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TITLE XII

MUNICIPALITIES

CHAPTER 165

FORMATION OF LOCAL GOVERNMENTS

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165.011 Short title.—This chapter shall be known and may be cited as the “Formation of Municipalities Act.”

History.—s. 1, ch. 74-192; s. 35, ch. 89-169.

165.021 Purpose.—The purpose of this act is to provide standards, direction, and procedures for the formation of municipalities in this state and the provision of municipal services so as to:

- (1) Allow orderly patterns of urban growth and land use.
- (2) Assure adequate quality and quantity of local public services.
- (3) Ensure financial integrity of municipalities.
- (4) Eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions.
- (5) Promote equity in the financing of municipal services.

History.—s. 1, ch. 74-192; s. 36, ch. 89-169.

165.022 Preemption; effect on special laws.—It is the purpose of this act to provide viable and usable general law standards and procedures for forming and dissolving municipalities in lieu of any procedure or standards now provided by general or special law. The provisions of this act shall be the exclusive procedure pursuant to general law for forming or dissolving municipalities in this state, except in those counties operating under a home rule charter which provides for an exclusive method as specifically authorized by s. 6(e), Art. VIII of

the State Constitution. Any provisions of a general or special law existing on July 1, 1974, in conflict with the provisions of this act shall not be effective to the extent of such conflict.

History.—s. 1, ch. 74-192; s. 23, ch. 82-154; s. 66, ch. 89-169.

165.0225 Counties prohibited from requiring consideration for allowing incorporation.—Notwithstanding s. 165.022, any municipality formed after January 1, 2000, and any municipality formed on or after July 1, 2007, shall not be required to pay any charge, assessment, tax, fee, or other consideration as a condition for allowing the citizens of an area to incorporate and govern themselves.

History.—s. 1, ch. 2007-26.

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

(2) “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) “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.

(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 the primary function of which is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

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

(7) “Special district” means a local unit of special government, as defined in s. 189.012. This term includes dependent special districts, as defined in s. 189.012, and independent special districts, as defined in s. 189.012. All provisions of s. 200.001(8)(d) and (e) shall be considered provisions of this chapter.

History.—s. 1, ch. 74-192; s. 11, ch. 81-167; s. 71, ch. 81-259; s. 24, ch. 82-154; s. 11, ch. 83-55; s. 37, ch. 89-169; s. 481, ch. 2011-142; s. 1, ch. 2012-121; s. 65, ch. 2014-22.

165.041 Incorporation; merger.—

(1)(a) A charter for incorporation of a municipality, except in case of a merger which is adopted as otherwise provided in subsections (2) and (3), shall be adopted only by a special act of the Legislature upon determination that the standards herein provided have been met.

(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 before the regular session of the Legislature during which the municipal charter would be enacted. The feasibility study shall contain the following:

1. The 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.
- (c) In counties that have adopted a municipal overlay for municipal incorporation pursuant to s. 163.3217, such information shall be submitted to the Legislature in conjunction with any proposed municipal incorporation in the county. This information should be used to evaluate the feasibility of a proposed municipal incorporation in the geographic area.
- (2)(a) A charter for merger of two or more municipalities and associated unincorporated areas may also be adopted by passage of a concurrent ordinance by the governing bodies of each municipality affected, approved by a vote of the qualified voters in each area affected.
- (b) The ordinance shall provide for:
1. The charter and its effective date.
 2. The financial or other adjustments required.
 3. A referendum for separate majorities by each unit or area to be affected.
 4. The date of election, which should be the next regularly scheduled election or a 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.
- (c) Notice of the election shall be published at least once each week for 2 consecutive weeks immediately prior to the election, in a newspaper of general circulation in the area to be affected. Such notice shall give the time and places for the election and a general description of the area to be included in the municipality, which shall be in the form of a map to show clearly the area to be covered by the municipality.
- (3)(a) Initiation of procedures for municipal incorporation by merger as described in subsection (2) may be done either by adoption of a resolution by the governing body of an area to be affected or by a petition of 10 percent of the qualified voters in the area.
- (b) If a petition has been filed with the clerks of the governing bodies concerned, the governing bodies shall immediately undertake a study of the feasibility of the formation proposal and shall, within 6 months, either adopt an ordinance under subsection (2) or reject the petition, specifically stating the facts upon which the rejection is based.

(c) The purpose of this subsection 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.

History.—s. 1, ch. 74-192; s. 25, ch. 82-154; s. 1, ch. 87-223; s. 38, ch. 89-169; s. 12, ch. 90-279; s. 8, ch. 96-416; s. 3, ch. 97-255; s. 11, ch. 99-378; s. 2, ch. 2012-121.

165.043 Official county or municipal seal.—The governing body of a county or municipality may, by ordinance, designate an official county or municipal seal. The manufacture, use, display, or other employment of any facsimile or reproduction of the county or municipal seal, except by county or municipal officials or employees in the performance of their official duties, without the express approval of the governing body is a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 91-59.

165.051 Dissolution procedures.—

- (1) The charter of any existing municipality may be revoked and the municipal corporation dissolved by either:
 - (a) A special act of the Legislature; or
 - (b) An ordinance of the governing body of the municipality, approved by a vote of the qualified voters.
- (2) If a vote of the qualified voters is required, the governing body of the municipality or, if the municipal governing body does not act within 30 days, the governing body of the county or counties in which the municipality is located, shall set the date of the election, which shall be the next regularly scheduled election or a 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. Notice of the election shall be published at least once each week for 2 consecutive weeks prior to the election in a newspaper of general circulation in the municipality.

History.—s. 1, ch. 74-192; s. 39, ch. 89-169; s. 13, ch. 90-279.

165.061 Standards for incorporation, merger, and dissolution.—

- (1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:
 - (a) It must be compact and contiguous and amenable to separate municipal government.
 - (b) It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 population in counties with a population of more than 75,000.
 - (c) It must 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.
 - (d) It must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government.
 - (e) It must have a proposed municipal charter which:
 1. Prescribes the form of government and clearly defines the responsibility for legislative and executive functions.
 2. Does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.
 - (f) In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation. However, the plan for incorporation may provide for existing contracts for solid-waste-collection services to be honored only for 5 years or the remainder of the contract term, whichever is less, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or evergreen provisions, be provided to the municipality within a reasonable time after a written request to do so.

(2) The incorporation of a new municipality through merger of existing municipalities and associated unincorporated areas must meet the following conditions:

- (a) The area proposed for incorporation must be compact and contiguous and susceptible to urban services.
- (b) Any unincorporated area to be included must meet the standards provided in s. 171.042, if available.
- (c) The plan for merger and incorporation must provide for an equitable arrangement in relation to bonded indebtedness and the status and pension rights of employees of each governmental unit proposed to be merged.
- (d) In accordance with s. 10, Art. I of the State Constitution, the plan for merger must honor existing solid-waste contracts in the affected geographic area subject to merger. However, the plan for merger may provide for existing contracts for solid-waste-collection services to be honored only for 5 years or the remainder of the contract term, whichever is shorter, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or so-called “evergreen” provisions, be provided to the municipality within a reasonable time following a written request to do so.

(3) The dissolution of a municipality must meet the following conditions:

- (a) The municipality to be dissolved must not be substantially surrounded by other municipalities.
- (b) The county or another municipality must be demonstrably able to provide necessary services to the municipal area proposed for dissolution.
- (c) An equitable arrangement must be made in relation to bonded indebtedness and vested rights of employees of the municipality to be dissolved.

History.—s. 1, ch. 74-192; s. 41, ch. 89-169; s. 6, ch. 98-258; s. 3, ch. 2000-304; s. 1, ch. 2002-23.

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. 189.031.
- (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.

| | | |
|------|------|--------------|
| Date | Name | Home Address |
|------|------|--------------|

(print under signature)

(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 acknowledgments.

(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 acknowledgments 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-electors 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. 189.015 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 Accountability Program pursuant to s. 189.016(2) and the local general-purpose governments in which any part of the independent special district is situated pursuant to s. 189.016(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.

History.—s. 3, ch. 2012-121; s. 66, ch. 2014-22; s. 4, ch. 2016-22.

165.071 Financial allocations.—

(1) The law incorporating a new municipality in previously unincorporated lands may provide a procedure for establishing the distributive share of local option gas tax moneys in counties where such tax is levied when appropriate under the provisions of s. 336.025(4)(b). The law shall also provide for assumption of the existing governmental indebtedness or property specially benefiting that area, if any, the fair value of such and the manner of transfer and financing.

(2) The government formed by merger of existing municipalities shall assume all indebtedness of, and receive title to all property owned by, the preexisting municipalities. The proposed charter shall provide for the determination of the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired.

(3) The dissolution of a municipal government shall transfer the title to all property owned by the preexisting municipal government to the county, which shall also assume all indebtedness of the preexisting municipality, unless otherwise provided in the dissolution plan. The county is specifically authorized to levy and collect ad valorem taxes in the same manner as other county taxes from the area of the preexisting municipality for repayment of any assumed indebtedness through a special district created for such purpose in accordance with chapter 189.

History.—s. 1, ch. 74-192; s. 45, ch. 86-152; s. 42, ch. 89-169.

165.081 Judicial review.—Any special law or ordinance enacted, and any dismissal of petition made, pursuant to this chapter shall be reviewable by certiorari. No appeal may be brought after the effective date of an incorporation or dissolution.

History.—s. 1, ch. 74-192; s. 3, ch. 78-95.