

CHAPTER 2012-121

Committee Substitute for Senate Bill No. 692

An act relating to the formation of local governments; amending s. 165.031, F.S.; deleting definitions; amending s. 165.041, F.S.; revising the deadline for submission of a feasibility study of a proposed incorporation of a municipality; revising a requirement for the content of the study; creating s. 165.0615, F.S.; providing that qualified electors of an independent special district that meets certain criteria may commence a municipal conversion proceeding by filing a petition with the governing body of the independent special district; providing criteria for the petition; providing that the petition must be filed with the governing body of the independent special district and submitted to the supervisor of elections of each county in which the district lands are located; requiring that the supervisor of elections certify within a certain time to the governing body the number of signatures of qualified electors contained in the petition; requiring the governing body to meet, prepare, and approve by resolution a proposed elector-initiated combined conversion and incorporation plan; providing criteria for the plan; providing criteria for approving the resolution; requiring the governing body to provide notice and public access to the elector-initiated combined municipal incorporation plan; providing criteria for a public hearing on the proposed elector-initiated combined municipal incorporation plan; providing notice of a final public hearing, a descriptive summary of the elector-initiated combined municipal incorporation plan, and a reference to the public place where a copy of the plan can be examined; authorizing the governing body to amend the municipal incorporation plan after the final hearing if notice and public hearing requirements are met; requiring the governing body to approve the final version of the plan within a certain time after the final hearing; requiring the governing body to notify the supervisor of elections of the county within which the special district is located of the adoption of the resolution; providing for notice of the referendum; requiring that the referendum be held in accordance with the election code; requiring the independent special district to bear the costs associated with the referendum; providing for the form of the ballot question; providing for the counting of ballots, making and canvassing of returns, and certifying of the results; requiring a majority of the votes cast in the independent special district for the incorporation plan to take effect; requiring that the independent special district notify the special district information program and certain local general-purpose governments that the plan was approved; prohibiting a conversion process from being initiated for 2 years if the referendum fails; providing for interim governance of the district; providing for an effective date of the incorporation; amending s. 257.171, F.S.; conforming a cross-reference; providing an effective date.

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

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

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

~~(1) “Unit of local government” means any local general-purpose government.~~

~~(2) “Local general-purpose government” means a county, municipality, or consolidated city-county government.~~

~~(1)(3)~~ “County” means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

~~(2)(6)~~ “Formation” means any one of the following activities:

(a) “Incorporation”—The establishment of a municipality.

(b) “Dissolution”—The dissolving of the corporate status of a municipality.

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

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

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

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

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

~~(6)(10)~~ “Qualified voter” means any person registered to vote in accordance with law.

~~(7)(5)~~ “Special district” means a local unit of special government, as defined in s. 189.403(1). This term includes dependent special districts, as

defined in s. 189.403(2), and independent special districts, as defined in s. 189.403(3). All provisions of s. 200.001(8)(d) and (e) shall be considered provisions of this chapter.

~~(11) “Sufficiency of petition” means the verification of the signatures and addresses of all signers of a petition with the voting list maintained by the county supervisor of elections and certification that the number of valid signatures represents the required percentage of the total number of qualified voters in the area affected by a proposal pursuant to this chapter.~~

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

165.041 Incorporation; merger.—

(1)

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

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

2. The major reasons for proposing the boundary change.

3. The following characteristics of the area:

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

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

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

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

4. A list of all public agencies, such as local governments, school districts, and special districts, whose current boundary falls within the boundary of the territory proposed for the change or reorganization.

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

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

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

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

a. 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.

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

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

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

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

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

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

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

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

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

(c) Its governing board is elected.

(d) Its governing board agrees to the conversion.

(e) It 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.

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

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

(b) The petition must comply with, and be circulated in, the following form:

PETITION FOR MUNICIPAL CONVERSION OF
INDEPENDENT SPECIAL DISTRICT

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

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

<u>Date</u>	<u>Name (print under signature)</u>	<u>Home Address</u>
.....		
.....		

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

(d) A statement that is signed by a witness who is a duly qualified elector of the district shall be accepted for all purposes as the equivalent of an affidavit. The statement must be in substantially the following form:

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

Date Signature of Witness

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

“On the date indicated above before me personally came each of the (...insert number...) electors and legal voters whose signatures appear on this petition sheet, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the same person who signed the petition, and I declare that the foregoing information they provided was true.”

Date Signature of Witness

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

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

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

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

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

(c) The conversion schedule.

(d) Notwithstanding s. 165.061(1)(d), 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.

(e) The rights, duties, and obligations of the municipality, and a feasibility study that contains the requirements under s. 165.041(1)(b), except that the provisions of s. 165.061(1)(b)-(d) 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) The territorial boundaries of the proposed municipality.

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

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

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

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

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

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

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

(n) The effective date of the proposed incorporation.

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

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

(a) Cause a copy of the proposed elector-initiated municipal incorporation plan, along with a descriptive summary of the plan, to be displayed and be

readily accessible to the public for inspection in at least three public places within the territorial limits of the independent special district, unless the independent special district has fewer than three public places, in which case the plan must be accessible for inspection in all public places within the independent special district.

(b) If applicable, cause the proposed elector-initiated municipal incorporation plan, along with a descriptive summary of the plan and a reference to the public places within the independent special 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 in which the district is located.

(c) Arrange for a descriptive summary of the proposed elector-initiated municipal incorporation 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 independent special district at least once each week for 4 successive weeks.

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

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

(9) After the final public hearing, the governing body of the independent special district may amend the proposed elector-initiated municipal incorporation plan if the amended version complies with the notice and public hearing requirements provided in this section. The governing body shall approve a final version of the plan within 60 business days after the final hearing.

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

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

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

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

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

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

(e) 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.

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

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

“Shall (...name of independent special district...) be converted into (...name of newly created municipality...), which will assume all authority, powers, rights, and obligations of the district?

.....YES

.....NO”

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

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

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

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

(18) An independent special district proposed for conversion under an elector-initiated municipal incorporation plan must continue to be governed

as before the approved referendum until the effective date specified in the adopted elector-initiated municipal incorporation plan.

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

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

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

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

Approved by the Governor April 20, 2012.

Filed in Office Secretary of State April 20, 2012.