediately to county laws, ordinances and regulations.

The municipality may propose an area for exclusion,[129] or 15 percent of the qualified voters residing in an area may petition the municipal governing body to exclude that area from the city limits. If the contraction proposal is initiated by petition of the area's residents, the governing body must conduct a feasibility study of the proposal

[126] S. 171.093. F.S.
[127] S. 171.093(8), F.S.
[128] S. 171.051, F.S.
[129] S. 171.051(1), F.S.

and, within six months, decide to initiate contraction procedures or reject the petition and state the factual basis for such rejection.[130]

Regardless of how the contraction proposal is initiated, the governing body must publish notice of the proposed contraction ordinance as required by the statute.[131] This notice must achieve the following:

- Describe the area to be excluded, usually in the form of a map clearly showing the area to be excluded;
- Show the area fails to meet the general criteria for annexation;[132]
- Set the time and place for the municipal governing body meeting at which the proposed ordinance will be considered; and
- Advise that all affected persons may be heard.

It is advisable to include accurate legal descriptions of the real property being affected by the deannexation. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

Voter approval of the contraction is required in the following situations:

- The city governing body calls for a referendum election on the question in the area proposed for exclusion; or
- The residents of the area proposed for exclusion submit a petition to the city governing body, signed by at least 15 percent of the area's qualified voters, requesting a referendum on the question. If, at this point, the city governing body does not wish to hold a referendum, it may simply vote not to contract the municipal boundaries.

If a referendum is to be held, the city governing body must set the date and publish notice of the referendum at least once each week for the two weeks prior to the election.

If a majority of those participating in the referendum vote in favor of contraction, the area will be removed from the city's jurisdiction on the date established in the contraction ordinance. However, if the vote is against contraction, the area will remain within the city's jurisdiction. No part of that area may become the subject of another contraction proposal for two years from the date of the referendum.

An area must meet the following criteria to be removed from a municipality:

[130] S. 171.051(2), F.S.
[131] S. 171.051(3), F.S.
[132] S. 171.052(1), F.S.

- The area must fail to meet the criteria for annexation;

- The results of the contraction must not separate any portion of the municipality from the rest of the municipality; and

- The contracting ordinance must provide for apportionment of any prior existing debt and property.

XIII. THE INTERLOCAL SERVICE BOUNDARY AGREEMENT ACT

As an alternative process for annexation, the respective governing bodies of counties, municipalities, or independent special districts may enter into an interlocal service boundary agreement, jointly determining how services are provided to residents and property.[133] The statutes create a more flexible process for adjusting municipal boundaries and address a wider range of the effects of annexation. The purpose is to encourage intergovernmental coordination in planning, service delivery, and boundary adjustments and to reduce conflicts and litigation between local entities. Local governments may develop their own process for reaching an interlocal service boundary agreement meeting certain requirements or use the process provided in statute.

1. INITIATING RESOLUTION

Negotiations for an interlocal service boundary agreement begin when a county, a municipality, or an independent special district adopts an initiating resolution. This resolution must identify an unincorporated area or incorporated area, or both, including a map or legal description of the described area to be discussed, and the issues to be negotiated. An independent special district may initiate an interlocal agreement for the sole purpose of dissolving the district or removing more than 10 percent of the taxable or assessable value of the district. A county's initiating resolution must designate one or more invited municipalities,[134] while a municipality's initiating resolution may designate an invited municipality. An initiating resolution from an independent special district must designate one or more municipalities and invite the county.[135]

2. RESPONDING RESOLUTION

Copies of a county's or municipality's initiating resolution must be provided to every invited municipality, all other municipalities in the county, and each independent special district in the unincorporated area identified in the resolution. Within 60 days of receiving an initiating resolution the county or invited municipality must adopt a responding resolution. This responding resolution may identify an additional unincorporated area or incorporated area, or both, and may designate additional issues for negotiation. The responding resolution may also invite an additional

[133] Ch. 171, part II, F.S.
[134] S. 171.202(10), F.S.
[135] S. 171.203(1), F.S.

municipality or independent special district to negotiate.[136] A municipality within the county not originally invited may request participation in the negotiations within a prescribed time frame and the request must be considered.[137]

While one local government cannot compel another to enter into a local service boundary agreement, those participating in the process must negotiate in good faith.[138] Once the parties to the negotiation are determined, they must begin negotiations within 60 days after receiving a responding or participating resolution, whichever occurs later.[139] An invited municipality not adopting a responding resolution is deemed to have waived its rights to participate and is bound by an interlocal service boundary agreement resulting from the negotiations.[140]

Local governments may negotiate simultaneously more than one interlocal service boundary agreement.[141] Counties and municipalities successfully negotiating an interlocal service boundary agreement must adopt the agreement by ordinance; an independent special district must adopt the agreement using a method consistent with its charter. Nothing in the statute prohibits a local government from adopting an interlocal service boundary agreement without the consent of an independent special district, unless the agreement provides for the dissolution of the independent special district on the removal (by annexation) of more than 10 percent of the taxable or assessable value of an independent special district.[142]

3. ISSUES ADDRESSED IN AN INTERLOCAL SERVICE BOUNDARY AGREEMENT

Interlocal service boundary agreements may address, but are not limited to, the following:

- Identifying a municipal service area and unincorporated service area;[143]

- Identifying the local government responsible for delivering or funding of public safety, fire, emergency rescue and medical, water and wastewater, road ownership, construction and maintenance, conservation, parks and recreation, and storm water management and drainage services within the area;[144] or

- Services and infrastructure not currently provided by an electric utility or a natural gas transmission company (the statute does not affect territorial

[136] S. 171.203(2), F.S.
[137] S. 171.203(3), F.S.
[138] S. 171.203(16), F.S.
[139] S. 171.203(4), F.S.
[140] S. 171.203(5), F.S.
[141] S. 171.203(17), F.S.
[142] S. 171.203(14), F.S.
[143] S. 171.203(6)(a), (6)(b), F.S.
[144] S. 171.203(6)(c), F.S.

agreements between electric or public utilities, or affect the determination of a territorial dispute by the Florida Public Service Commission).[145]

The interlocal service boundary agreement may establish a process and schedule for annexing an area within a designated municipal service area.[146] The agreement also may provide a procedure by which the local government responsible for water and wastewater services applies for necessary permit modifications to reflect changes in surface water management operating entity responsibilities.[147] The agreement also may require all fire and emergency medical services shall continue to be provided by the existing provider of such services to the annexed area, and remain part of the existing municipal service taxing unit or special district, unless and until one of the following occurs:

- The county and annexing municipality agree, by interlocal agreement or other legally sufficient means, as to who shall provide these emergency services; or

- A fire rescue services element exists for the respective county's comprehensive plan.[148]

An interlocal service boundary agreement may establish a process for land-use decisions consistent with ch. 163, part II, F.S., including joint land-use decisions of the county and municipality, and allow a municipality to adopt land-use changes for areas scheduled to be annexed within the term of the agreement. An agreement addressing land use planning must provide procedures for the preparation and adoption of plan amendments, the administration of land development regulations, and the issuance of development orders.[149]

The agreement may address other issues related to service delivery and include the transfer of services and infrastructure, fiscal compensation to one county, municipality, or independent special district from another local government or special district, and provide for the joint use of facilities and colocation of services.[150] The agreement may require the municipality to send the county a report on its planned service delivery.[151] Finally, an interlocal service boundary agreement may have a term of 20 years or less, and must include a provision requiring periodic review with renegotiations to begin at least 18 months prior to its termination date.[152]

4. STANDING TO CHALLENGE CERTAIN PLAN AMENDMENTS

A local government that is a party to the interlocal service boundary agreement must amend the intergovernmental coordination element of its comprehensive plan no

[145] S. 171.203(6)(d), F.S.
[146] S. 171.203(6)(e), F.S.
[147] S. 171.203(6)(j), F.S.
[148] S. 171.203(8), F.S.
[149] S. 171.203(6)(f), F.S.
[150] S. 171.203(6)(g), (6)(h), F.S.
[151] S. 171.203(6)(i), F.S.
[152] S. 171.203(12), F.S.

later than six months following entry of the agreement, consistent with s. 163.3177(6)(h)1., F.S.[153] For purposes of challenging such plan amendment, an affected person includes those owning real property, residing, or owning or operating a business within the boundaries of the municipal service area, and owners of real property abutting real property within the municipal service area that is the subject of the plan amendment, in addition to those affected persons who would have standing under s. 163.3184, F.S.[154]

5. REVIEW BY THE STATE LAND PLANNING AGENCY

A municipality that is party to an interlocal agreement identifying an unincorporated area for annexation must adopt a comprehensive plan amendment to address future possible annexation. The identified municipal service area must contain: a boundary map of the municipal service area, population projections for the area, and data supporting the provision of public services for the area.[155] The amendment must be reviewed by the Department of Economic Opportunity (DEO) for compliance with ch. 163, part II, F.S. However, DEO may not review or approve or disapprove a municipal ordinance relating to municipal annexation or contraction.[156]

6. IMPASSE IN NEGOTIATING AN INTERLOCAL SERVICE BOUNDARY AGREEMENT

If an interlocal service boundary agreement is not reached six months after negotiations begin, the initiating or invited local governments, or the county, may declare an impasse in the negotiations and seek a resolution using the procedures in ss. 164.1053 and 164.1057, F.S. If still unable to agree at the conclusion of the dispute resolution process, the local governments must hold a joint public hearing on the issues raised in the negotiations.[157] If the local governments still fail to reach an agreement, the initiating local government must wait at least six months before attempting to initiate negotiations under s. 171.203, F.S., on the same issues with respect to the same unincorporated areas.

Chapter 171, part II, F.S., does not impair any existing franchise agreement or contract without the consent of the franchisee or contracting party, respectively. Local governments retain their authority to negotiate franchise agreements for the use of public rights-of-way and providing service.[158]

[153] S. 171.203(9), F.S.
[154] S. 171.203(10), F.S.
[155] S. 171.203(6)(11)(a), F.S.
[156] S. 171.203(6)(11)(b), F.S.
[157] S. 171.203(13), F.S.
[158] S. 171.203(19)-(20), F.S.

XIV. ANNEXATION PROCEDURES UNDER AN INTERLOCAL SERVICE BOUNDARY AGREEMENT

A municipality may annex land so identified in an interlocal service boundary agreement by following the statutory procedures.[159] Lands identified for annexation under an interlocal service boundary agreement may include property otherwise not subject to municipal annexation under ch. 171, part I, F.S. Specifically, a municipality may annex any character of land, including an area not contiguous to the municipality's boundaries or that creates an enclave, if the area is urban in character as defined in s. 171.031(8), F.S. However, the agreement may not allow for the annexation of land within a municipality that is not a party to the agreement or of land within another county.[160]

A municipality may annex land within a municipal service area identified in the interlocal service boundary agreement, either through the process in ch. 171, part I, F.S., or using a "flexible" process created in the interlocal agreement. The flexible process may be used to secure the consent of property owners or registered voters residing in the area proposed for annexation with notice to these individuals.[161]

Annexation within the municipal service area must meet the consent requirements in ch. 171, part I, F.S., or the annexation may be achieved by one or more of the following: the filing of a petition for annexation signed by more than 50 percent of the registered voters in the area proposed for annexation, the filing of a petition for annexation signed by more than 50 percent of the property owners in the area proposed for annexation, or upon the approval by a majority of the registered voters in the area proposed for annexation voting in a referendum on the annexation.[162] Specific requirements are included for a privately owned solid waste disposal facility within the area to be annexed.[163]

Enclaves of more than 20 acres within a designated municipal service area may be annexed using a flexible process for securing voter consent, as provided in the interlocal service boundary agreement, with notice to those property owners and residents within the area proposed for annexation. However, the interlocal service boundary agreement may not authorize annexations of such enclaves unless:

- The annexation process meets the consent requirements of ch. 171, part I, F.S.;
- The annexation process includes one or more of the procedures specified in s. 171.205(1), F.S.; or

[159] Ss. 171.204, 171.205, F.S.
[160] S. 171.204, F.S.
[161] S. 171.205(1), F.S.
[162] S. 171.205(1)(a)-(c), F.S.
[163] S. 171.205(2), F.S. If the private facility receives waste collected within the jurisdiction of multiple local governments, the annexing municipality must set forth in its plan the impacts the annexation of the facility will have on other local governments. The plan also must show the owner of the facility was contacted in writing about the annexation, there is an agreement governing the operations of the facility, and the facility owner does not object to annexation.

- The municipality receives a petition for annexation from those owning more than 50 percent of the total real property in the area proposed for annexation.[164]

Enclaves, consisting of 20 acres or less and with fewer than 100 registered voters, within a designated municipal service area may be annexed using a flexible process for securing the consent of the voters, as provided in the interlocal service boundary agreement. The flexible process must require notice to the registered voters and property owners in the area to be annexed and may include one or more of the procedures described in s. 171.205(1), F.S., or a referendum of the registered voters residing in the area.[165]

Accurate legal descriptions of the real property affected by the annexation are advisable. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

XV. ANNEXATION AND CONTRACTION ACTIVITY IN FLORIDA

From 1998 through the 2014 session, the Legislature passed approximately 75 special acts for the purpose of annexing, deannexing, and/or adjusting the boundaries of various municipalities.[166] Little is known about the number and character of annexations accomplished by local action pursuant to general law during this same period as no statewide record exists of voluntary annexations or failed attempts at the local level.

XVI. WHY SPECIAL ACTS?

There are several reasons why annexation and contraction are attempted by special act. General law does not address the annexation of property from one municipality into another. When the municipal boundaries are coterminous, a special act is needed for any adjustment. There may be considerable, but not majority, support for annexation among residents and property owners in the area. Lastly, a proposed annexation may require an exception to the procedures in general law.[167] Appendix H lists examples of municipal boundary adjustment through annexation or deannexation by special law.

Of particular interest is the establishment of local annexation processes different from general law. One such process is the "Alachua County Boundary Adjustment Act" (Alachua Boundary Act).[168] The Alachua Boundary Act creates procedures for establishing municipal reserve areas, requires designation of reserve areas within

[164] S. 171.205(3), F.S.
[165] S. 171.205(4), F.S.
[166] Review of 1998 – 2014 Laws of Florida.
[167] A special act pertaining to municipal annexation, contraction, or boundary adjustment must comply with the same strictures in article III, section 10 of the Florida Constitution as any other local bill, including publication or referendum.
[168] Created by ch. 90-496, Laws of Fla., amended by chs. 91-382 and 93-347, Laws of Fla.

the county, and provides a procedure for boundary adjustments (annexation or contraction of municipal boundaries) within the reserve areas.

More specifically, the Alachua Boundary Act requires municipalities within Alachua County to designate areas to be reserved for annexation. The Alachua Boundary Act is the sole method for annexation of areas within a municipality's reserve area, whether that annexation is voluntary or by ordinance. Municipalities with designated reserve areas may annex only from those reserve areas. The Alachua Boundary Act does not address the procedures for annexation where a municipality has no reserve area. In fact, the Alachua Boundary Act provides that a municipality failing to designate a reserve area waives its right to participate in annexation pursuant to the Act. Two municipalities within Alachua County, Hawthorne and LaCrosse, do not have reserve areas, but have been proceeding with voluntary annexations in accordance with general law.

Broward County has a different local annexation process than as provided by general law. Any annexation of unincorporated property within Broward County must first be considered at a public hearing conducted by the Broward Legislative Delegation. The effective date of an annexation does not occur until the 15th day of September following adjournment of the next regular legislative session.[169]

XVII. CREATIVE ANNEXATION SOLUTIONS

Occasionally, a county resists municipal annexation because of perceived loss of current and potential revenues caused by relinquishing jurisdiction over annexed property. This becomes an important concern in large counties providing many urban services. Issues that may arise include water and sewer provision, and loss of tax, impact fee, or special assessment revenues for the counties.

One potential solution may be joint planning area agreements. Local governments must include a list of procedures to identify and implement joint planning areas in the intergovernmental coordination element of their comprehensive plans.[170] Interlocal agreements entered into between two or more units of local government may be used to delineate both planning and service provision areas in an attempt to avoid duplication and conflict between neighboring local governments.

One example is the Joint Planning Agreement ("Agreement") entered into on May 4, 1994, between the City of Orlando and Orange County. The Agreement attempts to delineate areas of unincorporated Orange County to which the City of Orlando agrees to limit its future annexation.

The Agreement includes a map defining a joint planning area, consisting of land likely to be developed for urban purposes, and which is appropriate for annexation. The Agreement states: "During the term of this Agreement, the City may annex only land in the Joint Planning Area, whether voluntarily or involuntarily, but may annex

[169] Ch. 96-542, Laws of Fla., as amended by ch. 99-447, Laws of Fla.
[170] S. 163.3177(6)(h)1.a., F.S.

any and all land in the Joint Planning Area." There are exceptions for voluntary annexations initiated by Universal Studios or the Orange County School Board.

Regarding land use planning, both the City and County retain their respective rights to challenge development orders issued by the other within the Joint Planning Area and agree that while Orange County's future comprehensive plan amendments are not subject to the Agreement, the City will refrain from issuing development orders within the Joint Planning Area inconsistent with the comprehensive plan. Finally, the Agreement addresses fire and rescue services provided by the parties within the Joint Planning Area, depending upon when certain areas are annexed by the City.

The Agreement is unusual in attempting to limit the City's annexation authority in a way that may be contrary to case law.[171] However, joint planning agreements may be used creatively by local governments to avoid service delivery conflicts.[172]

XVIII. CASE LAW RELATING TO ANNEXATION IN FLORIDA

The Florida law governing municipal annexation[173] has been litigated extensively. Most of the court decisions affirm the Legislature's constitutional authority over creating, abolishing, and amending the jurisdiction and authority of municipalities. Significant decisions relating to annexation may be divided into the following three issue categories:

- Taking private property without just compensation;
- Improperly delegating legislative authority to change municipal boundaries; and
- The right to vote in annexation referenda.

1. EXERCISE OF ANNEXATION AUTHORITY

The courts have affirmed the Legislature's power to establish and abolish municipalities by special law or by general law.[174] A municipality may annex land by passing a municipal ordinance using the statutory procedures.[175] Other cases have required the exercise of annexation authority within the framework of due process, equal protection, and other provisions of the Florida Constitution.[176] Courts also have found the Legislature shares the power to annex with municipal corporations,[177] and has the power to prohibit expressly the expansion of municipal

[171] *City of Safety Harbor v. City of Clearwater*, 330 So. 2d 840 (Fla. 2d DCA 1976).
[172] Florida ACIR, December 20, 1995, "Local Government Function and Formation in the Service Delivery Arena: Review of Relevant Research and Law," (Florida ACIR Docket Book, June 4, 1998).
[173] Ch. 171, F.S.
[174] *State ex rel. Lee v. City of Cape Coral*, 272 So. 2d 481, 483 (Fla. 1973); *SCA Services of Florida, Inc. v. City of Tallahassee*, 418 So. 2d 1148, 1149 (Fla. 1st DCA 1982).
[175] *SCA Services of Florida, Inc.*, at 1150.
[176] *State ex rel. Lee v. City of Cape Coral*, 272 So. 2d at 483.
[177] *State ex rel. Davis v. City of Stuart*, 120 So. 335, 341 (Fla. 1929); *SCA Services of Florida, Inc.*, at 1149.

territory by a municipal corporation's independent action.[178] A statute may give a municipality the authority to annex contiguous lands in any proper manner or may ratify an unauthorized exercise of authority conferred.[179]

2. WHEN DOES ANNEXATION TAKE EFFECT?

A parcel of land subject to annexation does not become part of the municipality adopting the ordinance until that ordinance becomes final.[180] Annexation ordinances may be enacted validly even though the original petitioners for annexation transfer the land to persons who did not petition.[181]

3. PRIVATE PROPERTY RIGHTS

The courts may restrain the legislative prerogative where the annexation in question is found to be unreasonable.[182] Major considerations for determining the reasonableness of an annexation include the following:

- Benefits and services rendered in relation to the taxes imposed on the annexed property;
- The nature of the annexed land; and
- Legislative policy.[183]

Even if land is suitable for annexation, the court will not allow an annexation constituting a "palpably arbitrary, unnecessary, and flagrant invasion of personal and property rights."[184] Unreasonable annexations have been found where city taxes were imposed for which the landowner received no benefits, and where boundaries were extended for revenue purposes only.[185]

Lands are illegally included in a municipality if the lands are so remote from any municipal facility that they may receive no municipal benefits.[186]

4. IMPROPER DELEGATION OF LEGISLATIVE AUTHORITY TO CHANGE MUNICIPAL BOUNDARIES

Municipalities may not enter into certain contracts. For instance, a party cannot contract with a municipality where the result would be the complete removal of the

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[178] *City of Ft. Lauderdale v. Town of Hacienda Village*, 172 So. 2d 451, 453 (Fla. 1965).
[179] *City of Sebring v. Harder Hall*, 9 So. 2d 350, 352 (Fla. 1942).
[180] *MacKinlay v. City of Stuart*, 321 So. 2d 620, 623 (Fla. 4th DCA 1975).
[181] *Id*. at 622-623.
[182] *State ex rel. Bower v. City of Tampa*, 316 So. 2d 570, 571-572 (Fla. 2d DCA 1975).
[183] *Id.* at 572.
[184] *Gillete v. City of Tampa*, 57 So. 2d 27, 29 (Fla. 1952).
[185] *Id*.
[186] *Town of Mangonia Park v. Homan*, 118 So. 2d 585, 588 (Fla. 2d DCA 1960); *State ex rel. Landis v. Town of Boca Raton*, 177 So. 293, 293 (Fla. 1937).

police powers of the municipality.[187] Municipal contracts promising not to impose taxes, or granting tax exemptions, are likewise void in the absence of specific constitutional or legislative authority.[188] Municipalities also may not contract away their power to annex land.[189] If an agreement limits or restricts the elected representatives of a governing body and their duly elected successors in the exercise of their governmental powers, the agreement is inoperative.[190] Because the power to annex is governmental, such power cannot be contracted away. A city may not be rendered impotent to exercise governmental functions and to modify or change its policies.[191]

An annexation statute may delegate too much power to the judiciary, which violates the separation of powers between the branches of government. Annexation, being exclusively a legislative function, cannot be delegated to, or exercised by, a non-legislative body such as the judiciary.[192] Thus, a statute giving a court the discretion to determine the conditions or circumstances on which the change of municipal boundaries will be permitted violates the constitutional separation of powers.[193] Instead, a statute should enable the court to determine whether conditions or circumstances prescribed by the Legislature have been met or performed.[194] Statutes leaving the courts to determine whether annexation is "desirable, necessary, advisable, in the best interest of the inhabitants of the city or annexed area, or ought in justice and equity be allowed" are unconstitutional because they delegate a legislative power to the judiciary: determining the specific conditions for annexation.[195] Drawing boundaries and establishing the guidelines and definitions for annexation are legislative functions that cannot be exercised by the judiciary.[196]

5. EQUAL PROTECTION/DUE PROCESS/THE RIGHT TO VOTE IN ANNEXATION REFERENDA

An annexation statute found to violate a person's rights to due process or equal protection may be declared unconstitutional. The power to annex is limited by the protection of certain rights by the Florida Constitution, whether those rights are expressed or implied.[197] A statute violates the equal protection guarantee if there is a gross and glaring territorial inequality created by the annexation. This can occur when there is a sudden, unreasonable, and wholesale extension of municipal boundaries enveloping an area many times the size of the original city and subjecting that area to municipal taxation without providing any municipal benefit.[198]

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[187] *P.C.B. Partnership v. City of Largo*, 549 So. 2d 738, 741 (Fla. 2d DCA 1989).
[188] *Lykes Brothers, Inc. v. City of Plant City*, 354 So. 2d 878, 880 (Fla. 1978).
[189] *City of Safety Harbor*, at 841.
[190] *Id.* at 842.
[191] *Id*.
[192] *City of Auburndale v. Adams Packing Association*, 171 So. 2d 161, 163 (Fla. 1965).
[193] *Id*. *See,* FLA. CONST. art. II, s. 3.
[194] *City of Auburndale*, at 163.
[195] *Id*.
[196] *State ex rel. Davis v. City of Largo*, 149 So. 420, 422 (Fla. 1933); *See*, also *A.B.A. Industries, Inc. v. City of Pinellas Park*, 366 So. 2d 761, 763 (Fla. 1979).
[197] *State ex rel. Davis v. City of Stuart*, at 348.
[198] *Id*. at 349.

Due process is not violated where notice of annexation is broad enough so that average people may reasonably foresee their interests may be affected by the proposed legislation.[199] Likewise, if a statute gives each affected, qualified elector the right to vote, the equal protection clause will not be violated, even if the number of qualified electors in the municipality seeking to annex the land outweighs those electors in the unincorporated land.[200]

In *City of Tallahassee v. Kovach*,[201] the court held landowners did not have statutory standing to contest annexation of property by a city when their property was surrounded on three sides by the property proposed for annexation. The statute[202] grants standing to challenge municipal annexation to three categories of parties: those who own property within the annexing municipality, those who reside within the annexing municipality, and those owning property proposed for annexation. Close proximity to the proposed property for annexation is not enough.[203] However, even if a party lacks statutory standing to sue, that person is not deprived of access to the courts under article I, section 21 of the Florida Constitution, which provides the courts are open to every person for redress of any injury.[204]

The Florida Supreme Court has held there is no absolute right to vote on proposed alterations of municipal boundaries. The Court found the Legislature may authorize annexation to occur with or without any vote or by a single majority vote of all those affected. [205]

XIX. ATTORNEY GENERAL OPINIONS RELATING TO ANNEXATION

The Florida Attorney General (AG) has issued a number of official opinions pertaining to municipal annexation. The AG is authorized to provide specific state officers, including those of a county, municipality, or other unit of local government, with an official opinion and legal advice in writing on questions of law relating to the official duties of the requesting officer.[206] Although not bound by such opinions, Florida courts give them great weight when interpreting the laws and statutes.[207]

1. VOLUNTARY ANNEXATION

In 1977, the AG concluded cities using the voluntary method of annexation were not required to hold a referendum on the question.[208] A 1978 AG opinion declared cities

[199] *North Ridge General Hospital, Inc. v. City of Oakland Park*, 374 So. 2d 461, 464 (Fla. 1979).
[200] *Capella v. City of Gainesville*, 377 So. 2d 658, 661 (Fla. 1979).
[201] *City of Tallahassee v. Kovach*, 733 So. 2d 576 (Fla. 1st DCA 1999).
[202] S. 171.081, F.S,
[203] *City of Tallahassee v. Kovach*, at 577-578.
[204] *Id.* at 580.
[205] *Capella v. City of Gainesville*, 377 So. 2d 658, 661 (Fla. 1979).
[206] S. 16.01(3), F.S.
[207] *Beverly v. Div. of Beverage of the Dept. of Business Regulation*, 282 So. 2d 657, 660 (Fla. 1st DCA 1973).
[208] 1977 Op. Att'y Gen. Fla. 77-133 (December 20, 1977).

using the voluntary annexation method need not meet the criteria for annexation by ordinance.[209]

In 1987, the AG opined a municipality may not voluntarily annex land occupied by a single condominium without a petition signed by all owners of units in the condominium. Under s. 718.106(1), F.S., all unit owners in a condominium are owners of separate parcels of real property. Thus, to petition a municipality for voluntary annexation required the signatures of all unit owners in a condominium.[210]

In 2007, the AG observed that a municipality could consider whether annexed property would provide a net benefit consistent with the statutory prerequisites for annexation and character of the area to be annexed.[211]

2. ANNEXATION BY ORDINANCE

Three opinions interpreted the statutory requirement for consent to annexation by the owners of more than 50 percent of the land within the affected area if more than 70 percent of the land in that area was owned by individuals, corporations, or other legal entities which were not registered electors of the area.[212] A significant 1996 opinion related to public roads within the state, county, and municipal road systems. Such roads may not be considered in the statutory calculation of ownership of land when trying to determine if more than 70 percent of the land is owned by entities that are not registered electors of the area proposed to be annexed.[213] In 2005, the AG concluded privately owned rights-of-way, water bodies, and condominiums must be considered in the calculation of ownership of land by non-registered elector owners..[214] In 2007, the AG opined the "70 percent" calculation also includes "common area" land. As used, the term "common area" means: "all real property within a community which is owned or leased by an association or dedicated for use or maintenance by the association or its members."[215]

3. SUPPLY OF WATER AND SEWER

A 1986 AG Opinion concluded a city is not required to supply water and sewer services to property outside of its jurisdiction and may limit services to property falling within its municipal boundaries. In the facts presented, as no charter, statutory provision, or contractual agreement required the city to furnish water and sewer to areas outside of its jurisdiction, the city may refuse to provide such municipal services until such time as the property is annexed.[216]

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[209] 1978 Op. Att'y Gen. Fla. 78-121 (October 12, 1978).
[210] 1987 Op. Att'y Gen. Fla. 87-54 (June 1, 1987). *See*, s. 171.044(2), F.S.
[211] 2007 Op. Att'y Gen. Fla. 2007-38 (September 24, 2007). *See*, ss. 171.042 & 171.043, F.S.
[212] S. 171.0413(5), F.S.
[213] 1996 Op. Att'y Gen. Fla. 96-74 (September 25, 1996). *See*, s. 171.0413(5), F.S.
[214] 2005 Op. Att'y Gen. Fla. 2005-01 (January 27, 2005).
[215] 2007 Op. Att'y Gen. Fla. 2007-02 (January 26, 2007).
[216] 1986 Op. Att'y Gen. Fla. 86-05 (January 16, 1986). *See also, Allen's Creek Properties, Inc. v. City of Clearwater*, 679 So. 2d 1172, 1176-1177 (Fla. 1996), in which the Court held the city could condition the provision of sewer service on annexation.

4. ENFORCEMENT OF TRAFFIC LAWS

In 1989, the AG opined police departments are authorized by s. 316.640(3)(a), F.S., to enforce state traffic laws on state roads within the geographical limits of the city although the road itself has not been annexed. This conclusion was based on an earlier opinion finding the statute authorized municipalities to provide police protection on federal highways and state roads physically located within corporate municipal boundaries.[217]

5. PROHIBITION AGAINST AD VALOREM TAX REBATE

A 1990 AG Opinion stated a city may not provide incentives for the annexation of property into the municipality by passing an ordinance allowing a rebate of a portion of the ad valorem taxes collected on newly annexed property. The broad home rule powers authorized to municipalities by the Florida Constitution,[218] do not include the power to levy taxes. The rebate of a portion of the ad valorem taxes paid on newly annexed property provides an indirect exemption from taxation which the city may not provide without constitutional or statutory authority allowing such action.[219]

6. CONTRACTION

In 1991, the AG concluded a municipality may contract its boundaries or exclude certain property previously annexed into the city by following the statutory contracting procedures.[220] However, only those areas not meeting the criteria for annexation[221] may be proposed for exclusion by municipal governing bodies. Once an area is excluded from a municipality, that land is no longer subject to any laws, regulations, or ordinances in force in the municipality from which it was excluded. The land is subject to all laws, regulations, and ordinances in force in the county.[222]

A 1998 AG opinion found a municipality may not exclude from its boundaries an undeveloped and unimproved island surrounded on all sides by incorporated municipal property because the property met the statutory annexation criteria.[223] In addition, although the property was undeveloped or unimproved and the contraction would not create an actual enclave, deannexation would have the same effect as an enclave by creating a pocket of unincorporated land within municipal boundaries, frustrating the purpose of the statutes.

7. CITY CHARTERS

In 2004, the AG opined a municipal charter could not amend the statutory procedures for annexing property. Thus, a municipality may not require an ordinance

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[217] 1989 Op. Att'y Gen. Fla. 89-57 (September 13, 1989), relying on 1981 Op. Att'y Gen. Fla. 81-41 (May 29, 1981).
[218] FLA. CONST. art III, s. 2, implemented by s. 166.021, F.S.
[219] 1990 Op. Att'y Gen. Fla. 90-23 (March 20, 1990).
[220] S. 171.051, F.S.
[221] S. 171.043, F.S.
[222] 1991 Op. Att'y Gen. Fla. 91-21 (March 26, 1991).
[223] 1998 Op. Att'y Gen. Fla. 98-076 (December 10, 1998).

providing for a voluntary annexation to be submitted for referendum when the statute providing for voluntary annexation does not provide for such a referendum.[224]

8. JUDICIAL REVIEW

In 2007, the AG considered whether a property owner who petitioned for annexation could appeal a denial of the petition. The opinion concluded that while the statute authorizing judicial review[225] did not specifically address the denial of a request for voluntary annexation, the terms were broad enough to encompass affected parties believing they will suffer material injury by the municipality's failure either to comply with the statutory procedures for annexation or to meet the requirements for annexation as applied to the subject property. Consequently, the owner of property subject to voluntary annexation could seek judicial review as a party affected by the actions of the municipality.[226]

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XXI. FOR FURTHER INFORMATION

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[224] 2004 Op. Att'y Gen. Fla. 2004-24 (April 30, 2004). The opinion cited *SCA Services, Inc.*, at 1150, and 1977 Op. Att'y Gen. Fla. 77-133 as authority supporting this conclusion.
[225] S. 171.081, F.S.
[226] 2007 Op. Att'y Gen. Fla. 2007-38 (September 24, 2007).

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CHAPTER 4
CITY/COUNTY CONSOLIDATIONS

I. SUMMARY

This chapter provides a brief history of the constitutional and statutory provisions relating to the consolidation of city and county governments, and of constitutional activity relating to consolidation.

II. HISTORY OF CITY/COUNTY CONSOLIDATIONS

Consolidation involves combining city and county governments so that the boundaries of the county and an affected city or cities become the same. Consolidation may be total or partial. Total consolidation occurs where all independent governmental units within a county are assimilated into the consolidated government. When some of the governmental units remain independent, the consolidation is partial.

When proposing a governmental consolidation, it is advisable to include accurate legal descriptions of the real property being affected by the consolidation. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

All jurisdictions need not participate in the consolidation effort. Consolidation also does not preclude automatically the later formation of new cities or special districts. For example, when the consolidated government of Jacksonville/Duval County, Florida, was formed, four cities retained their identity (Atlantic Beach, Baldwin, Jacksonville Beach and Neptune Beach), but four special districts were eliminated and 12 more were consolidated into two dependent districts. Since that time, at least one new independent special district has been created within the geographic boundaries of the consolidated government.

Few successful city-county consolidations have occurred nationally. Of almost 3,068 county governments in the United States, only 38 are combined city-county governments.[227]

III. THE FLORIDA CONSTITUTION AND CONSOLIDATION

Prior to 1934, the 1885 Florida Constitution was silent on the subject of consolidation. This lack of constitutional direction left many questions unanswered about the Legislature's authority to enact statutes consolidating city and county governments. Consequently, to avoid potential legal challenges, the Legislature began proposing constitutional amendments authorizing consolidation.

[227] Research Division, National Association of Counties, 440 First Street, NW, Washington, D.C. 20001.

A 1933 joint resolution to amend the Constitution authorized the Legislature to establish a municipal corporation consolidating the governments of Duval County and any of the municipalities within its boundaries, subject to referendum approval of the affected voters.[228] The voters adopted this amendment in 1934.[229] However, the voters of the City of Jacksonville and Duval County did not approve a municipal charter pursuant to this constitutional provision until 1967.[230]

In 1935, the Legislature enacted a joint resolution[231] to amend the Constitution, adopted by the Florida electorate in 1936, establishing similar legislative authority, subject to voter approval, with respect to Key West and Monroe County.[232] The voters of Key West and Monroe County have not voted to employ this authority and enact a consolidated government.

In 1965, the Legislature enacted a joint resolution[233] to amend the Constitution, adopted by the Florida electorate in 1966, authorizing consolidation in Hillsborough County in a slightly different manner. This constitutional provision directly authorizes the electors of Hillsborough County to adopt a county charter, conditioned upon the consolidation of the governments of the City of Tampa and the county.[234] This authority also has not been exercised. Hillsborough County, however, became a charter county pursuant to general law in 1983.[235]

Presently, only Duval County and the City of Jacksonville have taken advantage of the specific constitutional authority to consolidate. However, the enabling amendments to the 1885 Constitution for the consolidation of the City of Key West and Monroe County, and the consolidation of the City of Tampa and Hillsborough County, remain a part of the Florida Constitution, adopted by reference in Article VIII, section 6(e) of the Florida Constitution.

The 1955 Legislature proposed a constitutional amendment,[236] approved by the voters in 1956, authorizing the voters of Dade County to enact a home rule charter.[237] This constitutional provision did not authorize consolidation as authorized for the other three counties. However, the provision empowered the electors of Miami-Dade County,[238] through their charter, to: 1) create a central metropolitan

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[228] SJR 113 (1933).
[229] Approved on November 6, 1934, FLA. CONST. art. VIII, s. 9 (1885), retained by reference in FLA. CONST. art. VIII, s. 6(e) (1968).
[230] Jacksonville Ordinance Code, Volume III (containing the Charter and Related Laws of the City of Jacksonville, Florida), (Municipal Code Corporation, Tallahassee, Florida 1991), C-1.
[231] SJR 429 (1935).
[232] Approved on November 3, 1936, FLA. CONST. art. VIII, s. 10 (1885), retained by reference in FLA. CONST. art. VIII, s. 6(e) (1968).
[233] CS/HJR 1987 (1965).
[234] Approved on November 8, 1966, FLA. CONST. art. VIII, s. 24 (1885), retained by reference in FLA. CONST. art. VIII, s. 6(e) (1968).
[235] Home Rule Charter for Hillsborough County Florida, (Tampa, Florida: Hillsborough County Board of County Commissioners, September 1983), Introduction.
[236] SJR 1046 (1955).
[237] Approved on November 6, 1956, FLA. CONST. art. VIII, s. 11 (1885), retained by reference in FLA. CONST. art. VIII, s. 6(e) (1968).
[238] In 1997 Dade County changed its name to "Miami-Dade County" by amending section 1-4.2., Code of Ordinances of Miami-Dade County. All constitutional references to "Dade County" are

government; 2) merge, consolidate, and abolish all municipal corporations, county, or district governments in the county; and 3) provide a method by which any and all of the functions or powers of any municipal corporation or other governmental entity in Miami-Dade County may be transferred to the board of county commissioners.

General authority for consolidation is provided in article VIII, section 3 of the 1968 Florida Constitution. Under this section, city/county consolidations may occur only through a consolidation plan passed by special act of the Legislature and subject to approval of the electorate. Voter approval may be obtained via a single countywide referendum or through separate referenda held in each affected political jurisdiction. The consolidation plan cannot make new residents responsible for old debts unless they benefit from the facility or service for which the indebtedness was incurred.

IV. FLORIDA STATUTES ON CONSOLIDATED GOVERNMENTS

Several general laws uniquely affect consolidated governments. These statutes fall into three broad categories: retirement and pension rights, taxation and finance, and export trade. These statutes apply to the consolidated government of Jacksonville/Duval County and, in some cases, Miami-Dade County. However, these provisions could apply to any other governments that consolidate.

1. RETIREMENT AND PENSION RIGHTS

Section 112.0515, F.S., protects the rights of all public employees in any retirement or pension fund. Public employees' benefits or other pension rights may not be diminished, impaired or reduced by reason of city/county consolidation or other types of governmental reorganization.

In addition to the foregoing protection, s. 121.081(1)(f) and (g), F. S., states the conditions under which past or prior service may be claimed and credited for purposes of calculating retirement benefits. For officers and employees of any county or city involved in a consolidation, the following conditions apply:

- Employees participating in a local retirement system of any county or city involved in a consolidation may, if eligible, elect to switch over to the Florida Retirement System. Employer contributions must continue at required rates.

- Past-service credit will be given.

- Membership in a state retirement system will be protected for officers or employees of a consolidated government enrolled in the system on or before May 15, 1976.

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deemed to apply to Miami-Dade County. Statutory references subsequently were updated to "Miami-Dade County." Ch. 2008-4, Laws of Fla.

2. TAXATION AND FINANCE

Several statutes financially affect consolidated governments. These laws generally relate to the following:

- Millage determination;
- Local option taxes; and
- Revenue sharing.

For purposes of determining millage rates for ad valorem taxing purposes, the government of Miami-Dade County and the consolidated government of Jacksonville/Duval County are defined as county governments.[239] Except for voted levies, cities and counties are constitutionally limited to a millage cap of 10 mills for municipal purposes and 10 mills for county purposes.[240] However, because consolidated governments provide both municipal and county services, s. 200.141, F.S., grants Miami-Dade and consolidated Jacksonville/Duval Counties the right to levy a millage up to 20 mills on the dollar of assessed valuation.

Regarding local option taxes, consolidated governments may levy most taxes other local governments are authorized to levy. These governments also are specifically authorized to levy a convention development tax on transient rentals by passage of an ordinance. Revenues generated by such a tax must be used to build or improve/enlarge publicly owned convention centers, including stadiums, exhibition halls, arenas, coliseums or auditoriums. In 1985 the Legislature authorized the transit system surtax subject to voter referendum or charter amendment. In 2009, the Legislature changed the name of this surtax to the Charter County Transportation System Surtax.

3. EXPORT TRADE

Each county operating under a government consolidated with one or more municipalities in the county has the following powers to:[241]

- Own, maintain, operate, and control export trading companies and foreign sales corporations as provided by the laws of the United States;
- Own, maintain, operate, and control cargo clearance centers and customs clearance facilities and corporations established for the purpose of providing or operating such facilities;
- Maintain the confidentiality of trade information to the degree provided by the Export Trading Company Act of 1982;[242]

[239] S. 200.001(8), F.S.
[240] FLA. CONST. art. VII, s. 9.
[241] S. 125.025, F.S.
[242] Pub. L. No. 97-290, as amended.

- Maintain the confidentiality of trade information and data pursuant to the patent laws of the United States, the patent laws of foreign nations (to the extent such laws are enforced by the courts of the United States), the copyright laws of the United States, the copyright laws of foreign nations (to the extent they are enforced by the courts of the United States), and the trade secrets doctrine; and

- Authorize airport and port employees to serve as officers and directors of export trading companies, foreign sales corporations, and customs and cargo clearance corporations.

4. FLORIDA CONSOLIDATION ACTIVITY

No successful consolidation has occurred in Florida since the consolidation of Duval County and the City of Jacksonville in 1967. Despite the perceived benefits of streamlining governmental functions, and the Legislature's attempts to simplify the process, Floridians consistently rejected consolidation proposals at the polls. A list of failed attempts at consolidation in Florida since 1967, along with a vote count, appears in Appendix I.

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CHAPTER 5
SPECIAL DISTRICTS

I. SUMMARY

Special district governments are separate entities existing for specific purposes and having substantial fiscal and administrative independence from general purpose governments. Special district governments have existed in the United States for over 200 years and are found in every state and the District of Columbia.

In Florida, special districts perform a wide variety of functions, such as providing fire protection services, delivering urban community development services, and managing water resources. Special districts typically are funded through ad valorem taxes, special assessments, user fees, or impact fees. The Uniform Special District Accountability Act, ch. 189, F. S., generally governs the creation and operations of special districts; however, other general laws may more specifically govern the operations of certain special districts.

As of October 1, 2014, there were 633 active dependent special districts and 994 active independent special districts in Florida.[243] Community development districts are the most frequently created form of independent special district. Other common special districts in Florida include drainage and water control districts, fire control districts, and community redevelopment districts.[244]

II. SPECIAL DISTRICTS IN THE UNITED STATES

Benjamin Franklin established the first special district on December 7, 1736, when he created the Union Fire Company of Philadelphia, a volunteer fire department. Residents in a certain neighborhood paid a fee to receive fire protection. Any resident not paying the fee had no fire protection services. Soon, many volunteer fire departments formed throughout Philadelphia. This prompted Franklin to boast that his city had the best fire service in the world.[245]

Special district governments provide specific services not otherwise supplied by existing general-purpose governments. Most of these entities perform a single function, but, in some instances, their enabling legislation allows them to provide several, usually related, types of services. The services provided by these districts

[243] Florida Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, Official List of Special Districts Online, *State Totals*, http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/report.cfm (last visited Sept. 30, 2014).

[244] Florida Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, Official List of Special Districts Online, *Special District Function Totals* at http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-accountability-program (last visited Sept. 30, 2014).

[245] Reprinted from Florida Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, *Florida Special District Handbook Online: A Brief History of Special Districts,* section 4b, (September 2014), http://www.floridajobs.org/fhcd/sdip/Handbook/SDHandbook.pdf. (last visited Sept. 23, 2014, hereinafter Special District Handbook Online 2014).

range from such basic social needs as hospitals and fire protection to the less conspicuous tasks of mosquito abatement and the upkeep of cemeteries.[246]

In 2012, special district governments[247] totaled 38,266 nationwide,[248] an increase of 885 special districts since the 2007 Census of Governments.[249] The number of special district governments reported was more than three times the number of special district governments reported in 1952.[250]

The number of special district governments varies considerably among the states, and has only a weak relationship to population size. The following states, each having at least 1,000 special district governments, account for over 50 percent of all special districts nationally:[251]

State	Special Districts Count		State	Special Districts Count
Illinois	3,227		Kansas	1,523
California	2,861		Nebraska	1,269
Texas	2,600		Washington	1,285
Colorado	2,392		New York	1,174
Missouri	1,854		Florida	1,079[252]
Pennsylvania	1,756		Oregon	1,035

[246] Of the 38,266 special district governments reported in the U.S. in 2012, 33,031 performed a single function. The most common functions, with 7,468 special district governments performing such, were related to natural resources, such as drainage and flood control, irrigation, and soil and water conservation. The next most frequent functions performed by special districts are water supply and/or sewerage (6,907), fire protection (5,865), and housing and community development (3,438). The remaining special districts perform a variety of functions. Most multiple-function special districts provide some combination of water supply with other services, most commonly sewerage services. U.S. Census Bureau, "Special District Governments by Function and State: 2012," *available at* http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk (last visited Sept. 30, 2014).

[247] The U.S. Census Bureau defines special district governments as "independent, special-purpose governmental units (other than school district governments), that exist as separate entities with substantial administrative and fiscal independence from general-purpose local governments." U.S. Census Bureau, "2012 Census of Governments, Lists & Structure of Governments, Reference Documents, Criteria for Classifying Governments," *available at* http://www.census.gov/govs/go/index.html (last visited Sept. 30, 2014).

[248] U.S. Census Bureau, "2012 Census of Governments, Local Governments by Type and State: 2012," *available at* http://www.census.gov/govs/go/ (last visited Sept. 30, 2014).

[249] The final number reported for 2007 was 37,381. U.S. Census Bureau, "2007 Census of Governments, Local Governments and Public Schools Systems by Type and State: 2007," *available at* http://www.census.gov/govs/cog/GovOrgTab03ss.html (last visited Sept. 23, 2014).

[250] U.S. Census Bureau, 2002 Census of Governments, Government Organization, Special-Purpose Local Governments by State: 1952-2002, *available at* http://www.census.gov/prod/2003pubs/gc021x1.pdf (last visited Sept. 23, 2014).

[251] U.S. Census Bureau, "2012 Census of Governments, Local Governments by Type and State: 2012," supra.

[252] As discussed in note 247, the U.S. Census Bureau denominates special districts differently than the Florida Statutes, resulting in a lower number. *See*, U.S. Census Bureau, "2012 Census of Governments – Individual State Descriptions: 2012," pp. 54-65 (discussion of Florida).

III. BRIEF HISTORY OF SPECIAL DISTRICTS IN FLORIDA[253]

In Florida, the first special districts were created almost 190 years ago. Then, Florida was a territory of log settlements scattered between the only two cities, Pensacola and St. Augustine. The entire territory consisted of two large counties, Escambia and St. Johns, whose contiguous border was defined by the Suwannee River. Because no roads existed, the Territorial legislators had to make the long, difficult sea voyage between the co-capitals, Pensacola and St. Augustine. In 1822, the legislators voted to establish a capital in a more convenient location. A year later, two men met on a pine-covered hill, halfway between Pensacola and St. Augustine, and chose the site of the new capital. Within a year, Florida's first Capitol, a small log cabin just big enough for all six legislators, was built in what is today Tallahassee.

Early, Floridians realized that the transportation needs of a growing territory could be effectively managed by a group of local citizens organized into a district with vested powers. During the same session that the decision was made to move the capital, the Territorial Legislature also authorized the creation of the first special districts in Florida by enacting the Road, Highway, and Ferry Act of 1822. Created to establish and maintain public roads, the first road districts had no taxation authority and solved their labor needs by conscription. Men failing to report to work were fined one dollar per day.

In 1845, soon after Florida became a state, the Legislature went a step further and established the first special district by special act. Five commissioners were empowered to drain the "Alachua Savannah". To finance the project, the first special assessments were made on landowners based on the number of acres owned and the benefit derived.

The popularity of special districts to fund public works continued throughout the end of the 19th century as more settlers came to Florida. By the 1920's, the population had increased substantially in response to Florida's land boom. Many special districts were created to finance large engineering projects. Some of these special districts are still in existence today, such as the South Florida Conservancy District and the Florida Inland Navigation District. By the 1930's, the surge of new residents created the need for the first mosquito eradication district and other very specialized districts. After World War II, the baby boom and Florida's growing popularity created the need for a variety of new special districts, such as aviation authorities and hyacinth control districts. Soon, beach erosion, hospital, and fire control special districts grew rapidly along with the traditional road, bridge, and drainage special districts.

IV. LEGISLATIVE REVIEW OF SPECIAL DISTRICTS

In 1972, approximately 1,200 independent and dependent special districts were identified in Florida; however, the exact number was unknown. The 1972 Commission on Local Government investigated the role of special districts in Florida.

[253] The “Brief History of Special Districts in Florida” has been reprinted from the *Florida Special District Handbook* Online. *Special District Handbook Online 2012,* section 4b, supra*,* note 245.

Commission staff reported that "special districts have been 'invisible government,' virtually unidentifiable." One of the Commission's recommendations was that the Legislature, except for specific chapters, should repeal all general law enabling legislation authorizing the creation of special districts.

During the 1970s, other concerns were raised about these "phantom units of government" and the lack of special district accountability. Newspaper articles were published regarding illegal tax levies and the misuse of bond proceeds by special districts. In 1974, the Legislature enacted the "Formation of Local Governments Act"[254] which, with the exception of counties with a home rule charter, was designed to provide the exclusive procedure for creating special districts. Under this act, a charter creating a special district could only be adopted by special act of the Legislature or by ordinance of a county or municipal governing body having jurisdiction over the affected area.

Meanwhile, special districts created for land development activities, capital improvements and the delivery of urban community development services received legislative attention. In 1975, the Legislature enacted the "New Communities Act of 1975" to address these limited multi-purpose districts.[255]

In 1978, the State Board of Administration urged the Legislature to review laws governing the creation and powers of special districts. Among other things, the Board's resolution recommended changes that would "assure that a continued proliferation of independent governing bodies does not occur."

In 1980, the Legislature examined special districts once again. The House Committee on Community Affairs published a report on independent special districts and, among other things, recommended the following:

- Restriction on county and city creation of districts to dependent districts only;
- Repeal of creation procedures in conflict with ch. 165, F.S.;
- Repeal of special district election procedures in conflict with the Florida Election Code; and
- Administration of special district bond funds by a court-approved trustee.

In 1987, a detailed three-year study by the Florida Advisory Council on Intergovernmental Relations culminated in published reports. From 1987 through 1989, the House Committee on Community Affairs proposed legislation to bring uniformity and accountability to the creation and operation of special districts.

[254] Chapter 165, F. S., currently is the "Formation of Municipalities Act." The provisions of this chapter relating to special districts were modified and transferred to ch. 189, F.S. Ch. 89-169, ss. 35-42, Laws of Fla.

[255] Ch. 163, F.S. This act subsequently was replaced by ch. 190, F.S., the Uniform Community Development District Act of 1980.

V. THE UNIFORM SPECIAL DISTRICT ACCOUNTABILITY ACT

In 1989, the Legislature enacted ch. 189, F.S., the "Uniform Special District Accountability Act."[256] The overall legislative purpose of ch. 189, F.S., was to consolidate and unify the provisions of existing law relating to the creation and accountability of special districts.[257] One of the statute's primary goals is to "[c]larify special district definitions and creation methods in order to ensure consistent application of those definitions and creation methods across all levels of government."[258]

While providing for the general governance of special districts, ch. 189, F.S., excludes certain types of special districts from specified provisions. The chapter controls the creation, operations, financial reporting requirements, and funding authority of special districts, the election of district governing body members, and compliance with general laws on issues such as public records, public meetings, and comprehensive planning.

Chapter 189, F.S., defines a "special district" as "a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet."[259] A special district has only those powers expressly provided by, or which can be reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county. Special districts do not include the following:

- General purpose local governments (cities and counties);
- School districts;
- Community college districts;
- Seminole and Miccosukee Tribe Special Improvement Districts;
- Municipal service taxing or benefit units;
- Boards which provide electrical service and are political subdivisions of a municipality or are part of a municipality; and

[256] In 2014 the Legislature extensively revised ch. 189, F.S., including renumbering each statutory section and organizing them into eight parts. Ch. 2014-22, Laws of Fla., *passim*. While currently the law, these amendments will be enacted as the official statute law of the state during the 2015 regular session. *See*, s. 11.2421, F.S. (2013). For ease of reference, this manual refers to the renumbered sections in chapter 2014-22, Laws of Florida, for the current law.
[257] S. 189.06, F.S. S*ee*, ch. 2014-22, s. 8, Laws of Fla. *See also, Forsythe v. Longboat Key Beach Erosion Control Dist*., 604 So.2d 452, 453 (Fla. 1992).
[258] S. 189.06(5), F.S. S*ee*, ch. 2014-22, s. 8, Laws of Fla.
[259] S. 189.012(6), F.S. S*ee*, ch. 2014-22, s. 10, Laws of Fla.

- Entities with governing boards that do not have policymaking powers, such as advisory boards.

VI. "DEPENDENT" AND "INDEPENDENT" SPECIAL DISTRICT CLASSIFICATIONS

Chapter 189, F.S., establishes criteria for determining whether a special district is a "dependent special district" or an "independent special district." The distinction is crucial for several reasons, particularly as the requirements for creating special districts vary depending on whether the district is dependent or independent.[260]

1. DEPENDENT SPECIAL DISTRICTS

A "dependent special district" is defined as a special district meeting at least one of the following criteria:

- The membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; or
- The district budget is subject to approval or veto by the governing body of a single county or a single municipality.[261]

As of October 1, 2014, there were 633 active dependent special districts in Florida.[262] Dependent special districts perform a variety of functions in Florida.

2. INDEPENDENT SPECIAL DISTRICTS

An "independent special district" is a special district that is not a dependent special district as defined in statute. A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.[263] Independent special districts do not possess home rule power. Therefore, the only powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's

[260] *Forsythe*, 604 So.2d at 454.
[261] S. 189.012(2), F.S. S*ee*, ch. 2014-22, s. 10, Laws of Fla.
[262] Florida Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, Official List of Special Districts Online, *County and State Totals*, http://www.floridaspecialdistricts.org/OfficialList/totals.cfm#Totals (last visited Oct. 7, 2014).
[263] S. 189.012(3), F.S. S*ee*, ch. 2014-22, s. 10, Laws of Fla.

charter or by general law.[264] As of October 1, 2014, there were 994 active independent special districts in Florida performing a broad range of functions.[265]

VII. FORMATION SPECIAL DISTRICTS

1. FORMATION OF DEPENDENT SPECIAL DISTRICTS

Under ch. 189, F.S., the creation of dependent special districts is at the prerogative of the counties and municipalities and independent special districts are created only as authorized by the Legislature.[266] Although new dependent special districts may be created directly by the Legislature regardless of current statutory requirements,[267] under the statutes a charter for the creation of a dependent special district must be adopted by ordinance of the county or municipal governing body having jurisdiction over the area affected.[268]

A county is authorized to create, by ordinance, a dependent special district within the county, subject to the approval of the governing body of the incorporated area affected.[269] Municipalities also are authorized to create, by ordinance, a dependent special district within the municipality.[270] The ordinance creating a dependent special district must include the following:

- The purpose, powers, functions, and duties of the district;
- The geographic boundary limitations of the district;
- The authority of the district;
- An explanation of why the district is the best alternative;
- The membership, organization, compensation, and administrative duties of the governing body;
- The applicable financial disclosure, noticing, and reporting requirements;
- The methods for financing the district; and
- A declaration that the creation of the district is consistent with the approved local government comprehensive plans.[271]

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[264] *State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist.*, 408 So.2d 1067 (Fla. 1st DCA 1982).
[265] Florida Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, Official List of Special Districts Online, *County and State Totals,* http://www.floridaspecialdistricts.org/OfficialList/totals.cfm#Totals (last visited Oct. 7, 2014).
[266] S. 189.011(1), F.S. S*ee*, ch. 2014-22, s. 7, Laws of Fla. *See also, Forsythe*, 604 So.2d at 456.
[267] *See*, FLA. CONST. art. VIII, s. 6(b).
[268] S. 189.02, F.S. *See*, ch. 2014-22, s. 16, Laws of Fla.
[269] S. 189.02(2), F.S. *See*, ch. 2014-22, s. 16, Laws of Fla.
[270] S. 189.02(3), F.S. *See*, ch. 2014-22, s. 16, Laws of Fla.
[271] S. 189.02(4), F.S. S*ee*, ch. 2014-22, s. 16, Laws of Fla.

County charters also may contain provisions limiting the creation of special districts or their activities.

It is advisable to include accurate legal descriptions of the real property being affected by the creation of the special district. Proper description of the area affected by the bill enables effective notice to those whose interests are affected substantially by the proposed governmental change.

Prior to the enactment of ch. 189, F.S., the Legislature passed special acts creating dependent special districts. Under the Act, after September 30, 1989, counties and municipalities became responsible for creating dependent districts by adopting district charters by local ordinance. The charter must state whether the district is dependent or independent.[272] If a dependent district created by special act of the Legislature has not been converted to local ordinance, the district's charter may not be amended without legislative approval in the form of a local bill amending the dependent district's enabling legislation.

2. FORMATION OF INDEPENDENT SPECIAL DISTRICTS

With the exception of community development districts,[273] the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.[274] The statutes expressly prohibit any special laws or general laws of local application from the following:

- Creating special districts that do not conform to the minimum requirements for district charters under s. 189.031(3), F.S.;[275]
- Exempting district elections from the requirements of s. 189.04, F.S.;[276]
- Exempting a district from the requirements for bond referenda in s. 189.042, F.S.;[277]
- Exempting a district from any requirements for reporting, notice, or public meetings under the following:[278]
    - S. 189.051, F.S. (requirements for issuing bonds if no referendum required);
    - S. 189.08, F.S. (requiring special district reports on public facilities);
    - S. 189.015, F.S. (notice and reports of special district public meetings); or
    - S. 189.016, F.S. (required reports, budgets, and audits); and

[272] S. 189.031(5), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla.
[273] S. 189.0311, F.S. *See*, ch. 2014-22, s. 12, Laws of Fla.; *See also* s. 190.004, F.S.
[274] S. 189.031(1), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla. The minimum charter requirements for an independent special district are listed in s. 189.031(3), F.S.
[275] S. 189.031(2)(a), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla.
[276] S. 189.031(2)(b), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla.
[277] S. 189.031(2)(c), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla.
[278] S. 189.031(2)(d), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla.

- Creating a district for which a statement documenting specific required matters is not submitted to the Legislature.[279]

These prohibitions on specific types of special laws or general laws of local application were passed by a 3/5 majority in the House and Senate when ch. 189, F.S., was adopted originally.[280] They may be amended or repealed only "by like vote."[281]

The charter of a newly-created district must state whether it is dependent or independent.[282] Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.[283]

As with any other special act or general act of local application, local bills creating independent special districts must comply with all other criteria mandated by the Florida Constitution, including requisite notice requirements. It is also advisable to include accurate legal descriptions of the real property being affected by the creation of the special district. Proper description of the area affected by the bill enables effective notice to those whose interests are affected substantially by the proposed governmental change.

3. COUNTY FORMATION OF DISTRICTS INCLUDING UNINCORPORATED AND INCORPORATED AREAS

Section 125.01(5)(a), F.S., authorizes a county to create by ordinance a special district including both unincorporated and incorporated areas of the county, but only with the approval of any affected municipality. These special districts are authorized to provide municipal services and facilities "from funds derived from service charges, special assessments, or taxes within [the] district only" and may not provide services exclusively in the unincorporated area. The statute authorizes such a special district

[279] S. 189.031(2)(e), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla. Each required statement filed with the Legislature must include the purpose of the proposed district, the authority of the district, an explanation of why the district is the best alternative, and a resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the district is consistent with approved local planning and the local government does not object to creation of the district.

[280] Ch. 89-169, s. 67, Laws of Fla.

[281] FLA. CONST. art. III, s. 11(a)(21),; *School Board of Escambia Co. v. State*, 353 So. 2d 834, 839 (Fla. 1977). *See*, section of this manual on "Limitation on Special Acts." Ch. 2014-22, s. 14, Laws of Florida, renumbered s. 189.404 as s. 189.031, F.S., and conformed internal statutory references to other renumbered sections of the Act. Whether a conforming change to statutory references within a statute originally passed under the 3/5 majority requirement of the Constitution is an "amendment" requiring passage by another 3/5 majority is unclear. However, the bill, CS/CS/CS/SB 1632, passed the Senate on April 25, 2014 by a vote of 38 yeas, 0 nays, and the House on April 28, 2014, by a vote of 115 yeas, 0 nays, more than a 3/5 vote in each chamber.

[282] S. 189.031(5), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla.

[283] S. 189.031(3), F.S., lists the minimum charter requirements in 15 separate paragraphs. *See*, ch. 2014-22, s. 14, Laws of Fla.

to levy any millage designated in its creating ordinance and approved by a vote of the electors as required by the Florida Constitution.

VIII. NON-LEGISLATIVE CREATION OF INDEPENDENT SPECIAL DISTRICTS

General law authorizes the creation of certain types of independent special districts without specific action of the Legislature. The Governor and Cabinet, a municipality or county, or a regional combination of cities and counties may initiate the creation of certain special districts in compliance with statutory requirements.

For example, ch. 190, F.S., authorizes the Governor and Cabinet, acting as the Florida Land and Water Adjudicatory Commission, to establish a community development district (CDD) of 1,000 acres or more. The exclusive and uniform method for creating a CDD of less than 1,000 acres is by county or municipal ordinance.[284]

The Secretary of the Department of Environmental Protection may approve an agreement between local governmental units establishing regional water supply authorities.[285]

General law authorizes counties to create, by local ordinance, several types of independent special districts including:

- Juvenile welfare boards/funding for children's services;[286]
- County health or mental health care special districts/funding for indigent health care services;[287]
- Public hospital districts;[288] and
- Neighborhood improvement districts.[289]

Any combination of two or more counties, municipalities or other political subdivisions may establish a regional transportation authority.[290]

IX. FLORIDA CONSTITUTION PROVISIONS RELATED TO SPECIAL DISTRICTS

In addition to ch. 189, F.S., and the constitutional requirements generally applicable to Florida government,[291] the following constitutional provisions relate specifically to special districts:

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[284] S. 190.005(2), F.S.
[285] S. 373.1962, F.S.
[286] S. 125.901. F.S.
[287] S. 154.331, F.S.
[288] Ch. 155, F.S.
[289] Ch. 163, part IV, F.S.
[290] S. 163.567, F.S.
[291] *See*, e.g., FLA. CONST. art. III, s. 13, limiting terms of office to four years.

Art. I, § 24 Access to public records and meetings.	Special districts are subject to open meetings and public records requirements.
Art. III, § 11 Prohibited special laws.	Pursuant to this provision, the Legislature enacted ss. 189.031(2), 190.049, and 298.76(1), F.S., which limit the subjects of special acts relating to certain districts.
Art. III, § 14 Civil service system.	Authorizes the Legislature to create a civil service system for special districts.
Art. VII, § 8 Aid to local governments.	Permits appropriation of state funds to special districts as provided by general law, including the use of relative ad valorem assessment levels determined by a state agency designated by general law.
Art. VII, § 9 Local taxes.	Permits the Legislature, by general or special law, to authorize special districts to levy ad valorem taxes at a millage rate approved by a vote of the electors of the special district. Permits the Legislature, by general law only, to authorize special districts to levy taxes other than ad valorem taxes, except ad valorem taxes on intangible property and taxes otherwise prohibited by the Florida Constitution.
Art. VII, § 10 Pledging credit.	Prohibits a special district from becoming a joint owner with or stockholder of, or give, lend or use its taxing power or credit to aid, any corporation, association, partnership, or person, with specified exceptions.
Art. VII, § 12 Local bonds.	Authorizes special districts with taxing power to issue certain bonds and other certificates of indebtedness to finance or refinance capital projects authorized by law, but only if approved by a vote of the electors. Certain bonds may also be issued to refund outstanding bonds and interest and redemption premium at a lower net average interest cost rate.
Art. VII, § 14 Bonds for pollution control and abatement and other water facilities.	Permits issuing bonds pledging the full faith and credit of the state, when authorized by law, for pollution control and abatement and other water facilities to be operated by special districts.
Art. VIII, § 4 Transfer of powers.	Permits the transfer of powers between a special district and a county, municipality, or other special district, if authorized by general or special law or resolution of the affected governing bodies.
Art. VIII, § 6 Schedule to Article VIII.	Perpetuates special districts in the state, their powers and jurisdiction, as these existed on the date the 1968 Florida Constitution was ratified.
Art. XII, § 2 Property taxes; millages.	Permits the continuance of property tax millages levied by special districts on the date revisions to the Florida Constitution became effective in 1968.
Art. XII, § 15	Provides that ad valorem taxing power vested by law in a

Special district taxes.	special district existing on the date revisions to the Florida Constitution became effective in 1968 may not be abrogated by Art. VII, § 9(b); however, such powers may, except to the extent necessary to pay outstanding debts, be restricted or withdrawn by general or special law.

X. FUNDING SOURCES FOR SPECIAL DISTRICTS

Special districts are funded by a variety of sources, depending upon the purpose of each special district and the authorization provided in each district's charter. The primary revenue sources for special districts may include ad valorem taxes, special assessments, and user fees. Special districts do not possess "home rule" powers; therefore, special districts may impose only those taxes, assessments, or fees authorized by special or general law.

1. AD VALOREM TAXES

Special districts may be authorized by general or special law to levy ad valorem taxes.[292] A special act creating a dependent or independent special district, or a general act authorizing the creation of special districts, may authorize the special district to impose ad valorem taxes within a stated millage cap subject to elector approval.[293] One "mill" may be described as 0.1 cent or $0.001, which is also expressed as $1 per $1,000 or 0.1 percent.[294]

Dependent special district ad valorem tax millage, when added to the millage rate of the governing body to which it is dependent, may not exceed the maximum rate applicable to such governing body.[295] The millage levied by a dependent special district is added to the millage levied by its creating local government and may not exceed the 10 mill cap imposed by the Florida Constitution.[296]

On the other hand, a special act or general law establishing an independent special district generally establishes a maximum millage rate that may be imposed on property owners within the district. A millage rate is then established by the district's governing body in accordance with the law establishing the district, and must be approved by the electors prior to levy.[297] The millage rate imposed by an independent special district is separate from the millage imposed by the county or municipality within which the independent special district is located.

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[292] FLA. CONST. art. VII, s. 9(a).
[293] FLA. CONST. art. VII, ss. 1(a), 9(a); s. 200.001(8)(e), F.S.
[294] Office of Economic and Demographic Research, Florida Revenue Estimating Conference, 2012 Florida Tax Handbook Including Fiscal Impact of Potential Changes, at 196, *available at* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm (last visited Sept. 23, 2014).
[295] S. 200.001(8)(d), F.S.
[296] S. 200.001(8)(e), F.S.; FLA. CONST. art. VII, s. 9(b).
[297] FLA. CONST. art. VII, s. 9(b).

2. SPECIAL ASSESSMENTS

Special assessments are a revenue source available to fund local improvements or essential services.[298] There are two requirements for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the improvement or service provided. Second, the assessment must be fairly and reasonably apportioned among the properties receiving the special benefit.[299] The test applied to evaluate whether a particular service confers a special benefit on property is "whether there is a 'logical relationship' between the services provided and the benefit to real property."[300] If a local government's special assessment ordinance withstands these two legal requirements, the assessment is not considered a tax.

3. IMPACT FEES

Impact fees represent a total or partial reimbursement to local governments for the cost of additional facilities or services made necessary due to new development. The purpose of impact fees is to shift the capital expense burden of growth to the developer and new residents rather than imposing the cost of these additional facilities or services upon the general public. Impact fees have been levied to fund several types of projects, including the expansion of water and sewer facilities and the construction of road improvements, school facilities, and park expansions.

An impact fee levied by a local government must meet the "dual rational nexus test" in order to withstand legal challenge. First, there must be a reasonable connection, or rational nexus, between the anticipated need for additional capital facilities and the population growth generated by the new development. Second, the government must show a reasonable connection between the expenditures of the funds collected and the benefits accruing to the new development from those expenditures.[301]

Due to the growth of impact fee collections and local governments' reliance on such fees, the 2006 Legislature enacted the Florida Impact Fee Act which codified much of the case law pertaining to impact fees. When a local government adopts an impact fee, the governing authority must comply with the following requirements:

- Calculate the impact fee based on the most recent and localized data;

- Provide for accounting and reporting of impact fee collections and expenditures. If the local governmental imposes an impact fee to address infrastructure needs, it must account for the revenues and expenditures of such impact fee in a separate accounting fund;

- Limit administrative charges for collecting impact fees to actual costs;

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[298] *See, generally,* Ch. 170, F.S.
[299] *City of Boca Raton v. State*, 595 So.2d 25, 29 (Fla. 1992).
[300] *Lake County v. Water Oak Management Corp*., 695 So.2d 667 (Fla. 1997).
[301] *Volusia County v. Aberdeen at Ormond Beach, L.P.,* 760 So. 2d 126, 134 (Fla. 2000).

- Provide at least 90 days' notice before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee; and

- In any legal challenge to an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or the requirements of s. 163.31801, F.S. The court may not use a deferential standard.[302]

4. USER FEES

Special districts also may be authorized to impose user and regulatory fees and service charges to pay the cost of providing a service or facility or regulating an activity. In contrast to taxes, user fees and service charges bear a direct relationship between the service received and the compensation paid for the service. The underlying premise for these fees and charges is that local governments may charge, in a reasonable and equitable manner, for the facilities and services they provide or regulate.

XI. SPECIAL DISTRICT FUNCTIONS

Information and statistics on the functions performed by independent and dependent special districts in Florida, the number and type of districts performing such functions, and the number of independent and dependent special districts created (including their creating authority and year of creation), are available through the Department of Economic Opportunity, Division of Community Development, Special District Accountability Program.[303]

XII. COMMUNITY DEVELOPMENT DISTRICTS

Community development districts (CDDs) are the most common and frequently created special districts in Florida.[304] Chapter 190, F.S., the "Uniform Community Development District Act of 1980," allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Cabinet acting as the Florida Land and Water Adjudicatory Commission,[305] whereas CDDs with less than 1,000 acres are created pursuant to county or municipal ordinance.[306]

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[302] S. 163.31801, F.S.

[303] Available at http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-accountability-program (last visited Sept. 30, 2014).

[304] Further information on CDD formation and functions is available at http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-accountability-program (last visited Sept. 30, 2014).

[305] S. 190.005(1), F.S. Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, created in turn by s. 14.202, F.S., and composed of the Governor and Cabinet.

[306] S. 190.005(1), (2), F.S.

Initial financing typically is through issuing tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges to service the bonds. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures within the CDD – not on the other taxpayers of the county or municipality in which the district is located.[307]

CDDs are authorized to provide infrastructure relating to water management and control; water supply, sewer and wastewater management, reclamation and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal.[308] CDDs are governed by an elected five-member board of supervisors exercising the general managerial authority provided to other special districts in the state. In addition to other powers, the board is authorized to: hire and fix the compensation of a general manager; contract; borrow money; issue bonds; levy ad valorem taxes, special assessments and non-ad valorem taxes; adopt administrative rules pursuant to ch. 120, F.S.; and exercise the power of eminent domain.[309]

XIII. COMMUNITY REDEVELOPMENT AGENCIES

The "Community Redevelopment Act of 1969,"[310] was intended to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state."[311] Each local government is authorized to establish one community redevelopment agency (CRA)[312] to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a "need for a community redevelopment agency… to carry out the community redevelopment purposes of this part…." Charter counties with a population of less than 1.6 million may create more than one CRA.[313] CRAs are considered dependent special districts in Florida. During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

CRAs are funded primarily through tax increment financing, commonly known as "TIF," whereby ad valorem revenues in excess of those collected in the year the redevelopment area was created ("base year") are remitted by local taxing authorities such as counties, municipalities, and special districts to a redevelopment trust fund used by the CRA to fund redevelopment projects and related activities.[314]

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[307] "Community Development Districts," The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, at 1, November 2003, *available at* http://archive.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-121ca.pdf (last visited Sept. 23, 2014). *See also*, ss. 190.021, 190.035, F.S.
[308] S. 190.012, F.S.
[309] *State ex rel. Davis v. City of Stuart*, at 341; *SCA Services*, at 1149.
[310] Ch. 163, part III, F.S.
[311] S. 163.335(1), F.S.
[312] Ss. 163.356, 163.357, F.S.
[313] S. 163.356(1), F.S.
[314] S. 163.387, F.S.

CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.

Each county and municipality has those powers "necessary or convenient to carry out and effectuate the purposes…" of the act.[315] These powers include authorizing the issuance of redevelopment revenue bonds,[316] undertaking community redevelopment activities within the designated redevelopment area,[317] and exercising the power of eminent domain subject to specific limitations.[318] Counties and municipalities may delegate some of their community redevelopment powers to a CRA but certain powers, such as the authority to issue revenue bonds or take property by eminent domain, cannot be delegated.[319] Redevelopment may include such activities as the acquisition and disposition of real property located within the community redevelopment area and the repair or rehabilitation of structures within the community redevelopment area for dwelling uses.[320]

The division of authority between a county and municipality regarding the creation or expansion of a municipal CRA depends upon whether the county is a non-charter or charter county, or whether a CRA was created prior to adoption of a county charter.[321] The following table summarizes this division of authority:

Authority over creation, expansion, or modification of a CRA	
Charter County	Charter counties possess sole authority to create CRAs within the county, but may delegate authority to a municipality via an interlocal agreement.
Non-Charter County	Non-charter counties do not have authority over the creation, expansion, or modification of municipal CRAs within the county.
Municipal CRA created *prior* to adoption of the county charter	The charter county does not have authority over the operations of the CRA, including modification of the redevelopment plan or expansion of CRA boundaries.

XIV. WATER CONTROL DISTRICTS

As early as the 1830s, the Legislature passed a special act authorizing landowners to construct drainage ditches across adjacent lands to discharge excess water. Today, ch. 298, F.S., governs the creation and operation of water control districts.

[315] Ss. 163.358, 163.370(2), F.S.
[316] S. 163.385(1)(a), F.S.
[317] S. 163.370(2)(c), F.S.
[318] S. 163.370(1), F.S. Under this subsection, counties and municipalities may not exercise the power of eminent domain to prevent or eliminate slum or blighted areas as defined in ch. 163, part III, F.S., but may exercise eminent domain within the community development area, subject to the limitations in ss. 73.013, 73.014, F.S., or other general law.
[319] S. 163.358(3) [bond power], (6) [eminent domain], F.S. The complete list of powers that cannot be delegated are in s. 163.385(1)-(6), F.S.
[320] S. 163.370(2)(c), F.S.
[321] Ss. 163.410, 163.415, F.S.

Water control districts are created either by special act of the Legislature (independent water control districts) or by county governments pursuant to s. 125.01, F.S. (dependent water control districts).[322] Districts created by circuit court decree prior to July 1, 1980, are authorized to continue operating under the current statutes. A water control district[323] is organized for limited and definite purposes, with powers restricted to those deemed essential by the Legislature to implement these purposes. These districts have no power or authority other than as conferred by law.

The board of supervisors of a water control district has full power and authority to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by a district.[324] Subject to the applicable provisions of chs. 373 and 403, F.S., a water control district may be authorized to engage in various water control activities.

Water control districts are governed by a board of supervisors elected by landowners in the district.[325] Every acre of assessable land within a district represents one share, or vote.[326] For each acre of assessable land within a district, the land owner is entitled to one vote per acre. Landowners owning less than one acre are entitled to one vote. Landowners owning more than one acre are entitled to one additional vote for any fraction of an acre greater than one-half acre, when all of the landowners' acreage has been aggregated for purposes of voting. Proxy voting by landowners is allowed.

Each water control district is funded primarily by special assessments,[327] imposed on every parcel benefited by the improvements made and administered by the district, in an amount representing a fair, proportional part of the total cost and maintenance of those improvements. Special assessments are not taxes within the meaning of the general constitutional requirement for taxation to be imposed at a uniform rate.[328] Special assessments may be determined legislatively or judicially. Any unpaid or delinquent assessments bear penalties in the same manner as county taxes, and constitute a lien on the property until paid.[329] This lien is enforceable in the same manner as county taxes.[330] A district board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of benefits assessed

[322] S. 298.01, F.S.
[323] A water management district or a drainage district created pursuant to the method authorized in ch. 298, F.S., or a water management district created by special act to operate under the authority of ch. 298, F.S., is designated as a water control district. S. 298.001, F.S.
[324] S. 298.22, F.S.
[325] Typically, the board of supervisors is composes of three members. S. 298.11(2), F.S. The special act creating the district may provide for a different number of supervisors; for example, the board of the East County Water Control District has five supervisors. Ch. 2000-423, s. 4, Laws of Fla.
[326] S. 298.11(2), F.S.
[327] Ss. 298.22, 298.305, 298.349, 298.54, F.S. The general statutes in ch. 170, F.S., for administering and collecting special assessments, such as the method in s. 170.02, F.S., for prorating special assessments against those properties benefited by a local improvement, provide supplemental guidance and procedures. S. 170.21, F.S.
[328] *City of Boca Raton v. State,* 595 So. 2d 25, 29 (Fla. 1992).
[329] S. 298.333, F.S. *See also*, section 170.09, F.S.
[330] S. 298.345, F.S. *See also*, section 170.10, F.S.

against lands in the district. A district board issuing such bonds also must impose a non-ad valorem assessment in an amount 90 percent of which is equal to the principal amount of the bonds.[331]

1. LIMITATION ON SPECIAL ACTS

No special law or general law of local application shall be enacted on any subject prohibited by a general law passed by a three-fifths vote of the membership of each house. However, such a general law may be amended or repealed by like vote.[332]

Section 298.76, F.S., is an example of such a general law passed by a three-fifths vote of the membership of each chamber. The statute prohibits any special law or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed pursuant to ch. 298, F.S. The statute specifically does not prohibit special or local legislation from the following:

- Amending an existing special act that provides for the levy of an annual maintenance tax of a water control district;
- Extending the corporate life of a district;
- Consolidating adjacent districts; or
- Authorizing the construction or maintenance of roads for agricultural purposes as provided in statute.

The same statute authorizes special or local legislation achieving the following:

- Changing the method of voting for a board of supervisors for a water control district;
- Changing the term of office of, or the qualifications for, the board of supervisors of any water control district; and
- Changing the governing authority or governing board of a water control district.

Finally, this statute provides that any special or local law enacted by the Legislature pertaining to any water control district prevails as to that district and has the same force and effect as though it had been a part of ch. 298, F.S., at the time the district was created and organized.

XV. FIRE CONTROL DISTRICTS

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act" (Fire Control Act).[333] This chapter establishes standards and procedures for the

[331] S. 298.305, F.S.
[332] FLA. CONST. art. III, s. 11(a)(21).

operation and governance of independent special fire control districts and provides greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts.[334]

Unless otherwise exempted by special or general law, the Fire Control Act requires each district, whether created by special act, general law of local application, or county ordinance, to comply with the Fire Control Act. The Fire Control Act supersedes any special act or general law of local application containing the charter of a district, excluding provisions addressing district boundaries and geographical subdistricts for the election of members of the governing board.[335]

The Fire Control Act prescribes procedures for the election, composition, and general administration of a district's governing board, and contains a broad list of the district's general powers to be exercised by a majority vote of the governing board.[336] Districts also are granted special powers related to facilities and duties, and are required to provide for fire suppression and prevention by establishing and maintaining fire stations and substations, and by acquiring and maintaining firefighting and fire protection equipment necessary to prevent or fight fires. All construction must comply with applicable state, regional, and local regulations, including applicable comprehensive plans and land development regulations.[337]

Districts may levy ad valorem taxes up to 3.75 mills unless a greater millage rate is authorized by law, subject to a referendum as required by the Florida Constitution and ch. 191, F.S. Districts may be authorized also to levy special assessments, user charges, and impact fees in accordance with the Fire Control Act.[338]

Boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature.[339] New independent fire control districts may be created only by the Legislature under s. 189.031, F.S.

XVI. DISSOLUTION AND MERGER OF DEPENDENT SPECIAL DISTRICTS

Chapter 189, F.S., governs the dissolution or merger of special districts.[340] Dependent special districts may be merged or dissolved by an ordinance of the local government entity where the district is located. However, a county may not dissolve a special district that is dependent to a municipality, or vice versa, or a dependent special district created by special act. Dependent special districts created and operating pursuant to special act may be merged or dissolved only by the

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[333] S. 190.001, F.S.
[334] S. 191.002, F.S.
[335] S. 191.004, F.S.
[336] S. 191.006, F.S.
[337] S. 191.008, F.S.
[338] S. 191.009, F.S.
[339] S. 191.014, F. S.
[340] Ch. 189, Part VII, F.S., as created by ch. 2014-22, ss. 1, 17-23, 25, Laws of Fla. The statutes governing the merger or dissolution of dependent and independent special districts were substantially revised by the Legislature in 2012. Ch. 2012-16, Laws of Fla. The revisions in 2014 primarily renumbered and restructured these sections.

Legislature unless otherwise provided by general law.[341] A dependent district declared inactive[342] or meeting the statutory criteria to be declared inactive may be dissolved or merged by special act of the Legislature without a referendum of the affected population.[343]

It is advisable to include accurate legal descriptions of the real property being affected by the dissolution or merger. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

XVII. DISSOLUTION AND MERGER OF INDEPENDENT SPECIAL DISTRICTS

As with the merger or dissolution of dependent special districts, it is advisable to include accurate legal descriptions of the real property being affected by the dissolution or merger of an independent special district. Proper description of the area affected enables effective notice to those whose interests are affected substantially by the proposed governmental change.

1. DISSOLUTION OF INDEPENDENT SPECIAL DISTRICTS

An independent special district may be dissolved voluntarily, by the district governing body, or involuntarily by the entity creating the independent special district, such as the Legislature or a county or municipality.

a. Voluntary Dissolution

For an independent special district created and operating pursuant to a special act, voluntary dissolution must be initiated by the vote of a majority plus one of the governing body. The actual dissolution must be accomplished by act of the Legislature unless otherwise provided by general law.[344]

b. Involuntary Dissolution

An active independent special district created and operating pursuant to a special act may be dissolved involuntarily only by a separate special act passed by the Legislature. The special act dissolving the district must be approved by a majority of the district's resident electors or, for districts in which a majority of the governing board members are elected by landowners, a majority of the district's landowners voting in the same manner by which the governing board is elected. A local general-purpose government passing an ordinance or resolution in support of the dissolution must pay any expenses associated with the required referendum.[345]

An independent special district created by a county or municipality by referendum or any other procedure may be dissolved involuntarily by that creating authority

[341] S. 189.071, F.S. *See*, ch. 2014-22, s. 18, Laws of Fla.
[342] Pursuant to s. 189.062, F.S. *See*, ch. 2014-22, s. 24, Laws of Fla.
[343] S. 189.071(3), F.S., *See*, ch. 2014-22, s. 18, Laws of Fla.
[344] S. 189.072(1), F.S. *See*, ch. 2014-22, s. 19, Laws of Fla.
[345] S. 189.072(2)(a), F.S. *See*, ch. 2014-22, s. 19, Laws of Fla.

through a referendum or the procedure by which the district was created. Note: *If the independent special district has ad valorem taxation powers, the same procedure required to grant such powers is required to dissolve the district.*[346]

An independent special district declared inactive[347] or meeting the statutory criteria to be declared inactive may be dissolved by special act of the Legislature without a referendum of the affected population.[348] An inactive independent special district created by a county or municipality may be dissolved through publishing a required statutory notice.[349]

2. MERGER OF INDEPENDENT SPECIAL DISTRICTS

By special act, the Legislature may merge independent special districts created and operating under prior special act(s).[350] However, the law provides additional requirements if the merger is not voluntary.

a. Involuntary Merger – Active Independent Special Districts

The special act merging an active independent special district or districts created and operating pursuant to a special act must be approved at separate referenda of the affected local governments by a majority of the resident electors or, for districts in which a majority of governing board members are elected by landowners, a majority of the landowners voting in the same manner by which each independent special district's governing body was elected.[351] The special act of merger must include a merger plan addressing transition issues such as the effective date of the merger, governance, administration, powers, pensions, and assumption of all assets and liabilities. A local general-purpose government passing an ordinance or resolution in support of the merger must pay any expenses associated with the required referendum.[352]

An independent special district created by a county or municipality by referendum or any other procedure may be merged by a referendum or any other procedure by which the district was created. Note: *If the independent special district has ad valorem taxation powers, the same procedure required to grant such powers is required to merge the district.*[353] The political subdivisions proposing the involuntary merger must pay any expenses associated with the required referendum.

b. Voluntary Merger – Active Independent Special Districts

Two or more contiguous independent special districts created by special act, with similar functions and governing bodies, may merge voluntarily.[354] The merger may

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[346] S. 189.072(2)(b), F.S. *See*, ch. 2014-22, s. 19, Laws of Fla.
[347] Pursuant to s. 189.062, F.S. *See*, ch. 2014-22, s. 24, Laws of Fla.
[348] S. 189.072(3), F.S. *See*, ch. 2014-22, s. 19, Laws of Fla.
[349] *Id*. *See,* s. 189.062, F.S., ch. 2104-22, s. 24, Laws of Fla.
[350] S. 189.073, F.S. *See*, ch. 2014-22, s. 20, Laws of Fla.
[351] S. 189.075(1), F.S. *See*, ch. 2014-22, s. 22, Laws of Fla.
[352] S. 189.075(1), F.S.
[353] S. 189.075(2), F.S. *See*, ch. 2014-22, s. 22, Laws of Fla.
[354] S. 189.074, F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.

be initiated either by a joint resolution of the governing bodies of each district, endorsing a proposed joint merger plan, or by qualified elector initiative.[355]

For an initiative, at least 40 percent of the qualified electors[356] in each component special district must sign the petition within 1 year after the start of the petition process.[357] The statute specifies the form of text,[358] validation,[359] and filing of the petition.[360] After verification of the petition by the supervisors of elections in each affected county, the governing bodies in each component special district have 30 days to prepare and approve a proposed merger plan.[361]

Whether a voluntary merger is initiated by joint resolution or qualified elector initiative, the statute imposes similar requirements for the contents of the proposed plan adopted by the respective district governing bodies, public notice, public hearing, ballot language, conducting a referendum in each affected special district, and the effect of the referendum results.[362] For both types of merger proceedings, the governing bodies of each component district may amend the proposed plan if the amended version complies with the statutory notice and hearing requirements.[363] However, there is one main difference: for proceedings begun by joint resolution, the governing bodies for each component district may abandon the proposed merger after the final public hearing, a choice not available for merger proceedings begun by qualified elector initiative.[364]

A merger approved by the required referenda becomes effective on the date provided in the plan.[365] Until the effective date each district continues to be governed as before the merger.[366] The effective date of the proposed voluntary merger is not contingent upon the future act of the Legislature; however, the merged district's powers are limited until the Legislature approves the unified charter by special act. The merged independent district must, at its own expense, submit a unified charter for the merged district to the Legislature for approval.[367]

The voluntary merger provisions do not apply to independent special districts whose governing bodies are elected by district landowners voting based upon acreage owned within the district,[368] such as water control or drainage districts governed by ch. 298, F.S.

[355] S. 189.074(1), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[356] *See,* s. 97.041, F.S.
[357] S. 189.074(3), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[358] S. 189.074(3)(a), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[359] S. 189.074(3)(b)1.-3., F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[360] S. 189.074(3)(b)4., F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[361] S. 189.074(3)(c), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[362] S. 189.074(2)(a)-(d)1. & (e), (3)(c)-(f)1. & (g), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[363] S. 189.074(2)(d)2., (3)(f)2., F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[364] S. 189.074(2)(d)2., (3)(f)2., F.S.
[365] S. 189.074(4), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[366] S. 189.074(2)(f), (3)(h), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[367] S. 189.074(4), (5), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.
[368] S. 189.074(14), F.S. *See*, ch. 2014-22, s. 21, Laws of Fla.

c. Merger – Inactive Independent Special Districts

An independent special district that is declared inactive[369] or meets the statutory criteria to be declared inactive may be merged by special act of the Legislature without a referendum of the affected population.[370]

The merger and dissolution procedures of ch. 189, F.S., do not apply to water management districts or community development districts.[371]

XVIII. MUNICIPAL CONVERSION OF INDEPENDENT SPECIAL DISTRICTS

The 2012 Florida Legislature created a new process for the municipal conversion of independent special districts by elector initiative and approval by referendum.[372] The qualified electors of an independent special district may initiate this proceeding by filing a petition with the governing body of the district proposed to be converted if:

- The district was created by special act of the Legislature;
- The district is designated as an improvement district and created pursuant to ch. 298, F.S., or is designated as a stewardship district and created pursuant to s. 189.031, F.S.;
- The elected governing body of the district agrees to the conversion;
- The district provides at least four of the following municipal services: water, sewer, solid waste, drainage, roads, transportation, public works, fire and rescue, street lighting, parks and recreation, or library or cultural facilities; and
- No portion of the district is located within the jurisdictional limits of a municipality.

The petition must include signatures of at least 40 percent of the qualified electors of the district and be submitted no later than one year after the start of the municipal conversion proceeding. The statute describes additional requirements for the petition.

The petition must be filed with the governing body of the district and submitted to the county supervisor of elections. Upon verification by the supervisor of elections that the petition is properly and timely signed by the required number of qualified electors,[373] the district governing body must meet within 30 business days to prepare and approve by resolution a proposed conversion and incorporation plan. The plan must include the following:[374]

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[369] Pursuant to s. 189.062, F.S. *See*, ch. 2014-22, s. 24, Laws of Fla.
[370] S. 189.075(3), F.S. *See*, ch. 2014-22, s. 22, Laws of Fla.
[371] S. 189.0761, F.S. *See*, ch. 2014-22, s. 23, Laws of Fla.
[372] S.165.0615, F.S.
[373] S. 165.0615(3), (4), F.S.
[374] S. 165.0615(4), F.S.

- The name of the independent special district;
- The name of the municipality to be created;
- The conversion schedule;
- Certification by a licensed surveyor that the boundaries of the proposed municipality do not overlap with any other municipal boundary and are contained within a single county;
- The rights, duties, and obligations of the municipality, and a feasibility study meeting the requirements of s. 165.041(1)(b), F.S. The provisions of s. 165.061(1)(b)-(d), F.S., do not apply if the buildout of the land use allowed under the current county-approved comprehensive plan and zoning designations will meet the population and density requirements of s. 165.061(1)(b) and (c), F.S.;
- The territorial boundaries of the proposed municipality;
- The governmental organization of the proposed municipality and of the district pertaining to elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials;
- An accounting of the district's assets, including, but not limited to, real and personal property, and the current value of the property;
- An accounting of the district's liabilities and indebtedness, bonded and otherwise;
- Terms for addressing the ownership and obligations related to existing assets, liabilities, and indebtedness of the district;
- Terms for the common administration and uniform enforcement of existing laws within the proposed municipality;
- An estimated date for final payment of any bonded indebtedness of the district, and if maintained by the district after incorporation, the estimated date of automatic dissolution of the district;
- The time and place for a public hearing on the proposed incorporation; and
- The effective date of the proposed incorporation.

The resolution endorsing the plan must be approved by a majority vote of the district governing body and adopted at least 60 business days before any election on the proposed plan.[375]

[375] S. 165.0615(5), F.S.

Within five business days after approving the proposed municipal incorporation plan, the district governing body must accomplish the following:[376]

- Display a copy of the plan, along with a descriptive summary, in at least three public places within the district, unless the district has fewer than three public places, in which case the plan must be posted in all public places.

- If applicable, cause the proposed plan, along with a descriptive summary and a reference to the public places within the district where a copy of the plan may be examined, to be displayed on a website maintained by the district or otherwise on a website maintained by the county.

- Arrange for a descriptive summary of the plan, and a reference to the public places within the district where a copy may be examined, to be published in a newspaper of general circulation within the district at least once each week for four successive weeks.

The governing body of the district must set a time and place for one or more public hearings on the proposed plan. Interested persons residing in the district must have a reasonable opportunity to be heard on any aspect of the proposed merger at the public hearing.[377]

Notice of the final public hearing on the proposed plan must be published pursuant to the notice requirements in s. 189.015, F.S., and provide a descriptive summary of the plan and a reference to the public places within the district where a copy of the plan is posted.[378]

After the final public hearing, the district governing body may amend the proposed plan if the amended version complies with the notice and public hearing requirements of the statute. The governing body must approve a final version of the plan within 60 business days after the final hearing.[379] The governing body must notify the supervisor of elections of the adoption of the resolution, who subsequently shall schedule a date for the referendum for the district.[380]

Notice of a referendum on the proposed municipal incorporation of the district must comply with the notice requirements in s. 100.342, F.S. and must include the following:[381]

- A brief summary of the resolution and elector-initiated municipal incorporation plan;

- A statement as to where a copy of the resolution and petition for municipal incorporation may be examined;

[376] S. 165.0615(6), F.S.
[377] S. 165.0615(7), F.S.
[378] S. 165.0615(8), F.S.
[379] S. 165.0615(9), F.S.
[380] S. 165.0615(10), F.S.
[381] S. 165.0615(11), F.S.

- The name of the district to be converted to a municipality and a description of the territory included in the plan;

- The time and place at which the referendum will be held; and

- Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct of the referendum and the canvass of the returns.

The statute specifies the manner for conducting the referendum, including payment of costs,[382] the form of the ballot question,[383] the impact of the final vote,[384] and, if approved, the effective date of the incorporation.[385]

XIX. THE ROLE OF THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

The Florida Department of Economic Opportunity (DEO), Special Districts Accountability Program (SDAP), serves as a state clearinghouse and administers certain provisions of ch. 189, F.S.[386] DEO publishes the Official List of Special Districts, which includes a list of all independent and dependent special districts in Florida. The list initially was compiled and printed in 1990 and is now available online.[387] The SDAP also publishes and periodically updates a comprehensive manual on special districts called the Florida Special District Handbook.[388]

XX. THE 2014 AMENDMENTS TO CHAPTER 189, F.S.

Chapter 2014-22, Laws of Florida, comprehensively renumbered and restructured ch. 189, F.S., and substantially revised the statutes pertaining to special district reporting, oversight, and certain enforcement proceedings. This section briefly discusses the significant, substantive revisions. A table tracing the former statute section numbers to the revisions is provided in Appendix J.

1. REORGANIZED CHAPTER 189, F.S.

Chapter 189, F.S., is reorganized into the following eight new parts:

Part I: General Provisions
Part II: Dependent Special Districts
Part III: Independent Special Districts

[382] S. 165.0615(12), (14), F.S.
[383] S. 165.0615(13), F.S.
[384] S. 165.0615(15)-(17), F.S. If the incorporation plan is approved, the district must notify the special district accountability program, s. 189.016(2), F.S., and the local general-purpose governments in which any part of the independent special district is situated, s. 189.016(7), F.S.
[385] S. 165.0615(19), F.S.
[386] S. 189.064, F.S. *See*, ch. 2014-22, s. 32, Laws of Fla.
[387] *Available at* http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-accountability-program.
[388] *Available at* http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-accountability-program/florida-special-district-handbook-online.

Part IV: Elections
Part V: Finance
Part VI: Oversight and Accountability
Part VII: Merger and Dissolution
Part VIII: Comprehensive Planning

2. SPECIAL DISTRICT OVERSIGHT AND ACCOUNTABILITY (CHAPTER 189, F.S., PART VI)

a. Special District Financial and Operations Reporting

The new law reinforces the requirements for district financial and operations reporting. All districts must file annual financial reports with the Department of Financial Services (DFS).[389] Districts with revenues or total expenditures and expenses exceeding $100,000 (or between $50,000 and $100,000 if the district has not been audited for the prior two fiscal years) must file audited financial reports.[390] Failure to file a required report must be disclosed by DFS both to the Legislative Auditing Committee (LAC)[391] and DEO.[392]

Special districts participating in certain retirement systems or plans for public employees, funded in any part by public funds, must comply with the "Florida Protection for Public Employees Retirement Benefits Act,"[393] including filing with the Department of Management Services (DMS)[394] periodic reports prepared by an enrolled actuary.[395] Failure to file as required is reported to DEO.[396]

Special districts authorized to issue bonds[397] must report certain information to the Division of Bond Finance of the State Board of Administration (SBA).[398] Special districts must provide each local general-purpose government in which the district is located with an initial report of the district's public facilities and annual reports of changes to those facilities[399] and a schedule of regular meetings of the governing

[389] S. 218.32(1), F.S. Independent special districts normally file with DFS, dependent districts with the local government of which the district is a component. Dependent districts not qualifying as "a component unit" nor required to file an audit submit their financial reports directly to DFS. S. 218.32(1)(e), F.S.
[390] Ss. 218.32(1)(d), 218.39(1)(c), (7), F.S.
[391] S. 218.32(1)(f), F.S. The LAC is a standing joint committee authorized by joint rule of the Legislature
[392] S. 189.066, F.S. *See,* ch. 2014-22, s. 41, Laws of Fla.
[393] S. 112.62, F.S.
[394] S. 112.63(2), F.S.
[395] "'Enrolled actuary' means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries." S. 112.625(3), F.S.
[396] S. 189.066(4), F.S. *See*, ch. 2014-22, s. 41, Laws of Fla.
[397] S. 189.031(3)(b), F.S. *See*, ch. 2014-22, s. 14, Laws of Fla. Some types of special districts have separate statutes providing bond authority, such as community development districts (s. 190.006(11), F.S.), special fire and rescue districts (s. 191.012, F.S.), and drainage and water control districts (s. 298.47, F.S.).
[398] S. 218.38, F.S.
[399] S. 189.08, F.S. *See,* ch. 2014-22, s. 35, Laws of Fla. The statute exempts the Reedy Creek Improvement District from this requirement. S. 189.08(9), F.S.

body of the district, provided either quarterly, semiannually, or annually. SBA must report any failure to file the required information to the LAC[400] and DEO.[401]

The new law revises the duty of the LAC to provide notice if it determines the failure of a special district to make certain financial reports requires additional state action. In addition to DEO, the LAC will provide notice to the Speaker of the House of Representatives, the President of the Senate, the standing committees of the Senate and the House charged with special district oversight as determined by the presiding officers of each chamber, and the legislators who represent a portion of the geographical jurisdiction of the special district. The LAC may also request that DEO proceed to file legal action against the district.

DEO may file a petition in the circuit court to enforce certain reporting duties of a special district. DEO may seek declaratory relief, injunctive relief, any other equitable relief, any forfeiture, or any other remedy provided in law.[402]

b. Special District Oversight

Chapter 2014-22, Laws of Florida, revises the existing authority and procedures for district oversight and creates additional processes. New s. 189.034, F.S.,[403] creates a process for review of districts created by special act of the Legislature. Section 189.035, F.S.,[404] creates a similar process to review districts created by local ordinance or resolution. New s. 112.511, F.S., expressly authorizes the Governor to suspend or remove members of a special district governing body.

The new law revises the authority for oversight review of various special districts as follows:[405]

- Independent special districts created by special act may be reviewed by the Legislature using the public hearing process in s. 189.034, F.S.

- Independent special districts created by ordinance or resolution may be reviewed by the general-purpose government that enacted the ordinance or resolution using the public hearing process in s. 189.035, F.S.

- Dependent special districts may be reviewed by the general-purpose government to which they are dependent.

- Special districts created by rule of the Governor and Cabinet may be reviewed as determined by the Governor and Cabinet.

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[400] S. 218.38(3), F.S.
[401] S. 189.066(3), F.S. *See*, ch. 2014-22, s. 41, Laws of Fla.
[402] S. 189.067, F.S. *See,* ch. 2014-22, s. 43, Laws of Fla.
[403] *See*, ch. 2014-22, s. 51, Laws of Fla.
[404] *See,* ch. 2014-22, s. 52, Laws of Fla.
[405] S. 189.068(2), F.S. *See,* ch. 2014-22, s. 48, Laws of Fla.

- All other special districts may be reviewed as directed by the President of the Senate and the Speaker of the House of Representatives.

The LAC must notify the Speaker of the House of Representatives, the President of the Senate, the standing committees of the Senate and the House charged with special district oversight as determined by the presiding officers of each chamber, and the legislators who represent a portion of the geographical jurisdiction of the special district, when a district fails to file a required financial report. The LAC is authorized to convene a hearing on the district's noncompliance as well as general oversight issues at the direction of the Speaker and the President. The statute provides an extensive list of documents and material the LAC may request, and the special district must provide, prior to the hearing.[406]

Under s. 189.035, F.S., the LAC will provide notice of a district's noncompliance to the chair of the governing board for the local general-purpose government. The local government may convene a hearing on the issue of noncompliance, as well as general oversight, within three months and may request a similarly-extensive list of materials which the district must provide prior to the hearing. The local government must provide the LAC with a report on its findings and conclusions within 60 days after completion of the public hearing.

Section 112.511, F.S.,[407] authorizing the Governor to suspend or remove members of a special district governing body, acknowledges the distinction between the Governor's constitutional suspension power and the power to suspend or remove officials as delegated by statute. Those members of a district governing body who also exercise the powers and duties of a state or county officer remain subject to the Governor's constitutional suspension power.[408] Those governing body members exercising authority other than as state or county officers are subject to the Governor's statutory power of suspension and removal.[409] The Governor, and the authority with the power to appoint replacement governing body members, must ensure a sufficient number of members are maintained to constitute a quorum.

3. ADDITIONAL STATUTORY REVISIONS

a. Public Access to Information about Special Districts

New s. 189.069, F.S.,[410] requires each special district to update and maintain an internet website on which the district must publish extensive information. Each district must have such a website in place no later than October 1, 2015. Such information must include the full legal name of the district, its public purpose, the full text of the district charter, contact information for each member on the district's governing body, a description of the district's boundaries, a listing of all taxes, fees, assessments, and charges imposed by the district, the code of ethics applicable to the district, all governmental entities with oversight authority for the district, and the

[406] S. 189.034, F.S. *See*, ch. 2014-22, s. 51, Laws of Fla.
[407] *See,* ch. 2014-22, s. 4, Laws of Fla.
[408] FLA. CONST. art. IV, s. 7(a).
[409] S. 112.51, F.S.
[410] *See,* ch. 2014-22, s. 54, Laws of Fla.

district's annual budget and financial reports. DEO is required to provide separate links to each district website complying with the new provision.

b. DEO Declaration of Inactive Special Districts

DEO is required to declare a special district inactive under certain circumstances[411] and to provide notice of the declaration as follows:[412]

- If a district created by special act becomes inactive, DEO must notify the Speaker of the House, the President of the Senate, the standing committees of the Senate and the House charged with special district oversight, and the LAC. The declaration is sufficient notice under the Constitution to authorize repeal of any special law establishing the district and its authority.

- If a district created by one or more local general-purpose governments becomes inactive, DEO must notify the chair of each creating local government.

- If a district created by interlocal agreement becomes inactive, DEO must notify the chair of each local general-purpose government which entered into the interlocal agreement.

A district declared inactive by DEO is prohibited from collecting taxes, fees, or assessments unless the declaration is withdrawn or ruled invalid after the district brings a timely challenge to the declaration. The challenge may be brought as an administrative proceeding under ch. 120, F.S. Alternatively, the district may file an action for declaratory and injunctive relief under ch. 86, F.S., in the circuit court for the judicial circuit where the majority of the district is located. The prevailing party is entitled to an award of costs and attorney fees. If DEO prevails on the challenge, it may bring a subsequent petition to enforce the prohibitions on collections in the circuit court for Leon County.[413]

XXI. FOR FURTHER INFORMATION

Local Government Affairs Subcommittee
Florida House of Representatives
317 House Office Building
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-717-4861
http://www.myfloridahouse.gov

Florida Department of Revenue
http://dor.myflorida.com/dor/

[411] S. 189.062(1), F.S. *See,* ch. 2014-22, s. 24, Laws of Fla.
[412] S. 189.062(3), F.S. *See,* ch. 2014-22, s. 24, Laws of Fla.
[413] S. 189.062(5), F.S. *See,* ch. 2014-22, s. 24, Laws of Fla.

Government Accounting: Local Governments
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399
1-877-693-5236
http://www.myfloridacfo.com/sitePages/services/flow.aspx?ut=Local+Governments

Office of Policy and Budget[414]
Executive Office of the Governor
400 S Monroe Street, Suite 1702
Tallahassee, FL 32399
850-487-1880
http://www.flgov.com/opb/

Special District Accountability Program
Division of Community Development
Florida Department of Economic Opportunity
107 E. Madison Street, MSC-400
Tallahassee, Florida 32399-6508
850-717-8430 Fax: 850-410-1555
http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-accountability-program

Special Districts
State of Florida Auditor General
http://www.myflorida.com/audgen/pages/specialdistricts%20a-c.htm

[414] On January 12, 2012, Governor Scott issued Executive Order Number 12-10 directing the Governor's Office of Policy and Budget to conduct a review and make recommendations for cutting costs and introducing accountability. *See*, EO 12-10 at http://www.flgov.com/wp-content/uploads/2012/01/EO-12-10.pdf.

APPENDIX A

Florida Statutes Relating to Local Government

The following list of Florida Statutes pertains to local government. The listing is grouped by category beginning with statutes relating to all local governments, including cities, counties, and special districts. Statutes related to more than one type of local government or to fiscal issues are listed under each applicable category. Finally, statutes including specific language regarding local bill policies and procedures are listed under a separate category.

All Local Governments

Chapter 11	Legislative Organization, Procedures, and Staffing
Chapter 22	Emergency Continuity of Government
Chapter 50	Legal and Official Advertisements
Chapter 73	Eminent Domain
Chapter 74	Proceedings Supplemental to Eminent Domain
Chapter 85	Enforcement of Statutory Liens
Chapter 97	Qualification and Registration of Electors
Chapter 98	Registration Office, Officers, and Procedures
Chapter 99	Candidates
Chapter 100	General, Primary, Bond, and Referendum Elections
Chapter 101	Voting Methods and Procedure
Chapter 102	Conducting Elections and Ascertaining the Results
Chapter 104	Election Code: Violations; Penalties
Chapter 106	Campaign Financing
Chapter 111	Public Officers: General Provisions
Chapter 112	Public Officers and Employees: General Provisions
Chapter 119	Public Records
Chapter 162	County or Municipal Code Enforcement
Chapter 163	Intergovernmental Programs
Chapter 164	Governmental Disputes
Chapter 186	State and Regional Planning
Chapter 187	State Comprehensive Plan
Chapter 218	Financial Matters Pertaining to Political Subdivisions
Chapter 252	Emergency Management
Chapter 274	Tangible Personal Property Owned by Local Governments
Chapter 290	Urban Redevelopment
Chapter 333	Airport Zoning
Chapter 337	Contracting; Acquisition, Disposal, and Use of Property
Chapter 339	Transportation Finance and Planning
Chapter 365	Use of Telephones and Facsimile Machines
Chapter 367	Water and Wastewater Systems
Chapter 373	Water Resources
Chapter 374	Navigation Districts; Waterways Development
Chapter 380	Land and Water Management
Chapter 388	Mosquito Control

Chapter 403 Environmental Control
Chapter 418 Recreation
Chapter 419 Community Residential Homes
Chapter 420 Housing
Chapter 421 Public Housing
Chapter 553 Building Construction Standards
Chapter 633 Fire Prevention and Control
Chapter 705 Lost or Abandoned Property
Chapter 1000 K-20 General Provisions

Counties

Chapter 7 County Boundaries
Chapter 11 Legislative Organization, Procedures, and Staffing
Chapter 22 Emergency Continuity of Government
Chapter 30 Sheriffs
Chapter 34 County Courts
Chapter 44 Mediation Alternatives to Judicial Action
Chapter 50 Legal and Official Advertisements
Chapter 73 Eminent Domain
Chapter 74 Proceedings Supplemental to Eminent Domain
Chapter 85 Enforcement of Statutory Liens
Chapter 86 Declaratory Judgments
Chapter 97 Qualification and Registration of Electors
Chapter 98 Registration Office, Officers, and Procedures
Chapter 99 Candidates
Chapter 100 General, Primary, Special, Bond, and Referendum Elections
Chapter 101 Voting Methods and Procedure
Chapter 102 Conducting Elections and Ascertaining the Results
Chapter 104 Election Code: Violations; Penalties
Chapter 106 Campaign Financing
Chapter 111 Public Officers: General Provisions
Chapter 112 Public Officers and Employees: General Provisions
Chapter 119 Public Records
Chapter 122 State and County Officers and Employees Retirement System
Chapter 124 Commissioners' Districts
Chapter 125 County Government
Chapter 127 Right of Eminent Domain to Counties
Chapter 129 County Annual Budget
Chapter 130 County Bonds
Chapter 136 County Depositories
Chapter 137 Bonds of County Officers
Chapter 138 County Seats
Chapter 142 County Fine and Forfeiture Fund
Chapter 145 Compensation of County Officials
Chapter 153 Water and Sewer Systems
Chapter 154 Public Health Facilities
Chapter 155 Hospitals
Chapter 157 Drainage by Counties

Chapter 162 County or Municipal Code Enforcement
Chapter 163 Intergovernmental Programs
Chapter 164 Governmental Disputes
Chapter 177 Land Boundaries
Chapter 186 State and Regional Planning
Chapter 187 State Comprehensive Plan
Chapter 206 Motor and Other Fuel Taxes
Chapter 252 Emergency Management
Chapter 274 Tangible Personal Property Owned by Local Governments
Chapter 290 Urban Redevelopment
Chapter 333 Airport Zoning
Chapter 336 County Road System
Chapter 337 Contracting; Acquisition, Disposal, and Use of Property
Chapter 339 Transportation Finance and Planning
Chapter 344 County Road and Bridge Indebtedness
Chapter 347 Ferries, Toll Bridges, Dams, and Log Ditches
Chapter 348 Expressway and Bridge Authorities
Chapter 365 Use of Telephones and Facsimile Machines
Chapter 367 Water and Wastewater Systems
Chapter 373 Water Resources
Chapter 374 Navigation Districts; Waterways Development
Chapter 380 Land and Water Management
Chapter 388 Mosquito Control
Chapter 403 Environmental Control
Chapter 418 Recreation
Chapter 419 Community Residential Homes
Chapter 420 Housing
Chapter 421 Public Housing
Chapter 553 Building Construction Standards
Chapter 567 Local Option Elections
Chapter 568 Intoxicating Liquors in Counties Where Prohibited
Chapter 633 Fire Prevention and Control
Chapter 705 Lost or Abandoned Property
Chapter 950 Jails and Jailers
Chapter 951 County and Municipal Prisoners
Chapter 1000 K-20 General Provisions
Chapter 1013 Educational Facilities

Municipalities

Chapter 11 Legislative Organization, Procedures, and Staffing
Chapter 22 Emergency Continuity of Government
Chapter 50 Legal and Official Advertisements
Chapter 73 Eminent Domain
Chapter 74 Proceedings Supplemental to Eminent Domain
Chapter 85 Enforcement of Statutory Liens
Chapter 97 Qualification and Registration Of Electors
Chapter 98 Registration Office, Officers, and Procedures
Chapter 99 Candidates

Chapter 100 General, Primary, Special, Bond, and Referendum Elections
Chapter 101 Voting Methods and Procedure
Chapter 102 Conducting Elections and Ascertaining the Results
Chapter 104 Election Code: Violations; Penalties
Chapter 106 Campaign Financing
Chapter 111 Public Officers: General Provisions
Chapter 112 Public Officers and Employees: General Provisions
Chapter 119 Public Records
Chapter 162 County or Municipal Code Enforcement
Chapter 163 Intergovernmental Programs
Chapter 164 Governmental Disputes
Chapter 165 Formation of Local Governments
Chapter 166 Municipalities
Chapter 170 Supplemental and Alternative Method of Making Local Municipal Improvements
Chapter 171 Local Government Boundaries
Chapter 173 Foreclosure of Municipal Tax and Special Assessment Liens
Chapter 175 Firefighter Pensions
Chapter 177 Land Boundaries
Chapter 180 Municipal Public Works
Chapter 185 Municipal Police Pensions
Chapter 186 State and Regional Planning
Chapter 187 State Comprehensive Plan
Chapter 218 Financial Matters Pertaining to Political Subdivisions
Chapter 252 Emergency Management
Chapter 274 Tangible Personal Property Owned by Local Governments
Chapter 290 Urban Redevelopment
Chapter 333 Airport Zoning
Chapter 337 Contracting; Acquisition, Disposal, and Use of Property
Chapter 339 Transportation Finance and Planning
Chapter 365 Use of Telephones and Facsimile Machines
Chapter 367 Water and Wastewater Systems
Chapter 373 Water Resources
Chapter 374 Navigation Districts; Waterways Development
Chapter 380 Land and Water Management
Chapter 388 Mosquito Control
Chapter 403 Environmental Control
Chapter 418 Recreation
Chapter 419 Community Residential Homes
Chapter 420 Housing
Chapter 421 Public Housing
Chapter 553 Building Construction Standards
Chapter 633 Fire Prevention and Control
Chapter 705 Lost or Abandoned Property
Chapter 1000 K-20 General Provisions
Chapter 1013 Educational Facilities

City/County Consolidation

Chapter 112 Public Officers and Employees: General Provisions
Chapter 121 Florida Retirement System
Chapter 125 County Government
Chapter 145 Compensation of County Officials
Chapter 186 State and Regional Planning
Chapter 200 Determination of Millage
Chapter 212 Tax on Sales, Use, and Other Transactions
Chapter 218 Financial Matters Pertaining to Political Subdivisions

Special Districts

Chapter 11 Legislative Organization, Procedures, and Staffing
Chapter 22 Emergency Continuity of Government
Chapter 50 Legal and Official Advertisements
Chapter 73 Eminent Domain
Chapter 74 Proceedings Supplemental to Eminent Domain
Chapter 85 Enforcement of Statutory Liens
Chapter 97 Qualification and Registration of Electors
Chapter 98 Registration Office, Officers, and Procedures
Chapter 99 Candidates
Chapter 100 General, Primary, Special Bond, and Referendum Elections
Chapter 101 Voting Methods and Procedure
Chapter 102 Conducting Elections and Ascertaining the Results
Chapter 104 Election Code: Violations; Penalties
Chapter 106 Campaign Financing
Chapter 111 Public Officers: General Provisions
Chapter 112 Public Officers and Employees: General Provisions
Chapter 119 Public Records
Chapter 125 County Government
Chapter 153 Water and Sewer Systems
Chapter 154 Public Health Facilities
Chapter 155 Hospitals
Chapter 161 Beach and Shore Preservation
Chapter 162 County or Municipal Code Enforcement
Chapter 163 Intergovernmental Programs
Chapter 164 Governmental Disputes
Chapter 186 State and Regional Planning
Chapter 187 State Comprehensive Plan
Chapter 189 Special Districts: General Provisions
Chapter 190 Community Development Districts
Chapter 191 Independent Fire Control Districts
Chapter 252 Emergency Management
Chapter 274 Tangible Personal Property Owned by Local Governments
Chapter 290 Urban Redevelopment
Chapter 298 Drainage and Water Control
Chapter 315 Port Facilities Financing
Chapter 333 Airport Zoning

Chapter 337 Contracting; Acquisition, Disposal, and Use of Property
Chapter 339 Transportation Finance and Planning
Chapter 348 Expressway and Bridge Authorities
Chapter 365 Use of Telephones and Facsimile Machines
Chapter 367 Water and Wastewater Systems
Chapter 373 Water Resources
Chapter 374 Navigation Districts; Waterways Development
Chapter 380 Land and Water Management
Chapter 388 Mosquito Control
Chapter 403 Environmental Control
Chapter 418 Recreation
Chapter 419 Community Residential Homes
Chapter 420 Housing
Chapter 421 Public Housing
Chapter 553 Building Construction Standards
Chapter 582 Soil and Water Conservation
Chapter 633 Fire Prevention and Control
Chapter 705 Lost or Abandoned Property
Chapter 1000 K-20 General Provisions

Local Government Fiscal Issues

Chapter 11 Legislative Organization, Procedures, and Staffing
Chapter 75 Bond Validation
Chapter 112 Public Officers and Employees: General Provisions
Chapter 125 County Government
Chapter 129 County Annual Budget
Chapter 130 County Bonds
Chapter 132 General Refunding Law
Chapter 142 County Fine and Forfeiture Fund
Chapter 145 Compensation of County Officials
Chapter 159 Bond Financing
Chapter 166 Municipalities
Chapter 173 Foreclosure of Municipal Tax and Special Assessment Liens
Chapter 192 Taxation: General Provisions
Chapter 193 Assessments
Chapter 194 Administrative and Judicial Review of Property Taxes
Chapter 195 Property Assessment Administration and Finance
Chapter 196 Exemption
Chapter 197 Tax Collections, Sales, and Liens
Chapter 198 Estate Taxes
Chapter 199 Intangible Personal Property Taxes
Chapter 200 Determination of Millage
Chapter 201 Excise Tax on Documents
Chapter 205 Local Business Taxes
Chapter 206 Motor and Other Fuel Taxes
Chapter 210 Tax on Tobacco Products
Chapter 212 Tax on Sales, Use, and Other Transactions
Chapter 218 Financial Matters Pertaining to Political Subdivisions

Chapter 219 County Public Money, Handling by State and County
Chapter 220 Income Tax Code
Chapter 222 Method of Setting Apart Homestead and Exemptions
Chapter 279 Registered Public Obligations
Chapter 280 Security for Public Deposits
Chapter 342 Waterway and Waterfront Improvement

Local Bill Policies and Procedures

Chapter 11 Legislative Organization, Procedures, and Staffing
Chapter 50 Legal and Official Advertisements
Chapter 120 Administrative Procedure Act
Chapter 125 County Government
Chapter 166 Municipalities

APPENDIX B

Counties in Florida

County	Charter County	Municipalities (*Denotes county seat)		Year Established
Alachua	Yes	Alachua Archer Gainesville* Hawthorne High Springs	La Crosse Micanopy Newberry Waldo	1824
Baker	No	Glen St. Mary	Macclenny*	1861
Bay	No	Callaway Cedar Grove Lynn Haven Mexico Beach	Panama City* Panama City Beach Parker Springfield	1913
Bradford	No	Brooker Hampton	Lawtey Starke*	1858
Brevard	Yes	Cape Canaveral Cocoa Cocoa Beach Grant-Valkaria Indialantic Indian Harbour Beach Malabar Melbourne	Melbourne Beach Melbourne Village Palm Bay Palm Shores Rockledge Satellite Beach Titusville* West Melbourne	1844
Broward	Yes	Coconut Creek Cooper City Coral Springs Dania Davie Deerfield Beach Fort Lauderdale* Hallandale Hillsboro Beach Hollywood Lauderdale-By-The-Sea Lauderdale Lakes Lauderhill Lazy Lake Lighthouse Point	Margate Miramar North Lauderdale Oakland Park Parkland Pembroke Park Pembroke Pines Plantation Pompano Beach Sea Ranch Lakes Southwest Ranches Sunrise Tamarac Weston West Park Wilton Manors	1915
Calhoun	No	Altha	Blountstown*	1838
Charlotte	Yes	Punta Gorda*		1921
Citrus	No	Crystal River	Inverness*	1887
Clay	Yes	Green Cove Springs* Keystone Heights	Orange Park Penney Farms	1858
Collier	No	Everglades City	Naples*	1923

County	Charter County	Municipalities (*Denotes county seat)		Year Established
		Marco Island		
Columbia	Yes	Fort White	Lake City*	1832
De Soto	No	Arcadia*		1887
Dixie	No	Cross City*	Horseshoe Beach	1921
Duval	Yes	Atlantic Beach Baldwin Jacksonville*	Jacksonville Beach Neptune Beach	1822
Escambia	No	Century	Pensacola*	1821
Flagler	No	Beverly Beach Bunnell* Flagler Beach	Marineland Palm Coast	1917
Franklin	No	Apalachicola*	Carrabelle	1832
Gadsden	No	Chattahoochee Greensboro Gretna	Havana Midway Quincy*	1823
Gilchrist	No	Bell Fanning Springs	Trenton*	1925
Glades	No	Moore Haven*		1921
Gulf	No	Port St. Joe*	Wewahitchka	1925
Hamilton	No	Jasper* Jennings	White Springs	1827
Hardee	No	Bowling Green Wauchula*	Zolfo Springs	1921
Hendry	No	Clewiston	LaBelle*	1923
Hernando	No	Brooksville*	Weeki Wachee	1843
Highlands	No	Avon Park Lake Placid	Sebring*	1921
Hillsborough	Yes	Plant City Tampa*	Temple Terrace	1834
Holmes	No	Bonifay* Esto Noma	Ponce De Leon Westville	1848
Indian River	No	Fellsmere Indian River Shores Orchid	Sebastian Vero Beach*	1925
Jackson	No	Alford Bascom Campbellton Cottondale Graceville Grand Ridge	Greenwood Jacob City Malone Marianna* Sneads	1822
Jefferson	No	Monticello*		1827
Lafayette	No	Mayo*		1856
Lake	No	Astatula Clermont Eustis	Leesburg Mascotte Minneola	1887

County	Charter County	Municipalities (*Denotes county seat)		Year Established
		Fruitland Park Groveland Howey-In-The-Hills Lady Lake	Montverde Mount Dora Tavares* Umatilla	
Lee	Yes	Bonita Springs Cape Coral Estero	Fort Myers* Fort Myers Beach Sanibel	1887
Leon	Yes	Tallahassee*		1824
Levy	No	Bronson* Cedar Key Chiefland Fanning Springs	Inglis Otter Creek Williston Yankeetown	1845
Liberty	No	Bristol*		1855
Madison	No	Greenville Lee	Madison*	1827
Manatee	No	Anna Maria Bradenton* Bradenton Beach	Holmes Beach Longboat Key Palmetto	1855
Marion	No	Belleview Dunnellon McIntosh	Ocala* Reddick	1844
Martin	No	Jupiter Island Ocean Breeze Park	Sewall's Point Stuart*	1925
Miami-Dade	Yes	Aventura Bal Harbour Bay Harbor Islands Biscayne Park Coral Gables Cutler Bay Doral El Portal Florida City Golden Beach Hialeah Hialeah Gardens Homestead Indian Creek Village Islandia Key Biscayne Medley Miami*	Miami Beach Miami Gardens Miami Lakes Miami Shores Miami Springs North Bay Village North Miami North Miami Beach Opa-locka Palmetto Bay Pinecrest South Miami Sunny Isles Beach Surfside Sweetwater Virginia Gardens West Miami	1836
Monroe	No	Islamorada Key Colony Beach Key West*	Layton Marathon	1823
Nassau	No	Callahan Fernandina Beach*	Hilliard	1824

County	Charter County	Municipalities (*Denotes county seat)		Year Established
Okaloosa	No	Cinco Bayou Crestview* Destin Fort Walton Beach Laurel Hill	Mary Esther Niceville Shalimar Valparaiso	1915
Okeechobee	No	Okeechobee*		1917
Orange	Yes	Apopka Bay Lake Belle Isle Eatonville Edgewood Lake Buena Vista Maitland	Oakland Ocoee Orlando* Windermere Winter Garden Winter Park	1824
Osceola	Yes	Kissimmee*	St. Cloud	1887
Palm Beach	Yes	Atlantis Belle Glade Boca Raton Boynton Beach Briny Breezes Cloud Lake Delray Beach Glen Ridge Golf Greenacres Gulf Stream Haverhill Highland Beach Hypoluxo Juno Beach Jupiter Jupiter Inlet Colony Lake Clarke Shores Lake Park	Lake Worth Lantana Loxahatchee Groves Manalapan Magnolia Park North Palm Beach Ocean Ridge Pahokee Palm Beach Palm Beach Gardens Palm Beach Shores Palm Springs Riviera Beach Royal Palm Beach South Bay South Palm Beach Tequesta Village Wellington West Palm Beach*	1909
Pasco	No	Dade City* New Port Richey Port Richey	Saint Leo San Antonio Zephyrhills	1887
Pinellas	Yes	Belleair Belleair Beach Belleair Bluffs Belleair Shores Clearwater* Dunedin Gulfport Indian Rocks Beach Indian Shores Kenneth City	Beach Oldsmar Pinellas Park Redington Beach Redington Shores Safety Harbor St. Petersburg St. Pete Beach Seminole South Pasadena	1911

County	Charter County	Municipalities (*Denotes county seat)		Year Established
		Largo Madeira Beach North Redington	Tarpon Springs Treasure Island	
Polk	Yes	Auburndale Bartow* Davenport Dundee Eagle Lake Fort Meade Frostproof Haines City Highland Park	Hillcrest Heights Lake Alfred Lake Hamilton Lake Wales Lakeland Mulberry Polk City Winter Haven	1861
Putnam	No	Crescent City Interlachen Palatka*	Pomona Park Welaka	1849
St. Johns	No	Hastings Marineland	St. Augustine* St. Augustine Beach	1821
St. Lucie	No	Fort Pierce* Port St. Lucie	St. Lucie Village	1844
Santa Rosa	No	Gulf Breeze Jay	Milton*	1842
Sarasota	Yes	Longboat Key North Port	Sarasota* Venice	1921
Seminole	Yes	Altamonte Springs Casselberry Lake Mary Longwood	Oviedo Sanford* Winter Springs	1913
Sumter	No	Bushnell* Center Hill Coleman	Webster Wildwood	1853
Suwannee	No	Branford	Live Oak*	1858
Taylor	No	Perry*		1856
Union	No	Lake Butler* Raiford	Worthington Springs	1921
Volusia	Yes	Daytona Beach Daytona Beach Shores DeBary DeLand* Deltona Edgewater Flagler Beach Holly Hill	Lake Helen New Smyrna Beach Oak Hill Orange City Ormond Beach Pierson Ponce Inlet Port Orange South Daytona	1854
Wakulla	Yes	Crawfordville* ^ St. Marks	Sopchoppy	1843
Walton	No	DeFuniak Springs*	Paxton	1824

County	Charter County	Municipalities (*Denotes county seat)		Year Established
		Freeport		
Washington	No	Caryville Chipley* Ebro	Vernon Wausau	1825

^Although the county seat, Crawfordville is not an incorporated municipality.

APPENDIX C

Charter Counties in Florida

By County	
County	Charter Effective Date
Alachua	1987
Brevard	1994
Broward	1975
Charlotte	1986
Clay	1991
Columbia	2002
Dade*	1957
Duval^	1967
Hillsborough	1983
Lee	1996
Leon	2002
Orange	1986
Osceola	1992
Palm Beach	1985
Pinellas	1980
Polk	1998
Sarasota	1971
Seminole	1989
Volusia	1971
Wakulla	2008

By Year	
Charter Effective Date	County
1957	Dade*
1967	Duval^
1971	Sarasota
1971	Volusia
1975	Broward
1980	Pinellas
1983	Hillsborough
1985	Palm Beach
1986	Charlotte
1986	Orange
1987	Alachua
1989	Seminole
1991	Clay
1992	Osceola
1994	Brevard
1996	Lee
1998	Polk
2002	Leon
2002	Columbia
2008	Wakulla

** The name "Dade" changed to "Miami-Dade" in 1997.*

^The City of Jacksonville/Duval County is a consolidated city, not a charter county.

APPENDIX D

County Boundary Changes

Counties Affected	Change	Effective Date	Enabling Law
Hendry Palm Beach	Hendry gained part of Lake Okeechobee	5/14/1925	Ch. 10090, s. 1, Laws of Fla. (1925)
Glades Palm Beach	Glades gained part of Lake Okeechobee	5/8/1925	Ch. 10596, s. 1, Laws of Fla. (1925)
Dixie Levy	Levy gained small area from Dixie due to boundary shift from east bank to middle of Suwannee River	6/4/1925	Ch. 10778, s. 1, Laws of Fla. (1925)
Indian River St. Lucie	Indian River created from St. Lucie	6/29/1925	Ch. 10148, s. 1, Laws of Fla. (1925)
Calhoun Gulf	Gulf created from Calhoun	7/7/1925	Ch. 10132, s. 1, Laws of Fla. (1925)
Martin Palm Beach St. Lucie	Martin created from Palm Beach and St. Lucie	8/4/1925	Ch. 10180, s. 1, Laws of Fla. (1925)
Alachua Gilchrist	Gilchrist created from Alachua	1/1/1926	Ch. 11371, s. 1, Laws of Fla. (1925)
Bradford Clay Putnam	Putnam gained small areas from Bradford and Clay	6/6/1927	Ch. 12489, s. 1, Laws of Fla. (1927)
Gadsden Leon	Gadsden gained from Leon due to boundary shift from west bank to middle of Ochlockonee River	5/4/1933	Ch. 16436, s. 1, Laws of Fla. (1933)
Glades Hendry	Hendry gained small areas from Glades	9/7/1937	Ch. 18568, s. 1, Laws of Fla. (1937)
Hillsborough Pinellas	Pinellas gained small area from Hillsborough	5/15/1939	Ch. 19058, s. 1, Laws of Fla. (1939)
Seminole Volusia	Boundary between counties “redefined, located and described….”	7/12/1941	Ch. 20888, s. 1, Laws of Fla. (1941)
Escambia Okaloosa	Okaloosa gained Santa Rosa Island from Escambia	5/31/1947	Ch. 23867, s. 2, Laws of Fla. (1947)
Glades Highlands	Glades gained small area from Highlands	6/13/1949	Ch. 25612, s. 1, Laws of Florida (1949)
Pasco Polk	Polk gained area from Pasco	12/31/1949	Ch. 25440, ss. 1-2, Laws of Fla., as

Counties Affected	Change	Effective Date	Enabling Law
			amended by Ch. 26347, Laws of Fla. (1949)
Escambia Santa Rosa	Santa Rosa gained small areas from Escambia	6/11/1951	Ch. 26860, s. 1, Laws of Fla. (1951)
Alachua Bradford Columbia	Alachua exchanged small areas with Bradford and Columbia along the Santa Fe River	1/1/1954	Ch. 28312, ss. 1-3, Laws of Fla. (1953)
Escambia Santa Rosa	Santa Rosa gained small areas from Escambia along the right-of-way of the toll bridge and road on Santa Rosa Sound and Island	6/29/1957	Ch. 57-834, s. 2, Laws of Fla.
Brevard Indian River	Indian River gained small area south of Sebastian Inlet from Brevard	11/3/1959	Ch. 59-486, s. 2, Laws of Fla.
Dade Monroe	Dade gained small area of Barnes Sound from Monroe	5/13/1961	Ch. 61-16, s. 1, Laws of Fla.
Glades Hendry Martin Okeechobee Palm Beach	Glades, Hendry, Martin and Okeechobee gained parts of Lake Okeechobee from Palm Beach	5/29/1963	Ch. 63-200, ss. 1-5, Laws of Fla.
Glades Hendry	Hendry gained small area from Glades on Route 80	6/12/1963	Ch. 63-391, ss. 1-2, Laws of Fla.
Osceola Polk	Counties exchanged certain areas	1/1/1968	Ch. 67-592, ss. 1-3, Laws of Fla.
Franklin Gulf	Franklin gained Forbes Island from Gulf	3/30/1972	Ch. 72-119, s. 1, Laws of Fla.
Clay Duval	Clay gained small area from Duval on I-295	7/1/1976	Ch. 76-17, s. 1, Laws of Fla.
Broward Dade	Broward gained small area at Golden Beach from Dade	10/1/1978	Ch. 78-119, ss. 1-2, Laws of Fla.
Clay Duval	Clay gained small area from Duval on I-295	12/31/1980	Ch. 80-9, ss. 1-3, Laws of Fla.
Clay Putnam	Clay gained small area from Putnam	6/14/1984	Ch. 84-211, ss. 1-3, Laws of Fla.
Franklin	Wakulla gained from	10/1/1986	Ch. 86-288, ss. 1-2,

Counties Affected	Change	Effective Date	Enabling Law
Wakulla	Franklin due to boundary shift from east bank to middle of Ochlockonee River and Bay		Laws of Fla.
Escambia Santa Rosa	Santa Rosa gained small area from Escambia on Santa Rosa Island	4/27/1991	Ch. 91-310, ss. 1-2, Laws of Fla.
Citrus Levy	Levy gained small area from Citrus due to boundary shift from north bank to the thread of the Withlacoochee River	5/29/1994	Ch. 94-313, ss. 1-2, Laws of Fla.
Broward Palm Beach	Broward gained area from Palm Beach	6/26/2007	Ch. 2007-222, s. 1, Laws of Fla.
Martin St. Lucie	Martin gained area from St. Lucie	9/30/2013	Ch. 2012-45, s. 1, Laws of Fla.

APPENDIX E

Florida Municipalities

City	County	Year Incorporated
Alachua	Alachua	1908
Alford	Jackson	1959
Altamonte Springs	Seminole	1920
Altha	Calhoun	1946
Anna Maria	Manatee	1926
Apalachicola	Franklin	1831
Apopka	Orange	1882
Arcadia	DeSoto	1901
Archer	Alachua	1887
Astatula	Lake	1927
Atlantic Beach	Duval	1957
Atlantis	Palm Beach	1959
Auburndale	Polk	1911
Aventura	Miami-Dade	1995
Avon Park	Highlands	1913
Bal Harbour	Miami-Dade	1946
Baldwin	Duval	1876
Bartow	Polk	1882
Bascom	Jackson	1963
Bay Harbor Islands	Miami-Dade	1947
Bay Lake	Orange	1967
Bell	Gilchrist	1905
Belle Glade	Palm Beach	1928
Belle Isle	Orange	1924
Belleair	Pinellas	1925
Belleair Beach	Pinellas	1950
Belleair Bluffs	Pinellas	1963
Belleair Shore	Pinellas	1955
Belleview	Marion	1885
Beverly Beach	Flagler	1955
Biscayne Park	Miami-Dade	1933
Blountstown	Calhoun	1903
Boca Raton	Palm Beach	1925
Bonifay	Holmes	1886
Bonita Springs	Lee	1999
Bowling Green	Hardee	1907
Boynton Beach	Palm Beach	1920
Bradenton	Manatee	1903
Bradenton Beach	Manatee	1953
Branford	Suwannee	1961
Briny Breezes	Palm Beach	1963

Bristol	Liberty	1957
Bronson	Levy	1951
Brooker	Bradford	1952
Brooksville	Hernando	1880
Bunnell	Flagler	1928
Bushnell	Sumter	1911
Callahan	Nassau	1911
Callaway	Bay	1963
Campbellton	Jackson	1925
Cape Canaveral	Brevard	1963
Cape Coral	Lee	1970
Carrabelle	Franklin	1893
Caryville	Washington	1965
Casselberry	Seminole	1940
Cedar Grove	Bay	1951
Cedar Key	Levy	1923
Center Hill	Sumter	1925
Century	Escambia	1945
Chattahoochee	Gadsden	1921
Chiefland	Levy	1928
Chipley	Washington	1906
Cinco Bayou	Okaloosa	1950
Clearwater	Pinellas	1915
Clermont	Lake	1916
Clewiston	Hendry	1925
Cloud Lake	Palm Beach	1951
Cocoa	Brevard	1895
Cocoa Beach	Brevard	1925
Coconut Creek	Broward	1967
Coleman	Sumter	1925
Cooper City	Broward	1959
Coral Gables	Miami-Dade	1925
Coral Springs	Broward	1963
Cottondale	Jackson	1905
Crescent City	Putnam	1911
Crestview	Okaloosa	1916
Cross City	Dixie	1924
Crystal River	Citrus	1903
Dania	Broward	1904
Davenport	Polk	1915
Davie	Broward	1960
Daytona Beach	Volusia	1926
Daytona Beach Shores	Volusia	1960
DeBary	Volusia	1993
Deerfield Beach	Broward	1925
DeFuniak Springs	Walton	1903
DeLand	Volusia	1882

Delray Beach	Palm Beach	1927
Deltona	Volusia	1995
Destin	Okaloosa	1985
Doral	Miami-Dade	2003
Dundee	Polk	1925
Dunedin	Pinellas	1899
Dunnellon	Marion	1890
Eagle Lake	Polk	1921
Eatonville	Orange	1887
Ebro	Washington	1967
Edgewater	Volusia	1924
Edgewood	Orange	1924
El Portal	Miami-Dade	1937
Estero	Lee	2014
Esto	Holmes	1963
Eustis	Lake	1881
Everglades	Collier	1953
Fanning Springs	Gilchrist/Levy	1965
Fellsmere	Indian River	1925
Fernandina Beach	Nassau	1825
Flagler Beach	Flagler	1925
Florida City	Miami-Dade	1914
Fort Lauderdale	Broward	1911
Fort Meade	Polk	1915
Fort Myers	Lee	1886
Fort Myers Beach	Lee	1995
Fort Pierce	St. Lucie	1901
Fort Walton Beach	Okaloosa	1941
Fort White	Columbia	1884
Freeport	Walton	1963
Frostproof	Polk	1921
Fruitland Park	Lake	1926
Gainesville	Alachua	1869
Glen Ridge	Palm Beach	1947
Glen Saint Mary	Baker	1958
Golden Beach	Miami-Dade	1929
Golf	Palm Beach	1957
Graceville	Jackson	1902
Grand Ridge	Jackson	1951
Grant-Valkaria	Brevard	2006
Green Cove Springs	Clay	1874
Greenacres	Palm Beach	1926
Greensboro	Gadsden	1911
Greenville	Madison	1907
Greenwood	Jackson	1927
Gretna	Gadsden	1908
Groveland	Lake	1923

Gulf Breeze	Santa Rosa	1961
Gulf Stream	Palm Beach	1926
Gulfport	Pinellas	1910
Haines City	Polk	1914
Hallandale	Broward	1927
Hampton	Bradford	1870
Hastings	St. Johns	1913
Havana	Gadsden	1907
Haverhill	Palm Beach	1950
Hawthorne	Alachua	1881
Hialeah	Miami-Dade	1925
Hialeah Gardens	Miami-Dade	1948
High Springs	Alachua	1892
Highland Beach	Palm Beach	1949
Highland Park	Polk	1928
Hillcrest Heights	Polk	1923
Hilliard	Nassau	1947
Hillsboro Beach	Broward	1947
Holly Hill	Volusia	1902
Hollywood	Broward	1925
Holmes Beach	Manatee	1950
Homestead	Miami-Dade	1913
Horseshoe Beach	Dixie	1963
Howey-in-the-Hills	Lake	1925
Hyopluxo	Palm Beach	1961
Indialantic	Brevard	1952
Indian Creek Village	Miami-Dade	1939
Indian Harbour Beach	Brevard	1955
Indian River Shores	Indian River	1953
Indian Rocks Beach	Pinellas	1956
Indian Shores	Pinellas	1949
Inglis	Levy	1956
Interlachen	Putnam	1888
Inverness	Citrus	1919
Islamorada	Monroe	1997
Islandia	Dade	1960
Jacksonville	Duval	1832
Jacksonville Beach	Duval	1937
Jacob City	Jackson	1983
Jasper	Hamilton	1858
Jay	Santa Rosa	1939
Jennings	Hamilton	1900
Juno Beach	Palm Beach	1953
Jupiter	Palm Beach	1925
Jupiter Inlet Colony	Palm Beach	1959
Jupiter Island	Martin	1953
Kenneth City	Pinellas	1957

Key Biscayne	Miami-Dade	1991
Key West	Monroe	1828
Keystone Heights	Clay	1925
Kissimmee	Osceola	1883
LaBelle	Hendry	1925
La Crosse	Alachua	1957
Lady Lake	Lake	1925
Lake Alfred	Polk	1918
Lake Buena Vista	Orange	1967
Lake Butler	Union	1897
Lake City	Columbia	1921
Lake Clarke Shores	Palm Beach	1957
Lake Hamilton	Polk	1925
Lake Helen	Volusia	1888
Lake Mary	Seminole	1973
Lake Park	Palm Beach	1921
Lake Placid	Highlands	1928
Lake Wales	Polk	1917
Lake Worth	Palm Beach	1913
Lakeland	Polk	1885
Lantana	Palm Beach	1921
Largo	Pinellas	1905
Lauderdale-By-The-Sea	Broward	1949
Lauderdale Lakes	Broward	1961
Lauderhill	Broward	1959
Laurel Hill	Okaloosa	1953
Lawtey	Bradford	1905
Layton	Monroe	1962
Lazy Lake Village	Broward	1953
Lee	Madison	1911
Leesburg	Lake	1875
Lighthouse Point	Broward	1956
Live Oak	Suwannee	1878
Longboat Key	Sarasota/Manatee	1955
Longwood	Seminole	1924
Loxahatchee Groves	Palm Beach	2006
Lynn Haven	Bay	1913
Macclenny	Baker	1885
Madeira Beach	Pinellas	1951
Madison	Madison	1945
Maitland	Orange	1885
Malabar	Brevard	1962
Malone	Jackson	1911
Manalapan	Palm Beach	1931
Mangonia Park	Palm Beach	1947
Marathon	Monroe	1999
Marco Island	Collier	1997

Margate	Broward	1955
Marianna	Jackson	1825
Marineland	Flagler/St. Johns	1941
Mary Esther	Okaloosa	1946
Mascotte	Lake	1925
Mayo	Lafayette	1903
McIntosh	Marion	1913
Medley	Miami-Dade	1949
Melbourne	Brevard	1888
Melbourne Beach	Brevard	1923
Melbourne Village	Brevard	1957
Mexico Beach	Bay	1967
Miami	Miami-Dade	1896
Miami Beach	Miami-Dade	1915
Miami Lakes	Miami-Dade	2000
Miami Shores	Miami-Dade	1932
Miami Springs	Miami-Dade	1926
Micanopy	Alachua	1837
Midway	Gadsden	1986
Milton	Santa Rosa	1844
Minneola	Lake	1925
Miramar	Broward	1955
Monticello	Jefferson	1859
Montverde	Lake	1925
Moore Haven	Glades	1924
Mount Dora	Lake	1912
Mulberry	Polk	1901
Naples	Collier	1925
Neptune Beach	Duval	1912
New Port Richey	Pasco	1924
New Smyrna Beach	Volusia	1943
Newberry	Alachua	1909
Niceville	Okaloosa	1957
Noma	Holmes	1967
North Bay	Miami-Dade	1945
North Lauderdale	Broward	1963
North Miami	Miami-Dade	1927
North Miami Beach	Miami-Dade	1926
North Palm Beach	Palm Beach	1956
North Port	Sarasota	1959
North Redington Beach	Pinellas	1953
Oak Hill	Volusia	1963
Oakland	Orange	1887
Oakland Park	Broward	1929
Ocala	Marion	1868
Ocean Breeze Park	Martin	1960
Ocean Ridge	Palm Beach	1931

Ocoee	Orange	1923
Okeechobee	Okeechobee	1915
Oldsmar	Pinellas	1936
Opa-locka	Miami-Dade	1926
Orange City	Volusia	1882
Orange Park	Clay	1879
Orchid	Indian River	1965
Orlando	Orange	1875
Ormond Beach	Volusia	1880
Otter Creek	Levy	1969
Oviedo	Seminole	1925
Pahokee	Palm Beach	1923
Palatka	Putnam	1853
Palm Bay	Brevard	1956
Palm Beach	Palm Beach	1911
Palm Beach Gardens	Palm Beach	1959
Palm Beach Shores	Palm Beach	1947
Palm Coast	Flagler	1999
Palm Shores	Brevard	1959
Palm Springs	Palm Beach	1957
Palmetto	Manatee	1894
Palmetto Bay	Miami-Dade	2002
Panama City	Bay	1909
Panama City Beach	Bay	1959
Parker	Bay	1967
Parkland	Broward	1963
Paxton	Walton	1952
Pembroke Park	Broward	1959
Pembroke Pines	Broward	1960
Penney Farms	Clay	1927
Pensacola	Escambia	1824
Perry	Taylor	1903
Pierson	Volusia	1929
Pinecrest	Miami-Dade	1995
Pinellas Park	Pinellas	1914
Plant City	Hillsborough	1885
Plantation	Broward	1953
Polk City	Polk	1925
Pomona Park	Putnam	1894
Pompano Beach	Broward	1947
Ponce De Leon	Holmes	1963
Ponce Inlet	Volusia	1963
Port Orange	Volusia	1925
Port Richey	Pasco	1925
Port St. Joe	Gulf	1913
Port St. Lucie	St. Lucie	1961
Punta Gorda	Charlotte	1887

Quincy	Gadsden	1828
Raiford	Union	1953
Reddick	Marion	1925
Redington Beach	Pinellas	1944
Redington Shores	Pinellas	1955
Riviera Beach	Palm Beach	1923
Rockledge	Brevard	1887
Royal Palm Beach	Palm Beach	1959
Safety Harbor	Pinellas	1917
St. Augustine	St. Johns	1822
St. Augustine Beach	St. Johns	1959
St. Cloud	Osceola	1911
St. Leo	Pasco	1891
St. Lucie Village	St. Lucie	1961
St. Marks	Wakulla	1963
St. Petersburg	Pinellas	1903
St. Pete Beach	Pinellas	1957
San Antonio	Pasco	1903
Sanford	Seminole	1877
Sanibel	Lee	1974
Sarasota	Sarasota	1902
Satellite Beach	Brevard	1957
Sea Ranch Lakes	Broward	1959
Sebastian	Indian River	1924
Sebring	Highlands	1929
Seminole	Pinellas	1970
Sewall's Point	Martin	1957
Shalimar	Okaloosa	1947
Sneads	Jackson	1894
Sopchoppy	Wakulla	1955
South Bay	Palm Beach	1941
South Daytona	Volusia	1951
South Miami	Miami-Dade	1926
South Palm Beach	Palm Beach	1955
South Pasadena	Pinellas	1955
Southwest Ranches	Broward	2000
Springfield	Bay	1951
Starke	Bradford	1870
Stuart	Martin	1914
Sunny Isles Beach	Miami-Dade	1997
Sunrise	Broward	1961
Surfside	Miami-Dade	1935
Sweetwater	Miami-Dade	1941
Tallahassee	Leon	1825
Tamarac	Broward	1963
Tampa	Hillsborough	1855
Tarpon Springs	Pinellas	1887

Tavares	Lake	1925
Temple Terrance	Hillsborough	1925
Tequesta Village	Palm Beach	1957
Titusville	Brevard	1886
Treasure Island	Pinellas	1955
Trenton	Gilchrist	1911
Umatilla	Lake	1904
Valparaiso	Okaloosa	1921
Venice	Sarasota	1925
Vernon	Washington	1925
Vero Beach	Indian River	1919
Virginia Gardens	Miami-Dade	1947
Waldo	Alachua	1907
Wauchula	Hardee	1907
Wausau	Washington	1963
Webster	Sumter	1900
Weeki Wachee	Hernando	1966
Welaka	Putnam	1947
Wellington	Palm Beach	1995
West Melbourne	Brevard	1959
West Miami	Miami-Dade	1949
West Palm Beach	Palm Beach	1894
West Park	Broward	2004
Weston	Broward	1996
Westville	Holmes	1970
Wewahitchka	Gulf	1959
White Springs	Hamilton	1885
Wildwood	Sumter	1877
Williston	Levy	1929
Wilton Manors	Broward	1947
Windermere	Orange	1925
Winter Garden	Orange	1908
Winter Haven	Polk	1925
Winter Park	Orange	1887
Winter Springs	Seminole	1959
Worthington Springs	Union	1963
Yankeetown	Levy	1925
Zephyrhills	Pasco	1914
Zolfo Springs	Hardee	1913

Compiled by the Legislative Committee on Intergovernmental Relations (October 18, 2002), and updated by the Local Government Affairs Subcommittee.

APPENDIX F

Florida Municipal Incorporations, Mergers, and Dissolutions Since 1974

MUNICIPAL INCORPORATIONS

Municipality	County	Enabling Act (Chapter, Laws of Florida) *or* By authority of Miami-Dade County Charter	Year
Jacob City	Jackson	83-434	1983
Destin	Okaloosa	84-422	1984
Midway	Gadsden	86-471	1986
Key Biscayne	Miami-Dade	Miami-Dade	1991
Debary	Volusia	93-351; 93-363	1993
Aventura	Miami-Dade	Miami-Dade	1995
Pinecrest	Miami-Dade	Miami-Dade	1995
Fort Myers Beach	Lee	95-494	1995
Wellington	Palm Beach	95-496	1995
Deltona	Volusia	95-498	1995
Weston	Broward	96-472	1996
Sunny Isles Beach	Miami-Dade	Miami-Dade	1997
Islamorada	Monroe	97-348	1997
Marco Island	Collier	97-367	1997
Marathon	Monroe	99-427	1999
Bonita Springs	Lee	99-428	1999
Palm Coast	Flagler	99-448	1999
Miami Lakes	Miami-Dade	Miami-Dade	2000
Southwest Ranches	Broward	2000-475	2000
Palmetto Bay	Miami-Dade	Miami-Dade	2002
Doral	Miami-Dade	Miami-Dade	2003
Miami Gardens	Miami-Dade	Miami-Dade	2003
West Park	Broward	2004-454	2004
Cutler Bay	Miami-Dade	Miami-Dade	2005
Loxahatchee Groves	Palm Beach	2006-328	2006
Grant-Valkaria	Brevard	2006-348	2006
Estero	Lee	2014-249	2014

MUNICIPAL MERGERS

Existing Municipalities	New Municipality	County	Enabling Act (Chapter, Laws of Florida)
Edgewater Gulf Beach Long Beach Resort West Panama City Beach Panama City Beach	Panama City Beach	Bay	70-874
Eau Gallie Melbourne	Melbourne	Brevard	69-879[415]
Whispering Hills Golf Estates Titusville	Titusville	Brevard	59-1991
Belle Vista Beach Don Ce-Sar Place Pass-A-Grille Beach St. Petersburg Beach	City of St. Petersburg Beach	Pinellas	57-1814

MUNICIPAL DISSOLUTIONS

Municipality	County	Authority *or* Enabling Act (Chapter, Laws of Florida)
Bithlo	Orange	By authority of the Secretary of State[416] in January 1977
Bayview	Bay	77-501
Munson Island	Monroe	81-438
Painters Hill	Flagler	81-453
Hacienda Village	Broward	84-420
Pennsuco	Miami-Dade	By authority of Miami-Dade County Charter
Golfview	Palm Beach	97-329
North Key Largo Beach	Monroe	2003-318

[415] Amended by 70-807, which inserted "Melbourne" as name of new city.
[416] Authorized by s. 165.052, F.S. (1975), repealed by ch. 2004-305, s. 39, Laws of Fla.

APPENDIX G

Proposed Municipal Incorporations Rejected by Voters

Proposed Municipality	Enabling Act (Chapter, Laws of Florida)	Year Defeated
Deltona[417]	90-410	1990
Deltona Lakes	87-449	1987
Destiny	(By authority of Dade County Charter)	1995
Fort Myers Beach[418]	82-295	1982
Fort Myers Beach	86-413	1986
(City in the Halifax area of Volusia County)	85-504	1985
Key Largo	99-430	1999
Lower Keys	2000-383	2000
Marco Island[419]	80-541	1980
Marco Island	82-330	1982
Marco Island	86-434	1986
Marco Island	90-457	1990
Marco Island	93-384	1993
Paradise Islands	2000-382	2000
Ponte Vedre	98-534	1998
Port LaBelle	94-480	1994
Southport	99-444	1999
Southport	2006-329	2006

[417] Subsequently approved by voters and incorporated in 1995. Ch. 95-498, Laws of Fla.
[418] Subsequently approved by voters and incorporated in 1995. Ch. 95-494, Laws of Fla.
[419] Subsequently approved by voters and incorporated in 1997. Ch. 97-367, Laws of Fla.

APPENDIX H

Selected Municipal Boundary Adjustments Since 2001

County	City	Chapter, Laws of Florida
Broward	Dania Beach	2001-291
Broward	Fort Lauderdale	2001-322
Brevard	Satellite Beach	2001-339
Volusia	Port Orange/ South Daytona	2002-353
Broward	Davie; Southwest Ranches	2002-356
Broward	Lauderdale-By-The-Sea	2002-357
Broward	Coconut Creek; Margate	2002-364
Lee	Cape Coral	2002-370
Broward	Coral Springs/ Margate	2003-377
Brevard	Melbourne	2004-434
Broward	Coral Springs	2004-440
Broward	Davie/ Fort Lauderdale/Plantation	2004-441
Broward	Fort Lauderdale/ Oakland Park	2004-442
Broward	Deerfield Beach	2004-444
Broward	Pompano Beach/ Deerfield Beach	2004-445
Broward	Lauderdale-By-The-Sea/ Sea Ranch Lakes	2004-446
Broward	Weston	2004-447
Broward	Cooper City/ Southwest Ranches	2004-448
Broward	Pompano Beach	2004-449
Broward	Fort Lauderdale/ Oakland Park	2004-452
Broward	Davie	2005-317
Brevard	Melbourne	2005-333
Broward	Coral Springs/Parkland	2005-334
Broward	Cooper City/Davie	2005-340
Broward	Davie	2006-334
Broward	Lauderhill	2006-351
Broward	Pembroke Pines/ Southwest Ranches	2006-362
Broward	Tamarac	2007-294
Broward	Lauderhill/ Plantation/ Fort Lauderdale	2008-282
Broward	Tamarac	2009-252
Broward	West Park	2009-253
Broward	Southwest Ranches	2009-254
Broward	Tamarac	2010-256
Broward	Fort Lauderdale	2010-257
Broward	Lauderhill	2010-261
Manatee	Anna Maria/Holmes Beach	2010-262
Broward	Dania Beach	2012-257
Brevard	Cocoa	2014-232
Pasco	St. Leo	2014-251

APPENDIX I

Proposed Consolidations Rejected by Voters Since 1967

Proposed Consolidation City/County	Year	Vote In Favor	Vote Against
Fort Pierce/St. Lucie	1972	County: 3,000 City: 2,050	County: 6,500 City: 2,250
Gainesville/Alachua	1975	County: 5,100	County: 15,100
Gainesville/Alachua	1976	County: 6,300	County: 13,250
Gainesville/Alachua	1990	County: 11,000	County: 21,800
Halifax area/Volusia	1985	County: 19,050	County: 23,450
Okeechobee/Okeechobee	1979	County: 1,150	County: 2,350
Okeechobee/Okeechobee	1989	County: 1,350	County: 3,100
Pensacola/Escambia	1970	County: 4,550 City: 5,350	County: 22,600 City: 7,700
Tallahassee/Leon	1971	County: 10,400	County: 14,750
Tallahassee/Leon	1973	County: 11,050	County: 12,850
Tallahassee/Leon	1976	County: 20,350	County: 24,850
Tallahassee/Leon	1991	County: 36, 800	County: 55,800
Tampa/Hillsborough	1967	County: 11,400	County: 28,800
Tampa/Hillsborough	1970	County: 37,250	County: 51,550
Tampa/Hillsborough	1972	County: 54,700	County: 74,900

In addition to the consolidation attempts that went to referendum, efforts have stopped short of the ballot in Brevard, Charlotte, Columbia, Escambia, Hardee, Highlands, and St. Lucie Counties.

APPENDIX J

Tracing Table for Chapter 2014-22, Laws of Florida

Former Statute Section	New Statute Section	Ch. 2014-22, Laws of Fla. Section
N/A	112.511	4
189.401	189.011	6
189.402(1), (6), (7)	189.011(1), (2), (3)	7
189.402(2)	189.06	8
189.402(3), (4), (5), (8)	189.03(1), (2), (3), (4)	9
189.403	189.012 (internal renumbering)	10
189.4031(1)	189.013	11
189.4031(2)	189.0311	12
189.4035	189.061	13
189.404	189.031	14
189.40401	189.033	15
189.4041	189.02	16
189.4042(1)	189.07 (internal renumbering)	17
189.4042(2)	189.071 (internal renumbering)	18
189.4042(3)	189.072 (internal renumbering)	19
189.4042(4)	189.073	20
189.4042(5)	189.074 (internal renumbering)	21
189.4042(6)	189.075 (internal renumbering)	22
189.4042(7)	189.0761	23
189.4044	189.062 (internal renumbering)	24
189.4045	189.076	25
189.4047	189.021	26
189.405(1), (2), (3), (4), (6), (7)	189.04(1), (2), (3), (4), (5), (6)	27
189.405(5)	189.063	28
189.4051	189.041	29
189.4065	189.05	30
189.408	189.042	31
189.4085	189.051	32
189.412	189.064 (internal renumbering)	33
189.413	189.065	34
189.415	189.08	35
189.4155	189.081	36
189.4156	189.082	37
189.416	189.014	38
189.417	189.015	39
189.418	189.016	40
189.419	189.066	41
189.420	189.052	42
189.421	189.067	43
189.4221	189.053	44

Former Statute Section	New Statute Section	Ch. 2014-22, Laws of Fla. Section
189.423	189.054	45
189.425	189.017	46
189.427	189.018	47
189.428	189.068 (internal renumbering)	48
189.429	189.019	49
189.430 – 189.444	Repealed	50
New	189.034	51
New	189.035	52
New	189.055 [provision on s. 196.199(1), previously in s. 189.403(1) text, moved to this section]	53
New	189.069	54