THE LOCAL GOVERNMENT FORMATION MANUAL

2011-2012

Economic Affairs Committee

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CHAPTER 1

COUNTY GOVERNMENT

SUMMARY

This chapter discusses the history of county formation in Florida; constitutional and statutory authority for county establishment; modification of county boundaries, including a listing of county boundary changes since 1980; and the differences between charter and non-charter counties. The chapter concludes with a list of charter counties and suggested reading materials.

HISTORY OF COUNTY FORMATION

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

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

When Florida entered the Union, it was organized under the State Constitution of 1838 as established by the territorial council. The 1838 State Constitution did not provide for counties; however, the General Assembly, consisting of the House of Representatives and the Senate, established boards of county commissioners.[4] The territorial council governed until Florida became a state in 1845.

The State Constitution of 1861 gave counties constitutional status for the first time. However, it was not until passage of the State Constitution of 1885 that provisions for cities and counties were included in a separate article. Counties

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[1] Steven L. Sparkman, "The History and Status of Local Government Powers in Florida," University of Florida Law Review, Vol. 25, 1973, p. 271.
[2] Ibid.
[3] Allen Morris, The Florida Handbook 1993-1994, (Tallahassee, Florida: The Peninsular Publishing Company, 1993), pp. 416-418.
[4] Ibid.

were recognized as legal subdivisions of the state and the Legislature was granted the power to create new counties and alter county boundaries. By 1925, county boundaries were fixed and have, with a few minor changes, remained unchanged. The last county to be formed was Gilchrist County, which was created by special act of the Legislature in 1925 under the provisions of the amended 1885 State Constitution.[5]

In the history of Florida, only one county has been abolished: Fayette County was created in 1832, and dissolved in 1834. The area was reincorporated into Jackson County. Several counties have changed their names, but continue to exist in some form. New River County is now Baker and Bradford Counties; Benton County returned to its original designation as Hernando County; Mosquito County is now Orange County; and Dade County is now Miami-Dade County.[6] Unsuccessful efforts were made to establish four additional counties (Bloxham, 1917; Call, 1928; Kennedy, 1965; and Hialeah, 1999 & 2000).[7]

There currently are 67 counties in Florida. Appendix B contains a list of counties and their dates of establishment. Appendix C describes the origins of the names of each county.

In 1956, an amendment to the 1885 State Constitution authorized Dade County "to adopt, revise and amend from time to time a home rule charter government for Dade County." The voters of Dade County approved that charter on May 21, 1957.[8] This was the first evidence that Florida was moving toward recognition of home rule authority for counties. Until this time, local governments had no power to enact local laws (ordinances); the Legislature controlled local laws through the passage of numerous special legislative acts (local bills) directed at specific locales. For example, during the 1965 session of the Legislature, 2,107 local bills were introduced.[9]

The authors of the revised State Constitution of 1968, as amended in January 1999, deleted the provisions that allowed counties to be established by constitutional authority and simply provided that counties may be "created, abolished or changed by law, with provision for payment or apportionment of the public debt."[10] The revised Constitution also allowed for the passage of local ordinances consistent with the idea of "home rule."

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[5] Ibid.
[6] Ibid.
[7] Fernald, Edward A. and Elizabeth D. Purdum, Eds., Atlas of Florida, (Gainesville, Florida: University Press of Florida, 1992), p. 99; HB 857 and SB 88 (1999) and HB 451 and SB 1272 (2000).
[8] Lawrence Arrington and Herbert A. Marlowe, Jr., "County Government in the Nineties: An Overview," (Tallahassee, Florida: Florida Association of Counties, 1994), pp. 4 and 5.
[9] Ibid. p. 3.
[10] The Florida Constitution of 1968, as amended January 1999, Article VIII, section 1 (1984).

FORMATION OF NEW COUNTIES

The process for creating a new county has not been tested for a number of years. Although authorized by the State Constitution, as revised in 1968 and amended in January 1999, no general law exists regarding the creation of new counties. However, chapter 7, Florida Statutes, provides the exact legal description of each county.

Because the boundaries for all 67 Florida counties are established in chapter 7, Florida Statutes, a general act would be required to change any existing county boundary. The general act also would need to include provisions for the assumption of any indebtedness of the affected area. A general act that contains these provisions appears to be the only requirement necessary under the State Constitution.

A special act, as was used for the formation of Gilchrist County in 1925 and the attempt at creating Kennedy County in 1965, does not seem to be necessary for the creation of a new county and may be inappropriate under the State Constitution of 1968. In addition, a referendum does not seem to be necessary, except possibly in a case where an existing charter county is affected.[11]

Since 1990, several bills have been filed to create a new county. None of these bills were enacted.

As a result of the unsuccessful post-1990 legislative proposals to create new counties, the Legislative Committee on Intergovernmental Relations[12] was asked to develop a template to be used for future attempts at county formation. The publication, "Formation of Counties in Florida: Factors for Consideration and Related Policy Issues,"[13] dated February 2001, identifies a set of factors to assist the Legislature in its deliberations over any future county formation.[14] The recommendations contained in this report address the following policy issues to be considered by future Legislatures: 1) establish a county formation review entity and designate the composition of the review entity, 2) identify factors to be addressed in the new county formation review, 3) establish a timeline for the review entity to conclude its study and to establish a format for its recommendations, and 4) designate organizations and agencies to provide technical assistance to the review entity.

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[11] Ron Saunders, Chair of the House Committee on Community Affairs, letter to Representatives Joseph Arnall and Jim Davis on the appropriate way to create a new county, November 5, 1993.
[12] This joint committee was not funded in the FY 2010 – 2011 General Appropriations Act, and ceased operations on June 30, 2010.
[13] See, Legislative Committee on Intergovernmental Relations, Formation of Counties in Florida: Factors for Consideration and Related Policy Issues (February 2001), for more detailed information.
[14] Please note that the formation of a new county also includes merging existing counties to form a "new county."

- Formation of a review entity – To assist the Legislature in its deliberations, a review entity should be created to review the various factors presented by the creation of a new county. This could be accomplished by enacting legislation creating a formal review commission or, in a less formal manner, by establishing a joint ad hoc committee, task force, or workgroup by House and Senate leadership, or by establishing the review as an interim project for one or more legislative committees.

- Minimum standards – Minimum standards for the creation of new counties should be established. These standards are guidelines to assist Florida residents and legislators when assessing whether the formation of a new county is financially feasible and reduces the likelihood that the formation will have unanticipated negative consequences.

    - The standards and related factors considered during the review process may include:

        - the continued financial stability of the "parent" county (the county or counties from which territory is transferred into the new county);

        - an equitable, stable and similar tax base for the parent and new county;

        - similarity in essential demographics between the parent and new county;

        - that the new county consists of a geographically separate and distinct identity from the parent county;

        - the minimum population size for the parent and new county;

        - the essential urban or rural nature of the parent and new county;

        - a charter county formation; and

        - a referendum provision.

    - A formation review study also should be developed that would articulate issues contributing to the formation of a new county and construct a profile of various characteristics the proposed new county would assume. At a minimum, the study should include the following elements:

- problem identification;
- proposed five-year budget;
- identification of service providers;
- estimated fiscal impacts to existing local governments including means for equitable distribution of debt, other liabilities and assets;
- legal impact on affected special districts;
- impacts to pre-existing interlocal and intergovernmental agreements, and proposals for the mitigation; and
- proposed timeline for major events.[15]

- Timeline and content of report – Require that the reviewing entity be established and members appointed within 60 days of the end of session. The report should make recommendations on whether the county should be formed, any qualifications and its reasoning. The report's suggestions and comments could be used to adopt a proposed draft charter. The report also could be used to determine whether a referendum should be held prior to the county's creation.

- Technical Assistance –Regional and designated local entities should provide assistance to the reviewing entity upon request.

CHANGES IN COUNTY BOUNDARIES

Adjusting the legal descriptions of one or more counties requires an amendment to general law. Several acts have passed the Legislature that change existing county boundaries by amending the appropriate section of chapter 7, Florida Statutes. Since 1925, approximately 32 formal boundary adjustments have been enacted by the Legislature.[16] A review of past legislative attempts to alter county boundaries reveals that some changes were controversial while others were supported by the affected counties.

[15] These seven elements would remain essentially the same for counties formed from territories contained within one or more existing counties or formed through the consolidation of one or more existing counties. The major difference being that of perspective, with formations through consolidation addressing these seven issues from the perspective of merging political, fiscal, administrative and operational structures of government, and the resulting service delivery arrangements.

[16] Fernald and Purdum, p. 99, and data from the Florida House of Representatives, Community & Military Affairs Subcommittee.

CONSTITUTIONAL POWERS AND DUTIES OF COUNTIES

Article VIII, section 1 of the State Constitution contains provisions specifically related to the county form of government in Florida, and requires the state to be divided by law into political subdivisions called "counties." Counties may be created, abolished or changed by law, with provision for the payment or apportionment of public debt. Pursuant to general or special law, a county government may be established by charter, which must be adopted, amended or repealed only upon a vote of the electors of the county in a special election called for that purpose. Each county must designate a county seat where the principal offices of the county are located and permanent records of all county officers are maintained.

The Florida Constitution recognizes two types of county government in Florida: 1) counties that are not operating under a county charter and 2) counties that are operating under a county charter. Article VIII, sections 1(f) and (g) of the State Constitution, respectively provide as follows:

> Non-Charter Government: Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.
>
> Charter Government: Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

In addition, a special constitutional provision provides unique authorization for the Miami-Dade County home rule charter. *See,* Article VIII, section 11 of the State Constitution of 1885, as referenced in Article VIII, section 6(e) of the State Constitution of 1968, as amended January 1999.

The most significant distinction between charter and non-charter county power is the fact that the State Constitution provides a direct constitutional grant of the power of self-government to a county upon charter approval, whereas a non-charter county has "such power of self-government as is provided by general or

special law." As such, charter counties possess greater home rule authority than non-charter counties as evidenced by the following:

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

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

- A charter county may levy any tax within its jurisdiction that is authorized by general law for a municipality unless the general law prohibits levy by a county.[17]

Unlike charter counties, non-charter counties do not have the flexibility to establish their form of government. Non-charter counties are granted home rule powers in general law mostly found in part I of chapter 125, Florida Statutes. These counties must organize their governing body either by the traditional commission form or the commission-administrator form of county government, which may be enacted by county ordinance.

In a non-charter county, Article VIII, section (e) of the State Constitution requires the county's governing body to be composed of a five or seven member board of county commissioners serving staggered terms of four years. After each decennial census, the board of county commissioners must divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district must be elected as provided by law. On the other hand, if a county operates under a county charter, the charter may vary the number of members serving on the county's governing body and provide selection procedures for county officers.

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

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

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[17] Primer on Home Rule and Local Government Revenue Sources, Nabors, Giblin, & Nickerson, P.A., April 2010.

Section 125.01, Florida Statutes, outlines the powers and duties of chartered and non-chartered counties. This section provides that the county commission shall have the power to carry on county government to the extent not inconsistent with general or special law. The authority includes, but is not restricted to, the power to:

- Adopt rules of procedure, select officers and set the time and place of official meetings.

- Provide for the prosecution and defense of legal causes on behalf of the county or state, retain counsel, and set their compensation.

- Provide and maintain county buildings.

- Provide fire protection, including the enforcement of the Florida Fire Prevention Code.

- Provide hospitals, ambulance service and health and welfare programs.

- Provide parks, preserves, playgrounds, recreational areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs.

- Prepare and enforce comprehensive plans for the development of the county.

- Establish, coordinate and enforce zoning and such business regulations as are necessary for the protection of the public.

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

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

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

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

- Provide and regulate arterial, toll and other roads, bridges, tunnels and related facilities; eliminate grade crossings; regulate the placement of

signs, lights and other structures within the right-of-way limits of the county road system; provide and regulate parking facilities; and develop and enforce plans for the control of traffic and parking.

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

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

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

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

- Levy and collect taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit, and special assessments; borrow and expend money; and issue bonds, revenue certificates and other obligations of indebtedness. This power must be exercised according to general law. A referendum is not required for the levy by a county of ad valorem taxes for county purposes or for the providing of municipal services within any municipal service taxing unit.

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

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

- Create civil service systems and boards.

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

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

- Place questions or propositions on the ballot at any primary, general or otherwise called special election, with respect to matters of substantial concern, when agreed to by a majority vote of the governing body. However, no special election may be called for the purpose of conducting a straw ballot.

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

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

- Provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards, if the program provides that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.

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

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

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

The governing body of a county also has the power to establish, and subsequently merge or abolish, dependent special districts that include both incorporated and unincorporated areas. Inclusion of an incorporated area is subject to the approval of the governing body of the affected incorporated area.[18] Municipal services and facilities may be provided from funds derived from service charges, special assessments or taxes within the district. Pursuant to section 200.001(8)(d), Florida Statutes, ad valorem taxes levied by dependent special districts are included within the county's 10 mill cap.

[18] Section 189.4041, Florida Statutes.

STATUTORY PROVISIONS RELATING TO ADOPTION OF COUNTY CHARTERS

A county that does not have a charter form of government may locally initiate and adopt a county home rule charter pursuant to the provisions of sections 125.60-125.64, Florida Statutes. In addition to satisfying multiple statutory requirements, the charter must be adopted by a majority vote of the qualified electors of the county. The following is a description of the statutory requirements:

- Creation of a Charter Commission (sections 125.61 and 125.62, Florida Statutes)

    - Following the adoption of a resolution by the board of county commissioners, or upon the submission of a petition to the county commission signed by at least 15 percent of the qualified electors of the county requesting that a charter commission be established, a charter commission must be appointed within 30 days of the adoption of the resolution or filing of the petition.

    - The charter commission must be composed of an odd number of not less than 11 or more than 15 members.

    - The members of the commission must be appointed by the board of county commissioners of the county or, if so directed in the initiative petition, by the legislative delegation.

    - No member of the Legislature or board of county commissioners may be a member of the charter commission. Vacancies must be filled within 30 days in the same manner as the original appointments.

    - Members of the commission receive no compensation but are reimbursed for necessary expenses pursuant to law.

    - Expenses of the charter commission are verified by a majority vote of the commission and are forwarded to the board of county commissioners for payment from the general fund of the county.

    - The charter commission may employ a staff, consult and retain experts and purchase, lease or otherwise provide for such supplies, materials, equipment and facilities, as it deems necessary and desirable.

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

- Duties of the Charter Commission (sections 125.61 and 125.63, Florida Statutes)

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

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

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

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

- Submission to the Voters (section 125.64, Florida Statutes)

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

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

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

Upon acceptance or rejection of the proposed charter by the qualified electors, the charter commission is dissolved, and all property of the charter commission becomes the property of the county.

CHARTER COUNTIES IN FLORIDA

This list identifies charter counties (or in the case of City of Jacksonville/Duval County, a consolidated city) and the year in which their charters became effective.

BY COUNTY		**BY YEAR**	
Alachua	1987	Dade*	1957
Brevard	1994	Duval	1967
Broward	1975	Sarasota	1971
Charlotte	1986	Volusia	1971
Clay	1991	Broward	1975
Columbia	2002	Pinellas	1980
Dade*	1957	Hillsborough	1983
Duval	1967	Palm Beach	1985
Hillsborough	1983	Charlotte	1986
Lee	1996	Orange	1986
Leon	2002	Alachua	1987
Orange	1986	Seminole	1989
Osceola	1992	Clay	1991
Palm Beach	1985	Osceola	1992
Pinellas	1980	Brevard	1994
Polk	1998	Lee	1996
Sarasota	1971	Polk	1998
Seminole	1989	Leon	2002
Volusia	1971	Columbia	2002
Wakulla	2008	Wakulla	2008

**(Name changed to Miami-Dade in 1997)*

SUGGESTED READING

Charter Counties

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Graetz, Lucy, "Charter County Government in Florida: Past Litigation and Future Proposals," 33 FLA. L. REV. 505, 510 (1981).

National Civic League, "Model County Charter," The National Civic League Press. (http://www.ncl.org/publications/index.html)[19].

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

National Civic League, "Guide for Charter Commissions," The National Civic League Press. (http://www.ncl.org/publications/index.html)[20].

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

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

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Arrington, Lawrence and Marlowe, Herbert A., Jr., "County Government in the Nineties: An Overview," paper produced for the Florida Association of Counties (1994).

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

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Home Rule

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[20] Ibid. A revised edition of this publication is expected to be completed in 2011.

Rule is in Danger of Being Expressly Preempted by...," 18 Nova L. Rev. 1437 (1994).

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

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

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

FOR FURTHER INFORMATION

General Information

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

Community & Military Affairs Subcommittee
Florida House of Representatives
204 House Office Building
402 S. Monroe Street
Tallahassee, Florida 32399-1900
850-410-4905 Fax: 850-410-0129
http://www.myfloridahouse.gov

County Demographics and Statistics

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

Florida Legislative Committee on Intergovernmental Relations Website
http://www.floridalcir.gov

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

County Tax Information

Finance & Tax Committee
Florida House of Representatives
221 The Capitol
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-488-1601 Fax: 850-414-6879
http://www.myfloridahouse.gov

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

History of the Creation of Florida Counties

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

Office of the Clerk
Florida House of Representatives
513 The Capitol
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-488-1157 Fax: 850-488-9707
http://www.myfloridahouse.gov

CHAPTER 2

MUNICIPAL GOVERNMENT

SUMMARY

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

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

HISTORY

The origins of American municipal government are rooted in English history. As England emerged from the non-urbanized medieval period, citizens sought authority from the King to exercise some control over local affairs. In response, the King granted "charters," which were a form of business contract, empowering local citizens to initiate local improvements and to regulate certain aspects of community life. Eventually, these chartered groups came to be recognized as "municipal corporations," similar to private, commercial corporations, which also were authorized by the King. This pattern for the formation of English municipal governments was extended to the American colonies.[21]

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

[21] The Florida Municipal Officials' Manual, (Florida League of Cities, http.flcities.com/membership/officials-manual-preface.asp), Section 1-2.

provided services, such as utilities and transportation, only within the boundaries described in the municipal charter.[22]

During the Spanish era of Florida history, St. Augustine and Pensacola were established. Provisional Governor Andrew Jackson recognized these cities as governmental entities after receiving possession of Florida from the Spanish in 1821.[23] A territorial council consisting of the Governor and 13 presidential appointees replaced Governor Jackson's provisional government in 1822.[24] This territorial council granted municipal charters for several cities, including Apalachicola and Key West.[25]

Historically, municipalities in Florida have been created by special acts of the Legislature. The 1885 State Constitution limited municipal authority to that expressly granted by the Legislature. Any reasonable doubt regarding a municipality's right to exercise power was to be resolved by a court against the municipality. This limitation of municipal authority was widely known as "Dillon's Rule" and prevailed generally throughout the United States.[26] Municipalities were not authorized to enact local laws (ordinances); therefore, all ordinances were made through the passage of special legislative acts directed at specific locales.

The 1968 State Constitution began the process of granting what is referred to as "municipal home rule." With the 1972 enactment of chapter 166, Florida Statutes, the Legislature granted municipalities all governmental, corporate and proprietary powers necessary to enable municipalities to independently function and provide services. Today, the Legislature must create a municipality through passage of a special act enacting a municipality's charter (with the exception of Miami-Dade County), but subsequent special acts are not required to grant specific powers to conduct municipal government.

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

WHAT IS A MUNICIPALITY?

A municipality is a local government entity located within a county and created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. The term "municipality" can be used interchangeably with the terms "town," "city" and "village."

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[22] Joseph W. Little. "Florida Local Government in the 1990s." in Proceedings of the Governor's Conference on Local Governments in the 1990s, (Gainesville, Florida: The Center for Governmental Responsibility, University of Florida College of Law, January 1989), p. 102.
[23] The Florida Municipal Officials' Manual, p. I-B-1.
[24] Allen Morris, The Florida Handbook 1997-1998, (Tallahassee, Florida: The Peninsular Publishing Company, published biennially), pp. 416-418.
[25] The Florida Municipal Officials' Manual, p. I-B-2.
[26] The Florida Municipal Officials' Manual, p. I-B-3.

CONSTITUTIONAL/STATUTORY PROVISIONS

CONSTITUTIONAL PROVISIONS

Article VIII, section 2 of the State Constitution authorizes the Legislature to establish or abolish municipalities or amend their charters by general or special law. However, in the case of Miami-Dade County, Article VIII, section 6 of the State Constitution, by reference to Article VIII, section 11(e) of the 1885 Constitution, authorizes the board of county commissioners to provide a method for establishing new municipalities and prescribing their jurisdiction and powers.

The Constitution grants municipalities all governmental, corporate and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by general or special law. The power to tax can be granted only by general law. Each municipal legislative body must be elected by qualified voters. When any municipality is abolished, the State Constitution requires that provisions be made for the protection of its creditors.

STATUTORY PROVISIONS

Municipal Home Rule Powers Act, Chapter 166, Florida Statutes

The Municipal Home Rule Powers Act acknowledges that the State Constitution grants municipalities governmental, corporate and proprietary power necessary to conduct municipal government, functions and services, and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by general or special law. However, section 166.021(4), Florida Statutes, provides that nothing in the Act may be construed to permit any change in a special law or municipal charter without approval by referendum if the change affects:

- the exercise of extraterritorial powers;
- an area which includes lands within and without a municipality;
- the creation or existence of a municipality;
- the terms of elected officers and their manner of election except for the selection of election dates and qualifying periods for candidates and for changes in terms necessitated by change in election dates;
- the distribution of powers among elected officers;
- matters prescribed by charter relating to appointive boards;

- any change in form of government; and
- any rights of municipal employees.

Formation of Municipalities Act, Chapter 165, Florida Statutes

Florida law governing formation and dissolution of municipal governments is found in chapter 165, Florida Statutes, the "Formation of Municipalities Act," which was enacted in 1974. The stated purpose of the Act is to provide general law standards, direction and procedures for the incorporation, merger and dissolution of municipalities, and to achieve the following goals:

- orderly patterns of growth and land use;
- adequate quality and quantity of local public services;
- financial integrity of municipalities;
- the elimination or reduction of avoidable and undesirable differences in fiscal capacity among neighboring local governmental jurisdictions; and
- the promotion of equity in the financing of municipal services.

Pursuant to chapter 165, Florida Statutes, there is only one way to establish a municipality where one did not previously exist: the Legislature must adopt a charter for incorporation by a special act upon determination that the standards in chapter 165, Florida Statutes, have been met. It appears, however, that Miami-Dade County has the exclusive power to create cities in Miami-Dade County under its constitutional home rule powers.[27]

A special act is a law that applies to a limited geographic area. A proposed special act is filed by a member of the Legislature in the form of a local bill. For incorporation purposes, the special act must include a proposed municipal charter that prescribes the form of government and clearly defines the legislative and executive functions of city government. The special act may not prohibit or limit tax levies otherwise authorized by law.

Special acts must satisfy the requirements of Article III, section 10 of the State Constitution, which requires that notice of intent to file a proposed special act be published in the manner provided by general law[28] or that the act be conditioned to become effective only upon approval by qualified electors. The Legislature

[27] See, section 165.022, Florida Statutes.
[28] Section 11.02, Florida Statutes, specifies that the publication of notice must occur one time, at least 30 days prior to introduction of the local bill.

has required special acts creating municipal incorporations to be subject to a referendum. The bill proposing creation of a municipality will be reviewed based on standards for municipal incorporation established in section 165.061, Florida Statutes. A feasibility study is also required to be completed and submitted to the Legislature at least 90 days prior to the first day of the regular legislative session.

In addition, as a local bill, a proposed municipal incorporation must meet the House of Representatives' Local Bill Policy, which provides that no local bill may be considered by the Community & Military Affairs Subcommittee – or other House committees or subcommittees – prior to the receipt of an original Economic Impact Statement and a Local Bill Certification Form.[29] The Economic Impact Statement should assess the cost of implementation, state who will bear such cost, and identify who will benefit from the passage of the special act. The Local Bill Certification Form certifies that the bill cannot be accomplished locally, a public hearing has been held, all statutory and constitutional requirements have been met, and a majority of the local legislative delegation approves the bill.

MUNICIPAL INCORPORATION

Standards for Municipal Incorporation

Section 165.061, Florida Statutes, provides standards for incorporation. These standards require that the area to be incorporated:

- Be compact, contiguous and amenable to separate municipal government.
- Have a total population, as determined in the latest official state census, special census or estimate of population, of at least 1,500 persons in counties with a population of less than 75,000, and of at least 5,000 persons in counties with a population of more than 75,000.
- Have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
- Have a minimum distance of at least two miles from the boundaries of an existing municipality within the county. Alternately, an extraordinary natural boundary that requires separate municipal government must be present.

[29] Florida House of Representatives, Community & Military Affairs Subcommittee, Local Bill Policies and Procedures Manual. (Tallahassee, Florida: The Florida House of Representatives, published annually) and Florida House of Representatives, Bill Drafting Service, Drafting Local Legislation in Florida. (Tallahassee, Florida: The Florida House of Representatives, 1998).

- Have a proposed municipal charter which prescribes the form of government and clearly defines the responsibility for legislative and executive functions, and does not prohibit the legislative body from exercising its power to levy any tax authorized by the State Constitution or general law.

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

Feasibility Study

A feasibility study is an analysis of the proposed area to be incorporated. The purpose of the study is to enable the Legislature to determine whether the area: 1) meets the statutory requirements for incorporation and 2) is financially feasible. Pursuant to section 165.041(1)(b), Florida Statutes, a feasibility study must be completed and submitted to the Legislature at least 90 days prior to the first day of the regular legislative session during which the proposed incorporation bill may be introduced.

Specifically, the study must include:

- The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.

- The major reasons for proposing the boundary change.

- The following characteristics of the area:

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

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

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

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

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

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

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

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

- Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:

    - Existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate.

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

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

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

- Evidence that the proposed municipality meets the standards for incorporation in section 165.061, Florida Statutes.

In counties that have adopted a municipal overlay for municipal incorporation pursuant to section 163.3217, Florida Statutes, such information must be submitted to the Legislature in conjunction with any proposed municipal incorporation in the county.

Once a feasibility study is submitted, the Community & Military Affairs Subcommittee coordinates a review of the study and proposed charter with various legislative committees and state agencies. If a local bill proposing the incorporation is filed and referred, the Community & Military Affairs

Subcommittee prepares an analysis of the information for use by legislators in deliberation of the proposal. The Senate generally does not prepare an analysis for local bills, including those proposing a new municipal incorporation.

Historically, citizen groups seeking the incorporation pay for the feasibility study.

Proposed Charter

Section 165.061(1)(e), Florida Statutes, requires a proposed municipal charter that clearly prescribes and defines the form of government and its functions and that does not prohibit or restrict the levy of authorized taxes. However, several practical matters that are not addressed in chapter 165, Florida Statutes, are important to consider when proposing a local bill for the creation of a new municipality. One of the first considerations is the content of the charter. A charter should contain matters that are of such importance that they should not be subject to change by simple ordinance. For example, chapter 166, Florida Statutes, requires that each municipality provide procedures for filling a vacancy in an elected office caused by death, resignation or removal from office. While this requirement may be satisfied through the passage of an ordinance, the issue is fundamental enough to the governance of a municipality to be included in its charter.

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

- powers of the city;
- city council;
- city manager;
- departments, offices and agencies;
- financial management;
- elections;
- charter amendment; and
- transition and severability.[30]

[30] See, Model City Charter, 8th edition (2003).

In addition, the Community & Military Affairs Subcommittee recommends that the local bill proposing the charter should have the charter in one section of the bill. For example:

> Section 1. LEGISLATIVE INTENT – The Legislature hereby finds and declares that . . .
>
> Section 2. INCORPORATION OF MUNICIPALITY; CORPORATE LIMITS – There is hereby created, effective _____, in _____ County, a new municipality to be known as _____, which shall have a _____ form of government. The corporate boundaries of _____ shall be as described in section 2 of the charter.
>
> Section 3. SHORT TITLE – This act, together with any future amendments thereto, shall be known and may be cited as the "_____ Charter," hereinafter referred to as "the charter." The charter of the _____ is created to read:
>
> > Section 1. MUNICIPAL POWERS
> >
> > Section 2. MUNICIPAL BOUNDARIES
>
> Section 4. TRANSITION PROVISIONS
>
> Section 5. SEVERABILITY CLAUSE
>
> Section 6. REFERENDUM PROVISION

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

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

Other Factors To Consider For Creation Of A Municipality

There are several steps not addressed in the law that may aid in the passage of an incorporation special act. In most cases, it is up to interested citizens' groups to convince their local Representatives and Senators (the local legislative delegation) that establishment of a particular municipal government would be beneficial. This is critical as House policy relating to local bills requires that such local bills be approved by the local legislative delegation. Usually, a majority of the delegation must approve a proposed local bill. A delegation's rules on this point may differ, however. (A detailed explanation of local bill requirements may be found in the Florida House of Representatives' Local Bill Policies and Procedures Manual.)

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

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

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

- Support groups should gain approval of the county governing body. While this is not absolutely necessary, it is generally recommended because state legislators often are reluctant to oppose their local counterparts.

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

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

Suggested Practices for Future Municipal Incorporations/Charters

In 2000, the Legislative Committee on Intergovernmental Relations conducted an interim project that provides an overview of municipal incorporations in Florida.[31] The purpose of the report was to provide historical context to municipal incorporations and current standards and exemptions from such standards, and offer suggested practices to be used in future incorporation initiatives, particularly with regard to the required feasibility study and charter. The following recommendations were made regarding municipal charter drafting:

- Place all “charter-related” sections in one section of the special act, with “non-charter” issues placed in other sections.

- Clearly state and define the form of municipal government and officials’ powers, responsibilities and duties.

[31] See, Legislative Committee on Intergovernmental Relations, Overview of Municipal Incorporations in Florida (February 2001), for more detailed information. http://www.floridalcir.gov/reports.cfm

- Be consistent with the establishment date and the date the municipality is eligible for revenue sharing.

- Be specific regarding revenue-sharing formulas.

- Be realistic in determining municipal fiscal resources.

- Affirmatively state that all election laws are applicable.

- Include a clear and unambiguous referendum provision.

- Further develop intergovernmental relations regarding service delivery and growth management issues.

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

AMENDING A MUNICIPAL CHARTER

After a charter is enacted by the Legislature and approved by the affected voters in the area, a municipality may amend its charter in accordance with the Municipal Home Rule Powers Act, notwithstanding any charter provisions to the contrary.

Section 166.031, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit a proposed charter amendment to the electors. Alternatively, the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last municipal general election, submit a proposed amendment to its charter to the electors of the municipality. Such an amendment may be to any part or to all of the charter except the part describing the boundaries of the municipality.[32] The governing body of the municipality must place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election or at a special election called for such purpose.

Upon adoption of an amendment to the municipal charter by a majority of the electors voting in a referendum, the governing body of the municipality must incorporate the amendment into the charter and file the revised charter with the Department of State. All amendments are effective on the date specified in the amendment, or as otherwise provided in the charter.

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[32] Such changes must be accomplished through annexation or deannexation as described in Chapter 3 of this manual. A municipality may, by ordinance and without referendum, redefine its boundaries to include those lands previously annexed. See, section 166.031(3), Florida Statutes.

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

MERGING MUNICIPALITIES

The municipal incorporation by merger process is described in section 165.041(2), Florida Statutes. This subsection specifies that its purpose is to provide broad citizen involvement in both initiating and developing their local government; therefore, establishment of appropriate citizen advisory. Committees, as well as other mechanisms for citizen involvement, by the governing bodies of the units affected is specifically authorized and encouraged. To merge two or more municipalities and associated unincorporated areas, the governing bodies of the municipalities involved must pass concurrent ordinances setting forth the proposed new charter. The merger of one or more cities or counties with one or more special districts may often be accomplished in a similar manner. The special acts relating to any special district subject to a merger must be appropriately modified or repealed by the Legislature.

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

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

If two or more cities are pursuing a merger, somewhat different general standards apply than those of a regular municipal incorporation. Like a municipal incorporation, the total area of the proposed merger must be compact and contiguous and susceptible to urban services. Also, the plan for the merger must include provisions regarding bonded indebtedness and the status and pension rights of employees of the merging units of government. However, other standards for incorporation do not apply.

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

DISSOLVING MUNICIPALITIES

Article VIII, section 2 of the State Constitution provides that a municipality may be abolished and its charter amended pursuant to general or special law. When a municipality is abolished, the Constitution requires the Legislature to provide for the protection of the municipality's creditors.

There are three general requirements provided in section 165.061(3), Florida Statutes, that must be met for a municipality to dissolve its charter: 1) the municipality must not be substantially surrounded by other cities – this is to prevent the creation of an enclave; 2) the county or another city must be able to provide the necessary municipal services to the municipal area proposed for dissolution; and 3) the municipality to be dissolved must make arrangements to resolve its bonded indebtedness and the vested rights of employees. In addition, the Legislature should be notified regarding obsolete special acts so that these laws may be repealed.

Section 165.051, Florida Statutes, provides that a municipal charter may be revoked to dissolve a municipality in the following ways:

- The Legislature may pass a special act repealing the enabling act of the municipality and any subsequent amendatory acts. This method is subject to all requirements of law or rule applicable to the consideration and enactment of any special act.

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

    - If the municipal governing body does not act within 30 days of passing the ordinance, the governing body of the municipality, or

the governing body of the county or counties in which the municipality is located, must set the date of the referendum.

- The referendum must be held at the next regularly scheduled election or may be held at a special election prior to the next scheduled election, if the special election is approved by a majority of the governing board members of each governmental unit affected. The date of the referendum cannot be sooner than 30 days after the passage of the ordinance.

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

The 2004 Legislature created a new provision which requires the Department of Financial Services to notify the President of the Senate and the Speaker of the House of Representatives of any municipality that has not had financial activity for the last four fiscal years. Such notice is sufficient to initiate section 165.051(1)(a), Florida Statutes, dissolution procedures. See, section 218.32(3), Florida Statutes.

FORMATION ACTIVITY IN FLORIDA

MUNICIPAL INCORPORATIONS AND MERGERS

From 1972 to date, 28 municipalities have been established, with 19 municipalities created by special act (Bonita Springs, DeBary, Deltona, Destin, Fort Myers Beach, Grant-Valkaria, Islamorada, Jacob City, Lake Mary, Loxahatchee Groves, Marathon, Marco Island, Midway, Palm Coast, Sanibel, Southwest Ranches, Wellington, West Park and Weston). During this time, one municipality was recreated by special act after previous incorporation under authority of general law in effect prior to 1974 (Seminole). The cities of Aventura, Cutler Bay, Doral, Key Biscayne, Miami Gardens, Miami Lakes, Palmetto Bay, Pinecrest, Sunny Isles Beach were created under the provisions of Miami-Dade County's charter. The following table indicates recent municipal incorporations by year, county, and enabling law:

YEAR	MUNICIPALITY	COUNTY	ENABLING LAW
1973	LAKE MARY	Seminole	ch. 73-522, Laws of Florida
1974	SANIBEL	Lee	ch. 74-606, Laws of Florida
1983	JACOB CITY	Jackson	ch. 83-434, Laws of Florida ch. 84-456, Laws of Florida
1984	DESTIN	Okaloosa	ch. 84-422, Laws of Florida

			ch. 85-471, Laws of Florida
1986	MIDWAY	Gadsden	ch. 86-471, Laws of Florida
1991	KEY BISCAYNE	Miami-Dade	by authority of the Miami-Dade County Charter
1993	DEBARY	Volusia	ch. 93-351, Laws of Florida ch. 93-363, Laws of Florida
1995	AVENTURA	Miami-Dade	by authority of the Miami-Dade County Charter
1995	PINECREST	Miami-Dade	by authority of the Miami-Dade County Charter
1995	FORT MYERS BEACH	Lee	ch. 95-494, Laws of Florida
1995	DELTONA	Volusia	ch. 95-498, Laws of Florida
1995	WELLINGTON	Palm Beach	ch. 95-496, Laws of Florida
1996	WESTON	Broward	ch. 96-472, Laws of Florida
1997	ISLAMORADA	Monroe	ch. 97-348, Laws of Florida
1997	MARCO ISLAND	Collier	ch. 97-367, Laws of Florida
1997	SUNNY ISLES BEACH	Miami-Dade	by authority of the Miami-Dade County Charter
1999	BONITA SPRINGS	Lee	ch. 99-428, Laws of Florida
1999	MARATHON	Monroe	ch. 99-427, Laws of Florida
1999	PALM COAST	Flagler	ch. 99-448, Laws of Florida
2000	SOUTHWEST RANCHES	Broward	ch. 2000-475, Laws of Florida
2000	MIAMI LAKES	Miami-Dade	by authority of the Miami-Dade County Charter
2002	PALMETTO BAY	Miami-Dade	by authority of the Miami-Dade County Charter
2003	DORAL	Miami-Dade	by authority of the Miami-Dade County Charter
2003	MIAMI GARDENS	Miami-Dade	by authority of the Miami-

			Dade County Charter
2004	WEST PARK	Broward	ch. 2004-454, Laws of Florida
2005	CUTLER BAY	Miami-Dade	by authority of the Miami-Dade County Charter
2006	LOXAHATCHEE GROVES	Palm Beach	ch. 2006-328, Laws of Florida
2006	GRANT-VALKARIA	Brevard	ch. 2006-348, Laws of Florida

FAILED ATTEMPTS AT MUNICIPAL INCORPORATION

Over the years, a number of incorporation attempts have failed. Since 1980, Floridians rejected the formation of municipal governments by voting down the incorporation efforts of:

- A city in the Halifax area of Volusia County (1985)
  (chapter 85-504, Laws of Florida)

- The City of Fort Myers Beach (1982/1986)[33]
  (chapters 82-295 and 86-413, Laws of Florida)

- The City of Spring Hill (1986)
  (chapter 86-463, Laws of Florida)

- The City of Deltona Lakes (1987)
  (chapter 87-449, Laws of Florida)

- The City of Deltona (1990)[34]
  (chapter 90-410, Laws of Florida)

- The City of Marco Island (1980/1982/1986/1990/1993)[35]
  (chapters 80-541, 82-330, 86-434, 90-457 and 93-384, Laws of Florida)

- The City of Port LaBelle (1994)
  (chapter 94-480, Laws of Florida)

- The City of Destin (1995)
  (by authority of the Dade County Charter)

[33] Subsequently incorporated in 1995.
[34] Ibid.
[35] Subsequently incorporated in 1997.

- The City of Ponte Vedra (1998)
  (chapter 98-534, Laws of Florida)

- The Village of Key Largo (1999)
  (chapter 99-430, Laws of Florida)

- The City of Southport (1999)
  (chapter 99-444, Laws of Florida)

- The Village of the Lower Keys (2000)
  (chapter 2000-383, Laws of Florida)

- The Village of Paradise Islands (2000)
  (chapter 2000-382, Laws of Florida)

- The City of Southport (2006)
  (chapter 2006-329, Laws of Florida)

MUNICIPAL MERGERS

Several previously existing cities have been incorporated through mergers with other cities. Examples of merged municipalities include:

- In Brevard County, the merger of Eau Gallie with Melbourne (chapters 67-1156, 69-879 and 70-807, Laws of Florida) and the merger of the Town of Whispering Hills Golf Estates with the City of Titusville (chapters 59-1991 and 63-2001, Laws of Florida).

- In Pinellas County, the merger of Pass-A-Grille Beach with the City of St. Petersburg Beach (chapter 57-1814, Laws of Florida).

- In Bay County, the merger of Longbeach Resort and Edgewater Gulf Beach with the City of Panama City Beach (chapters 67-2174 and 70-874, Laws of Florida).

MUNICIPAL DISSOLUTIONS

During the last several decades, the following cities have been dissolved:

- Bithlo in Orange County by authority of the Secretary of State in January 1977;

- Bayview in Bay County by chapter 77-501, Laws of Florida;

- Munson Island in Monroe County by chapter 81-438, Laws of Florida;

- Painters Hill in Flagler County by chapter 81-453, Laws of Florida;
- Hacienda Village in Broward County by chapter 84-420, Laws of Florida;
- Pennsuco in Miami-Dade County under authority of the Miami-Dade County Charter;
- Golfview in Palm Beach County by chapter 97-329, Laws of Florida; and
- North Key Largo Beach by chapter 2003-318, Laws of Florida.

SUGGESTED READING

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FOR FURTHER INFORMATION

General Information

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

Community & Military Affairs Subcommittee
Florida House of Representatives
204 House Office Building
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-410-4905 Fax: 850-410-0129
http://www.myfloridahouse.gov

National Civic League
1889 York Street
Denver, Colorado 80203
303-571-4343
http://www.ncl.org

Municipal Demographics and Statistics

Bureau of Economic and Business Research
University of Florida
Warrington College of Business Administration
221 Matherly Hall

Post Office Box 117145
Gainesville, Florida 32611-7145
352-392-0171 Fax: 352-392-4739
http://www.bebr.ufl.edu

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

Comprehensive Planning Information

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

CHAPTER 3

MUNICIPAL ANNEXATION OR CONTRACTION

SUMMARY

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

ANNEXATION HISTORY

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

The constitutions and laws of the 50 states set the rules for establishing and revising the boundaries of local governments. There are many variations in how boundaries are changed across the United States. In some instances, the process favors municipal expansion through easy annexation. In other states, annexation is more difficult. In Virginia, for example, the courts adjudicate such proposals. Some state legislatures act directly to establish local governments and adjust their boundaries.[36]

Prior to the 1960s, the U.S. Supreme Court had a very permissive attitude toward municipal annexations, treating them as the exclusive domain of the states. This attitude was altered somewhat when the Supreme Court acted to protect the right to vote from racially discriminatory policies masquerading as annexation or contraction. In one instance, the Alabama Legislature redrew the boundaries of Tuskegee, Alabama, in a highly unusual way to disenfranchise most of the city's

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

400 black voters. Subsequently, the Court held that municipal annexations could not be used to circumvent federally protected rights.[37]

In 1965, Congress attempted to stop local governments from discriminating against citizens through the Voting Rights Act (42 U.S.C. 1973 to 1973aa-6). This Act requires cities located in counties deemed guilty of past voting-rights violations to obtain federal approval for annexations. After one of these municipalities annexes land and goes through all of the steps required by state law, the action is then reviewed by the U.S. Justice Department. The Justice Department will not give advice before the action occurs and their review is limited to a search for discriminatory practices. In other words, the Justice Department will only review a procedure after the municipality has adopted it. In Florida, annexation in any of the following counties requires federal approval: Collier, Hardee, Hendry, Hillsborough and Monroe. It should be noted that federal approval is required not only in annexations, but also for any action that affects voters and voting behavior.[38]

CONSTITUTIONAL/STATUTORY PROVISIONS RELATING TO ANNEXATIONS

Article VIII, section 2(c) of the State Constitution authorizes the Legislature to annex unincorporated property into a municipality by special act. This section also authorizes the Legislature to establish procedures in general law for the annexation of property by local action. Miami-Dade County, however, has exclusive jurisdiction over its municipal annexations under Article VIII, sections 11(1)(c), (5) and (6) of the 1885 State Constitution, as adopted by reference in Article VIII, section 6(e) of the State Constitution.

The Legislature established local annexation procedures by general law in 1974, with the enactment of chapter 171, Florida Statutes. Chapter 171, Florida Statutes, "Municipal Annexation or Contraction Act," describes the ways that property can be annexed or deannexed by cities without passage of an act by the Legislature. Part I of chapter 171, Florida Statutes, creates two types of annexations in Florida: voluntary and involuntary. With voluntary annexations, generally all property owners in the area proposed for annexation formally seek the annexation by petition. For an involuntary annexation to occur, at least a majority of the electors in the area proposed for annexation must vote in favor of the annexation. The municipality may submit the annexation ordinance to the voters of the annexing municipality, but that vote is discretionary. In addition, for the annexation to be valid under chapter 171, Florida Statutes, the annexation must take place within the boundaries of a single county. Part II of chapter 171, Florida Statutes, the "Interlocal Service Boundary Agreement Act," was passed

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[37] Robert Bradley and Edward Montanaro, Annexation in Florida: Issues and Options, (Tallahassee, Florida: Florida Advisory Council on Intergovernmental Relations, January 1984), p. 6.
[38] Ibid.

by the Legislature in 2006, and provides an alternative procedure for the annexation of territory into a municipality.

Florida annexation laws have a twofold purpose: 1) to set forth local annexation/contraction procedures, and 2) to establish criteria for achieving the legislative goals of sound urban development, uniform legislative standards, and the efficient provision of urban services.

VOLUNTARY ANNEXATION

If the property owners of a particular unincorporated area desire annexation into a contiguous municipality, they may initiate voluntary annexation proceedings pursuant to section 171.044, Florida Statutes. The following procedures govern *voluntary annexations* in every county, except for those counties with charters providing an exclusive method for municipal annexation:

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

- adoption of an ordinance by the governing body of the annexing municipality to annex the property after publication of notice at least once a week for two consecutive weeks, setting forth the proposed ordinance in full.

In addition, the annexation must not create enclaves. An enclave is:

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

- 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.[39]

Upon publishing notice of the ordinance, the governing body of the municipality must provide a copy to the board of county commissioners of the county where the municipality is located. Within 7 days after adoption, an ordinance must be filed with the Clerk of the Circuit Court, the chief administrative officer of the county, and the Department of State.

[39] Section 171.031(13), Florida Statutes.

INVOLUNTARY ANNEXATION

A municipality may annex property where the property owners have not petitioned for annexation pursuant to section 171.0413, Florida Statutes. This process is called involuntary annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance of a contiguous, compact, unincorporated area by the annexing municipality's governing body.

- prior to the adoption of an annexation ordinance, the governing body of the municipality must hold at least two advertised public hearings, with the first hearing being held on a weekday at least seven days after the first advertisement and the second hearing being held on a weekday at least five days after the second advertisement.

- submission of the ordinance to a vote of the registered electors of the area proposed to be annexed once the governing body has adopted the ordinance.

In 1999, the Florida Legislature removed the requirement of a "dual referendum" in specific circumstances.[40] The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality. There is no requirement that the electors in the municipality approve an annexation ordinance regardless of the cumulative effect of such annexation.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes a part of the city. If there is no majority vote, that area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

CONSENT PROVISIONS FOR PROPERTY OWNERS

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

If an area proposed to be annexed *does not have any registered electors* on the date a local government adopts an annexation ordinance, an election within the

[40] The term "dual referendum" refers to the requirement that, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality, or cumulatively exceeded more than five percent of the municipal population.

area obviously cannot take place. In this case, the area may not be annexed unless the owners of more than 50 percent of the parcels of land consent to the annexation. The required property owner approval must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance. In addition, the annexing municipality may submit the ordinance to a vote of the registered electors of the annexing municipality. The annexation ordinance is effective upon becoming a law or as otherwise provided in the ordinance.

STATUTORY REQUIREMENTS THAT MUST BE MET BEFORE ANNEXATION MAY OCCUR

Before local annexation procedures may begin, pursuant to section 171.042, Florida Statutes, the governing body of the annexing municipality must prepare a report containing the city's plans for providing urban services to the area proposed to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, timetables, and financing methodologies. The report must also certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements.[41]

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality. This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. The specified exceptions are where the area is separated from the city's boundary by a publicly owned county park, right-of-way, or body of water. Section 171.031, Florida Statutes.

- The area to be annexed must be reasonably compact.

- No part of the area to be annexed may fall within the boundary of another municipality.

- Part or all of the land to be annexed must be developed for urban purposes. Urban purposes are defined as:

    - having a population of at least two persons per acre;

    - if 60 percent of the subdivided lots are one acre or less, having a density of one person per acre; or

    - having at least 60 percent of the subdivided lots used for urban purposes; and

[41] See, section 171.043, Florida Statutes.

    - having at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area or provide a necessary bridge between two urban areas.

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

ANNEXATION OF ENCLAVES

With the passage of chapter 93-206, Laws of Florida (section 171.046, Florida Statutes), the Legislature recognized that enclaves can create significant problems in planning, growth management, and service delivery. The intent of the 1993 legislation was to make it easier to eliminate enclaves of small land areas. Therefore, a separate process for annexing enclaves of 10 acres or less was created. Using this process, a municipality may annex an enclave by interlocal agreement with the county having jurisdiction of the enclave. A municipality may also annex an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the voters in the enclave. These procedures do not apply to undeveloped or unimproved real property.

ANNEXATION BY SPECIAL ACT

Subsection 171.044(4), Florida Statutes, provides that the procedures for voluntary annexation shall be “supplemental to any other procedure provided by general or special law.” There are a number of special annexation laws that exist in Florida, and hence special laws should always be checked prior to beginning annexation procedures. The Legislature may allow municipalities to annex property and may waive any and all statutory requirements.

ANNEXATION BY CERTAIN CHARTER COUNTIES

Subsection 171.044(4), Florida Statutes, also provides that voluntary annexation procedures do not apply to municipalities in counties with charters that provide for an exclusive method of municipal annexation.

EFFECT OF ANNEXATION ON AN AREA

Immediately upon being annexed, an area becomes subject to all laws, ordinances and regulations applicable to other city residents. An exception is that the county land use plan and zoning or subdivision regulations of the unincorporated area remain in effect (after the annexation has been approved) until the annexing municipality adopts a local comprehensive plan amendment to include the new area. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations. Finally, any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.

APPEAL ON ANNEXATION OR CONTRACTION

Affected persons who believe they will suffer material injury because of the failure of the city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If the appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.

EFFECTS ON SOLID WASTE COLLECTION AFTER VOLUNTARY AND INVOLUNTARY ANNEXATION

Section 171.062(4), Florida Statutes, provides for continuing any exclusive franchised solid waste collection services that have been in effect for six months or longer. The franchise may continue to provide service to the newly annexed area for either five years or for the remainder of the franchise term, whichever is shorter if statutory requirements are satisfied. The municipality may allow the franchise to continue servicing the area under the present franchise agreements, or the city may terminate the agreements if the franchisee does not agree to comply with certain statutory provisions relating to the quality of services or the costs of providing such services.

Section 171.062(5), Florida Statutes, specifies that a party who has a solid waste collection contract in effect at least six months prior to the annexation may continue to provide services to the annexed area for five years or the remainder of the contract, whichever is shorter. The solid waste collection provider must provide written evidence of the contract duration, excluding any automatic renewals or "evergreen" provisions, within a reasonable time of a written request. This provision does not apply to single-family residential properties in specified enclaves.

LIMITED PROTECTION AGAINST ANNEXATION FOR INDEPENDENT SPECIAL DISTRICTS

In 2000, the Legislature created section 171.093, Florida Statutes, to address municipal annexation of property within the boundaries of an independent special district that levies ad valorem taxes. This law was an effort to provide independent special districts with certain limited protections from annexation activity. Frequently, independent special districts receive no financial protection from annexing municipalities, even though the district continues to be liable for its debts. As an independent special district's tax base continues to decrease due to annexations and loss of territory, the district may become economically inefficient and unstable. A situation may arise where an independent special district no longer has any property within its boundaries due to annexations. This law provides a method to allow an independent special district to factor the decreased property base into its budget, while at the same time not restricting municipalities' ability to annex.

An orderly and equitable transition of special district service responsibilities to an annexing municipality is provided for in section 171.093, Florida Statutes. Upon annexation of property within a special district's boundaries, a municipality has the option to elect the assumption of the special service responsibilities. If the municipality elects to assume the responsibilities, the municipality and special district may enter into an interlocal agreement to address the transition. If no interlocal agreement can be reached, then the district remains the service provider in the annexed area for a period of four years. During this time, the municipality pays the district an amount equal to the ad valorem taxes or assessment that would have been collected had the property remained in the district. At the end of the four years, or other agreed upon extension, the municipality and district must enter into an agreement regarding the transfer of district property located within the municipality. If no agreement is reached, then the parties proceed to circuit court. District service and capital expenditures within the annexed area must rationally relate to the annexed area's service needs, and those service and capital expenditures must also relate to received revenues. In addition, a district is prohibited from having a capital expenditure of more than $25,000 for use primarily within the annexed area without the express consent of the municipality.

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

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

MUNICIPAL CONTRACTION OR DEANNEXATION

In addition to adding land, municipalities also may redraw their boundaries through the *contraction* process. *Contraction*, also referred to as *deannexation*, is the reversion or removal of real property from municipal boundaries so that the removed section becomes an unincorporated area and is governed by the county. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations. The deannexation process is described in section 171.051, Florida Statutes.

The city may propose an area for exclusion, or 15 percent of the qualified voters residing in an area may petition the municipal government body to exclude that area from the city limits. If the contraction proposal is initiated by petition of the area's residents, the governing body must conduct a feasibility study of the proposal and, within six months, decide to initiate contraction procedures or reject the petition and state the factual basis for such rejection.

Regardless of how the proposal is initiated, if the decision is made to seek contraction of the city's boundaries, the governing body must publish notice of the proposed contraction ordinance in a local newspaper once per week for two consecutive weeks. This notice must:

- describe the area to be excluded in the form of a map clearly showing the area to be excluded;
- show that the area fails to meet the general standards for annexation;
- set the time and place for consideration of the contracting ordinance; and
- advise that all affected persons may be heard.

Voter approval of the contraction is required if:

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

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

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

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

- The area must fail to meet the criteria for annexation.
- The results of the contraction must not separate any portion of the municipality from the rest of the municipality.
- The contracting ordinance must provide for apportionment of any prior existing debt and property.

THE INTERLOCAL SERVICE BOUNDARY AGREEMENT ACT

Part II of chapter 171, Florida Statutes, the "Interlocal Service Boundary Agreement Act" (Act), provides an alternative process for annexation that allows counties and municipalities to jointly determine how services are provided to residents and property. The Act is intended to establish a more flexible process for adjusting municipal boundaries and to address a wider range of the effects of annexation. This act also is intended to encourage intergovernmental coordination in planning, service delivery, and boundary adjustments and to reduce intergovernmental conflicts and litigation between local governments.

Section 171.203, Florida Statutes, authorizes the governing body of a county and one or more municipalities or independent special districts to enter into an interlocal service boundary agreement. The county, municipality or independent special district may develop a process for reaching an interlocal service boundary agreement that meets certain requirements, or use the process provided in this section.

INITIATING RESOLUTION

The process outlined in section 171.203, Florida Statutes, provides that negotiations for an interlocal service boundary agreement are initiated when a county, a municipality or an independent special district adopts an initiating resolution. The initiating resolution must identify an unincorporated area or incorporated area, or both, and the issues to be negotiated. The initiating resolution must include a map or legal description of the unincorporated or incorporated area to be discussed. An independent special district may initiate an interlocal agreement for the sole purpose of dissolving the district, or removing more than 10 percent of the taxable or assessable value of the district. A county's initiating resolution must designate one or more invited municipalities,

while a municipality's initiating resolution may designate an invited municipality. An initiating resolution from an independent special district must designate one or more municipalities and invite the county.

RESPONDING RESOLUTION

Copies of a county's or municipality's initiating resolution must be provided to every invited municipality, all other municipalities in the county, and each independent special district in the unincorporated area identified in the resolution. Within 60 days of receipt of an initiating resolution, the county or invited municipality must adopt a responding resolution. This responding resolution may identify an additional unincorporated area or, incorporated area, or both, and may designate additional issues for negotiation. The responding resolution may also invite an additional municipality or independent special district to negotiate. A municipality within the county that is not invited may request participation in the negotiations within a prescribed time frame and the county and invited municipality must consider this request.

After the parties to the negotiations have been determined through the adoption of various resolutions, the county, invited municipalities, participating municipalities, if any, and any independent special districts that elect to participate, are required to begin negotiations within 60 days after receipt of a responding or participating resolution, whichever occurs first. An invited municipality that does not adopt a responding resolution is deemed to have waived its rights to participate and is bound by an interlocal service boundary agreement that results from the negotiations. Local governments are authorized to simultaneously negotiate more than one interlocal service boundary agreement. Counties and municipalities that successfully negotiate an interlocal service boundary agreement must adopt the agreement by ordinance; an independent special district must adopt the agreement using a method consistent with its charter.

ISSUES THAT MAY BE ADDRESSED IN AN INTERLOCAL SERVICE BOUNDARY AGREEMENT

The issues that may be addressed by an interlocal service boundary agreement may include, but are not limited to: the identification of a municipal service area and unincorporated service area; the identification of the local government responsible for the delivery or funding of public safety, fire, emergency rescue and medical, water and wastewater, road ownership, construction and maintenance, conservation, parks and recreation, and storm water management and drainage services within the area; and other services and infrastructure not currently provided by an electric utility or a natural gas transmission company, as long as it does not affect any territorial agreement between electric utilities or public utilities, or affect the determination of a territorial dispute by the Florida Public Service Commission. The interlocal service boundary agreement may

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

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

- A Fire-Rescue Services Element exists for the respective county's comprehensive plan.

Additionally, the interlocal service boundary agreement may establish a process for land-use decisions consistent with part II of chapter 163, Florida Statutes, including joint land-use decisions of the county and municipality, and allowing a municipality to adopt land-use changes for areas that are scheduled to be annexed within the term of the interlocal service boundary agreement. If the agreement addresses land use planning, it must provide procedures for the preparation and adoption of plan amendments, the administration of land development regulations, and the issuance of development orders.

The agreement may address other issues related to service delivery and include the transfer of services and infrastructure, fiscal compensation to one county, municipality or independent special district from another local government or special district, and provide for the joint use of facilities and collocation of services. Finally, the agreement may require the municipality to send the county a report on its planned service delivery.

STANDING TO CHALLENGE CERTAIN PLAN AMENDMENTS

Each local government that is a party to the interlocal service boundary agreement is required to amend the intergovernmental coordination element of its comprehensive plan no later than six months following entry of the agreement consistent with section 163.3177(6)(h)1., Florida Statutes. For purposes of challenging such plan amendment, an affected person includes persons owning real property, residing, or owning or operating a business within the boundaries of the municipal service area and owners of real property abutting real property within the municipal service area that is the subject of the plan amendment, in addition to those affected persons who would have standing under section 163.3184, Florida Statutes.

REVIEW BY THE STATE LAND PLANNING AGENCY

A municipality that is party to an interlocal agreement and identifies an unincorporated area for annexation is required to adopt a plan amendment to address future possible annexation. The identified municipal service area must contain: a boundary map of the municipal service area, population projections for the area, and data supporting the provision of public services for the area. The amendment is subject to review by the Department of Community Affairs (DCA) for compliance with part II of chapter 163, Florida Statutes. However, the DCA may not review or approve or disapprove a municipal ordinance relating to municipal annexation or contraction.

CONCLUSION OF NEGOTIATIONS ON AN INTERLOCAL SERVICE BOUNDARY AGREEMENT

The duration of an interlocal service boundary agreement may be for a term of 20 years or less, and must include a provision requiring periodic review with renegotiations to begin at least 18 months prior to its termination date. Once an agreement has been reached, the county and municipality must adopt the agreement by ordinance. A special district that consents to the agreement is required to adopt the agreement using a method consistent with its charter. Nothing in part II of chapter 171, Florida Statutes, prohibits a local government from adopting an interlocal service boundary agreement without the consent of an independent special district.

If an interlocal service boundary agreement has not been reached six months after negotiations have commenced, the initiating or invited local governments may declare an impasse in the negotiations and seek to resolve the issues through the conflict resolution procedures in chapter 164, Florida Statutes. If the local governments cannot agree at the conclusion of the dispute resolution process, the local governments are required to hold a joint public hearing on the issues raised in the negotiations.

For a period of six months following the failure of the local governments to reach an agreement, the initiating local government may not initiate negotiations to require the responding local government to negotiate the same issues with respect to the same unincorporated areas. Although a local government is not required to enter into an agreement, local governments are required to negotiate in good faith to the conclusion of the process once it has been initiated. Local governments may negotiate more than one interlocal agreement simultaneously. Local government officials are encouraged to participate actively and directly in the negotiation process to develop an agreement.

Part II of chapter 171, Florida Statutes, does not impair any existing franchise agreement without the consent of the franchisee. Local governments retain their

authority to negotiate franchise agreements for the use of public rights-of-way and providing service.

ANNEXATION PROCEDURES UNDER AN INTERLOCAL SERVICE BOUNDARY AGREEMENT

Sections 171.204 and 171.205, Florida Statutes, provide procedures under which land identified in an interlocal service boundary agreement for annexation may be annexed by a municipality. These land areas may include property that may not be annexed by a municipality under part I of chapter 171, Florida Statutes. Specifically, a municipality may annex any character of land, including an area that is not contiguous to the municipality's boundaries or creates an enclave if the area is urban in character as defined in section 171.031(8), Florida Statutes. However, the agreement may not allow for the annexation of land within a municipality that is not a party to the agreement or of land that is within another county.

Land within a municipal service area, as identified in the interlocal service boundary agreement, may be annexed by the municipality using a process for annexation consistent with part I of chapter 171, Florida Statutes, or using a "flexible" process established in the interlocal agreement. The flexible process may be used to secure the consent of property owners or registered voters residing in the area proposed for annexation with notice to these individuals.

Annexation within the municipal service area must meet the consent requirements in part I of chapter 171, Florida Statutes, or the annexation may be achieved by one or more of the following: the filing of a petition for annexation signed by more than 50 percent of the registered voters in the area proposed for annexation, the filing of a petition for annexation signed by more than 50 percent of the property owners in the area proposed for annexation, or upon the approval by a majority of the registered voters in the area proposed for annexation voting in a referendum on the annexation. If the area to be annexed includes a privately owned solid waste disposal facility, the annexing municipality must set forth in its plan the impacts the annexation of the facility will have on other local governments.

Part II of chapter 171, Florida Statutes, allows the annexation of enclaves consisting of 20 acres or more within a designated municipal service area using a flexible process for securing voter consent, as provided in the interlocal service boundary agreement, with notice to those property owners and residents within the area proposed for annexation. However, the interlocal service boundary agreement may not allow annexation unless the consent requirements of part I of chapter 171, Florida Statutes, are met, the provisions described above are met, or the municipality receives a petition from one or more property owners who own real property in excess of 50 percent of the total real property in the area proposed for annexation. Enclaves consisting of less than 20 acres and with

fewer than 100 registered voters within a designated municipal service area may be annexed using a flexible process for securing the consent of the voters, as provided in the interlocal service boundary agreement, with notice to the registered voters and property owners in the area to be annexed. The flexible process may include one or more described procedures or a referendum of the registered voters who reside in the area proposed for annexation.

ANNEXATION AND CONTRACTION ACTIVITY IN FLORIDA

Under Article VIII, section 2(c) of the State Constitution, the Legislature is authorized to annex unincorporated property into a municipality by special act. The Legislature also may establish procedures by general law for annexation of property by local action. Between 1971 and 2010, the Legislature passed approximately 262 special acts for the purpose of annexing, deannexing and/or adjusting the boundaries of the state's municipalities.[42] Very little is known about the number and character of annexations accomplished by local action pursuant to general law during this same period as no statewide record exists of voluntary annexations or failed attempts at the local level.[43]

WHY SPECIAL ACTS?

There are many reasons why annexation and contraction may be attempted by special act. First, general law provisions in chapter 171, Florida Statutes, do not address the annexation of property into one city from another city. When the municipal boundaries are coterminous, a special act is needed. There may be considerable, but not unanimous or majority, support for annexation among persons residing in the area. Lastly, local or state policymakers may desire to circumvent the general law procedures.

In any case, Article III, section 10 of the State Constitution prohibits the Legislature from passing any local bill (special act) unless the bill has either been advertised in advance or is conditioned to take effect upon approval by referendum vote of the electors in the area affected.

Some examples of boundary adjustments through annexation or deannexation by special act of the Legislature within the past several years are:

Broward County/Dania Beach, chapter 2001-291, Laws of Florida

Broward County/Fort Lauderdale, chapter 2001-322, Laws of Florida

Brevard County/Satellite Beach, chapter 2001-339, Laws of Florida

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[42] Bradley and Montanaro, pp. 109-111, and Florida House of Representatives, Local Bill Statistics (Tallahassee, Florida: Florida House of Representatives, compiled yearly).
[43] Ibid.

Volusia County/Port Orange/South Daytona, chapter 2002-353, Laws of Florida

Broward County/Davie, chapter 2002-356, Laws of Florida

Broward County/Coconut Creek, chapter 2002-364, Laws of Florida

Broward County/Southwest Ranches, chapter 2002-356, Laws of Florida

Broward County/Lauderdale-By-The-Sea, chapter 2002-357, Laws of Florida

Broward County/Margate, chapter 2002-364, Laws of Florida

Lee County/Cape Coral, chapter 2002-370, Laws of Florida

Broward County/Coral Springs/Margate, chapter 2003-377, Laws of Florida

Brevard County/Melbourne, chapter 2004-434, Laws of Florida

Broward County/Coral Springs, chapter 2004-440, Laws of Florida

Broward County/Davie/Fort Lauderdale/Plantation, chapter 2004-441, Laws of Florida

Broward County/Fort Lauderdale/Oakland Park, chapter 2004-442, Laws of Florida

Broward County/Deerfield Beach, chapter 2004-444, Laws of Florida

Broward County/Pompano Beach/Deerfield Beach, chapter 2004-445, Laws of Florida

Broward County/Lauderdale-By-The-Sea/Sea Ranch Lakes, chapter 2004-446, Laws of Florida

Broward County/Weston, chapter 2004-447, Laws of Florida

Broward County/Cooper City/Southwest Ranches, chapter 2004-448, Laws of Florida

Broward County/Pompano Beach, chapter 2004-449, Laws of Florida

Broward County/Fort Lauderdale/Oakland Park, chapter 2004-452, Laws of Florida

Broward County/Davie, chapter 2005-317, Laws of Florida

Brevard County/Melbourne, chapter 2005-333, Laws of Florida

Broward County/Coral Springs/Parkland, chapter 2005-334, Laws of Florida

Broward County/Cooper City/Davie, chapter 2005-340, Laws of Florida

Broward County/Davie, chapter 2006-334, Laws of Florida

Broward County/Lauderhill, chapter 2006-351, Laws of Florida

Broward County/Pembroke Pines/Southwest Ranches, chapter 2006-362, Laws of Florida

Broward County/Tamarac, chapter 2007-294, Laws of Florida

Broward County/Lauderhill/Plantation/Fort Lauderdale, chapter 2008-282, Laws of Florida

Broward County/Tamarac, chapter 2009-252, Laws of Florida

Broward County/West Park, chapter 2009-253, Laws of Florida

Broward County/Southwest Ranches/Davie, chapter 2009-254, Laws of Florida

Broward County/Tamarac, chapter 2010-256, Laws of Florida

Broward County/Fort Lauderdale, chapter 2010-257, Laws of Florida

Broward County/Lauderhill, chapter 2010-261, Laws of Florida

Manatee County/Anna Maria/Holmes Beach, chapter 2010-262, Laws of Florida

Of particular interest is the establishment of local annexation processes different from general law. One such process was established with the passage of the *Alachua County Boundary Adjustment Act* (the Act), created by chapter 90-496, Laws of Florida, and amended by chapter 91-382, Laws of Florida. The Act creates procedures for establishing municipal reserve areas, requires designation of reserve areas within the county, and provides a procedure for boundary adjustments (annexation or contraction of municipal boundaries) within the reserve areas.

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

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

CREATIVE ANNEXATION SOLUTIONS

On occasion, there is resistance to municipal annexation by counties that perceive they will lose current and potential revenues by relinquishing jurisdiction over annexed property. This particularly becomes an issue in large counties that provide many urban services. Some of the issues that may arise include water and sewer provision, and loss of tax, impact fee or special assessment revenues for the counties.

One potential solution may be joint planning area agreements. Section 163.3177(6)(h)1.a., Florida Statutes, requires local governments to include a list of procedures to identify and implement joint planning areas and joint infrastructure service areas in the intergovernmental coordination element of their comprehensive plan. Interlocal agreements entered into between two or more units of local government can be used to delineate both planning and service provision areas in an attempt to avoid duplication and conflict between neighboring local governments.

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

The Agreement includes a map defining a joint planning area, which consists of land likely to be developed for urban purposes, and which is appropriate for

annexation. The Agreement states that: "During the term of this Agreement, the City may annex only land in the Joint Planning Area, whether voluntarily or involuntarily, but may annex any and all land in the Joint Planning Area." There are several exceptions to this general rule for voluntary annexations initiated by Universal Studios or the Orange County School Board.

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

The agreement is unusual in that it attempts to limit the City of Orlando's annexation authority in a way that may be contrary to case law.[44] However, joint planning agreements may be used creatively by local governments to avoid service delivery conflicts.[45]

CASE LAW RELATING TO ANNEXATION IN FLORIDA

The general law governing annexation, chapter 171, Florida Statutes, has been extensively litigated in the Florida courts. Much of this litigation has resulted in the affirmation of the simple language of the State Constitution and the statutes.

EXERCISE OF ANNEXATION AUTHORITY

The courts have affirmed the Legislature's power to establish and abolish municipalities by special law or by general law.[46] Additionally, the court in SCA Services of Florida, Inc. v. City of Tallahassee noted that a municipality may annex land by passing a municipal ordinance using procedures set forth in chapter 171, Florida Statutes.[47] Other cases have required that the annexation authority be exercised within the framework of due process, equal protection and other provisions of the State Constitution.[48]

Case law relating to the exercise of annexation authority also clarifies that:

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[44] City of Safety Harbor v. City of Clearwater, 330 So. 2d 840 (Fla. 2nd DCA 1976).
[45] Florida ACIR, December 20, 1995, "Local Government Function and Formation in the Service Delivery Arena: Review of Relevant Research and Law," (Florida ACIR Docket Book, June 4, 1998).
[46] State ex rel. Lee v. City of Cape Coral, 272 So. 2d 481, 483 (Fla. 1973); SCA Services of Florida, Inc. v. City of Tallahassee, 418 So. 2d 1148, 1149 (Fla. 1st DCA 1982).
[47] SCA Services, at 1150.
[48] State ex rel. Lee v. City of Cape Coral, 272 So. 2d at 483.

- The Legislature shares the power to annex with municipal corporations.[49]

- The Legislature has the ability to expressly prohibit the expansion of municipal territory by the municipal corporation's independent action.[50]

- A statute may give a municipality the authority to annex contiguous lands in any proper manner or may ratify an unauthorized exercise of authority conferred.[51]

WHEN DOES ANNEXATION TAKE EFFECT?

A parcel of land that is the subject of an annexation ordinance does not become part of the municipal corporation adopting the ordinance until the ordinance becomes final.[52] Annexation ordinances may be enacted validly even though the original petitioners for annexation transfer the land to persons who did not petition.[53] The Florida Supreme Court held that there is no absolute right to vote on proposed alterations of municipal boundaries.[54] The Court also held that the Legislature may cause annexation to occur with or without any vote or may cause annexation to occur by a single majority vote of all those affected.[55]

The significant case law activity of the Florida courts relating to annexation can be categorized into three issue categories:

- taking private property without just compensation;
- improper delegation of legislative authority to change municipal boundaries; and
- the right to vote in annexation referendums.

PRIVATE PROPERTY RIGHTS

With regard to private property, the courts may restrain the legislative prerogative where the annexation in question is found to be unreasonable.[56] The major considerations for determining the reasonableness of an annexation include:

- benefits and services rendered in relation to the taxes imposed on the annexed property;

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[49] State ex rel. Davis v. City of Stuart, 120 So. 335, 341 (Fla. 1929); SCA Services, 418 So. 2d at 1149.
[50] City of Ft. Lauderdale v. Town of Hacienda Village, 172 So. 2d 451, 453 (Fla. 1965).
[51] City of Sebring v. Harder Hall, 9 So. 2d 350, 352 (Fla. 1942).
[52] MacKinlay v. City of Stuart, 321 So. 2d 620, 623 (Fla. 4th DCA 1975).
[53] Ibid., pp. 622-623.
[54] Capella v. City of Gainesville, 377 So. 2d 658, 661 (Fla. 1979) at 661.
[55] Ibid.
[56] State ex rel. Bower v. City of Tampa, 316 So. 2d 570, 571-72 (Fla. 2nd DCA 1975).

- the nature of the annexed land; and
- legislative policy.[57]

Even if land is suitable for annexation, the court will not allow the annexation to take place if it would constitute a "palpably arbitrary, unnecessary, and flagrant invasion of personal and property rights."[58] Unreasonable annexations have been found where city taxes were imposed for which the landowner received no benefits, and where boundaries were extended for revenue purposes only.[59]

Lands are illegally included in a municipality if the lands are so remote from any municipal facility that they can receive no municipal benefits.[60]

IMPROPER DELEGATION OF LEGISLATIVE AUTHORITY TO CHANGE MUNICIPAL BOUNDARIES

Municipalities may not enter into contracts under certain circumstances. For instance, a party cannot contract with a municipality where the result would be the complete removal of the police powers of the municipality.[61] Municipal contracts promising not to impose taxes, or granting tax exemptions, are likewise void in the absence of specific constitutional or legislative authority.[62] Municipalities also may not contract away their power to annex land.[63] If an agreement limits or restricts the elected representatives of a governing body and their duly elected successors in the exercise of their governmental powers, the agreement is inoperative.[64] Because the power to annex is governmental, such power cannot be contracted away.[65] A city may not be rendered impotent to exercise governmental functions and to modify or change its policies.[66]

An annexation statute may delegate too much power to the judiciary, which violates the separation of powers between the branches of government. Annexation, being exclusively a legislative function, cannot be delegated to, or exercised by, a non-legislative body such as the judiciary.[67] Thus, a statute that leaves a court with the discretion to determine the conditions or circumstances

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[57] Ibid., p. 572.
[58] Gillete v. City of Tampa, 57 So. 2d 27, 29 (Fla. 1952).
[59] Ibid.
[60] Town of Mangonia Park v. Homan, 118 So. 2d 585, 588 (Fla. 2nd DCA 1960); State ex rel. Landis v. Town of Boca Raton, 177 So. 293, 293 (Fla. 1937).
[61] P.C.B. Partnership v. City of Largo, 549 So. 2d 738, 741 (Fla. 2nd DCA 1989).
[62] Lykes Brothers, Inc. v. City of Plant City, 354 So. 2d 878, 880 (Fla. 1978).
[63] City of Safe Harbor v. City of Clearwater, 330 So. 2d 840, 841 (Fla. 2nd DCA 1976).
[64] Ibid., p. 842.
[65] Ibid.
[66] Ibid.
[67] City of Auburndale v. Adams Packing Association, 171 So. 2d 161, 163 (Fla. 1965) at 163.

on which the change of municipal boundaries will be permitted violates the constitutional separation of powers.[68]

Instead, a statute should charge the court with the judicial function of determining whether conditions or circumstances prescribed by the Legislature have been met or performed.[69] Statutes that leave the determination of whether annexation is "desirable, necessary, advisable, in the best interest of the inhabitants of the city or annexed area, or ought in justice and equity be allowed" to the courts are unconstitutional because they allow the exercise of a legislative power to the judiciary: the determination of the conditions when annexation should take place.[70] Also, the drawing of boundary lines for annexation and the guidelines and definitions for annexation are legislative functions that cannot be carried out by the judiciary.[71]

EQUAL PROTECTION/DUE PROCESS/THE RIGHT TO VOTE IN ANNEXATION REFERENDUMS

Another reason for declaring an annexation statute unconstitutional is that the statute may violate a person's right to due process or equal protection. Although the Legislature has the power to annex, the Legislature cannot violate rights set forth in the State Constitution, whether those rights are express or implied.[72] A statute violates the equal protection guarantee if there is a gross and glaring territorial inequality. This can occur when there is a sudden, unreasonable and wholesale extension of municipal boundaries that envelopes an area many times the size of the original city without any municipal benefit to that area and subjects that area to municipal taxation.[73]

Due process is not violated where notice of annexation is broad enough so that an average person may reasonably foresee that his interest may be affected by the proposed legislation.[74] Likewise, if a statute gives each affected, qualified elector the right to vote, the equal protection clause will not be violated, even if the number of qualified electors in the municipality seeking to annex the land outweighs those electors in the unincorporated land.[75]

In City of Tallahassee v. Kovach,[76] the court held that landowners did not have the statutory standing to contest annexation of property by a city when their property was surrounded on three sides by the property proposed for annexation.

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[68] Ibid.
[69] Ibid.
[70] Ibid.
[71] State ex rel. Davis v. City of Largo, 149 So. 420, 422 (Fla. 1933); See, also A.B.A. Industries, 366 So. 2d 761, 763 (Fla. 1979).
[72] State ex rel. David v. City of Stuart, 120 So. at 348.
[73] Ibid., p. 349.
[74] North Ridge General Hospital, Inc. v. City of Oakland Park, 374 So. 2d 461, 464 (Fla. 1979).
[75] Capella v. City of Gainesville, 377 So. 2d at 661.
[76] City of Tallahassee v. Kovach, 733 So. 2d 576 (Fla. 1st DCA 1999).

Section 171.081, Florida Statutes, grants standing to challenge annexation to three categories of parties: those parties who own property within the annexing municipality, those parties who reside within the annexing municipality, and those parties owning property that is proposed to be annexed.[77] Close proximity to the proposed property for annexation is not enough.[78] However, even if a party does not have standing to sue under the Municipal Annexation or Contraction Act, they are not deprived of access to the courts under Article I, section 21 of the State Constitution, which provides that the courts are open to every person for redress of any injury.[79]

ATTORNEY GENERAL OPINIONS RELATING TO ANNEXATION

VOLUNTARY ANNEXATION

In 1977, the Attorney General (AG) stated that cities using the voluntary method of annexation are not required to hold a referendum on the question.[80] In 1978, an AG opinion declared that cities using the voluntary annexation method need not meet the criteria for involuntary annexation.[81]

In 1987, the AG declared that a municipality may not voluntarily annex land occupied by a single condominium without a petition signed by all owners of units in the condominium. Section 718.106(1), Florida Statutes, provides that all owners of units in a condominium are owners of separate parcels of real property. Thus, a petition to a municipality for voluntary annexation must bear the signatures of all owners of units in a condominium pursuant to section 171.044(2), Florida Statutes.[82]

In 2007, the AG determined that a municipality could consider whether annexed property would provide a net benefit consistent with the statutory prerequisites for annexation and character of the area to be annexed as provided in sections 171.042 and 171.043, Florida Statutes.[83]

INVOLUNTARY ANNEXATION

A significant 1996 AG Opinion related to public roads within the state, county and municipal road systems. Such roads may not be considered in the calculation of ownership of land when trying to determine if more than 70 percent of the land is

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[77] Ibid. at 577-578.
[78] Ibid.
[79] Ibid. at 580.
[80] 1977 Op. Att'y Gen. Fla. 77-133 (December 20, 1977).
[81] 1978 Op. Att'y Gen. Fla. 78-121 (October 12, 1978).
[82] 1987 Op. Att'y Gen. Fla. 87-54 (June 1, 1987).
[83] 2007 Op. Att'y Gen. Fla. 2007-38 (September 24, 2007).

owned by entities which are not registered electors of the area proposed to be annexed pursuant to section 171.0413(5), Florida Statutes.[84]

In 2005, the AG opined that privately owned rights-of-way, water bodies, and condominiums must be considered in the calculation of ownership of land by non-registered elector owners. Section 171.0413(5), Florida Statutes, requires the consent of the owners of more than 50 percent of the land if more than 70 percent of the land in the area proposed to be involuntarily annexed is owned by individuals, corporations, or legal entities that are not registered electors of such area. Thus, the overall calculation must include privately owned rights-of-way, water bodies, and each non-registered elector owner's condominium property.[85]

SUPPLY OF WATER AND SEWER

In 1986, an AG Opinion stated that a city is not required to supply water and sewer to property outside of its jurisdiction, and may limit services to property falling within its municipal boundaries. In this situation, no charter, statutory provision or contractual agreement required the city to furnish water and sewer to areas outside of its jurisdiction. Therefore, a city may refuse to provide such municipal services until such time as the property is annexed.[86] This opinion is similar to one decided by the Florida Supreme Court on September 19, 1996. In Allen's Creek Properties, Inc. v. City of Clearwater, the court held that the city could condition the provision of sewer service on annexation.[87]

ENFORCEMENT OF TRAFFIC LAWS

In 1989, the AG determined that police departments are authorized by section 316.640(3)(a), Florida Statutes, to enforce state traffic laws on state roads that are within the geographical limits of the city although the road itself has not been annexed. This AG conclusion was based on an earlier opinion that authorized municipalities to provide police protection on federal highways and state roads that are physically located within corporate municipal boundaries.[88]

PROHIBITION AGAINST AD VALOREM TAX REBATE

A 1990 AG Opinion states that a city may not provide incentives for the annexation of property into a municipality by passing an ordinance allowing a rebate of a portion of the ad valorem taxes collected on newly annexed property. Under section 166.021, Florida Statutes, municipalities possess broad home rule powers granted by Article VIII, section 2(b) of the State Constitution. This broad power does not, however, include the power to levy taxes. The rebate of a

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[84] 1996 Op. Att'y Gen. Fla. 96-74 (September 25, 1996).
[85] 2005 Op. Att'y Gen. Fla. 2005-01 (January 27, 2005).
[86] 1986 Op. Att'y Gen. Fla. 86-05 (January 16, 1986).
[87] Allen's Creek Properties, Inc. v. City of Clearwater, 679 So. 2d at 1172.
[88] 1989 Op. Att'y Gen. Fla. 89-57 (September 13, 1989).

portion of the ad valorem taxes paid on newly annexed property provides an indirect exemption from taxation that has no constitutional or statutory basis. Thus, the city may not provide for a rebate on ad valorem taxes without constitutional or statutory authority allowing such action.[89]

CONTRACTION

In 1991, the AG opined that a municipality may contract its boundaries or exclude certain property previously annexed into the city by following contracting procedures set forth in section 171.051, Florida Statutes. However, only those areas that do not meet the criteria for annexation may be proposed for exclusion by municipal governing bodies. Section 171.043, Florida Statutes, sets forth the criteria for annexation. Once a territory is excluded from a municipality, that land is no longer subject to any laws, regulations or ordinances in force in the municipality from which it was excluded. The land is subject to all laws, regulations and ordinances in force in the county.[90]

In 1998, the AG opined that a municipality may not contract an undeveloped and unimproved island that is surrounded on all sides by incorporated property because the property meets the annexation requirements of section 171.043, Florida Statutes.[91] In addition, although the contraction would not create an enclave due to the property being undeveloped or unimproved, the contraction has the same effect of an enclave because it frustrates the purpose of the Municipal Annexation or Contraction Act by creating a pocket of unincorporated land within municipal boundaries.

CITY CHARTERS

In 2004, the AG opined that a municipality may not amend the procedures for annexing property prescribed by chapter 171, Florida Statutes, by city charter. Thus, a municipality may not require an ordinance providing for a voluntary annexation to be submitted for referendum when the statute providing for voluntary annexation does not provide for such a referendum.[92]

APPEALS

In 2007, the AG considered whether a property owner who has petitioned for annexation may appeal a denial under section 171.081, Florida Statutes. The AG concluded that while section 171.081, Florida Statutes, did not specifically address the denial of a request for voluntary annexation, the terms were broad enough to encompass any affected party who believes he or she will suffer material injury by the municipality's failure to either comply with the procedures in

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[89] 1990 Op. Att'y Gen. Fla. 90-23 (March 20, 1990).
[90] 1991 Op. Att'y Gen. Fla. 91-21 (March 26, 1991).
[91] 1998 Op. Att'y Gen. Fla. 98-076 (December 10, 1998).
[92] 2004 Op. Att'y Gen. Fla. 2004-24 (April 30, 2004).

chapter 171, Florida Statutes, for annexation or to meet the requirements established for annexation as applied to the subject property. Consequently, the owner of property subject to voluntary annexation may seek certiorari review under section 171.081, Florida Statutes, as a party affected by the actions of the municipality.[93]

SUGGESTED READING

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[93] 2007 Op. Att'y Gen. Fla. 2007-38 (September 24, 2007).

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CHAPTER 4

CITY/COUNTY CONSOLIDATIONS

SUMMARY

This chapter discusses the constitutional and statutory provisions relating to the consolidation of city and county governments. The chapter also provides a brief history of constitutional activity relating to consolidation, and provides a list of those governments that have attempted to consolidate in Florida since 1967.

HISTORY OF CITY/COUNTY CONSOLIDATIONS

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

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

Few successful city-county consolidations have occurred in the United States. Of the nearly 3,068 county governments in the United States, only 38 are combined city/county governments.[94] The successful consolidations are noted below in **Table 4.1**.

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

TABLE 4.1
APPROVED CITY/COUNTY MERGERS WITHIN UNITED STATES

CITY/COUNTY CONSOLIDATED GOVERNMENTS	MERGER DATE
New Orleans-Orleans Parish, Louisiana	1805
Nantucket Town-Nantucket County, Massachusetts	1821
Boston-Suffolk, Massachusetts	1821
Philadelphia-Philadelphia, Pennsylvania	1854
San Francisco-San Francisco County, California	1856
New York (Five Boroughs), New York	1890s
Denver-Denver County, Colorado	1902
Honolulu-Honolulu County, Hawaii	1907
Baton Rouge-East Baton Rouge Parish, Louisiana	1947
Hampton-Elizabeth City County, Virginia*	1952
Newport News-Warwick County, Virginia*	1957
Chesapeake-South Norfolk-Norfolk County, Virginia*	1962
Virginia Beach-Princess Anne County, Virginia*	1962
Nashville-Davidson County, Tennessee	1962
Jacksonville-Duval County, Florida	1967
Juneau-Greater Juneau County, Alaska	1969
Carson City-Ormsby County, Nevada*	1969
Indianapolis-Marion County, Indiana	1969
Columbus-Muscogee County, Georgia	1970
Stika-Greater Sitka County, Alaska	1971
Lexington-Fayette County, Kentucky	1972
Suffolk-Nansemond County, Virginia*	1972
Anchorage-Greater Anchorage County, Alaska	1975
Anaconda-Deer Lodge County, Montana	1976
Butte-Silver Bow County, Montana	1976
Houma-Terrebonne Parish, Louisiana	1984
Lynchburg City-Moore County, Tennessee	1988
Athens-Clarke County, Georgia	1990
Lafayette-Lafayette Parish, Louisiana	1992
Augusta-Richmond County, Kansas	1995
Kansas City-Wyandotte County, Kansas	1997
Louisville-Jefferson County, Kentucky	2000
Hartsville-Troosdale County, Tennessee	2000
Haines City-Haines Borough Arkansas	2002
Cusseta City-Chattahoochee County, Georgia	2003
Georgetown/Quitman County, Georgia	2006
Tribune/Greeley County, Kansas	2007
Preston/Webster County, Georgia	2008

**Denotes independent cities that historically are city-county consolidations.*

Source: Jacqueline Byers, Director of Research, National Association of Counties

THE FLORIDA CONSTITUTION AND CONSOLIDATION

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

The 1933 Legislature passed a joint resolution to amend the Constitution declaring its own power to establish a municipal corporation consolidating the governments of Duval County and any of the municipalities within its boundaries, subject to referendum approval of the affected voters.[95] The electorate of Florida adopted this amendment in 1934. However, the voters of the City of Jacksonville and Duval County did not adopt a municipal charter pursuant to this constitutional provision until 1967.[96]

In 1935, the Legislature enacted a joint resolution to amend the Constitution, adopted by the Florida electorate in 1936, establishing similar legislative authority, subject to voter approval, with respect to Key West and Monroe County.[97] The citizens of Key West and Monroe County have not voted to employ this authority and enact a consolidated government.

In 1965, the Legislature passed a constitutional amendment, adopted by the Florida electorate in 1966, authorizing consolidation in Hillsborough County in a slightly different manner. This constitutional provision directly authorizes the electors of Hillsborough County to adopt a county charter, conditioned upon the consolidation of the governments of the City of Tampa and the county.[98] This authority also has not been exercised. Hillsborough County, however, became a charter county pursuant to general law in 1983.[99]

Presently, only Duval County and the City of Jacksonville have taken advantage of the specific constitutional authority to consolidate. However, the enabling amendments to the 1885 Constitution for the consolidation of the City of Key West and Monroe County, and the consolidation of the City of Tampa and

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[95] Florida Constitution of 1885, Article VIII, section 9 (1934). Referenced in the Florida Constitution of 1968, Article VIII, section 6 (1968), as amended January 1999.
[96] Jacksonville Ordinance Code, Volume III (containing the Charter and Related Laws of the City of Jacksonville, Florida), (Tallahassee, Florida: Municipal Code Corporation, 1991), C-1.
[97] Florida Constitution of 1885, Article VIII, section 10 (1936). Referenced in the Florida Constitution of 1968, Article VIII, section 6 (1968), as amended January 1999.
[98] Florida Constitution of 1885, Article VIII, section 24 (1966). Referenced in the Florida Constitution of 1968, Article VIII, section 6 (1968), as amended January 1999.
[99] Home Rule Charter for Hillsborough County Florida, (Tampa, Florida: Hillsborough County Board of County Commissioners, September 1983), Introduction.

Hillsborough County, remain a part of the State Constitution, adopted by reference in Article VIII, section 6(e) of the State Constitution.

The 1955 Legislature authorized the voters of Dade County to enact a home rule charter through an amendment to the 1885 State Constitution.[100] This constitutional provision did not authorize consolidation as authorized for the other three counties. However, the provision empowered the electors of Miami-Dade County through their charter to: 1) create a central metropolitan government; 2) merge, consolidate and abolish all municipal corporations, county, or district governments in the county; and 3) provide a method by which any and all of the functions or powers of any municipal corporation or other governmental entity in Miami-Dade County may be transferred to the board of county commissioners.

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

FLORIDA STATUTES SPECIFICALLY ADDRESSING CONSOLIDATED GOVERNMENTS

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

RETIREMENT AND PENSION RIGHTS

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

In addition to protecting pension and retirement benefits, the law in subsections 121.081(1)(f) and (g), Florida Statutes, lays out the conditions under which past or prior service may be claimed and credited for purposes of calculating

[100] Florida Constitution of 1885, Article VIII, section 11, (1956). Referenced in the Florida Constitution of 1968, Article VIII, section 6 (1968), as amended January 1999.

retirement benefits. For officers and employees of any county or city involved in a consolidation, the following conditions apply:

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

- Past-service credit will be given.

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

TAXATION AND FINANCE

There are several statutes that financially affect consolidated governments. These laws relate generally to:

- millage determination;

- local option taxes; and

- revenue sharing.

For purposes of the determination of millage rates for ad valorem taxing purposes, the government of Miami-Dade County and the consolidated government of Jacksonville/Duval County are defined as county governments.[101] Except for voted levies, cities and counties are constitutionally limited to a millage cap of 10 mills for municipal purposes and 10 mills for county purposes. However, because consolidated governments provide both municipal and county services, section 200.141, Florida Statutes, grants Miami-Dade and consolidated Jacksonville/Duval Counties the right to levy a millage up to 20 mills on the dollar of assessed valuation.

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

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[101] Section 200.001(8), Florida Statutes.

EXPORT TRADE

Section 125.025, Florida Statutes, provides that each county that operates under a government consolidated with one or more municipalities in the county has the power to:

- own, maintain, operate and control export trading companies and foreign sales corporations as provided by the laws of the United States;

- own, maintain, operate and control cargo clearance centers and customs clearance facilities and corporations established for the purpose of providing or operating such facilities;

- maintain the confidentiality of trade information to the degree provided by the Export Trading Company Act of 1982, Pub. L. No. 97-290, as it is amended from time to time;

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

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

FLORIDA CONSOLIDATION ACTIVITY

No successful consolidation activity in Florida has occurred since the consolidation of Duval County and the City of Jacksonville in 1967. Despite the perceived benefits of streamlining governmental processes, and the Legislature's attempts to simplify the process, Floridians have consistently rejected consolidation proposals at the polls. Below is a list of failed attempts at consolidation in Florida since 1967, along with a vote count, where data is available.

1967 Tampa/Hillsborough County
(County: 11,400 for/28,800 against)

1970 Pensacola/Escambia County
(County: 4,550 for/22,600 against)
(City: 5,350 for/7,700 against)

1970 Tampa/Hillsborough County
(County: 37,250 for/51,550 against)

1971 Tallahassee/Leon County
(County: 10,400 for/14,750 against)

1972 Fort Pierce/St. Lucie County
(County: 3,000 for/6,500 against)
(City: 2,050 for/2,250 against)

1972 Tampa/Hillsborough County
(County: 54,700 for/74,900 against)

1973 Tallahassee/Leon County
(County: 11,050 for/12,850 against)

1975 Gainesville/Alachua County
(County: 5,100 for/15,100 against)

1976 Gainesville/Alachua County
(County: 6,300 for/13,250 against)

1976 Tallahassee/Leon County
(County: 20,350 for/24,850 against)

1979 Okeechobee/Okeechobee County
(County: 1,150 for/2,350 against)

1985 Halifax area/Volusia County
(County: 19,050 for/23,450 against)

1989 Okeechobee/Okeechobee County
(County: 1,350 for/3,100 against)

1990 Gainesville/Alachua County
(County: 11,000 for/21,800 against)

1991 Tallahassee/Leon County
(County: 36,800 for/55,800 against)

In addition to the consolidation attempts that went to referendum, there have been efforts that stopped short of the ballot in Brevard, Charlotte, Columbia, Escambia, Hardee, Highlands and St. Lucie Counties.

SUGGESTED READING

Case Studies of Consolidation Attempts

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General

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FOR FURTHER INFORMATION

General Information

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Tallahassee, Florida 32302-0549
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Post Office Box 1757
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Office of Economic and Demographic Research
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Tax Information

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Department of Revenue
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http://dor.myflorida.com/dor

CHAPTER 5

SPECIAL DISTRICTS

SUMMARY

Special district governments are special purpose government units that exist as separate entities and have substantial fiscal independence and administrative independence from general purpose governments. Special district governments have existed in the United States for over 200 years and are found in every state and in the District of Columbia.

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

As of July 1, 2011, there were 626 active dependent special districts and 995 active independent special districts in Florida.[102] Community development districts are the most frequently created form of independent special district. Other common special districts in Florida include water control districts, fire control districts and community redevelopment districts.[103]

SPECIAL DISTRICTS IN THE UNITED STATES

Benjamin Franklin established the first special district on December 7, 1736, when he created the Union Fire Company of Philadelphia, a volunteer fire department. Residents in a certain neighborhood paid a fee to receive fire protection. Any resident not paying the fee had no fire protection services.

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[102] Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, Official List of Special Districts Online, *County and State Totals*. http://www.floridaspecialdistricts.org/OfficialList/totals.cfm#Totals (last visited July 1, 2011) As of October 1, 2011, the Florida Department of Economic Opportunity, Division of Community Development. http://dca.deo.myflorida.com/fhcd/sdip/Officialhistdeo/criteria.cfm.

[103] Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, Official List of Special Districts Online, *Special District Function Totals*. http://www.floridaspecialdistricts.org/OfficialList/functiontotals.cfm (last visited July 1, 2011) As of October 1, 2011, the Florida Department of Economic Opportunity, Division of Community Development. http://dca.deo.myflorida.com/fhcd/sdip/Officialhistdeo/criteria.cfm.

Soon, many volunteer fire departments formed throughout Philadelphia. This prompted Franklin to boast that his city had the best fire service in the world.[104]

Special district governments provide specific services that are not being supplied by existing general-purpose governments. Most of these entities perform a single function, but, in some instances, their enabling legislation allows them to provide several, usually related, types of services. The services provided by these districts range from such basic social needs as hospitals and fire protection to the less conspicuous tasks of mosquito abatement and the upkeep of cemeteries[105].

The 2002 U.S. Census of Governments cited the following advantages of special districts:

- Because most special districts perform only one function, or a very limited number of functions, their establishment allows a greater degree of concentrated effort in providing services.[106]

- As new programs are initiated, or new services are required, the establishment of special districts may eliminate the need to increase the burden on general purpose governments, which may be unable to meet the fiscal requirements necessary to implement these new programs.[107]

- Debt and tax limitations are further stimulants for creating special districts for raising both capital construction and operating expenditure funds.[108]

In 2007, special district governments[109] rose in number to a total of 37,381 nationwide, an increase of more than 6.6 percent, since the 2002 Census of

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[104] Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, *Florida Special District Handbook* Online at section 1-1 (July 2011), available at http://www/floridaspecialdistricts.org/handbook/SDHandbook.pdf (hereinafter Special District Handbook Online 2011). As of October 1, 2011, the Florida Department of Economic Opportunity, Division of Community Development. http://www.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-information-program/handbook.html

[105] Of the 35,052 special district governments reported in the U.S. in 2002, over 90 percent performed a single function. More than 36 percent of all special district governments performed functions related to natural resources, such as drainage and flood control, irrigation, and soil and water conservation. The next most frequent function performed by such units is fire protection, followed by housing and community development and sewerage. The remaining special districts performed a variety of functions. Most of the units recognized as multiple-function in nature involve some combination of water supply with other services, most commonly sewerage services. A total of 5,011 special district governments (14.3 percent) provided water supply either as the sole function or as one of a combination of functions. 2002 Census of Governments [GC02(1)-1]. U.S. Census Bureau, pp. viij (Dec. 2002)

[106] 2002 Census of Governments [GC02(1)-1], U.S. Census Bureau, pp. vii (Dec. 2002).

[107] 2002 Census of Governments [GC02(1)-1], U.S. Census Bureau, pp. vii-viii (Dec. 2002).

[108] Ibid.

Governments. The number of special district governments reported was more than three times the number of special district governments reported in 1952.[110]

The number of special district governments varies considerably among the states, and has only a weak relationship to population size. The following 13 states, each having at least 1,000 special district governments, account for nearly 60 percent of all special districts.[111]

STATE	NO. OF SPECIAL DISTRICTS	STATE	NO. OF SPECIAL DISTRICTS
Illinois	3,249	Nebraska	1,294
California	2,765	Indiana	1,272
Texas	2,291	Washington	1,229
Colorado	1,904	New York	1,119
Missouri	1,809	Florida	1,051
Pennsylvania	1,728	Oregon	1,034
Kansas	1,531		

BRIEF HISTORY OF SPECIAL DISTRICTS IN FLORIDA[112]

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

Early Floridians realized that the transportation needs of a growing territory could be effectively managed by a group of local citizens organized into a district with vested powers. During the same session that the decision was made to move

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[109] In order to be counted as a special district government, rather than be classified as a subordinate agency, an entity must possess three attributes—existence as an organized entity, governmental character, and substantial autonomy. U.S. Census Bureau, 2007 Census of Governments, Lists & Structure of Governments, Population of Interest, *Criteria for Classifying Governments,* http://www.census.gov/govs/go/population of interest.html (last visited Nov. 18, 2010).

[110] U.S. Census Bureau, 2007 Census of Governments, Local Governments and Public Schools Systems by Type and State: 2007, http://www.census.gov/govs/cog/GovOrgTab03ss.html (last visited Nov. 18, 2010).

[111] Ibid.

[112] The "Brief History of Special Districts in Florida" has been reprinted from the, Florida Special District Handbook Online. *Special District Handbook Online 2010, supra* note 94 at section 1-1.

the capital, the Territorial Legislature authorized the creation of the first special districts in Florida by enacting the Road, Highway, and Ferry Act of 1822. Created to establish and maintain public roads, the first road districts had no taxation authority and solved their labor needs by conscription. Men failing to report to work were fined one dollar per day.

In 1845, soon after Florida became a state, the Legislature established the first special district by special act. Five commissioners were empowered to drain the "Alachua Savannah." To finance the project, the first special assessments were levied on landowners based on the number of acres owned and the benefit derived. The popularity of special districts to fund public works continued throughout the end of the 19th century as more settlers came to Florida.

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

LEGISLATIVE REVIEW OF SPECIAL DISTRICTS

In 1972, approximately 1,200 independent and dependent special districts were identified in Florida; however, the exact number was unknown. The 1972 Commission on Local Government investigated the role of special districts in Florida. Commission staff reported that "special districts have been 'invisible government,' virtually unidentifiable." One of the Commission's recommendations was that the Legislature, except for specific chapters, should repeal all general law enabling legislation authorizing the creation of special districts.

During the 1970s, other concerns were raised about these "phantom units of government" and the lack of special district accountability. Newspaper articles were published regarding illegal tax levies and the misuse of bond proceeds by special districts. In 1974, the Legislature enacted the "Formation of Local Governments Act"[113] which, with the exception of counties with a home rule charter, was designed to provide the exclusive procedure for creating special districts. Under this act, a charter creating a special district could only be adopted by special act of the Legislature or by ordinance of a county or municipal governing body having jurisdiction over the affected area.

[113] Chapter 165, Florida Statutes, now known as the "Formation of Municipalities Act."

Meanwhile, special districts created for land development activities, capital improvements and the delivery of urban community development services received legislative attention. In 1975, the Legislature enacted the "New Communities Act of 1975" to address these limited multi-purpose districts.[114]

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

THE UNIFORM SPECIAL DISTRICT ACCOUNTABILITY ACT

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

- restriction on county and city creation of districts to dependent districts only;
- repeal of creation procedures in conflict with chapter 165, Florida Statutes;
- repeal of special district election procedures in conflict with the Florida Election Code; and
- administration of special district bond funds by a court-approved trustee.

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

In 1989, the Legislature enacted chapter 189, Florida Statutes, the "Uniform Special District Accountability Act" (Act). The overall legislative purpose of the Act was to consolidate and unify the provisions of existing law relating to the creation and accountability of special districts.[115] One of the statute's primary goals is to "[c]larify special district definitions and creation methods in order to ensure consistent application of those definitions and creation methods across all levels of government."[116]

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[114] Chapter 163, Florida Statutes. This act was subsequently replaced by chapter 190, Florida Statutes, the Uniform Community Development District Act of 1980.
[115] Section 189.402(2)(a)-(d), Florida Statutes; Forsythe v. Longboat Key Beach Erosion Control Dist., 604 So.2d 452 (Fla. 1992).
[116] Section 189.402(2)(e), Florida Statutes.

The Act continues to provide for the general governance of special districts, although it excludes certain types of special districts from specified provisions of the Act. The Act addresses issues such as the creation of special districts, operations, financial reporting requirements, funding authority, election of board members, compliance with general law provisions such as public records and meetings requirements, and comprehensive planning within special districts.

The Act defines a "special district" as "a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet."[117] A special district has only those powers expressly provided by, or which can be reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county. Special districts do not include:

- general purpose local governments (cities and counties);
- school districts;
- community colleges;
- Seminole and Miccosukee Tribe Special Improvement Districts;
- municipal service taxing or benefit units;
- boards which provide electrical service and are political subdivisions of a municipality or are part of a municipality; and
- entities with governing boards that do not have policymaking powers, such as advisory boards.

"DEPENDENT" AND "INDEPENDENT" SPECIAL DISTRICT CLASSIFICATIONS

The Act establishes criteria for determining whether a special district is a "dependent special district" or an "independent special district." The distinction is crucial for several reasons, including the fact that requirements for the creation of special districts vary depending on whether the special district is dependent or independent.[118]

Dependent Special Districts

A "dependent special district" is defined as a special district that meets at least one of the following criteria:

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[117] Section 189.403(1), Florida Statutes.
[118] Forsythe, 604 So.2d at 454.

- The membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; or
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.[119]

As of July 1, 2011, there were 626 active dependent special districts in Florida.[120] As illustrated in Appendix E, dependent special districts perform a variety of functions in Florida.

Independent Special Districts

An "independent special district" is defined by the Act as a special district that is not a dependent special district as defined in statute.[121] A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.[122] As of July 1, 2011, there were 995 active independent special districts in Florida.[123] Appendix F illustrates the broad range of functions performed by independent special districts in Florida, as well as general law that is specifically applicable to the districts, if any.

Independent special districts do not possess home rule power. Therefore, the only powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or by general law.[124]

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[119] Section 189.403(2), Florida Statutes.
[120] Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, Official List of Special Districts Online, *County and State Totals*, http://www.floridaspecialdistricts.org/OfficialList/totals.cfm#Totals (last visited July 1, 2011). As of October 1, 2011, the Florida Department of Economic Opportunity, Division of Community Development. http://dca.deo.myflorida.com/fhcd/sdip/Officialhistdeo/criteria.cfm.
[121] Section 189.403(3), Florida Statutes.
[122] Ibid.
[123] Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, Official List of Special Districts Online, *County and State Totals,* http://www.floridaspecialdistricts.org/OfficialList/totals.cfm#Totals (last visited July 1, 2011). As of October 1, 2011, the Florida Department of Economic Opportunity, Division of Community Development. http://dca.deo.myflorida.com/fhcd/sdip/Officialhistdeo/criteria.cfm.
[124] State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist., 408 So.2d 1067 (Fla. 1st DCA 1982).

FORMATION OF DEPENDENT AND INDEPENDENT SPECIAL DISTRICTS

The Act provides that "[i]t is the specific intent of the Legislature that dependent special districts shall be created at the prerogative of the counties and municipalities and that independent special districts shall only be created by legislative authorization as provided herein."[125] Although new dependent special districts may be created directly by the Legislature regardless of current statutory requirements, the Act requires that a charter for the creation of a dependent special district must be adopted by ordinance of the county or municipal governing body having jurisdiction over the area affected.[126]

A county is authorized to create, by ordinance, a dependent special district within the county, subject to the approval of the governing body of the incorporated area affected. Municipalities also are authorized to create, by ordinance, a dependent special district within the municipality. A county or municipal ordinance creating a dependent special district must include several statements including, but not limited to:

- the purpose, powers, functions and duties of the district;
- the geographic boundary limitations of the district;
- the authority of the district;
- an explanation of why the district is the best alternative;
- the membership, organization, compensation and administrative duties of the governing board;
- the applicable financial disclosure, noticing and reporting requirements;
- the methods for financing the district; and
- a declaration that the creation of the district is consistent with the approved local government comprehensive plans.

County charters also may contain provisions that limit the creation of special districts or their activities.

Prior to the enactment of the Act in 1989, the Legislature passed special acts creating dependent special districts. However, in 1989, the responsibility for creating dependent districts was transferred to county or municipal governing

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[125] Section 189.402(1), Florida Statutes; Forsythe v. Longboat Key Beach Erosion Control Dist., 604 So.2d 452 (Fla. 1992).
[126] Section 189.4041, Florida Statutes.

bodies. Dependent districts may be created by local governments by adopting a charter for the district by local ordinance. If a dependent district created by special act of the Legislature has not been converted to local ordinance, the district's charter may not be amended without legislative approval in the form of a local bill amending the dependent district's enabling legislation.

The Act prohibits a general law of local application or special act that creates an independent special district that does not conform to minimum statutory requirements or that is exempt from general law requirements regarding:

- general requirements and procedures for elections (section 189.405, Florida Statutes);
- bond referenda requirements (section 189.408, Florida Statutes);
- bond issuance requirements (section 189.4085, Florida Statutes);
- public facilities reports (section 189.415, Florida Statutes); and
- notice, meetings, and other required reports and audits (sections 189.417 and 189.418, Florida Statutes).[127]

In addition, the Act requires submission of a statement to the Legislature documenting the purpose of the proposed district, the authority of the proposed district, and an explanation of why the district is the best alternative.[128] The Act also requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.[129]

The Act requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent.[130] The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority and board selection procedures.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

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[127] Section 189.404(2), Florida Statutes.
[128] Ibid.
[129] Ibid.
[130] Section 189.404(5), Florida Statutes.

Section 125.01(5)(a), Florida Statutes, authorizes a county to create by ordinance a special district to include both unincorporated and incorporated areas of the county, but only with the approval of any affected municipality. These special districts are authorized to provide municipal services and facilities "from funds derived from service charges, special assessments, or taxes within [the] district only" and may not provide services exclusively in the unincorporated area. The statute authorizes these special districts to levy any millage designated in the ordinance creating the special district and approved by a vote of the electors as required by the Florida Constitution.

NON-LEGISLATIVE CREATION OF INDEPENDENT SPECIAL DISTRICTS

General law authorizes the creation of certain types of independent special districts without specific action of the Legislature. The Governor and Cabinet, a municipality or county, or a regional combination of cities and counties may initiate the creation of certain special districts in compliance with statutory requirements.

For example, chapter 190, Florida Statutes, authorizes the Governor and Cabinet, acting as the Florida Land and Water Adjudicatory Commission, to establish a community development district (CDD) of 1,000 acres or more. The exclusive and uniform method for creating a CDD of less than 1,000 acres is by county or municipal ordinance.[131]

The Secretary of the Department of Environmental Protection also may approve an agreement between local governmental units establishing regional water supply authorities (section 373.1962, Florida Statutes).

General law authorizes counties to create, by local ordinance, several types of independent special districts including:

- juvenile welfare boards/funding for children's services (section 125.901, Florida Statutes);
- county health or mental health care special districts/funding for indigent health care services (section 154.331, Florida Statutes);
- public hospital districts (chapter 155, Florida Statutes);
- CDDs of less than 1,000 acres (section 190.005, Florida Statutes); and
- neighborhood improvement districts (chapter 163, part IV, Florida Statutes).

[131] Section 190.005(2), Florida Statutes.

Any combination of two or more counties, municipalities or other political subdivisions may establish a regional transportation authority.[132]

FLORIDA CONSTITUTION -- PROVISIONS RELATED TO SPECIAL DISTRICTS

In addition to the Act and the constitutional requirements generally applicable to Florida government, several constitutional provisions specifically relate to special districts, including:[133]

Art. I, § 24 Access to public records and meetings.	Special districts are specifically subject to open meetings and public records requirements.
Art. III, § 11 Prohibited special laws.	Pursuant to this constitutional provision, the Legislature enacted §§ 189.404(2), 190.049, and 298.76(1), F.S., which limit the subjects of special acts as these laws may relate to certain districts.
Art. III, § 14 Civil service system.	Authorizes the Legislature to create a civil service system for special districts.
Art. VII, § 8 Aid to local governments.	Permits appropriation of state funds to special districts as provided by general law, including the use of relative ad valorem assessment levels determined by a state agency designated by general law.
Art. VII, § 9 Local taxes.	Permits the Legislature, by general or special law, to authorize special districts to levy ad valorem taxes at a millage rate approved by a vote of the electors of the special district. Permits the Legislature, by general law only, to authorize special districts to levy taxes other than ad valorem taxes, except ad valorem taxes on intangible property and taxes otherwise prohibited by the Florida Constitution.
Art. VII, § 10 Pledging credit.	Prohibits a special district from becoming a joint owner with or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership, or person, with specified exceptions.
Art. VII, § 12 Local bonds.	Authorizes special districts with taxing power to issue certain bonds and other certificates of indebtedness to finance or refinance capital projects authorized by law, but only if approved by a vote of the electors. Certain bonds may also be issued to refund outstanding bonds and interest and redemption premium at a lower net average interest cost rate.
Art. VII, § 14 Bonds for pollution control and abatement and other water facilities.	Permits the issuance of bonds pledging the full faith and credit of the state, when authorized by law, for pollution control and abatement and other water facilities to be operated by special districts.
Art. VIII, § 4 Transfer of powers.	Permits the transfer of powers between a special district and a county, municipality, or other special district, if authorized by general or special law or resolution of the affected governing bodies.
Art. VIII, § 6 Schedule to Article VIII.	Perpetuates special districts in the state, their powers and jurisdiction, as these existed on the date the 1968 Florida Constitution was ratified.
Art. XII, § 2 Property taxes; millages.	Permits the continuance of property tax millages levied by special districts on the date revisions to the Florida Constitution became effective in 1968.
Art. XII, § 15 Special district taxes.	Provides that ad valorem taxing power vested by law in a special district existing on the date revisions to the Florida Constitution became effective in 1968 may not be abrogated by Art. VII, § 9(b); however, such powers may, except to the extent necessary to pay outstanding debts, be restricted or withdrawn by general or special law.

[132] Section 163.567, Florida Statutes.
[133] See, the Florida Constitution for other provisions that are generally applicable to special districts, such as Article III, section 13, which limits terms of office to four years.

FUNDING SOURCES FOR SPECIAL DISTRICTS

Special districts are funded by a variety of sources, depending upon the purpose of each special district and the authorization provided in each district's charter. The primary revenue sources for special districts may include ad valorem taxes, special assessments, and user fees. Special districts do not possess "home rule" powers; therefore, special districts may impose only those taxes, assessments, or fees authorized by special or general law.

Ad Valorem Taxes

Under Florida's Constitution, special districts "may" be authorized by general or special law to levy ad valorem taxes.[134] A special act that creates a dependent or independent special district, or a general act authorizing the creation of special districts, may authorize the special district to impose ad valorem taxes within a stated millage cap subject to elector approval.[135] One "mill" may be described as 0.1 cent or $0.001, which is also expressed as $1 per $1,000 or 0.1 percent.[136]

Dependent special district ad valorem tax millage, when added to the millage of the governing body to which it is dependent, may not exceed the maximum millage applicable to such governing body.[137] Therefore, the millage levied by a dependent special district created by a county or municipality is added to the millage levied by the county or municipality and may not exceed the 10 mill[138] cap imposed by the Florida Constitution.[139]

On the other hand, a special act or general law establishing an independent special district generally establishes a maximum millage rate that may be imposed on property owners within the district. A millage rate is then established by the district's governing body in accordance with the law establishing the district, and must be approved by the electors prior to levy.[140] The millage rate imposed by an independent special district is separate from the millage imposed by the county or municipality within which the independent special district is located.

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[134] Article VII, section 9(a), Florida Constitution.
[135] Article VII, sections 1(a) and 9(a), Florida Constitution; section 200.001(8)(e), Florida Statutes.
[136] Office of Economic and Demographic Research, Florida Revenue Estimating Conference, 2010 Florida Tax Handbook Including Fiscal Impact of Potential Changes, at 184, *available at* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf.
[137] Section 200.001(8)(d), Florida Statutes.
[138] "One mill" may be described as .1 cent or $0.001; also expressed as $1 per $1,000 or .1%. Office of Economic and Demographic Research, Florida Revenue Estimating Conference, 2010 Florida Tax Handbook Including Fiscal Impact of Potential Changes, at 184, *available at* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf.
[139] Section 200.001(8)(e), Florida Statutes; Article VII, section 9(b), Florida Constitution.
[140] Article VII, section 9(b), Florida Constitution.

Special Assessments

Special assessments are a revenue source that may be used to fund local improvements or essential services. As established by case law, two requirements exist for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the improvement or service provided. Second, the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.[141] The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is "whether there is a 'logical relationship' between the services provided and the benefit to real property."[142] If a local government's special assessment ordinance withstands these two legal requirements, the assessment is not considered a tax.

Impact Fees

Impact fees represent a total or partial reimbursement to local governments for the cost of additional facilities or services necessary as the result of the new development. Rather than imposing the cost of these additional facilities or services upon the general public, the purpose of impact fees is to shift the capital expense burden of growth from the general public to the developer and new residents. Impact fees have successfully been levied to fund several types of projects, including the expansion of water and sewer facilities, and the construction of road improvements, school facilities and park expansions.

As developed under case law, an impact fee levied by a local government must meet what is referred to as the "dual rational nexus test" in order to withstand legal challenge. First, there must be a reasonable connection, or rational nexus, between the anticipated need for additional capital facilities and the population growth generated by the new development. Second, the government must show a reasonable connection between the expenditures of the funds collected and the benefits accruing to the new development from those expenditures.

Due to the growth of impact fee collections and local governments' reliance on impact fees, the 2006 Legislature enacted the Florida Impact Fee Act which codified much of the case law pertaining to impact fees. The Act, contained in s. 163.31801, F.S., ensures that when a local government adopts an impact fee, the governing authority complies with the following basic requirements:

- Calculation of the impact fee must be based on the most recent and localized data.
- Local governments must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental imposes an impact fee to address its infrastructure needs, the entity must account for

[141] City of Boca Raton v. State, 595 So.2d 25 (Fla. 1992).
[142] Lake County v. Water Oak Management Corp., 695 So.2d 667 (Fla. 1997).

the revenues and expenditures of such impact fee in a separate accounting fund.

- Administrative charges for the collection of impact fees must be limited to actual costs.
- Notice must be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.
- In any legal action challenging an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or the requirements of s. 163.31801, F.S. The court may not use a deferential standard.

User Fees

Special districts may also be authorized to impose user and regulatory fees and service charges to pay the cost of providing a service or facility or regulating an activity. In contrast to taxes, user fees and service charges bear a direct relationship between the service received and the compensation paid for the service. The underlying premise for these fees and charges is that local governments may charge, in a reasonable and equitable manner, for the facilities and services they provide or regulate.

SPECIAL DISTRICT FUNCTIONS AND STATUTORY AUTHORITY

Chapter 189, Florida Statutes, generally authorizes special district formation and governs special district activities, while other statutes provide for the creation and operation of specific types of special districts. Appendices E and F list the functions performed by independent and dependent special districts in Florida, with applicable statutory authority. The tables illustrate the variety of governmental functions performed by special districts in Florida. Appendix G illustrates the number of independent and dependent special districts created annually between 1975 and 2010. Appendix H lists illustrates the number of independent special districts created by the Legislature, the number created by local governments (other than CDDs), and the number of CDDs created between the years 1994 and 2010.

As of July 1, 2011, the most common special districts are those that perform the following functions: community development (575), community redevelopment (204), drainage and water control (84), housing authority (93) and fire control and rescue (67).[143] The statutes governing community development, community

[143] Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, Official List of Special Districts Online, *Special District Function Totals*, http://www.floridaspecialdistricts.org/OfficialList/functiontotals.cfm (last visited

redevelopment, water control and fire control and rescue are briefly outlined below.

COMMUNITY DEVELOPMENT DISTRICTS

Community development districts (CDDs) are the most common and frequently created special districts in Florida. Appendix I illustrates the rapid growth in the number of CDDs created on an annual basis since 1980.

Chapter 190, Florida Statutes, the "Uniform Community Development District Act of 1980," allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Cabinet acting as the Florida Land and Water Adjudicatory Commission, whereas CDDs with less than 1,000 acres are created pursuant to county or municipal ordinance.

Initial financing is typically accomplished through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges to service the bonds. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing and other structures within the CDD – not on the other taxpayers of the county or municipality in which the district is located. The amount of bond financing utilized by CDDs has steadily increased since 1997. In 1997, the total amount of bonds issued during the year totaled approximately $280,645,000, while in 2005 the amount of bonds issued totaled $1,357,705,020.

Section 190.012, Florida Statutes, specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and wastewater management, reclamation and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors who possess the general managerial authority provided to other special districts in the state. In addition to other powers, the Board is authorized to: hire and fix the compensation of a general manager; contract; borrow money; issue bonds; levy ad valorem taxes, special assessments and non-ad valorem taxes; adopt administrative rules pursuant to chapter 120, Florida Statutes; and exercise the power of eminent domain.[144]

July 1, 2011. As of October 1, 2011, the Florida Department of Economic Opportunity, Division of Community Development. http://dca.deo.myflorida.com/fhcd/sdip/Officialhistdeo/criteria.cfm.

[144] Community Development Districts, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, November 2003.

COMMUNITY REDEVELOPMENT AGENCIES

The "Community Redevelopment Act of 1969," chapter 163, part III, Florida Statutes, was established with the intent to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state."[145] The Act authorizes each local government to establish one community redevelopment agency (CRA)[146] to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a "need for a community redevelopment agency to carry out [the] community redevelopment…." Charter counties with a population of less than 1.6 million may create more than one CRA[147]. CRAs are considered dependent special districts in Florida. During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

Pursuant to section 163.387, Florida Statutes, CRAs are funded primarily through tax increment financing, commonly known as "TIF," whereby ad valorem revenues in excess of those collected in the base year the redevelopment area was created are remitted by local taxing authorities such as counties, municipalities and special districts to a redevelopment trust fund used by a CRA to fund redevelopment projects and related activities[148]. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.

CRAs are granted those powers "necessary or convenient to carry out and effectuate the purposes of the act." These powers include the power to issue bonds and acquire property by eminent domain, if approved by the governing body that established the CRA. CRAs also are granted the power to undertake and carry out community redevelopment and related activities within the community redevelopment area[149]. Redevelopment may include such activities as the acquisition and disposition of real property located within the community redevelopment area and the repair or rehabilitation of structures within the community redevelopment area for dwelling uses.[150]

The division of authority between a county and municipality regarding the creation or expansion of a municipal CRA depends upon whether the county is a non-charter or charter county, or whether a CRA was created prior to adoption of a county charter[151]. The division of authority may be summarized as follows:

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[145] Section 163.335(1), Florida Statutes.
[146] Sections 163.356 and 163.357, Florida Statutes.
[147] Section 163.356(1), Florida Statutes.
[148] Section 163.387, Florida Statutes.
[149] Section 163.370, Florida Statutes.
[150] Section 163.370(1)(c), Florida Statutes.
[151] Sections 163.410 and 163.415, Florida Statutes.

	Authority over creation, expansion, or modification of a CRA
Charter County	Charter counties possess sole authority to create CRAs within the county, but may delegate authority to a municipality via an interlocal agreement.
Non-Charter County	Non-charter counties do not have authority over the creation, expansion, or modification of municipal CRAs within the county.
A municipal CRA created *prior* to adoption of the county charter	The charter county does not have authority over the operations of the CRA, including modification of the redevelopment plan or expansion of CRA boundaries.

WATER CONTROL DISTRICTS

As early as the 1830s, the Legislature passed a special act authorizing landowners to construct drainage ditches across adjacent lands to discharge excess water. Today, chapter 298, Florida Statutes, governs the creation and operation of water control districts.

Section 298.01, Florida Statutes, restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and under the provisions of section 125.01, Florida Statutes (dependent water control districts). Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under authority provided by chapter 298, Florida Statutes.

A water control district created under chapter 298, Florida Statutes, is organized for limited and definite purposes, and its powers are restricted to those deemed essential by the Legislature to affect its purpose. Therefore, these districts have no power or authority other than that conferred by law.

The board of supervisors of a water control district has full power and authority to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by a district.[152] Subject to the applicable provisions of chapters 373 and 403, Florida Statutes, a water control district may be authorized to engage in various water control activities in accordance with statute.

Water control districts are governed by a three-member board of supervisors elected by landowners in the district. Every acre of assessable land within a district represents one share, or vote.[153] Each landowner within a district is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre are entitled to one vote. Landowners owning more than one acre are entitled to one additional vote for any fraction of

[152] Section 298.22, Florida Statutes.
[153] Section 298.11(2), Florida Statutes.

an acre greater than one-half acre, when all of the landowners' acreage has been aggregated for purposes of voting. Proxy voting by landowners is allowed.

The primary funding source for water control district activities is special assessments[154], which must be imposed on the property so that the burden on every parcel will be justly proportioned. In other words, the assessment of the particular parcel must represent a fair, proportional part of the total cost and maintenance of the improvement. Special assessments are limited to the property benefited and are not taxes within the meaning of the general constitutional requirement that taxation be imposed at a uniform rate. Special assessments may be determined legislatively or judicially. Any unpaid or delinquent assessments bear penalties in the same manner as county taxes, and constitute a lien on the property until paid. This lien is enforceable in the same manner as county taxes. A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of special assessments levied.

Limitation on Special Acts

Article III, section 11(a)(21) of the State Constitution provides that no special law or general law of local application shall be enacted that pertains to any subject prohibited by a general law passed by a three-fifths vote of the membership of each house. However, such a general law may be amended or repealed by like vote.

Section 298.76, Florida Statutes, is an example of such a general law passed by a three-fifths vote of the membership of each house. The statute provides that there shall be no special law or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed pursuant to chapter 298, Florida Statutes. Section 298.76, Florida Statutes, does not prohibit special or local legislation that:

- amends an existing special act that provides for the levy of an annual maintenance tax of a district;
- extends the corporate life of a district;
- consolidates adjacent districts; or
- authorizes the construction or maintenance of roads for agricultural purposes as outlined in chapter 298, Florida Statutes.

[154] See, chapter 170, Florida Statutes.

Section 298.76, Florida Statutes, authorizes special or local legislation:

- changing the method of voting for a board of supervisors for any water control district;

- providing a change in the term of office of the board of supervisors and changing the qualifications of the board of supervisors of any water control district; and

- changing the governing authority or governing board of any water control district.

Finally, section 298.76, Florida Statutes, provides that any special or local law enacted by the Legislature pertaining to any water control district prevails as to that district and has the same force and effect as though it had been a part of chapter 298, Florida Statutes, at the time the district was created and organized.

FIRE CONTROL DISTRICTS

Chapter 191, Florida Statutes, is known as the "Independent Special Fire Control District Act" (the SFCDA)[155]. The purpose of the SFCDA is to establish standards and procedures concerning the operations and governance of independent special fire control districts (districts), and to provide greater uniformity in the financing authority, operations and procedures for electing members of the governing boards of districts.[156]

Unless otherwise exempted by special or general law, the SFCDA requires each district, whether created by special act, general law of local application, or county ordinance, to comply with the SFCDA and provides that it is the intent of the Legislature that the SFCDA supersede all special acts or general laws of local application provisions that contain the charter of a district. Provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are excepted.

The SFCDA prescribes procedures for the election, composition and general administration of a district's governing board, and contains a broad list of general powers of a district, which may be exercised by a majority vote of the district's governing board.[157] The SFCDA also grants districts special powers related to facilities and duties and requires districts to provide for fire suppression and prevention by establishing and maintaining fire stations and fire substations and by acquiring and maintaining firefighting and fire protection equipment deemed necessary to prevent or fight fires. All construction must be in compliance with

[155] Section 190.001, Florida Statutes.
[156] Section 191.002, Florida Statutes.
[157] Section 191.006, Florida Statutes.

applicable state, regional and local regulations, including adopted comprehensive plans and land development regulations.[158]

Districts may levy ad valorem taxes up to 3.75 mills unless a different millage rate is authorized by law, subject to a referendum as required by the State Constitution and the SFCDA.[159] Districts may be authorized to levy special assessments, user charges and impact fees in accordance with the SFCDA[160].

Boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature.[161] The merger of a district with all or portions of other independent special districts or dependent fire control districts is effective only upon ratification by the Legislature. A district may not, solely by reason of a merger with another governmental entity, increase ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless approved by the electors of the district by referendum[162].

DISSOLUTION AND MERGER OF SPECIAL DISTRICTS

The Uniform Special District Accountability Act of 1989 governs the dissolution or merger of special districts[163]. Dependent special districts may be merged or dissolved by an ordinance of the local government entity wherein the geographical area of the district is located. However, a county may not dissolve a special district that is dependent to a municipality or vice versa, or a dependent special district created by special act. Dependent special districts created and operating pursuant to special act may be merged or dissolved only by the Legislature unless otherwise provided by general law.[164]

Additionally, independent special districts created and operating pursuant to special act may be merged or dissolved only by the Legislature unless otherwise provided by general law.[165] If an inactive independent special district was created by a county or municipality through a referendum, the Act provides specific procedures for merger or dissolution of the district.[166]

If an independent district is created by a county or municipality, the county or municipality creating the district may merge or dissolve the district. If an independent district was created with voter approval, then the merger or dissolution also must have voter approval. However, inactive independent

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[158] Section 191.008, Florida Statutes.
[159] Section 191.009, Florida Statutes.
[160] Ibid.
[161] Section 191.014, Florida Statutes.
[162] Section 190.014, Florida Statutes.
[163] Chapter 189, Florida Statutes.
[164] Section 189.4042(1), Florida Statutes.
[165] Section 189.4042(2), Florida Statutes.
[166] Ibid.

special districts that were created by a county or municipality through a referendum and that do not have ad valorem taxing powers may merge or be dissolved by the county or municipality pursuant to the same procedure by which the independent district was created. These merger and dissolution procedures do not apply to water management districts or community development districts.

The dissolution of a district signals a transfer to the local general-purpose government of title to all property and/or indebtedness of the district, unless otherwise provided by general law or ordinance.

THE ROLE OF THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

The Florida Department of Economic Opportunity Special Districts Information Program (SDIP) serves as a state clearinghouse to administer the provisions of chapter 189, Florida Statutes.[167] The Department of Economic Opportunity (DEO) publishes the Official List of Special Districts, which includes a list of all independent and dependent special districts in Florida. The list initially was compiled and printed in 1990, and is now available online at the Florida Department of Economic Opportunity, Division of Community Development. http://dca.deo.myflorida.com/fhed/sdip/Officialhistdeo/criteria.cfm. The SDIP also publishes and periodically updates a comprehensive manual on special districts called the Florida Special District Handbook. This manual is now available online at the Florida Department of Economic Opportunity, Division of Community Development. http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and -organizations/special-district-information-program/handbook.html.

FOR FURTHER INFORMATION

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Florida House of Representatives
204 House Office Building
402 S. Monroe Street
Tallahassee, Florida 32399-1300
850-410-4905 Fax: 850-410-0129
http://www.myfloridahouse.gov

[167] Section 189.412, Florida Statutes.

Special District Information Program
Florida Department of Economic Opportunity
Division of Community Development
107 E. Madison Street, MSC-400
Tallahassee, Florida 32399-6508
850-717-8430 Fax: 850-410-1555
http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-information-program.html

APPENDIX A: FLORIDA STATUTES RELATING TO LOCAL GOVERNMENT

Summary

The following is a listing of Florida Statutes relating to local government. The listing is grouped by category beginning with statutes that relate to all local governments. Local governments include cities, counties and special districts. If a statute relates to more than one local government, such as cities and counties, the statute is listed under each applicable category. A multiple listing also may occur for those statutes that relate to both a local government and fiscal issues. Finally, those statutes that include specific language regarding local bill policies and procedures are listed under a separate category.

All Local Governments

Chapter 11	Legislative Organization, Procedures, and Staffing
Chapter 22	Emergency Continuity of Government
Chapter 50	Legal and Official Advertisements
Chapter 73	Eminent Domain
Chapter 74	Proceedings Supplemental to Eminent Domain
Chapter 85	Enforcement of Statutory Liens
Chapter 97	Qualification and Registration of Electors
Chapter 98	Registration Office, Officers, and Procedures
Chapter 99	Candidates
Chapter 100	General, Primary, Bond, and Referendum Elections
Chapter 101	Voting Methods and Procedure
Chapter 102	Conducting Elections and Ascertaining the Results
Chapter 104	Election Code: Violations; Penalties
Chapter 106	Campaign Financing
Chapter 111	Public Officers: General Provisions
Chapter 112	Public Officers and Employees: General Provisions
Chapter 119	Public Records
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Chapter 187	State Comprehensive Plan
Chapter 218	Financial Matters Pertaining to Political Subdivisions
Chapter 252	Emergency Management
Chapter 274	Tangible Personal Property Owned by Local Governments
Chapter 290	Urban Redevelopment
Chapter 333	Airport Zoning
Chapter 337	Contracting; Acquisition, Disposal, and Use of Property

Chapter 339	Transportation Finance and Planning
Chapter 365	Use of Telephones and Facsimile Machines
Chapter 367	Water and Wastewater Systems
Chapter 373	Water Resources
Chapter 374	Navigation Districts; Waterways Development
Chapter 380	Land and Water Management
Chapter 388	Mosquito Control
Chapter 403	Environmental Control
Chapter 418	Recreation
Chapter 419	Community Residential Homes
Chapter 420	Housing
Chapter 421	Public Housing
Chapter 553	Building Construction Standards
Chapter 633	Fire Prevention and Control
Chapter 705	Lost or Abandoned Property
Chapter 1000	K-20 General Provisions

Counties

Chapter 7	County Boundaries
Chapter 11	Legislative Organization, Procedures, and Staffing
Chapter 22	Emergency Continuity of Government
Chapter 30	Sheriffs
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Chapter 44	Mediation Alternatives to Judicial Action
Chapter 50	Legal and Official Advertisements
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Chapter 85	Enforcement of Statutory Liens
Chapter 86	Declaratory Judgments
Chapter 97	Qualification and Registration of Electors
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Chapter 100	General, Primary, Special, Bond, and Referendum Elections
Chapter 101	Voting Methods and Procedure
Chapter 102	Conducting Elections and Ascertaining the Results
Chapter 104	Election Code: Violations; Penalties
Chapter 106	Campaign Financing
Chapter 111	Public Officers: General Provisions
Chapter 112	Public Officers and Employees: General Provisions
Chapter 119	Public Records
Chapter 122	State and County Officers and Employees Retirement System
Chapter 124	Commissioners' Districts
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Chapter 127	Right of Eminent Domain to Counties
Chapter 129	County Annual Budget
Chapter 130	County Bonds
Chapter 136	County Depositories
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Chapter 138	County Seats
Chapter 142	County Fine and Forfeiture Fund
Chapter 145	Compensation of County Officials
Chapter 153	Water and Sewer Systems
Chapter 154	Public Health Facilities
Chapter 155	Hospitals
Chapter 157	Drainage by Counties
Chapter 162	County or Municipal Code Enforcement
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Chapter 164	Governmental Disputes
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Chapter 186	State and Regional Planning
Chapter 187	State Comprehensive Plan
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Chapter 274	Tangible Personal Property Owned by Local Governments
Chapter 290	Urban Redevelopment
Chapter 333	Airport Zoning
Chapter 336	County Road System
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Chapter 339	Transportation Finance and Planning
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Chapter 347	Ferries, Toll Bridges, Dams, and Log Ditches
Chapter 348	Expressway and Bridge Authorities
Chapter 365	Use of Telephones and Facsimile Machines
Chapter 367	Water and Wastewater Systems
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Chapter 374	Navigation Districts; Waterways Development
Chapter 380	Land and Water Management
Chapter 388	Mosquito Control
Chapter 403	Environmental Control
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Chapter 419	Community Residential Homes
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Chapter 553	Building Construction Standards
Chapter 567	Local Option Elections
Chapter 568	Intoxicating Liquors in Counties Where Prohibited
Chapter 633	Fire Prevention and Control
Chapter 705	Lost or Abandoned Property
Chapter 950	Jails and Jailers

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Chapter 1000	K-20 General Provisions
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Chapter 11	Legislative Organization, Procedures, and Staffing
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Chapter 50	Legal and Official Advertisements
Chapter 73	Eminent Domain
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Chapter 104	Election Code: Violations; Penalties
Chapter 106	Campaign Financing
Chapter 111	Public Officers: General Provisions
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Chapter 165	Formation of Local Governments
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Chapter 170	Supplemental and Alternative Method of Making Local Municipal Improvements
Chapter 171	Local Government Boundaries
Chapter 173	Foreclosure of Municipal Tax and Special Assessment Liens
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Chapter 180	Municipal Public Works
Chapter 185	Municipal Police Pensions
Chapter 186	State and Regional Planning
Chapter 187	State Comprehensive Plan
Chapter 218	Financial Matters Pertaining to Political Subdivisions
Chapter 252	Emergency Management
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Chapter 290	Urban Redevelopment
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Chapter 339	Transportation Finance and Planning
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Chapter 367	Water and Wastewater Systems
Chapter 373	Water Resources
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Chapter 388	Mosquito Control
Chapter 403	Environmental Control
Chapter 418	Recreation
Chapter 419	Community Residential Homes
Chapter 420	Housing
Chapter 421	Public Housing
Chapter 553	Building Construction Standards
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Chapter 1000	K-20 General Provisions
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Chapter 112	Public Officers and Employees: General Provisions
Chapter 121	Florida Retirement System
Chapter 125	County Government
Chapter 145	Compensation of County Officials
Chapter 186	State and Regional Planning
Chapter 200	Determination of Millage
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Chapter 218	Financial Matters Pertaining to Political Subdivisions

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Chapter 11	Legislative Organization, Procedures, and Staffing
Chapter 22	Emergency Continuity of Government
Chapter 50	Legal and Official Advertisements
Chapter 73	Eminent Domain
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Chapter 97	Qualification and Registration of Electors
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Chapter 100	General, Primary, Special Bond, and Referendum Elections
Chapter 101	Voting Methods and Procedure
Chapter 102	Conducting Elections and Ascertaining the Results
Chapter 104	Election Code: Violations; Penalties
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Chapter 111	Public Officers: General Provisions
Chapter 112	Public Officers and Employees: General Provisions
Chapter 119	Public Records
Chapter 125	County Government
Chapter 153	Water and Sewer Systems
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Chapter 155	Hospitals
Chapter 161	Beach and Shore Preservation
Chapter 162	County or Municipal Code Enforcement
Chapter 163	Intergovernmental Programs
Chapter 164	Governmental Disputes
Chapter 186	State and Regional Planning
Chapter 187	State Comprehensive Plan
Chapter 189	Special Districts: General Provisions
Chapter 190	Community Development Districts
Chapter 191	Independent Fire Control Districts
Chapter 252	Emergency Management
Chapter 274	Tangible Personal Property Owned by Local Governments
Chapter 290	Urban Redevelopment
Chapter 298	Drainage and Water Control
Chapter 315	Port Facilities Financing
Chapter 333	Airport Zoning
Chapter 337	Contracting; Acquisition, Disposal, and Use of Property
Chapter 339	Transportation Finance and Planning
Chapter 348	Expressway and Bridge Authorities
Chapter 365	Use of Telephones and Facsimile Machines
Chapter 367	Water and Wastewater Systems
Chapter 373	Water Resources
Chapter 374	Navigation Districts; Waterways Development
Chapter 380	Land and Water Management
Chapter 388	Mosquito Control
Chapter 403	Environmental Control
Chapter 418	Recreation
Chapter 419	Community Residential Homes
Chapter 420	Housing
Chapter 421	Public Housing
Chapter 553	Building Construction Standards
Chapter 582	Soil and Water Conservation
Chapter 633	Fire Prevention and Control
Chapter 705	Lost or Abandoned Property
Chapter 1000	K-20 General Provisions

Local Government Fiscal Issues

Chapter 11	Legislative Organization, Procedures, and Staffing
Chapter 75	Bond Validation
Chapter 112	Public Officers and Employees: General Provisions
Chapter 125	County Government
Chapter 129	County Annual Budget
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Chapter 145	Compensation of County Officials
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Chapter 166	Municipalities
Chapter 173	Foreclosure of Municipal Tax and Special Assessment Liens
Chapter 192	Taxation: General Provisions
Chapter 193	Assessments
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Chapter 197	Tax Collections, Sales, and Liens
Chapter 198	Estate Taxes
Chapter 199	Intangible Personal Property Taxes
Chapter 200	Determination of Millage
Chapter 201	Excise Tax on Documents
Chapter 205	Local Business Taxes
Chapter 206	Motor and Other Fuel Taxes
Chapter 210	Tax on Tobacco Products
Chapter 212	Tax on Sales, Use, and Other Transactions
Chapter 218	Financial Matters Pertaining to Political Subdivisions
Chapter 219	County Public Money, Handling by State and County
Chapter 220	Income Tax Code
Chapter 222	Method of Setting Apart Homestead and Exemptions
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Local Bill Policies and Procedures

Chapter 11	Legislative Organization, Procedures, and Staffing
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APPENDIX B: COUNTIES IN FLORIDA

County	Cities	Year Established
Alachua	Alachua Archer Gainesville* Hawthorne High Springs La Crosse Micanopy Newberry Waldo	1824
Baker	Glen St. Mary Macclenny*	1861
Bay	Callaway Cedar Grove Lynn Haven Mexico Beach Panama City* Panama City Beach Parker Springfield	1913
Bradford	Brooker Hampton Lawtey Starke*	1858
Brevard	Cape Canaveral Cocoa Cocoa Beach Grant-Valkaria Indialantic Indian Harbour Beach Malabar Melbourne Melbourne Beach Melbourne Village Palm Bay Palm Shores Rockledge Satellite Beach Titusville*	1844

County	Cities	Year Established
	West Melbourne	
Broward	Coconut Creek Cooper City Coral Springs Dania Davie Deerfield Beach Fort Lauderdale* Hallandale Hillsboro Beach Hollywood Lauderdale-By-The-Sea Lauderdale Lakes Lauderhill Lazy Lake Lighthouse Point Margate Miramar North Lauderdale Oakland Park Parkland Pembroke Park Pembroke Pines Plantation Pompano Beach Sea Ranch Lakes Southwest Ranches Sunrise Tamarac Weston West Park Wilton Manors	1915
Calhoun	Altha Blountstown*	1838
Charlotte	Punta Gorda*	1921
Citrus	Crystal River Inverness*	1887
Clay	Green Cove Springs* Keystone Heights Orange Park Penney Farms	1858
Collier	Everglades City Marco Island	1923

County	Cities	Year Established
	Naples*	
Columbia	Fort White Lake City*	1832
De Soto	Arcadia*	1887
Dixie	Cross City* Horseshoe Beach	1921
Duval	Atlantic Beach Baldwin Jacksonville* Jacksonville Beach Neptune Beach	1822
Escambia	Century Pensacola*	1821
Flagler	Beverly Beach Bunnell* Flagler Beach Marineland Palm Coast	1917
Franklin	Apalachicola* Carrabelle	1832
Gadsden	Chattahoochee Greensboro Gretna Havana Midway Quincy*	1823
Gilchrist	Bell Fanning Springs Trenton*	1925
Glades	Moore Haven*	1921
Gulf	Port St. Joe* Wewahitchka	1925
Hamilton	Jasper* Jennings White Springs	1827
Hardee	Bowling Green Wauchula* Zolfo Springs	1921
Hendry	Clewiston LaBelle*	1923
Hernando	Brooksville*	1843

County	Cities	Year Established
	Weeki Wachee	
Highlands	Avon Park Lake Placid Sebring*	1921
Hillsborough	Plant City Tampa* Temple Terrace	1834
Holmes	Bonifay* Esto Noma Ponce De Leon Westville	1848
Indian River	Fellsmere Indian River Shores Orchid Sebastian Vero Beach*	1925
Jackson	Alford Bascom Campbellton Cottondale Graceville Grand Ridge Greenwood Jacob City Malone Marianna* Sneads	1822
Jefferson	Monticello*	1827
Lafayette	Mayo*	1856
Lake	Astatula Clermont Eustis Fruitland Park Groveland Howey-In-The-Hills Lady Lake Leesburg Mascotte Minneola Montverde Mount Dora	1887

County	Cities	Year Established
	Tavares* Umatilla	
Lee	Bonita Springs Cape Coral Fort Myers* Fort Myers Beach Sanibel	1887
Leon	Tallahassee*	1824
Levy	Bronson* Cedar Key Chiefland Fanning Springs Inglis Otter Creek Williston Yankeetown	1845
Liberty	Bristol*	1855
Madison	Greenville Lee Madison*	1827
Manatee	Anna Maria Bradenton* Bradenton Beach Holmes Beach Longboat Key Palmetto	1855
Marion	Belleview Dunnellion McIntosh Ocala* Reddick	1844
Martin	Jupiter Island Ocean Breeze Park Sewall's Point Stuart*	1925
Miami-Dade	Aventura Bal Harbour Bay Harbor Islands Biscayne Park Coral Gables Cutler Bay Doral	1836

County	Cities	Year Established
	El Portal Florida City Golden Beach Hialeah Hialeah Gardens Homestead Indian Creek Village Islandia Key Biscayne Medley Miami* Miami Beach Miami Gardens Miami Lakes Miami Shores Miami Springs North Bay Village North Miami North Miami Beach Opa-locka Palmetto Bay Pinecrest South Miami Sunny Isles Beach Surfside Sweetwater Virginia Gardens West Miami	
Monroe	Islamorada Key Colony Beach Key West* Layton Marathon	1823
Nassau	Callahan Fernandina Beach* Hilliard	1824
Okaloosa	Cinco Bayou Crestview* Destin Fort Walton Beach Laurel Hill Mary Esther Niceville	1915

County	Cities	Year Established
	Shalimar Valparaiso	
Okeechobee	Okeechobee*	1917
Orange	Apopka Bay Lake Belle Isle Eatonville Edgewood Lake Buena Vista Maitland Oakland Ocoee Orlando* Windermere Winter Garden Winter Park	1824
Osceola	Kissimmee* St. Cloud	1887
Palm Beach	Atlantis Belle Glade Boca Raton Boynton Beach Briny Breezes Cloud Lake Delray Beach Glen Ridge Golf Greenacres Gulf Stream Haverhill Highland Beach Hypoluxo Juno Beach Jupiter Jupiter Inlet Colony Lake Clarke Shores Lake Park Lake Worth Lantana Loxahatchee Groves Manalapan Magnolia Park North Palm Beach	1909

County	Cities	Year Established
	Ocean Ridge Pahokee Palm Beach Palm Beach Gardens Palm Beach Shores Palm Springs Riviera Beach Royal Palm Beach South Bay South Palm Beach Tequesta Village Wellington West Palm Beach*	
Pasco	Dade City* New Port Richey Port Richey Saint Leo San Antonio Zephyrhills	1887
Pinellas	Belleair Belleair Beach Belleair Bluffs Belleair Shores Clearwater* Dunedin Gulfport Indian Rocks Beach Indian Shores Kenneth City Largo Madeira Beach North Redington Beach Oldsmar Pinellas Park Redington Beach Redington Shores Safety Harbor St. Petersburg St. Pete Beach Seminole South Pasadena Tarpon Springs Treasure Island	1911

County	Cities	Year Established
Polk	Auburndale Bartow* Davenport Dundee Eagle Lake Fort Meade Frostproof Haines City Highland Park Hillcrest Heights Lake Alfred Lake Hamilton Lake Wales Lakeland Mulberry Polk City Winter Haven	1861
Putnam	Crescent City Interlachen Palatka* Pomona Park Welaka	1849
St. Johns	Hastings Marineland St. Augustine* St. Augustine Beach	1821
St. Lucie	Fort Pierce* Port St. Lucie St. Lucie Village	1844
Santa Rosa	Gulf Breeze Jay Milton*	1842
Sarasota	Longboat Key North Port Sarasota* Venice	1921
Seminole	Altamonte Springs Casselberry Lake Mary Longwood Oviedo Sanford* Winter Springs	1913

County	Cities	Year Established
Sumter	Bushnell* Center Hill Coleman Webster Wildwood	1853
Suwannee	Branford Live Oak*	1858
Taylor	Perry*	1856
Union	Lake Butler* Raiford Worthington Springs	1921
Volusia	Daytona Beach Daytona Beach Shores DeBary DeLand* Deltona Edgewater Flagler Beach Holly Hill Lake Helen New Smyrna Beach Oak Hill Orange City Ormond Beach Pierson Ponce Inlet Port Orange South Daytona	1854
Wakulla	Crawfordville* St. Marks Sopchoppy	1843
Walton	DeFuniak Springs* Freeport Paxton	1824
Washington	Caryville Chipley* Ebro Vernon Wausau	1825

* Denotes county seat

APPENDIX C: COUNTY AND CITY NAME ORIGINS

Summary

Provided below are brief notes on the origins of the names of the counties and many cities in Florida. Counties are described first, followed by cities.

County Name Origins

Alachua (1824) – Either Muskogee or Timucua word for sinkhole.

Baker (1861) – James McNair Baker, Fourth Municipal District, Confederate Senator.

Bay (1913) – St. Andrews Bay.

Bradford (1861) ***was New River, 1858-1861*** – Captain Richard Bradford, killed at the Battle of Santa Rosa Island during the Civil War.

Brevard (1855) ***was St. Lucia 1844-1855*** – Doctor Ephriam Brevard, author of the so-called Mecklenberg (N.C.) Declaration of Independence, or Theodore Washington Brevard, state comptroller, 1854, 1855-1860.

Broward (1915) – Napoleon Bonaparte Broward, Governor, 1905-1909.

Calhoun (1838) – John C. Calhoun, U.S. Senator from South Carolina, 1832-1843, 1845-1850. Calhoun also served as Vice President of the United States, 1825-1832, and as Secretary of State, 1844-1845.

Charlotte (1921) – The Bay of Charlotte Harbor.

Citrus (1887) – Citrus trees.

Clay (1858) – Henry Clay, U.S. Senator from Kentucky, 1806-1807, 1810-1811, 1831-1842, 1849-1852. Clay also served as Secretary of State, 1825-1829.

Collier (1923) – Barron Collier, landowner and developer.

Columbia (1832) – Christopher Columbus, discovered America.

De Soto (1887) – Hernando de Soto, Spanish explorer.

Dixie (1921) – Lyric term for the South.

Duval (1822) – William P. DuVal, Territorial Governor, 1822-1834.

Escambia (1821) – Escambia River and Spanish for "barter" or "exchange."

Flagler (1971) – Henry M. Flagler, founder of the Florida East Coast Railway.

Franklin (1832) – Benjamin Franklin, scientist and author.

Gadsden (1823) – James Gadsden of South Carolina, aide-de-camp of Jackson in Florida campaign of 1818.

Gilchrist (1925) – Albert W. Gilchrist, Governor, 1909-1913.

Glades (1921) – Everglades.

Gulf (1925) – Gulf of Mexico.

Hamilton (1827) – Alexander Hamilton, Secretary of U.S. Treasury, 1789-1795.

Hardee (1921) – Cary A. Hardee, Governor, 1921-1925.

Hendry (1923) – Captain Francis A. Hendry, one of the first settlers.

Hernando (1843) ***was Benton, 1844-1850*** – Hernando de Soto, Spanish explorer.

Highlands (1921) – Highland terrain.

Hillsborough (1834) – Wills Hill, Viscount Hillsborough of England.

Holmes (1848) – Thomas J. Holmes of North Carolina, who settled in the area about 1830.

Indian River (1925) – Indian River.

Jackson (1822) – Andrew Jackson, U.S. President, 1829-1837.

Jefferson (1827) – Thomas Jefferson, U.S. President, 1801-1809.

Lafayette (1856) – Marquis de Lafayette, French officer who served with Washington in the American Revolution.

Lake (1887) – The large number of lakes in the area.

Lee (1887) – General Robert E. Lee.

Leon (1824) – Juan Ponce de Leon, discoverer of Florida.

Levy (1845) – David Levy (Yulee), U. S. Senator, 1845-1851, 1855-1861.

Liberty (1855) – Name applied to common objective of American people.

Madison (1827) – James Madison, U.S. President, 1809-1817.

Manatee (1855) – The sea cow, or manatee.

Marion (1844) – General Francis Marion, Revolutionary War hero.

Martin (1925) – John W. Martin, Governor, 1925-1929.

Miami-Dade (1836) – Major Francis L. Dade, killed at the Dade Massacre, 1835. Dade County, which has the constitutional right to change its name (Article VIII, Section 8), became Miami-Dade County on November 13, 1997, after voters approved the name change.

Monroe (1824) – James Monroe, U.S. President, 1817-1825.

Nassau (1823) – Duchy of Nassau, Germany.

Okaloosa (1915) – Choctaw Indian words oka (water) and lusa (black).

Okeechobee (1917) – Hitchiti words oki (water) and chobi (big).

Orange (1845) – ***was Mosquito, 1824-1845*** – Oranges.

Osceola (1887) – The Indian leader Osceola ("Singer of the Black Drink").

Palm Beach (1909) – Palms and beaches.

Pasco (1887) – Samuel Pasco, U.S. Senator, 1887-1899.

Pinellas (1911) – Punto Pinal or Point of Pines.

Polk (1861) – James K. Polk, U.S. President, 1845-1849.

Putnam (1849) – Either for Israel Putnam, Revolutionary hero, or Benjamin A. Putnam, officer in Seminole War and unsuccessful candidate, U.S. House of Representatives, 1815.

St. Johns (1821) – St. John the Baptist.

St. Lucie (1844) – St. Lucy of Syracuse, Roman Catholic Saint.

Santa Rosa (1842) – Rosa de Viterbo, Roman Catholic Saint.

Sarasota (1921) – From Calusa Indian language, meaning unknown, but perhaps "Point of Rocks."

Seminole (1913) – Seminole Indians, thought to be derived from Spanish word cimarron, meaning "wild" or "runaway."

Sumter (1853) – General Thomas Sumter, Revolutionary War hero.

Suwannee (1858) – Either Cherokee sawani, meaning "echo river," or corruption of Spanish San Juan.

Taylor (1856) – Zachary Taylor, U.S. President, 1849-1851.

Union (1921) – Unity.

Volusia (1854) – An English settler, Volus.

Wakulla (1843) – Probably Timucuan Indian word for "spring of water."

Walton (1824) – George Walton, Secretary, Territorial Florida, 1821-1826.

Washington (1825) – George Washington, U.S. President, 1789-1797.

City Name Origins

Altamonte Springs: Seminole Co. – Altamonte is Spanish for "high hill."

Anna Maria Island: Manatee Co. – Ponce de Leon was said to have named the island for the queen of King Charles II, the sponsor of his expedition. Pronunciation often is disputed; most prefer Anna Mar-EE-a, but the old timers like Anna Mar-EYE-a.

Apalachicola: Franklin Co. – Probably of Hitchiti "apalahchi" (on the other side) and "okli" (people); therefore, "those people residing on the other side, shore or river."

Arcadia: De Soto Co. – Named in honor of Arcadia Albritton, daughter of pioneer settlers, who baked a birthday cake for Rev. James Hendry. In appreciation, he named the town after her.

Belle Glade: Palm Beach Co. – ***Was originally known as the Hillsborough Canal Settlement***. A new name became necessary when inhabitants requested their own post office. One day a tourist, on a trip to the area, said that the Hillsborough Canal Settlement was "the belle of the glades." It was later voted on and became the official name.

Blountstown: Calhoun Co. – Named for John Blount, a Seminole Indian and the distinguished chief of the Indian tribe who occupied the reservation that was just east of the area.

Boca Raton: Palm Beach Co. – The Spanish words "Boca de Ratones" mean rat's mouth, a term used by seamen to describe a hidden rock that a ship's cable might rub against.

Bonifay: Holmes Co. – Named for a prominent old family in the vicinity.

Brooksville: Hernando Co. – Named after Congressman Preston Brooks of South Carolina, 1853-1856.

Cape Canaveral: Brevard Co. – Canaveral is the Spanish word for "a place of reeds or cane."

Cedar Key: Levy Co. – Named for the abundant growth of cedar trees that originally covered the island.

Chattahoochee: Gadsden Co. – The name was taken from the well-known river in Georgia. The name itself is from Muskogee "chato" (rock) and "huchi" (marked).

Chipley: Washington Co. – Named in honor of Colonel William D. Chipley, a railroad official.

Clearwater: Pinellas Co. – The town was first called Clear Water Harbor because of a spring of water that bubbles up in the Gulf of Mexico close to shore, making the water in the vicinity clear. The term “harbor” was later dropped from the name.

Cross City: Dixie Co. – Two public roads crossed at this point, one coming from Perry to old Archer and the other from Branford to Horseshoe. W. H. Mathis, who chose the name, wanted the location to be thought of as more than a crossroads.

Crystal River: Citrus Co. – The correct translation of the name is "weewahiiaca" which is derived from Seminole-Creek Indians "wiwa" (water) and "haiyayaki” (clear, shining).

Dade City: Pasco Co. – Named for Major Francis L. Dade, a U.S. Army officer killed by the Seminoles. The Dade Massacre triggered the start of the second Seminole War.

Daytona Beach: Volusia Co. – Named after its founder, Mathias Day.

DeFuniak Springs: Walton Co. – Colonel Fred Defuniak, an official of the Louisville and Nashville Railroad, gave his name to the town.

Fernandina Beach: Nassau Co. – Fernandina was the early name of Cuba. Fernandina Beach claims to be the oldest city in the United States.

Flagler Beach: Flagler Co. – The name honors Henry M. Flagler, founder of the Florida East Coast Railway.

Fort Lauderdale: Broward Co. – Named for Major William Lauderdale.

Fort Myers: Lee Co. – Named for Gen. Abraham Charles Myers, a distinguished officer in the U.S. Army.

Fort Pierce: St. Lucie Co. – Named for Lt. Colonel Benjamin Kendrick Pierce, the brother of President Franklin Pierce. The fort was the headquarters of the Army of the South under General Jesup.

Fort Walton Beach: Okaloosa Co. – Named after the fort that was established here during the Seminole Wars.

Frostproof: Polk Co. – Named by cowboys who brought cattle to the region during the winter months because of the absence of frost.

Gainesville: Alachua Co. – Named for General Edmund Pendleton Gaines, who led the capture of Aaron Burr.

Green Cove Springs: Clay Co. – The St. Johns River curves here and is sheltered by trees that are perennially green.

Groveland: Lake Co. – ***originally called Taylorville*** – It was renamed Groveland due to the large number of citrus groves in the region.

Haines City: Polk Co. – ***was first known as Clay Cut*** – The name was later changed to Haines City, in honor of a railroad official named Colonel Henry Haines.

Hialeah: Miami-Dade Co. – Of Muskogee origin "haiyakpo" (prairie) and "hili" (pretty).

High Springs: Alachua Co. – Named this because a spring was located atop a hill within the town. The spring no longer exists.

Hillsborough River or Locktsapopka: Hillsborough Co. – The Indian name of the stream came from the Muskogee "lokchia" (acorns) and "papka" (eating place): the place where the acorns are eaten.

Hollywood: Broward Co. – Established as Hollywood-*by-the-Sea* by its founder, Joseph W. Young of California.

Homosassa: Citrus Co. – Muskogee "homo" (pepper) and "sasi" (is there): the place where the wild pepper grows.

Indian Rocks Beach: Pinellas Co. – A number of large rocks along the shore gave the community its name.

Inverness: Citrus Co. – Named by a Scottish settler for the ancient capital of the highlands.

Islamorada: Monroe Co. – Spanish for "purple island."

Jacksonville: Duval Co. – Two of the Spanish names for the area can be translated as "pass of San Nicolas." It was also called "the place where the cows cross" by the Timucuan Indians.

Jasper: Hamilton Co. – Named in memory of Sergeant William Jasper, Revolutionary War hero, who rescued the American flag during the British assault on Ft. Sullivan, now Ft. Moultrie.

Key West: Monroe Co. – The westernmost island extending from the Florida peninsula. It was originally called Bone Island by the early Spanish explorers because they found large quantities of human bones.

LaBelle: Hendry Co. – Named by Captain Francis Ausbury Hendry for his two daughters, Laura and Belle.

Lake Butler: Union Co. – Named for Colonel Robert Butler, who received the surrender to East Florida from the Spanish.

Lake City: Columbia Co. – ***was Alligator*** – Renamed by an act of the Legislature to its present form because of the myriad of lakes that surround the area.

Lakeland: Polk Co. – So named because of the 19 lakes within the city limits.

Largo: Pinellas Co. – Named for Lake Largo nearby. Largo is the Spanish word for "big" or "long."

Longboat Key: Sarasota Co. – The exact origin of this name has been lost, but a longboat is the largest boat carried by a merchant sailing vessel.

Macclenny: Baker Co. – Named after H.C. Macclenny, who owned large tracts of land in the vicinity.

MacDill A.F.B.: Hillsborough Co. – Named in honor of Colonel Leslie MacDill, who was killed in an air crash near Washington, D.C.

Madeira Beach: Pinellas Co. – Named for Madeira, Portugal's wine producing island off the coast of Africa. The word itself means "wood."

Madison: Madison Co. – ***First called Hickstown***, after the Seminole Indian Chief John Hicks; ***later known as Newton.*** Mail kept coming addressed to Madison C.H. (meaning the courthouse of Madison Co.), so they dropped the C.H. and used Madison as the name of the town.

Marianna: Jackson Co. – Named for the daughters of the original owners of the site, the Beveridges.

Mayo: Lafayette Co. – Named after James Mayo, a colonel who had been in charge of the Confederate Army. He delivered a speech in the area on the Fourth of July. The settlers were so impressed by him that they named the community after him.

Miami: Miami-Dade Co. – Comes from Mayaimi (a lake - now Lake Okeechobee) which means "very large."

Micanopy: Alachua Co. – Head chief of the Seminoles in the Seminole War; it means "head chief."

Monticello: Jefferson Co. – Named for the historic Virginia home of Thomas Jefferson.

Moore Haven: Glades Co. – Named for its founder, James A. Moore.

Naples: Collier Co. – Named for Naples, Italy.

Ocala: Marion Co. – The literal meaning of this Indian word is "heavily clouded," perhaps beyond discovery.

Opa-locka: Miami-Dade Co. – Refers to a hammock located within the present limits of the city. The source is Muskogee "opilwa" (swamp) and "lako" (big), though the usual combination is "opillakpo."

Orlando: Orange Co. – There are several different versions regarding the origin of Orlando's name; however, the official story is that it is named in honor of Orlando Reeves. Reeves was on sentinel duty for a camping party. While they were sleeping, an Indian attempted to penetrate the camp. Reeves saw the Indian and fired on him, but not before the Indian shot an arrow killing Reeves.

Palatka: Putnam Co. – Name is derived from the Muskogee word "pilotaikita" which means "ferry," "ford" or "crossing." Palatka was a major trading post on the St. Johns River.

Panama City: Bay Co. – George West, the original developer of the town, named it Panama City because it is in a direct line between Chicago and Panama City, Panama.

Pensacola: Escambia Co. – Most likely derivation of the name is from a tribe called Pansfalaya or “long-haired people” in Choctaw.

Punta Gorda: Charlotte Co. – The Spanish words for "wide point" or "fat point," which was in reference to the arm of land jutting into Charlotte Bay near the present city.

Quincy: Gadsden Co. – Named in honor of John Quincy Adams who was Secretary of State of the U.S. at the time of establishment.

Sanibel: Lee Co. – The name is thought to be a combination of health and beauty.

Sebring: Highlands Co. – Named for George Sebring, a pottery manufacturer of Sebring, Ohio.

Silver Springs: Marion Co. – Named for the celebrated spring, Florida's largest, whose crystal clearness inspired its name.

Sopchoppy: Wakulla Co. – The name has been corrupted from "Lockchoppe," the former designation of a stream in Wakulla County, and the Muskogee word "lokchapi," which signifies the (red) oak; the word is composed of "lokcha" (acorn) and "api" (stem).

St. Augustine: St. Johns Co. – The oldest continually settled city in the U.S. It was named by its founder, Pedro Menendez de Aviles, for St. Augustine, the Bishop of Hippo.

St. Petersburg: Pinellas Co. – Called the ***Sunshine City,*** but was named after one of the coldest, great cities of the world: Russia's St. Petersburg.

Starke: Bradford Co. – Named after Governor Starke Perry of Florida or after Thomas Starke, a slaveholder who purchased the land around the area.

Steinhatchee: Taylor Co. – The name is derived from the Muskogee "ak" (down), "isti" (man) and "hatchee" (creek): dead man's creek.

Stuart: Martin Co. – Named for Samuel C. Stuart, first telegraph operator and station agent, when the Florida East Coast Railway was built across the St. Lucie River.

Tallahassee: Leon Co. – The name is derived from a Muskogee word meaning "old town."

Tarpon Springs: Pinellas Co. – The name was said to have come from a remark from Mrs. Ormond Boyer, who while standing on the shore saw many fish leaping from the water, and exclaimed "see that tarpon spring," henceforth the name. However, the fish was not a tarpon, but a mullet.

Temple Terrace: Hillsborough Co. – Named for the temple orange.

Titusville: Brevard Co. – Established just after the Civil War by Colonel Henry T. Titus, who had been a fierce antagonist of John Brown in the struggle over Kansas that preceded the war.

Trenton: Gilchrist Co. – Named after Trenton, Tennessee by Ben Boyd, who served in the Confederate Army and established a sawmill there.

Valparaiso: Okaloosa Co. – Name taken from that of the city in Indiana, which in turn was named for the famous Chilean port. The word is Spanish for “valley of paradise.”

Venice: Sarasota Co. – Named by Franklin Higel, an early settler who felt that the blue waters of the bays, rivers and the Gulf of Mexico gave the place a resemblance to the famous Italian city.

Wauchula: Hardee Co. – The name may be derived from the Muskogee "wakka" (cow) and "hute" (house or tank).

Weeki Wachee Springs: Hernando Co. – From the Muskogee words "wekiwa" (spring) and "chee" (little).

Wewahitchka: Gulf Co. – This complex name is believed to be derived from an unknown Indian language and to mean "water eyes." A perfect pair of eyes is

formed by two oblong lakes along the edge of town; these are separated by a pronounced ridge that corresponds to the bridge of the nose.

Winter Haven: Polk Co. – So called because it was considered a haven from the severe winters of the north. Also known as the “City of a Hundred Lakes.”

Winter Park: Orange Co. – Named by Loring Chase and Oliver Chapman who designed the town in the style of the New England village. They chose this name because the area was a "veritable park in winter."

Zephyrhills: Pasco Co. – The name calls attention to the cooling breezes that blow over the hills in this section of the state.

SOURCE:

Morris, Allen, ed. The Florida Handbook 2008-2010, Tallahassee, Florida: The Peninsular Publishing Co., 2009 (32nd edition) (published biennially).

APPENDIX D: CITIES IN FLORIDA

CITY	COUNTY	YEAR INCORPORATED
Alachua	Alachua	1908
Alford	Jackson	1959
Altamonte Springs	Seminole	1920
Altha	Calhoun	1946
Anna Maria	Manatee	1926
Apalachicola	Franklin	1831
Apopka	Orange	1882
Arcadia	DeSoto	1901
Archer	Alachua	1887
Astatula	Lake	1927
Atlantic Beach	Duval	1957
Atlantis	Palm Beach	1959
Auburndale	Polk	1911
Aventura	Miami-Dade	1995
Avon Park	Highlands	1913
Bal Harbour	Miami-Dade	1946
Baldwin	Duval	1876
Bartow	Polk	1882
Bascom	Jackson	1963
Bay Harbor Islands	Miami-Dade	1947
Bay Lake	Orange	1967
Bell	Gilchrist	1905
Belle Glade	Palm Beach	1928
Belle Isle	Orange	1924
Belleair	Pinellas	1925
Belleair Beach	Pinellas	1950
Belleair Bluffs	Pinellas	1963
Belleair Shore	Pinellas	1955
Belleview	Marion	1885
Beverly Beach	Flagler	1955
Biscayne Park	Miami-Dade	1933
Blountstown	Calhoun	1903
Boca Raton	Palm Beach	1925
Bonifay	Holmes	1886
Bonita Springs	Lee	1999
Bowling Green	Hardee	1907
Boynton Beach	Palm Beach	1920

Bradenton	Manatee	1903
Bradenton Beach	Manatee	1953
Branford	Suwannee	1961
Briny Breezes	Palm Beach	1963
Bristol	Liberty	1957
Bronson	Levy	1951
Brooker	Bradford	1952
Brooksville	Hernando	1880
Bunnell	Flagler	1928
Bushnell	Sumter	1911
Callahan	Nassau	1911
Callaway	Bay	1963
Campbellton	Jackson	1925
Cape Canaveral	Brevard	1963
Cape Coral	Lee	1970
Carrabelle	Franklin	1893
Caryville	Washington	1965
Casselberry	Seminole	1940
Cedar Grove	Bay	1951
Cedar Key	Levy	1923
Center Hill	Sumter	1925
Century	Escambia	1945
Chattahoochee	Gadsden	1921
Chiefland	Levy	1928
Chipley	Washington	1906
Cinco Bayou	Okaloosa	1950
Clearwater	Pinellas	1915
Clermont	Lake	1916
Clewiston	Hendry	1925
Cloud Lake	Palm Beach	1951
Cocoa	Brevard	1895
Cocoa Beach	Brevard	1925
Coconut Creek	Broward	1967
Coleman	Sumter	1925
Cooper City	Broward	1959
Coral Gables	Miami-Dade	1925
Coral Springs	Broward	1963
Cottondale	Jackson	1905
Crescent City	Putnam	1911
Crestview	Okaloosa	1916
Cross City	Dixie	1924
Crystal River	Citrus	1903
Dania	Broward	1904

Davenport	Polk	1915
Davie	Broward	1960
Daytona Beach	Volusia	1926
Daytona Beach Shores	Volusia	1960
DeBary	Volusia	1993
Deerfield Beach	Broward	1925
DeFuniak Springs	Walton	1903
DeLand	Volusia	1882
Delray Beach	Palm Beach	1927
Deltona	Volusia	1995
Destin	Okaloosa	1985
Doral	Miami-Dade	2003
Dundee	Polk	1925
Dunedin	Pinellas	1899
Dunnellon	Marion	1890
Eagle Lake	Polk	1921
Eatonville	Orange	1887
Ebro	Washington	1967
Edgewater	Volusia	1924
Edgewood	Orange	1924
El Portal	Miami-Dade	1937
Esto	Holmes	1963
Eustis	Lake	1881
Everglades	Collier	1953
Fanning Springs	Gilchrist/Levy	1965
Fellsmere	Indian River	1925
Fernandina Beach	Nassau	1825
Flagler Beach	Flagler/Volusia	1925
Florida City	Miami-Dade	1914
Fort Lauderdale	Broward	1911
Fort Meade	Polk	1915
Fort Myers	Lee	1886
Fort Myers Beach	Lee	1995
Fort Pierce	St. Lucie	1901
Fort Walton Beach	Okaloosa	1941
Fort White	Columbia	1884
Freeport	Walton	1963
Frostproof	Polk	1921
Fruitland Park	Lake	1926
Gainesville	Alachua	1869
Glen Ridge	Palm Beach	1947
Glen Saint Mary	Baker	1958
Golden Beach	Miami-Dade	1929

Golf	Palm Beach	1957
Graceville	Jackson	1902
Grand Ridge	Jackson	1951
Grant-Valkaria	Brevard	2006
Green Cove Springs	Clay	1874
Greenacres	Palm Beach	1926
Greensboro	Gadsden	1911
Greenville	Madison	1907
Greenwood	Jackson	Unavailable
Gretna	Gadsden	1908
Groveland	Lake	1923
Gulf Breeze	Santa Rosa	1961
Gulf Stream	Palm Beach	1926
Gulfport	Pinellas	1910
Haines City	Polk	1914
Hallandale	Broward	1927
Hampton	Bradford	1870
Hastings	St. Johns	1913
Havana	Gadsden	1907
Haverhill	Palm Beach	1950
Hawthorne	Alachua	1881
Hialeah	Miami-Dade	1925
Hialeah Gardens	Miami-Dade	1948
High Springs	Alachua	1892
Highland Beach	Palm Beach	1949
Highland Park	Polk	1928
Hillcrest Heights	Polk	1923
Hilliard	Nassau	1947
Hillsboro Beach	Broward	1947
Holly Hill	Volusia	1902
Hollywood	Broward	1925
Holmes Beach	Manatee	1950
Homestead	Miami-Dade	1913
Horseshoe Beach	Dixie	1963
Howey-in-the-Hills	Lake	1925
Hyopluxo	Palm Beach	1961
Indialantic	Brevard	1952
Indian Creek Village	Miami-Dade	1939
Indian Harbour Beach	Brevard	1955
Indian River Shores	Indian River	1953
Indian Rocks Beach	Pinellas	1956
Indian Shores	Pinellas	1949
Inglis	Levy	1956

Interlachen	Putnam	1888
Inverness	Citrus	1919
Islamorada	Monroe	1997
Islandia	Dade	1960
Jacksonville	Duval	1832
Jacksonville Beach	Duval	1937
Jacob City	Jackson	1983
Jasper	Hamilton	1858
Jay	Santa Rosa	1939
Jennings	Hamilton	1900
Juno Beach	Palm Beach	1953
Jupiter	Palm Beach	1925
Jupiter Inlet Colony	Palm Beach	1959
Jupiter Island	Martin	1953
Kenneth City	Pinellas	1957
Key Biscayne	Miami-Dade	1991
Key West	Monroe	1828
Keystone Heights	Clay	1925
Kissimmee	Osceola	1883
LaBelle	Hendry	1925
La Crosse	Alachua	1957
Lady Lake	Lake	1925
Lake Alfred	Polk	1918
Lake Buena Vista	Orange	1967
Lake Butler	Union	1897
Lake City	Columbia	1921
Lake Clarke Shores	Palm Beach	1957
Lake Hamilton	Polk	1925
Lake Helen	Volusia	1888
Lake Mary	Seminole	1973
Lake Park	Palm Beach	1921
Lake Placid	Highlands	1928
Lake Wales	Polk	1917
Lake Worth	Palm Beach	1913
Lakeland	Polk	1885
Lantana	Palm Beach	1921
Largo	Pinellas	1905
Lauderdale-By-The-Sea	Broward	1949
Lauderdale Lakes	Broward	1961
Lauderhill	Broward	1959
Laurel Hill	Okaloosa	1953
Lawtey	Bradford	1905

Layton	Monroe	1962
Lazy Lake Village	Broward	1953
Lee	Madison	1911
Leesburg	Lake	1875
Lighthouse Point	Broward	1956
Live Oak	Suwannee	1878
Longboat Key	Sarasota/Manatee	1955
Longwood	Seminole	1924
Loxahatchee Groves	Palm Beach	2006
Lynn Haven	Bay	1913
Macclenny	Baker	1885
Madeira Beach	Pinellas	1951
Madison	Madison	1945
Maitland	Orange	1885
Malabar	Brevard	1962
Malone	Jackson	1911
Manalapan	Palm Beach	1931
Mangonia Park	Palm Beach	1947
Marathon	Monroe	1999
Marco Island	Collier	1997
Margate	Broward	1955
Marianna	Jackson	1825
Marineland	Flagler/St. Johns	1941
Mary Esther	Okaloosa	1946
Mascotte	Lake	1925
Mayo	Lafayette	1903
McIntosh	Marion	1913
Medley	Miami-Dade	1949
Melbourne	Brevard	1888
Melbourne Beach	Brevard	1923
Melbourne Village	Brevard	1957
Mexico Beach	Bay	1967
Miami	Miami-Dade	1896
Miami Beach	Miami-Dade	1915
Miami Lakes	Miami-Dade	2000
Miami Shores	Miami-Dade	1932
Miami Springs	Miami-Dade	1926
Micanopy	Alachua	1837
Midway	Gadsden	1986
Milton	Santa Rosa	1844
Minneola	Lake	1925
Miramar	Broward	1955
Monticello	Jefferson	1859

Montverde	Lake	1925
Moore Haven	Glades	1924
Mount Dora	Lake	1912
Mulberry	Polk	1901
Naples	Collier	1925
Neptune Beach	Duval	1912
New Port Richey	Pasco	1924
New Smyrna Beach	Volusia	1943
Newberry	Alachua	1909
Niceville	Okaloosa	1957
Noma	Holmes	1967
North Bay	Miami-Dade	1945
North Lauderdale	Broward	1963
North Miami	Miami-Dade	1927
North Miami Beach	Miami-Dade	1926
North Palm Beach	Palm Beach	1956
North Port	Sarasota	1959
North Redington Beach	Pinellas	1953
Oak Hill	Volusia	1963
Oakland	Orange	1887
Oakland Park	Broward	1929
Ocala	Marion	1868
Ocean Breeze Park	Martin	1960
Ocean Ridge	Palm Beach	1931
Ocoee	Orange	1923
Okeechobee	Okeechobee	1915
Oldsmar	Pinellas	1936
Opa-locka	Miami-Dade	1926
Orange City	Volusia	1882
Orange Park	Clay	1879
Orchid	Indian River	1965
Orlando	Orange	1875
Ormond Beach	Volusia	1880
Otter Creek	Levy	1969
Oviedo	Seminole	1925
Pahokee	Palm Beach	1923
Palatka	Putnam	1853
Palm Bay	Brevard	1956
Palm Beach	Palm Beach	1911
Palm Beach Gardens	Palm Beach	1959
Palm Beach Shores	Palm Beach	1947
Palm Coast	Flagler	1999
Palm Shores	Brevard	1959

Palm Springs	Palm Beach	1957
Palmetto	Manatee	1894
Palmetto Bay	Miami-Dade	2002
Panama City	Bay	1909
Panama City Beach	Bay	1959
Parker	Bay	1967
Parkland	Broward	1963
Paxton	Walton	1952
Pembroke Park	Broward	1959
Pembroke Pines	Broward	1960
Penney Farms	Clay	1927
Pensacola	Escambia	1824
Perry	Taylor	1903
Pierson	Volusia	1929
Pinecrest	Miami-Dade	1995
Pinellas Park	Pinellas	1914
Plant City	Hillsborough	1885
Plantation	Broward	1953
Polk City	Polk	1925
Pomona Park	Putnam	1894
Pompano Beach	Broward	1947
Ponce De Leon	Holmes	1963
Ponce Inlet	Volusia	1963
Port Orange	Volusia	1925
Port Richey	Pasco	1925
Port St. Joe	Gulf	1913
Port St. Lucie	St. Lucie	1961
Punta Gorda	Charlotte	1887
Quincy	Gadsden	1828
Raiford	Union	Unavailable
Reddick	Marion	1925
Redington Beach	Pinellas	1944
Redington Shores	Pinellas	1955
Riviera Beach	Palm Beach	1923
Rockledge	Brevard	1887
Royal Palm Beach	Palm Beach	1959
Safety Harbor	Pinellas	1917
St. Augustine	St. Johns	1822
St. Augustine Beach	St. Johns	1959
St. Cloud	Osceola	1911
St. Leo	Pasco	1891
St. Lucie Village	St. Lucie	1961
St. Marks	Wakulla	1963

St. Petersburg	Pinellas	1903
St. Pete Beach	Pinellas	1957
San Antonio	Pasco	1903
Sanford	Seminole	1877
Sanibel	Lee	1974
Sarasota	Sarasota	1902
Satellite Beach	Brevard	1957
Sea Ranch Lakes	Broward	1959
Sebastian	Indian River	1924
Sebring	Highlands	1929
Seminole	Pinellas	1970
Sewall's Point	Martin	1957
Shalimar	Okaloosa	1947
Sneads	Jackson	1894
Sopchoppy	Wakulla	1955
South Bay	Palm Beach	1941
South Daytona	Volusia	1951
South Miami	Miami-Dade	1926
South Palm Beach	Palm Beach	1955
South Pasadena	Pinellas	1955
Southwest Ranches	Broward	2000
Springfield	Bay	1951
Starke	Bradford	1870
Stuart	Martin	1914
Sunny Isles Beach	Miami-Dade	1997
Sunrise	Broward	1961
Surfside	Miami-Dade	1935
Sweetwater	Miami-Dade	1941
Tallahassee	Leon	1825
Tamarac	Broward	1963
Tampa	Hillsborough	1855
Tarpon Springs	Pinellas	1887
Tavares	Lake	1925
Temple Terrance	Hillsborough	1925
Tequesta Village	Palm Beach	1957
Titusville	Brevard	1886
Treasure Island	Pinellas	1955
Trenton	Gilchrist	1911
Umatilla	Lake	1904
Valparaiso	Okaloosa	1921
Venice	Sarasota	1925
Vernon	Washington	1925
Vero Beach	Indian River	1919

Virginia Gardens	Miami-Dade	1947
Waldo	Alachua	1907
Wauchula	Hardee	1907
Wausau	Washington	1963
Webster	Sumter	1900
Weeki Wachee	Hernando	1966
Welaka	Putnam	1947
Wellington	Palm Beach	1995
West Melbourne	Brevard	1959
West Miami	Miami-Dade	1949
West Palm Beach	Palm Beach	1894
West Park	Broward	2004
Weston	Broward	1996
Westville	Holmes	1970
Wewahitchka	Gulf	1959
White Springs	Hamilton	1885
Wildwood	Sumter	1877
Williston	Levy	1929
Wilton Manors	Broward	1947
Windermere	Orange	1925
Winter Garden	Orange	1908
Winter Haven	Polk	1925
Winter Park	Orange	1887
Winter Springs	Seminole	1959
Worthington Springs	Union	1963
Yankeetown	Levy	1925
Zephyrhills	Pasco	1914
Zolfo Springs	Hardee	1913

Source: Compiled by the Legislative Committee on Intergovernmental Relations (October 18, 2002).

APPENDIX E: FUNCTIONS OF ACTIVE DEPENDENT DISTRICTS[168]

FUNCTION	NUMBER[169]	FUNCTION	NUMBER
Affordable Housing	3	Human Relations	1
Airport/Aviation	16	Industrial Development	24
Beach Facilities	3	Infrastructure Development	3
Business Improvement	1	Inland Navigation & Waterways	8
Capital Improvements	3	Lake & Dam Maintenance	2
Civic Facilities	6	Land Authority	1
Common Facilities Maintenance	5	Library/Law	8
Community Redevelopment	204	Library/Local	10
County Beach & Shore Preservation	1	Mosquito Control	3
County Development	3	Municipal Services/Improvements	5
County Road & Bridge	1	Natural Gas Transmission	1
County Water & Sewer	10	Neighborhood Enhancement	50
Downtown Development	8	Neighborhood Improvement	28
Drainage and Water Control	12	Nursing Home	1
Economic Development	2	Parking Facilities	1
Educational Facilities Benefit	3	Planning and Zoning	2
Emergency Medical Services	4	Port Facilities	9
Enterprise Zone Development	1	Recreation/Facilities/ Programs	7
Environmental Protection	4	Regional Water	1
Erosion Control	3	Research and Development	3
Expressway and Bridge	4	Soil and Water Conservation	4
Fire Control and Rescue	11	Solid Waste Disposal	5
Health Facilities	30	Street Lighting	1
Higher Education Facilities Financing	13		1
Historic Preservation	1	Transportation Systems/Services	1
Hospital	6	Utility Systems/Services	4
Housing Authority	67	Water/Wastewater Systems	4
Housing Finance	25	Watershed Improvement	1

[168] Data included in this table was compiled from the Department of Community Affairs' database at http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm. As of July 1, 2011, the total number of dependent special districts in Florida was 626. Special districts may perform more than one function, therefore, adding the number of dependent special districts performing the various functions listed will not provide an accurate total number of active dependent districts in Florida.

[169] This column indicates the number of dependent districts performing each function.

APPENDIX F: FUNCTIONS OF ACTIVE INDEPENDENT SPECIAL DISTRICTS[170]

FUNCTION/ STATUTORY AUTHORITY	NUMBER	FUNCTION/ STATUTORY AUTHORITY	NUMBER
Airports/Air Navigation	11	Infrastructure Development	7
Aquatic Weed Control	1	Inlet Navigation & Waterways	6
Beach Facilities	2	Juvenile Welfare	1
Capital Improvements	1	Library/Law	4
Children's Services	8	Library/Local	5
Civic Facilities	2	Library/Regional	6
Collaborative Client Information Systems	1	Licensing & Regulation	1
Community Development	575	Mobile Home Park Recreation	2
Conservation	2	Mosquito Control	15
County Beach & Shore Preservation	1	Municipal-Type Services and Improvements	7
County Development	6	Natural Gas Transmission	2
County Fine Arts	1		
County Health & Mental Health Care	1	Personnel Management	1
County Road & Bridge	1	Port Facilities	6
County Water & Sewer	1	Recreation/Facilities/Programs	15
Downtown Development/ Improvement	6	Regional Transportation	4
Drainage and Water Control	72	Regional Water	5
Economic Development	8	Research and Development	2
Emergency Medical Services	3	Soil and Water Conservation	56
Environmental Protection	4	Solid Waste Disposal	2
Expressway and Bridge	6	Transportation Systems/Services	9
Fire Control and Rescue	56	Utility Systems/Services	5
Health Care	3	Water/Wastewater Systems	13
Hospital	24	Water Management	5
Housing Authority	26		

[170] Data included in this table was compiled on July 1, 2011, from the Department of Community Affairs' database at http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm.

APPENDIX G: SPECIAL DISTRICTS CREATED BETWEEN 1975 AND 2010[171]

YEAR	TOTAL NUMBER OF INDEPENDENT DISTRICTS CREATED	COMMUNITY DEVELOPMENT DISTRICTS (Created by the Cabinet or a local government)	LEGISLATIVELY CREATED INDEPENDENT SPECIAL DISTRICTS	LOCALLY CREATED INDEPENDENT SPECIAL DISTRICTS (other than CDDs)	DEPENDENT SPECIAL DISTRICTS
2010	7	5	1	1	7
2009	7	5	1	0	4
2008	26	25	0	1	0
2007	79	74	3	0	8
2006	123	108	5	9	10
2005	77	74	3	0	8
2004	76	71	3	2	16
2003	53	48	3	2	5
2002	40	38	1	1	16
2001	28	26	1	1	10
2000	27	22	4	1	16
1999	17	15	1	1	13
1998	22	16	2	4	16
1997	7	6	0	1	12
1996	14	10	1	3	13
1995	9	7	0	2	17
1994	15	8	4	3	3
1993	9	7	0	2	16
1992	10	8	0	2	17
1991	9	8	0	1	11
1990	13	7	2	4	16
1989	13	4	7	2	20
1988	9	2	1	6	32
1987	3	0	2	1	26
1986	10	3	5	2	13
1985	2	1	0	1	13
1984	8	0	6	2	11
1983	5	0	4	1	5
1982	12	3	7	2	14
1981	4	0	3	1	15
1980	7	0	5	2	26
1979	5	0	3	2	24
1978	5	0	4	1	16
1977	10	0	5	5	8
1976	11	0	9	2	5
1975	6	0	3	3	7

[171] Data included in this table was compiled from the Department of Community Affairs' database at http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm.

APPENDIX H: CREATION OF SPECIAL DISTRICTS BETWEEN 1996 AND 2010[172]

YEAR CREATED	INDEPENDENT DISTRICTS	TYPES OF INDEPENDENT DISTRICTS CREATED	DEPENDENT DISTRICTS
2010	7	5 CDD 1 County Expressway Authority 1 Public Library Cooperative	7
2009	7	5 CDD 1 Regional Water Authority 1 Fire Rescue (L)	4
2008	26	25 CDD 1 Special Recreation	0
2007	79	74 CDD 1 Infrastructure Provision 1 Economic Development 1 Water Supply 2 Transportation	8
2006	113	108 CDD 1 Fire Control & Rescue 3 Infrastructure Provision 1 Economic Development	10
2005	77	74 CDDs 1 Fire Rescue (L) 1 Library (L) 1 Infrastructure Provision (Lakewood Ranch) (L)	8
2004	76	71 CDDs 1 Infrastructure Provision (Ave Maria) (L) 2 Water Control (Big Cypress & West Villages) (L) 1 Hospital District (N. Sumter) (L) 1 Environmental Protection (Sarasota Bay/Interlocal Agreement between Manatee and Sarasota)	16
2003	53	48 CDDs 1 Emergency Medical Services (L) 1 Fire Control and Rescue (L) 1 Water Supply (L) 1 Water Supply (Interlocal Agreement per §163.01) 1 Housing Authority (Holmes County per ch. 421)	5
2002	40	38 CDDs 1 Wastewater Treatment (L) 1 Children/Welfare (Miami-Dade County per §125.901)	16
2001	28	26 CDDs 1 Fire Control and Rescue (L) 1 Children/Welfare (Broward County per §125.901)	10
2000	27	22 CDDs 4 Fire Control and Rescue (L) 1 Capital Finance (L)	16
1999	17	15 CDDs 1 Airport Aviation (L) 1 Information Systems (Interlocal Agreement per ch. 163, pt IV)	13
1998	22	16 CDDs 1 Fire Control and Rescue (L) 2 Economic Development (Multi-County Interlocal Agreement per §189.404) 1 Fire Control and Rescue (created locally) 1 Recreation and Parks (Lee County per ch. 418, pt. II) 1 Environmental Protection (Interlocal Agreement per §163.01)	16
1997	7	6 CDDs 1 Library (Multi-County Interlocal Agreement per ch. 257)	12
1996	14	10 CDDs 1 Expressways and Bridges (L) 1 Economic Development (Interlocal Agreement per §163.01) 2 Library (Multi-County Interlocal Agreement)	13

[172] Data included in this table was compiled from the Department of Community Affairs' database at http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm. An "(L)" indicates that the district was created by the Legislature by special law.

APPENDIX I: COMMUNITY DEVELOPMENT DISTRICTS CREATED BETWEEN 1980 AND 2010[173]

YEAR CREATED	NUMBER CREATED BY CABINET	NUMBER CREATED BY COUNTY	NUMBER CREATED BY CITY (CDD must be wholly within city limits)	TOTAL CREATED
2010	0	3	2	0
2009	1	2	2	5
2008	2	17	6	25
2007	1	73	0	74
2006	4	104	0	108
2005	3	41	30	74
2004	9	46	16	71
2003	6	37	5	48
2002	2	28	8	38
2001	1	16	9	26
2000	3	14	5	22
1999	2	10	3	15
1998	1	14	1	16
1997	0	4	2	6
1996	1	7	2	10
1995	2	3	2	7
1994	4	4	0	8
1993	2	3	2	7
1992	0	7	1	8
1991	2	4	2	8
1990	2	3	2	7
1989	2	1	1	4
1988	1	1	0	2
1987	0	0	0	0
1986	1	1	1	3
1985	1	0	0	1
1984	0	0	0	0
1983	0	0	0	0
1982	2	0	1	3
1981	0	0	0	0
1980	0	0	0	0

[173] Data included in this table was obtained from the Department of Community Affairs' database at http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm.