

## CHAPTER 2023-305

### Committee Substitute for Committee Substitute for Senate Bill No. 718

An act relating to local government; amending s. 163.3167, F.S.; prohibiting an initiative or referendum process in regard to any land development regulation; reordering and amending s. 171.031, F.S.; defining the term “feasibility study”; amending s. 171.0413, F.S.; specifying the measurement of land during annexation procedures; amending s. 171.042, F.S.; replacing the term “report” with the term “feasibility study”; amending s. 171.051, F.S.; revising contraction procedures when qualified voters desire to be excluded from municipal boundaries; prohibiting contraction under certain circumstances; providing construction and applicability; amending s. 171.204, F.S.; conforming a cross-reference; providing an effective date.

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

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

163.3167 Scope of act.—

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

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

~~(c)~~(b) An initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is prohibited unless it is expressly authorized by specific language in a local government charter that was lawful and in effect on June 1, 2011. A general local government charter provision for an initiative or referendum process is not sufficient.

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

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

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

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

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

~~(7)~~(3) “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.

~~(8)~~(4) “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 whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

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

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

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

~~(11)~~(7) “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 proposed annexation.

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

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

~~(13)~~(10) “Urban purposes” means that land is used intensively for residential, commercial, industrial, institutional, and governmental

purposes, including any parcels of land retained in their natural state or kept free of development as dedicated greenbelt areas.

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

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

~~(5)~~(13) “Enclave” means:

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

(b) Any unincorporated improved or developed area that is 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.

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

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

(5) If more than 70 percent of the acres of land in an area proposed to be annexed is owned by individuals, corporations, or legal entities which are not registered electors of such area, such area may shall not be annexed unless the owners of more than 50 percent of the acres of land in such area consent to such annexation. Such consent must shall be obtained by the

parties proposing the annexation before ~~prior to~~ the referendum to be held on the annexation.

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

171.042 Prerequisites to annexation.—

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

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

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

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

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

2. Provide for the extension of existing municipal water and sewer services into the area to be annexed so that, when such services are provided, property owners in the area to be annexed will be able to secure public water and sewer service according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions.

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

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

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

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

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

(2) A petition of 15 percent of the qualified voters in an area desiring to be excluded from the municipal boundaries, filed with the clerk of the municipal governing body, may propose such an ordinance. The municipality to which such petition is directed shall immediately undertake a feasibility study of the feasibility of such proposal and the governing body shall, within 6 months, evaluate the feasibility study of such proposal and either initiate proceedings under subsection (1) by introducing a contraction ordinance or reject the petition as a legislative decision, specifically stating the facts upon which the rejection is based.

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

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

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

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

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 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 Economic Opportunity 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.

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

Approved by the Governor June 28, 2023.

Filed in Office Secretary of State June 28, 2023.