

TITLE XII

MUNICIPALITIES

CHAPTER 165

FORMATION OF LOCAL GOVERNMENTS

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

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

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

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

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

165.022 Preemption; effect on special laws.—It is the purpose of this act to provide viable and usable general law standards and procedures for forming and dissolving municipalities in lieu of any procedure or standards now provided by general or special law. The provisions of this act shall be the exclusive procedure pursuant to general law for forming or dissolving municipalities in this state, except in those counties operating under a home rule charter which provides for an exclusive method as specifically authorized by s. 6(e), Art. VIII of the State Constitution. Any provisions of a general or special law existing on July 1, 1974, in conflict with the provisions of this act shall not be effective to the extent of such conflict.

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

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

(1) "Unit of local government" means any local general-purpose government.

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

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

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

(5) "Special district" means a local unit of special government, as defined in s. 189.403(1). This term includes dependent special districts, as defined in s. 189.403(2), and independent special districts, as defined in s. 189.403(3). All provisions of s. 200.001(8)(d) and (e) shall be considered provisions of this chapter.

(6) "Department" means the Department of Community Affairs.

(7) "Formation" means any one of the following activities:

(a) "Incorporation"—The establishment of a municipality.

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

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

(8) "Service delivery" means any mechanism used by a unit of local government to provide governmental services.

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

(10) "Parties affected" means any person owning property or residing in a municipality proposing a forma-

tion or in the territory that is proposed for a formation or any governmental unit with jurisdiction over such area.

(11) "Qualified voter" means any person registered to vote in accordance with law.

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

History.—s. 1, ch. 74-192; s. 11, ch. 81-167; s. 71, ch. 81-259; s. 24, ch. 82-154; s. 11, ch. 83-55; s. 37, ch. 89-169.

165.041 Incorporation; merger.—

(1) A charter for incorporation of a municipality, except in case of a merger which is adopted as otherwise provided in subsections (2), (3), and (4), shall be adopted only by a special act of the Legislature upon determination that the standards herein provided have been met.

(2)(a) A charter for merger of two or more municipalities and associated unincorporated areas may also be adopted by passage of a concurrent ordinance by the governing bodies of each municipality affected, approved by a vote of the qualified voters in each area affected.

(b) The ordinance shall provide for:

1. The charter and its effective date.
2. The financial or other adjustments required.
3. A referendum for separate majorities by each unit or area to be affected.
4. The date of election, which should be the next regularly scheduled election or a special election held prior to such election, if approved by a majority of the members of the governing body of each governmental unit affected, but no sooner than 30 days after passage of the ordinance.

(c) Notice of the election shall be published at least once each week for 2 consecutive weeks immediately prior to the election, in a newspaper of general circulation in the area to be affected. Such notice shall give the time and places for the election and a general description of the area to be included in the municipality, which shall be in the form of a map to show clearly the area to be covered by the municipality.

(3) The merger of one or more municipalities or counties with special districts, or of two or more special districts, may also be adopted by passage of a concurrent ordinance or, in the case of special districts, resolution by the governing bodies of each unit to be affected.

(4)(a) Initiation of procedures for municipal incorporation by merger as described in subsections (2) and (3) may be done either by adoption of a resolution by the governing body of an area to be affected or by a petition of 10 percent of the qualified voters in the area.

(b) If a petition has been filed with the clerks of the governing bodies concerned, the governing bodies shall immediately undertake a study of the feasibility of the formation proposal and shall, within 6 months, either adopt an ordinance under subsection (2) or subsection (3) or reject the petition, specifically stating the facts upon which the rejection is based.

(c) The purpose of this subsection is to provide broad citizen involvement in both initiating and developing their local government; therefore, establishment of appropriate citizen advisory committees, as well as other mechanisms for citizen involvement, by the governing bodies of the units affected is specifically authorized and encouraged.

History.—s. 1, ch. 74-192; s. 25, ch. 82-154; s. 1, ch. 87-223; s. 38, ch. 89-169; s. 12, ch. 90-279.

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

History.—s. 1, ch. 91-59.

165.051 Dissolution procedures.—

(1) The charter of any existing municipality may be revoked and the municipal corporation dissolved by either:

(a) A special act of the Legislature; or

(b) An ordinance of the governing body of the municipality, approved by a vote of the qualified voters.

(2) If a vote of the qualified voters is required, the governing body of the municipality or, if the municipal governing body does not act within 30 days, the governing body of the county or counties in which the municipality is located, shall set the date of the election, which shall be the next regularly scheduled election or a special election held prior to such election, if approved by a majority of the members of the governing body of each governmental unit affected, but no sooner than 30 days after passage of the ordinance. Notice of the election shall be published at least once each week for 2 consecutive weeks prior to the election in a newspaper of general circulation in the municipality.

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

165.052 Special dissolution procedures.—

(1) The Secretary of State by proclamation shall declare inactive any municipality in this state upon a report being filed by the department which shall show that such municipality is no longer active, based upon a finding:

(a) That the municipality has not conducted an election for membership in its legislative body within the 4 years immediately preceding, or as otherwise provided by law;

(b) That a notice of the proposed proclamation has been published at least once each week for 2 consecutive weeks in a newspaper of general circulation within the county wherein the territory of the municipality is located, stating the name of said municipality, the law under which it was organized and operating, a general description of the territory included in said municipality, and stating that any objections to the proposed proclamation or to any debts of said municipality shall be filed not later than 60 days following the date of last publication with the department; and

(c) That 60 days have elapsed from the last publication date of the notice of proposed proclamation and no sustained objections have been filed.

(2) The state agency charged with collecting financial information from municipalities shall report to the Department of State and the Department of Community Affairs any municipality which has failed to file a report within the time set by law.

(3) If any municipality declared inactive pursuant to this section owes any debt at the time of proclamation, any property or assets of such unit, or which belonged thereto at the time of such proclamation, shall be subject to legal process for payment of such debt. After the payment of all the debts of said inactive municipal corporation, the remainder of its property or assets shall escheat to the county wherein located. If, however, it shall be necessary, in order to pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive municipality, the same may be assessed and levied by order of the county commissioners of the county wherein the same is situated, and shall be assessed by the county property appraiser and collected by the county tax collector. The proceedings in the assessment, collection, receipt, and disbursements of such taxes shall be like the proceedings concerning county taxes as far as applicable.

(4) Any special law authorizing the incorporation or creation, or relating only to the powers or duties, of any municipality proclaimed inactive hereunder shall be reported by the Governor to the presiding officers of both houses of the Legislature. The proclamation of inactive status shall be sufficient notice as required by s. 10, Art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported.

History.—s. 1, ch. 74-192; s. 1, ch. 77-102; s. 1, ch. 77-174; s. 12, ch. 81-167; s. 12, ch. 83-55; s. 40, ch. 89-169; s. 14, ch. 90-279.

165.061 Standards for incorporation, merger, and dissolution.—

(1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:

(a) It must be compact and contiguous and amenable to separate municipal government.

(b) It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of less than 50,000, and of at least 5,000 population in counties with a population of more than 50,000.

(c) It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.

(d) It must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government.

(e) It must have a proposed municipal charter which:

1. Prescribes the form of government and clearly defines the responsibility for legislative and executive functions.

2. Does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.

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

(a) The area proposed for incorporation must be compact and contiguous and susceptible to urban services.

(b) Any unincorporated area to be included must meet the standards provided in s. 171.042, if available.

(c) The plan for merger and incorporation must provide for an equitable arrangement in relation to bonded indebtedness and the status and pension rights of employees of each governmental unit proposed to be merged.

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

(a) The municipality to be dissolved must not be substantially surrounded by other municipalities.

(b) The county or another municipality must be demonstrably able to provide necessary services to the municipal area proposed for dissolution.

(c) An equitable arrangement must be made in relation to bonded indebtedness and vested rights of employees of the municipality to be dissolved.

History.—s. 1, ch. 74-192; s. 41, ch. 89-169.

165.071 Financial allocations.—

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

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

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

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

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

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

165.093 All state and local agencies to cooperate in administration of chapter.—The department is empowered to call on any state, county, special district, or municipal agency, department, bureau, or board for any information or assistance which may, in its judgment, be of assistance in administering, or preparing for

the administration of, this chapter, and such state, county, special district, or municipal agency, department, bureau, or board is hereby authorized, directed, and required to furnish such information or assistance.

History.—s. 1, ch. 74-192.