

Committee Substitute for Senate Bill No. 1194

An act relating to growth management; creating part II of ch. 171, F.S., the “Interlocal Service Boundary Agreement Act”; providing legislative intent with respect to annexation and the coordination of services by local governments; providing definitions; providing for the creation of interlocal service boundary agreements by a county and one or more municipalities or independent special districts; specifying the procedures for initiating an agreement and responding to a proposal for agreements; identifying issues the agreement may or must address; requiring that emergency medical services be provided by the existing provider to an annexed area with certain exceptions; requiring local governments that are a party to the agreement to amend their comprehensive plans; providing for review of the amendment by the state land planning agency; providing an exception to the limitation on plan amendments; specifying those persons who may challenge a plan amendment required by the agreement; providing for negotiation and adoption of the agreement; providing for preservation of certain agreements and powers regarding utility services; providing for preservation of existing contracts; providing prerequisites to annexation; providing a process for annexation; providing for the effect of an interlocal service boundary area agreement on the parties to the agreement; providing for a transfer of powers; authorizing a municipality to provide services within an unincorporated area or territory of another municipality; authorizing a county to exercise certain powers within a municipality; providing for the effect on interlocal agreements and county charters; providing a presumption of validity; providing a procedure to settle a dispute regarding an interlocal service boundary agreement; amending s. 171.042, F.S.; revising the time period for filing a report; providing for a cause of action to invalidate an annexation; requiring municipalities to provide notice of proposed annexation to certain persons; amending s. 171.044, F.S.; revising the time period for providing a copy of a notice; providing for a cause of action to invalidate an annexation; creating s. 171.094, F.S.; providing for the effect of interlocal service boundary agreements adopted under the act; amending s. 171.081, F.S.; requiring a governmental entity affected by annexation or contraction to initiate conflict resolution procedures under certain circumstances; providing for initiation of judicial review and reimbursement of attorney’s fees and costs regarding certain annexations or contractions; amending s. 163.01, F.S.; providing for the place of filing an interlocal agreement in certain circumstances; amending s. 164.1058, F.S.; providing that a governmental entity that fails to participate in conflict resolution procedures shall be required to pay attorney’s fees and costs under certain conditions; requesting the Division of Statutory Revision to designate parts I and II of ch. 171, F.S.; creating s. 163.31801, F.S.; creating the “Florida Impact Fee Act”; providing legislative intent; requiring that an impact fee meet certain specified requirements

concerning calculation of the fee, accounting for revenues and expenditures, provision of notice, and collection of administrative costs; requiring inclusion of an affidavit certifying compliance with the act in certain audits of financial statements of a local government entity or a school board provided to the Auditor General; providing an effective date.

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

Section 1. Part II of chapter 171, Florida Statutes, consisting of sections 171.20, 171.201, 171.202, 171.203, 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21, 171.211, and 171.212, is created to read:

171.20 Short title.—This part may be cited as the “Interlocal Service Boundary Agreement Act.”

171.201 Legislative intent.—The Legislature intends to provide an alternative to part I of this chapter for local governments regarding the annexation of territory into a municipality and the subtraction of territory from the unincorporated area of the county. The principal goal of this part is to encourage local governments to jointly determine how to provide services to residents and property in the most efficient and effective manner while balancing the needs and desires of the community. This part is intended to establish a more flexible process for adjusting municipal boundaries and to address a wider range of the effects of annexation. This part is intended to encourage intergovernmental coordination in planning, service delivery, and boundary adjustments and to reduce intergovernmental conflicts and litigation between local governments. It is the intent of this part to promote sensible boundaries that reduce the costs of local governments, avoid duplicating local services, and increase political transparency and accountability. This part is intended to prevent inefficient service delivery and an insufficient tax base to support the delivery of those services.

171.202 Definitions.—As used in this part, the term:

(1) “Chief administrative officer” means the municipal administrator, municipal manager, county manager, county administrator, or other officer of the municipality, county, or independent special district who reports directly to the governing body of the local government.

(2) “Enclave” has the same meaning as provided in s. 171.031.

(3) “Independent special district” means an independent special district, as defined in s. 189.403, which provides fire, emergency medical, water, wastewater, or stormwater services.

(4) “Initiating county” means a county that commences the process for negotiating an interlocal service boundary agreement through the adoption of an initiating resolution.

(5) “Initiating local government” means a county, municipality, or independent special district that commences the process for negotiating an

interlocal service boundary agreement through the adoption of an initiating resolution.

(6) “Initiating municipality” means a municipality that commences the process for negotiating an interlocal service boundary agreement through the adoption of an initiating resolution.

(7) “Initiating resolution” means a resolution adopted by a county, municipality, or independent special district which commences the process for negotiating an interlocal service boundary agreement and which identifies the unincorporated area and other issues for discussion.

(8) “Interlocal service boundary agreement” means an agreement adopted under this part, between a county and one or more municipalities, which may include one or more independent special districts as parties to the agreement.

(9) “Invited local government” means an invited county, municipality, or special district and any other local government designated as such in an initiating resolution or a responding resolution that invites the local government to participate in negotiating an interlocal service boundary agreement.

(10) “Invited municipality” means an initiating municipality and any other municipality designated as such in an initiating resolution or a responding resolution that invites the municipality to participate in negotiating an interlocal service boundary agreement.

(11) “Municipal service area” means one or more of the following as designated in an interlocal service boundary agreement:

(a) An unincorporated area that has been identified in an interlocal service boundary agreement for municipal annexation by a municipality that is a party to the agreement.

(b) An unincorporated area that has been identified in an interlocal service boundary agreement to receive municipal services from a municipality that is a party to the agreement or from the municipality’s designee.

(12) “Notified local government” means the county or a municipality, other than an invited municipality, that receives an initiating resolution.

(13) “Participating resolution” means the resolution adopted by the initiating local government and the invited local government.

(14) “Requesting resolution” means the resolution adopted by a municipality seeking to participate in the negotiation of an interlocal service boundary agreement.

(15) “Responding resolution” means the resolution adopted by the county or an invited municipality which responds to the initiating resolution and which may identify an additional unincorporated area or another issue for discussion, or both, and may designate an additional invited municipality or independent special district.

(16) “Unincorporated service area” means one or more of the following as designated in an interlocal service boundary agreement:

(a) An unincorporated area that has been identified in an interlocal service boundary agreement and that may not be annexed without the consent of the county.

(b) An unincorporated area or incorporated area, or both, which have been identified in an interlocal service boundary agreement to receive municipal services from a county or its designee or an independent special district.

171.203 Interlocal service boundary agreement.—The governing body of a county and one or more municipalities or independent special districts within the county may enter into an interlocal service boundary agreement under this part. The governing bodies of a county, a municipality, or an independent special district may develop a process for reaching an interlocal service boundary agreement which provides for public participation in a manner that meets or exceeds the requirements of subsection (13), or the governing bodies may use the process established in this section.

(1) A county, a municipality, or an independent special district desiring to enter into an interlocal service boundary agreement shall commence the negotiation process by adopting an initiating resolution. The initiating resolution must identify an unincorporated area or incorporated area, or both, to be discussed and the issues to be negotiated. The identified area must be specified in the initiating resolution by a descriptive exhibit that includes, but need not be limited to, a map or legal description of the designated area. The issues for negotiation must be listed in the initiating resolution and may include, but need not be limited to, the issues listed in subsection (6). An independent special district may initiate the interlocal service boundary agreement for the purposes of dissolving an independent special district or in response to a proposed annexation that would remove more than 10 percent of the taxable or assessable value of an independent special district.

(a) The initiating resolution of an initiating county must designate one or more invited municipalities. The initiating resolution of an initiating municipality may designate an invited municipality. The initiating resolution of an independent special district must designate one or more invited municipalities and invite the county.

(b) An initiating county shall send the initiating resolution by United States certified mail to the chief administrative officer of every invited municipality and each other municipality within the county. An initiating municipality shall send the initiating resolution by United States certified mail to the chief administrative officer of the county, the invited municipality, if any, and each other municipality within the county.

(c) The initiating local government shall also send the initiating resolution to the chief administrative officer of each independent special district in the unincorporated area designated in the initiating resolution.

(2) Within 60 days after the receipt of an initiating resolution, the county or the invited municipality, as appropriate, shall adopt a responding resolution. The responding resolution may identify an additional unincorporated area or incorporated area, or both, for discussion and may designate additional issues for negotiation. The additional identified area, if any, must be specified in the responding resolution by a descriptive exhibit that includes, but need not be limited to, a map or legal description of the designated area. The additional issues designated for negotiation, if any, must be listed in the responding resolution and may include, but need not be limited to, the issues listed in subsection (6). The responding resolution may also invite an additional municipality or independent special district to negotiate the interlocal service boundary agreement.

(a) Within 7 days after the adoption of a responding resolution, the responding county shall send the responding resolution by United States certified mail to the chief administrative officer of the initiating municipality, each invited municipality, if any, and the independent special district that received an initiating resolution.

(b) Within 7 days after the adoption of a responding resolution, an invited municipality shall send the responding resolution by United States certified mail to the chief administrative officer of the initiating county, each invited municipality, if any, and each independent special district that received an initiating resolution.

(c) An invited municipality that was invited by a responding resolution shall adopt a responding resolution in accordance with paragraph (b).

(d) Within 60 days after receipt of the initiating resolution, any independent special district that received an initiating resolution and that desires to participate in the negotiations shall adopt a resolution indicating that it intends to participate in the negotiation process for the interlocal service boundary agreement. Within 7 days after the adoption of the resolution, the independent special district shall send the resolution by United States certified mail to the chief administrative officer of the county, the initiating municipality, each invited municipality, if any, and each notified local government.

(3) A municipality within the county which is not an invited municipality may request participation in the negotiations for the interlocal service boundary agreement. Such a request must be accomplished by adopting a requesting resolution within 60 days after receipt of the initiating resolution or within 10 days after receipt of the responding resolution. Within 7 days after adoption of the requesting resolution, the requesting municipality shall send the resolution by United States certified mail to the chief administrative officer of the initiating local government and each invited municipality. The county and the invited municipality shall consider whether to allow a requesting municipality to participate in the negotiations, and, if they agree, the county and the municipality shall adopt a participating resolution allowing the requesting municipality to participate in the negotiations.

(4) The county, the invited municipalities, the participating municipalities, if any, and the independent special districts, if any have adopted a resolution to participate, shall begin negotiations within 60 days after receipt of the responding resolution or a participating resolution, whichever occurs later.

(5) An invited municipality that fails to adopt a responding resolution shall be deemed to waive its right to participate in the negotiation process and shall be bound by an interlocal agreement resulting from such negotiation process, if any is reached.

(6) An interlocal service boundary agreement may address any issue concerning service delivery, fiscal responsibilities, or boundary adjustment. The agreement may include, but need not be limited to, provisions that:

(a) Identify a municipal service area.

(b) Identify an unincorporated service area.

(c) Identify the local government responsible for the delivery or funding of the following services within the municipal service area or the unincorporated service area:

1. Public safety.

2. Fire, emergency rescue, and medical.

3. Water and wastewater.

4. Road ownership, construction, and maintenance.

5. Conservation, parks, and recreation.

6. Stormwater management and drainage.

(d) Address other services and infrastructure not currently provided by an electric utility as defined by s. 366.02(2) or a natural gas transmission company as defined by s. 368.103(4). However, this paragraph does not affect any territorial agreement between electrical utilities or public utilities under chapter 366 or affect the determination of a territorial dispute by the Public Service Commission under s. 366.04.

(e) Establish a process and schedule for annexation of an area within the designated municipal service area consistent with s. 171.205.

(f) Establish a process for land-use decisions consistent with part II of chapter 163, including those made jointly by the governing bodies of the county and the municipality, or allow a municipality to adopt land-use changes consistent with part II of chapter 163 for areas that are scheduled to be annexed within the term of the interlocal agreement; however, the county comprehensive plan and land-development regulations shall control until the municipality annexes the property and amends its comprehensive plan accordingly. Comprehensive plan amendments to incorporate the process established by this paragraph are exempt from the twice-per-year limitation under s. 163.3187.

(g) Address other issues concerning service delivery, including the transfer of services and infrastructure and the fiscal compensation to one county, municipality, or independent special district from another county, municipality, or independent special district.

(h) Provide for the joint use of facilities and the colocation of services.

(i) Include a requirement for a report to the county of the municipality's planned service delivery, as provided in s. 171.042, or as otherwise determined by agreement.

(j) Establish a procedure by which the local government that is responsible for water and wastewater services shall, within 30 days after the annexation or subtraction of territory, apply for any modifications to permits of the water management district or the Department of Environmental Protection which are necessary to reflect changes in the entity that is responsible for managing surface water under such permits.

(7) If the interlocal service boundary agreement addresses responsibilities for land-use planning under chapter 163, the agreement must also establish the procedures for preparing and adopting comprehensive plan amendments, administering land-development regulations, and issuing development orders.

(8) In order to ensure that the health and welfare of the residents affected by annexation will be protected, all fire and emergency medical services shall be provided by the existing provider of fire and emergency medical services to the annexed area and remain part of the existing municipal service taxing unit or special district unless:

1. The county and annexing municipality reach an agreement, through interlocal agreement or other legally sufficient means, as to who shall provide these emergency services; or

2. A fire-rescue services element exists for the respective county's comprehensive plan filed with the state and the annexing municipality meets the criteria set forth.

(9) Each local government that is a party to the interlocal service boundary agreement shall amend the intergovernmental coordination element of its comprehensive plan, as described in s. 163.3177(6)(h)1., no later than 6 months following entry of the interlocal service boundary agreement consistent with s. 163.3177(6)(h)1. Plan amendments required by this subsection are exempt from the twice-per-year limitation under s. 163.3187.

(10) An affected person for the purpose of challenging a comprehensive plan amendment required by paragraph (6)(f) includes a person who owns real property, resides, or owns or operates a business within the boundaries of the municipal service area, and a person who owns real property abutting real property within the municipal service area that is the subject of the comprehensive plan amendment, in addition to those other affected persons who would have standing under s. 163.3184.

(11)(a) A municipality that is a party to an interlocal service boundary agreement that identifies an unincorporated area for municipal annexation under s. 171.202(11)(a) shall adopt a municipal service area as an amendment to its comprehensive plan to address future possible municipal annexation. The state land planning agency shall review the amendment for compliance with part II of chapter 163. The proposed plan amendment must contain:

1. A boundary map of the municipal service area.
2. Population projections for the area.
3. Data and analysis supporting the provision of public facilities for the area.

(b) This part does not authorize the state land planning agency to review, evaluate, determine, approve, or disapprove a municipal ordinance relating to municipal annexation or contraction.

(c) Any amendment required by paragraph (a) is exempt from the twice-per-year limitation under s. 163.3187.

(12) An interlocal service boundary agreement may be for a term of 20 years or less. The interlocal service boundary agreement must include a provision requiring periodic review. The interlocal service boundary agreement must require renegotiations to begin at least 18 months before its termination date.

(13) No earlier than 6 months after the commencement of negotiations, either of the initiating local governments or both, the county, or the invited municipality may declare an impasse in the negotiations and seek a resolution of the issues under ss. 164.1053-164.1057. If the local governments fail to agree at the conclusion of the process under chapter 164, the local governments shall hold a joint public hearing on the issues raised in the negotiations.

(14) When the local governments have reached an interlocal service boundary agreement, the county and the municipality shall adopt the agreement by ordinance under s. 166.041 or s. 125.66, respectively. An independent special district, if it consents to the agreement, shall adopt the agreement by final order, resolution, or other method consistent with its charter. The interlocal service boundary agreement shall take effect on the day specified in the agreement or, if there is no date, upon adoption by the county or the invited municipality, whichever occurs later. This part does not prohibit a county or municipality from adopting an interlocal service boundary agreement without the consent of an independent special district, unless the agreement provides for the dissolution of an independent special district or the removal of more than 10 percent of the taxable or assessable value of an independent special district.

(15) For a period of 6 months following the failure of the local governments to consent to an interlocal service boundary agreement, the initiating local government may not initiate the negotiation process established in this

section to require the responding local government to negotiate an agreement concerning the same identified unincorporated area and the same issues that were specified in the failed initiating resolution.

(16) This part does not authorize one local government to require another local government to enter into an interlocal service boundary agreement. However, when the process for negotiating an interlocal service boundary agreement is initiated, the local governments shall negotiate in good faith to the conclusion of the process established in this section.

(17) This section authorizes local governments to simultaneously engage in negotiating more than one interlocal service boundary agreement, notwithstanding that separate negotiations concern similar or identical unincorporated areas and issues.

(18) Elected local government officials are encouraged to participate actively and directly in the negotiation process for developing an interlocal service boundary agreement.

(19) This part does not impair any existing franchise agreement without the consent of the franchisee, any existing territorial agreement between electric utilities or public utilities under chapter 366, or the jurisdiction of the Public Service Commission to resolve a territorial dispute involving electric utilities or public utilities in accordance with s. 366.04. In addition, an interlocal agreement entered into under this section has no effect in a proceeding before the Public Service Commission involving a territorial dispute. A municipality or county shall retain all existing authority, if any, to negotiate a franchise agreement with any private service provider for use of public rights-of-way or the privilege of providing a service.

(20) This part does not impair any existing contract without the consent of the parties.

171.204 Prerequisites to annexation under this part.—The interlocal service boundary agreement may describe the character of land that may be annexed under this part and may provide that the restrictions on the character of land that may be annexed pursuant to part I are not restrictions on land that may be annexed pursuant to this part. As determined in the interlocal service boundary agreement, any character of land may be annexed, including, but not limited to, an annexation of land not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation where the annexed area is not reasonably compact; however, such area must be “urban in character” as defined in s. 171.031(8). The interlocal service boundary agreement may not allow for annexation of land within a municipality that is not a party to the agreement or of land that is within another county. Before annexation of land that is not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation of land that is not currently served by water or sewer utilities, one of the following options must be followed:

(1) The municipality shall transmit a comprehensive-plan amendment that proposes specific amendments relating to the property anticipated for

annexation to the Department of Community Affairs for review under chapter 163. After considering the department's review, the municipality may approve the annexation and comprehensive-plan amendment concurrently. The local government must adopt the annexation and the comprehensive-plan amendment as separate and distinct actions, but may take such actions at a single public hearing; or

(2) A municipality and county shall enter into a joint planning agreement under s. 163.3171, which is adopted into the municipal comprehensive plan. The joint planning agreement must identify the geographic areas anticipated for annexation, the future land uses that the municipality would seek to establish, necessary public facilities and services, including transportation and school facilities and how they will be provided, and natural resources, including surface water and groundwater resources, and how they will be protected. An amendment to the future land-use map of a comprehensive plan which is consistent with the joint planning agreement must be considered a small-scale amendment.

171.205 Consent requirements for annexation of land under this part.— Notwithstanding part I, an interlocal service boundary agreement may provide a process for annexation consistent with this section or with part I.

(1) For all or a portion of the area within a designated municipal service area, the interlocal service boundary agreement may provide a flexible process for securing the consent of persons who are registered voters or own property in the area proposed for annexation, or of both such voters and owners, for the annexation of property within a municipal service area, with notice to such voters or owners as required in the interlocal service boundary agreement. The interlocal service boundary agreement may not authorize annexation unless the consent requirements of part I are met or the annexation is consented to by one or more of the following:

(a) The municipality has received a petition for annexation from more than 50 percent of the registered voters who reside in the area proposed to be annexed.

(b) The annexation is approved by a majority of the registered voters who reside in the area proposed to be annexed voting in a referendum on the annexation.

(c) The municipality has received a petition for annexation from more than 50 percent of the persons who own property within the area proposed to be annexed.

(2) If the area to be annexed includes a privately owned solid waste disposal facility as defined in s. 403.703(11) which receives municipal solid waste collected within the jurisdiction of multiple local governments, the annexing municipality must set forth in its plan the affects that the annexation of the solid waste disposal facility will have on the other local governments. The plan must also indicate that the owner of the affected solid waste disposal facility has been contacted in writing concerning the annexation, that an agreement between the annexing municipality and the solid waste disposal facility to govern the operations of the solid waste disposal facility

if the annexation occurs has been approved, and that the owner of the solid waste disposal facility does not object to the proposed annexation.

(3) For all or a portion of an enclave consisting of more than 20 acres within a designated municipal service area, the interlocal service boundary agreement may provide a flexible process for securing the consent of persons who are registered voters or own property in the area proposed for annexation, or of both such voters and owners, for the annexation of property within such an enclave, with notice to such voters or owners as required in the interlocal service boundary agreement. The interlocal service boundary agreement may not authorize annexation of enclaves under this subsection unless the consent requirements of part I are met, the annexation process includes one or more of the procedures in subsection (1), or the municipality has received a petition for annexation from one or more persons who own real property in excess of 50 percent of the total real property within the area to be annexed.

(4) For all or a portion of an enclave consisting of 20 acres or fewer within a designated municipal service area, within which enclave not more than 100 registered voters reside, the interlocal service boundary agreement may provide a flexible process for securing the consent of persons who are registered voters or own property in the area proposed for annexation, or of both such voters and owners, for the annexation of property within such an enclave, with notice to such voters or owners as required in the interlocal service boundary agreement. Such an annexation process may include one or more of the procedures in subsection (1) and may allow annexation according to the terms and conditions provided in the interlocal service boundary agreement, which may include a referendum of the registered voters who reside in the area proposed to be annexed.

171.206 Effect of interlocal service boundary area agreement on annexations.—

(1) An interlocal service boundary agreement is binding on the parties to the agreement, and a party may not take any action that violates the interlocal service boundary agreement.

(2) Notwithstanding part I, without consent of the county and the affected municipality by resolution, a county or an invited municipality may not take any action that violates the interlocal service boundary agreement.

(3) If the independent special district that participated in the negotiation process pursuant to s. 171.203(2)(d) does not consent to the interlocal service boundary agreement and a municipality annexes an area within the independent special district, the independent special district may seek compensation using the process in s. 171.093.

171.207 Transfer of powers.—This part is an alternative provision otherwise provided by law, as authorized in s. 4, Art. VIII of the State Constitution, for any transfer of power resulting from an interlocal service boundary agreement for the provision of services or the acquisition of public facilities entered into by a county, municipality, independent special district, or other entity created pursuant to law.

171.208 Municipal extraterritorial power.—This part authorizes a municipality to exercise extraterritorial powers that include, but are not limited to, the authority to provide services and facilities within the unincorporated area or within the territory of another municipality as provided within an interlocal service boundary agreement. These powers are in addition to other municipal powers that otherwise exist. However, this power is subject to the jurisdiction of the Public Service Commission to resolve territorial disputes under s. 366.04. An interlocal agreement has no effect on the resolution of a territorial dispute to be determined by the Public Service Commission.

171.209 County incorporated area power.—As provided in an interlocal service boundary agreement, this part authorizes a county to exercise powers within a municipality that include, but are not limited to, the authority to provide services and facilities within the territory of a municipality. These powers are in addition to other county powers that otherwise exist.

171.21 Effect of part on interlocal agreement and county charter.—A joint planning agreement, a charter provision adopted under s. 171.044(4), or any other interlocal agreement between local governments including a county, municipality, or independent special district is not affected by this part; however, a county, municipality or independent special district may avail itself of this part, which may result in the repeal or modification of a joint planning agreement or other interlocal agreement. A local government within a county that has adopted a charter provision pursuant to s. 171.044(4) may avail itself of the provisions of this part which authorize an interlocal service boundary agreement if such interlocal agreement is consistent with the charter of that county, as the charter was approved, revised, or amended pursuant to s. 125.64.

171.211 Interlocal service boundary agreement presumed valid and binding.—

(1) If there is litigation over the terms, conditions, construction, or enforcement of an interlocal service boundary agreement, the agreement shall be presumed valid, and the challenger has the burden of proving its invalidity.

(2) Notwithstanding part I, it is the intent of this part to authorize a municipality to enter into an interlocal service boundary agreement that enhances, restricts, or precludes annexations during the term of the agreement.

171.212 Disputes regarding construction and effect of an interlocal service boundary agreement.—If there is a question or dispute about the construction or effect of an interlocal service boundary agreement, a local government shall initiate and proceed through the conflict resolution procedures established in chapter 164. If there is a failure to resolve the conflict, no later than 30 days following the conclusion of the procedures established in chapter 164, the local government may file an action in circuit court. For purposes of this section, the term “local government” means a party to the interlocal service boundary agreement.

Section 2. Subsection (2) of section 171.042, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

171.042 Prerequisites to annexation.—

(2) Not fewer than 15 days prior to commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall file a copy of the report required by this section with the board of county commissioners of the county wherein the municipality is located. Failure to timely file the report as required in this subsection may be the basis for a cause of action invalidating the annexation.

(3) The governing body of the municipality shall, not less than 10 days prior to the date set for the first public hearing required by s. 171.0413(1), mail a written notice to each person who resides or owns property within the area proposed to be annexed. The notice must describe the annexation proposal, the time and place for each public hearing to be held regarding the annexation, and the place or places within the municipality where the proposed ordinance may be inspected by the public. A copy of the notice must be kept available for public inspection during the regular business hours of the office of the clerk of the governing body.

Section 3. Subsection (6) of section 171.044, Florida Statutes, is amended to read:

171.044 Voluntary annexation.—

(6) Not fewer than 10 days prior to ~~Upon~~ publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located. The notice provision provided in this subsection ~~may shall not~~ be the basis for ~~a of any~~ cause of action invalidating challenging the annexation.

Section 4. Section 171.094, Florida Statutes, is created to read:

171.094 Effect of interlocal service boundary agreements adopted under part II on annexations under this part.

(1) An interlocal service boundary agreement entered into pursuant to part II is binding on the parties to the agreement and a party may not take any action that violates the interlocal service boundary agreement.

(2) Notwithstanding any other provision of this part, without the consent of the county, the affected municipality, or affected independent special district by resolution, a county, an invited municipality, or independent special district may not take any action that violates an interlocal service boundary agreement.

Section 5. Section 171.081, Florida Statutes, is amended to read:

171.081 Appeal on annexation or contraction.—

(1) No later than 30 days following the passage of an annexation or contraction ordinance, Any party affected who believes that he or she will suffer material injury by reason of the failure of the municipal governing body to comply with the procedures set forth in this chapter for annexation or contraction or to meet the requirements established for annexation or contraction as they apply to his or her property may file a petition in the circuit court for the county in which the municipality or municipalities are located seeking review by certiorari. The action may be initiated at the party's option within 30 days following the passage of the annexation or contraction ordinance or within 30 days following the completion of the dispute resolution process in subsection (2). In any action instituted pursuant to this subsection ~~section~~, the complainant, should he or she prevail, shall be entitled to reasonable costs and attorney's fees.

(2) If the affected party is a governmental entity, no later than 30 days following the passage of an annexation or contraction ordinance, the governmental entity must initiate and proceed through the conflict resolution procedures established in chapter 164. If there is a failure to resolve the conflict, no later than 30 days following the conclusion of the procedures established in chapter 164, the governmental entity that initiated the conflict resolution procedures may file a petition in the circuit court for the county in which the municipality or municipalities are located seeking review by certiorari. In any legal action instituted pursuant to this subsection, the prevailing party is entitled to reasonable costs and attorney's fees.

Section 6. Subsection (11) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(11) Prior to its effectiveness, an interlocal agreement and subsequent amendments thereto shall be filed with the clerk of the circuit court of each county where a party to the agreement is located; however, if the parties to the agreement are located in multiple counties and the agreement, pursuant to subsection (7), provides for a separate legal entity or administrative entity to administer the agreement, the interlocal agreement and any amendments thereto may be filed with the clerk of the circuit court in the county where the legal or administrative entity maintains its principal place of business.

Section 7. Section 164.1058, Florida Statutes, is amended to read:

164.1058 Penalty.—If a primary conflicting governmental entity which has received notice of intent to initiate the conflict resolution procedure pursuant to this act fails to participate in good faith in the conflict assessment meeting, mediation, or other remedies provided for in this act, and the initiating governmental entity files suit and is the prevailing party in such suit, the primary disputing governmental entity that which failed to participate in good faith shall be required to pay the attorney's fees and costs in that proceeding of the prevailing primary conflicting governmental entity which initiated the conflict resolution procedure.

Section 8. The Division of Statutory Revision is requested to designate ss. 171.011-171.094, Florida Statutes, as part I of chapter 171, Florida Stat-

utes, and ss. 171.20-171.212, Florida Statutes, as created by this act, as part II of chapter 171, Florida Statutes.

Section 9. Section 163.31801, Florida Statutes, is created to read:

163.31801 Impact fees; short title; intent; definitions; ordinances levying impact fees.—

(1) This section may be cited as the “Florida Impact Fee Act.”

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments’ reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

(3) An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

(a) Require that the calculation of the impact fee be based on the most recent and localized data.

(b) Provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity shall account for the revenues and expenditures of such impact fee in a separate accounting fund.

(c) Limit administrative charges for the collection of impact fees to actual costs.

(d) Require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or amended impact fee.

(4) Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section.

Section 10. This act shall take effect upon becoming a law.

Approved by the Governor June 14, 2006.

Filed in Office Secretary of State June 14, 2006.