exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, complain and defend in all courts.
(b) To adopt, use, and alter at will a corporate seal.
(c) To acquire, purchase, hold, lease as a lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein acquired by it.
(d) To fix, alter, charge, and establish rates, fares, and other charges for the services and facilities within the area, which rates, fees, and charges shall be equitable and just.
(e) To acquire and operate, or provide for the operation of, local transportation systems, public or private, within the area, the acquisition of such system to be by negotiation and agreement between the authority and the owner of the system to be acquired.
(f) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.
(g) To enter into management contracts with any person or persons for the management of a public transportation system owned or controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions, as shall be deemed advisable by the authority.
(h) Without limitation, to borrow money and issue evidence of indebtedness and to accept gifts or grants or loans of money or other property and to enter into contracts, leases, or other transactions with any federal agency, the state, any agency of the state, or any other public body of the state.
(i) To develop transportation plans, and to coordinate its planning and programs with those of appropriate municipal, county, and state agencies and other political subdivisions of the state. All transportation plans are subject to review and approval by the Department of Transportation and by the regional planning agency, if any, for consistency with programs or planning for the area and region.
(j) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.
(k) To prescribe and promulgate necessary rules and regulations consistent with the provisions of this part and the requirements of chapter 120.

The public transportation systems and facilities operating in and under the authority of this part shall be exempt from any of the regulatory provisions of chapters 323 and 350.

Any regional transportation authority created
hereunder shall be deemed a special tax district and shall be authorized to levy an ad valorem tax based on full valuation of real property not to exceed 3 mills on the taxable real property in the areas affected by such authority, with the approval of the county commission or equivalent governing body of such area, at a rate sufficient to produce an amount that may be necessary for effectuating the purposes of this part, if such millage level is approved by a majority of the members of such authority and by referendum. Property taxes determined and levied under this section shall be certified by the authority to the appropriate auditor and extended, assessed, and collected in like manner as provided by general law for such political subdivisions. The proceeds under this section shall be remitted by the tax collector to the treasurer of the authority for use in effectuating the purposes of this part. At any time after making a tax levy under this section and certifying the same to the membership on the authority, the authority may issue tax anticipation notes of indebtedness in anticipation of the collection of such taxes.

(2) No tax authorized by this part shall be levied unless the same shall be approved by a majority of the electors of each county, municipality, or other political subdivision voting in elections to be held within the geographical area of the special tax district. A tax shall be authorized only in such political subdivisions as are approved by electors from within the counties or municipalities or other political subdivisions who are members of the regional authority.

History.—s. 8, ch. 71-373; s. 1, ch. 73-278.

163.571 Issuance of bonds.—Any transportation authority created hereunder may issue bonds to carry out the authorized powers or purposes of this part. In the creation of bonded indebtedness the procedure therefor shall be in conformity with the constitution and laws of the state.

History.—s. 7, ch. 71-373; s. 1, ch. 73-278.

163.572 Expansion of area.—Upon a resolution adopted by the governing body of any adjoining county, municipality, or other political subdivision, the authority may, subject to the provisions of s. 163.567(1), by a majority vote of its membership, include such territory in its regional transportation area.

History.—s. 8, ch. 71-373; s. 1, ch. 73-278.

PART V
ADVISORY COUNCIL ON INTERGOVERNMENTAL RELATIONS

163.701 Short title.—This part shall be known and may be cited as the “Advisory Council on Intergovernmental Relations Act.”

History.—s. 1, ch. 77-340.

163.702 Findings and purpose.—(1) The Legislature finds and declares that there is a need for an official body to:

(a) Involve local and state officials in an advisory capacity to the executive and legislative branches of state government.

(b) Study problems of the intergovernmental aspects of governmental structure, finance, functional performance, and relationships at the local, regional, state, and interstate levels.

(c) Recommend solutions to intergovernmental problems.

(d) Establish a regular system of reporting to state and local public officials on the progress of Florida and its political subdivisions toward meeting their intergovernmental responsibilities.

(e) Encourage and recommend methods of effective and efficient delivery of services at the state and local levels through services integration and combination of complementary services delivery functions.

(f) Assume such responsibilities for administering, coordinating, or providing intergovernmental services as may be required by the Legislature or Governor.

(g) Provide the Legislature, the Governor, and other interested parties with advice on intergovernmental concerns.

(2) It is the purpose of this part to improve the coordination and cooperation among the state and its local governments, other states, and the Federal Government through the establishment of a permanent Florida Advisory Council on Intergovernmental Relations.

History.—s. 1, ch. 77-340.

163.703 Council created.—There is hereby created a Florida Advisory Council on Intergovernmental Relations, hereafter referred to as the “council.”

History.—s. 1, ch. 77-340.

163.704 Membership.—(1) The council shall be composed of 17 members as follows:

(a) Four members of the Senate appointed by the President of the Senate.

(b) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(c) Nine members appointed by the Governor from elected and appointed state and local officials and other interested citizens.

(2) Each member of the council who is a public officer shall perform the duties of a member of the council as additional duties required of him in his other official capacity.

(3) Legislative members shall be appointed to terms which correspond to their terms of office. All other members shall be appointed to staggered 4-year terms. All members may be reappointed.
(4) The council shall elect a chairman from among its legislator members and a vice chairman and such other officers as it may deem necessary. The chairman and vice chairman shall serve for 1 year and may be reelected. If both the chairman and vice chairman are absent at any meeting, the voting members present shall elect a temporary chairman by a majority vote.

(5) If a representative of the counties or of the cities or a legislator ceases to be an officer or member of the unit he is appointed to represent, his membership on the commission shall terminate immediately and there will be a vacancy in the membership. Within 30 days, such vacancy shall be filled in the manner of the regular appointment, and the person so appointed shall serve only to the end of the unexpired term and until his successor is appointed and qualified.

(6) The presiding officers of the Legislature should be guided in their appointments by consideration of the legislators’ expertise, interest, and experience, including legislative committee service in the field of intergovernmental relations.

(7) Nine of the members of the council shall constitute a quorum.

163.705 Functions and duties.—
(1) The council is authorized to:
(a) Serve as a forum for the discussion and study of intergovernmental problems.
(b) To the extent not otherwise provided by law, evaluate on a continuous basis the interrelationships among local, regional, state, interstate, and federal agencies in the provision of public services to the citizens of Florida and, as appropriate, prepare studies and recommendations to improve organizational structure, operational efficiency, allocation of functional responsibilities, delivery of services, and related matters.
(c) Analyze the structure, functions, revenue requirements, and fiscal policies of Florida and its political subdivisions; conduct studies of economic, administrative, tax, and revenue matters for all levels of state government; and make recommendations for improvement.
(d) Examine proposed and existing federal and state programs, assess their impact upon Florida and its political subdivisions, and provide such assessments and recommendations, when appropriate, to the Legislature, the Governor, or any other group, public or private, whose activities affect intergovernmental relations.
(e) Encourage and, when appropriate, coordinate studies relating to intergovernmental relations conducted by universities; state, local, and federal agencies; and research and consulting organizations.
(f) Review the recommendations of national commissions studying federal, state, and local government relationships and problems and assess their possible application to Florida.
(g) Issue annual reports of its findings and recommendations to be transmitted to the Governor and the presiding officer of each house of the Legislature not less than 30 days prior to the convening of each regular session of the Legislature. Such reports shall set forth the reasons and supporting data for each recommendation and shall include draft legislation to implement such recommendations. Recommendations regarding economic and taxation issues shall be accompanied by supportive analyses of economic data. The council may issue special or interim reports on specific subjects as it may deem appropriate.
(h) Review and assess the work and recommendations of the federal Advisory Commission on Intergovernmental Relations and report such assessments to that body.

(2) The council is authorized to apply for, contract for, receive, and expend for its purposes any appropriations or grants from the state or its political subdivisions, the Federal Government, or any other source, public or private.

(3) As soon as practicable after the enactment or adoption of any new state program or increase in the level of services rendered in an existing program, which action substantially increases the expenditures of or reduces the revenue or revenue-producing ability of counties or municipalities, the council shall analyze such action. The council shall send its analysis and report thereon to the Governor and presiding officers of the Legislature no later than 30 days prior to the convening of the next regular legislative session. Each analysis shall include the council’s recommendation and its identification of new sources of revenue required to fund the increased cost of, or to offset the revenue loss incurred because of, the action.

163.7055 Relationship to federal-state intergovernmental relations and activities.—The primary role of the council shall be to study the relationships between state and local government. To the extent that these relationships affect federal-state intergovernmental relations, the council is directed to coordinate and cooperate with the Executive Office of the Governor and any other agency or activity concerned with federal-state relationships.

163.706 Meetings, hearings, committees.—
(1) The council shall hold meetings at least semiannually at the call of the chairman and may meet at such other times as it deems necessary. The council may hold hearings from time to time on matters within its purview that it deems to be in the public interest. All meetings and hearings shall be open to the public and shall be conducted in accordance with the provisions of chapter 286.

(2) Each officer, board, commission, council, department, or agency of state government and each political subdivision of the state shall, when not inconsistent with any law, rule, or regulation regarding confidentiality, make available all facts, records, information, and data requested by the council and in all ways cooperate with the council in carrying out the functions and duties imposed by this part.

(3) The council may establish committees as it deems advisable and feasible, the membership of which may or may not be made up, in whole, from members of the council.
(4) The council shall promulgate rules of procedure governing its operations in accordance with the provisions of chapter 120.

History.--s. 1, ch. 77-340; s. 3, ch. 78-241.

163.707 Staff.--
(1) The council shall employ and set the compensation of an executive director, who shall serve at its pleasure. Within available funds, the executive director may employ and set the compensation of professional, technical, legal, or clerical staff as may be necessary, and may remove these personnel. The executive director, with the consent of the council, may acquire the services of consultants and enter into contracts on behalf of the council.

(2) The staff of the council shall be governed by the same rules as are the personnel of the Legislature and shall receive the same rights and benefits accruing to legislative personnel. The council staff shall be members of the Florida Retirement System, and the council shall make employer contributions for this purpose.

(3) Upon request of the council, the Joint Legislative Management Committee is directed to provide such office space and equipment as the council deems necessary.

History.--s. 1, ch. 77-340.

163.708 Finances.--
(1) A member of the council is not entitled to a salary for duties performed as a member of the council, except that the members, other than public officers, shall receive the per diem authorized for legislators, and each member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

(2) Political subdivisions of the state are authorized to appropriate funds to the council to share in the cost of operations.

(3) Any requests by the Legislature for the performance of specific functions or studies requiring additional staff or expenses beyond the basic annual appropriations shall be accompanied by funds for such purposes.

(4) After the initial appropriation for the first year, the funding of this council will be part of the continuing legislative appropriation.

History.--s. 1, ch. 77-340; s. 81, ch. 79-400.
TITLE XII
MUNICIPALITIES
CHAPTER 165
FORMATION OF LOCAL GOVERNMENTS

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165.092 Local government service delivery; special studies.
165.093 All state and local agencies to cooperate in administration of chapter.

165.011 Short title.—This chapter shall be known and may be cited as the "Formation of Local Governments Act.
History.—s. 1, ch. 74-192.

165.021 Purpose.—The purpose of this act is to provide standards, direction, and procedures for the formation of local governmental units in this state and the provision of local governmental 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) Insure financial integrity of units of local government.
(4) Eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions.
(5) Promote equity in the financing of local government services.
History.—s. 1, ch. 74-192.

165.022 Preemption; effect on special laws.—It is further the purpose of this act to provide viable and usable general law standards and procedures for forming and dissolving municipalities and special districts 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 and special districts 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.

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 or special district.
(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 created pursuant to general or special law for the purposes of performing prescribed, specialized functions within limited boundaries.
(6) "Department" means the Department of Veteran and Community Affairs.
(7) "Formation" means any one of the four following activities:
   (a) "Incorporation"—The establishment of a municipality.
   (b) "Creation"—The establishment of a special district.
   (c) "Dissolution"—The dissolving of the corporate status of a municipality or special district.
   (d) "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.
shall give the time and places for the election and a description of the area to be included in the municipal passage of the ordinance.

(10) "Parties affected" means any person owning property or residing either in a municipality or special district proposing a formation 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.

165.041 Formation procedures; incorporation, creation, and merger.—

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

(2) A charter for creation of a special district shall be adopted only by special act of the Legislature or by ordinance of a county or municipal governing body having jurisdiction over the area affected.

(3)(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.
5. Notice of the election shall be published at least once a week for the 4 successive 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 description of the area to be included in the municipality, with such description to be in metes and bounds and to include a map to show clearly the area to be covered by the municipality.

(4) 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.

(5)(a) Initiation of procedures for an incorporation or merger 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 (3) or subsection (4) 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.

165.051 Dissolution procedures.—

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

(a) A special act of the Legislature; or

(b) An ordinance of the governing body of the municipality or special district, 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 special district or, if the municipal or special district governing body does not act within 30 days, the governing body of the county or counties in which the municipality or special district 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 a week for the 4 successive weeks prior to the election in a newspaper of general circulation in the municipality or special district.

History.—s. 1, ch. 74-192.

165.052 Special dissolution procedures.—

(1) The Secretary of State by proclamation shall declare inactive any municipality or special district in this state upon a report being filed by the department which shall show that such municipality or special district 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; or

(b) That the special district has not had appointed or elected a governing body within the 4 years immediately preceding or as otherwise provided by law.
or has not operated within the 2 years immediately preceding; and

c. That a notice of the proposed proclamation has been published once a week for 4 weeks in a newspaper of general circulation within the county wherein the territory of the municipality or special district is located, stating the name of said municipality or special district, the law under which it was organized and operating, a general description of the territory included in said municipality or special district, and stating that any objections to the proposed proclamation or to any debts of said municipality or special district shall be filed not later than 60 days following the date of last publication with the department; and

d. 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 and special districts shall report to the Department of State and the Department of Veteran and Community Affairs any municipality or special district which has failed to file a report within the time set by law.

3. If any municipality or special district 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 or special district 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 or special district, 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 or special district 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.

165.061 Standards for incorporation, creation, 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 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 creation of a special district must be the best alternative available for delivering the service and be amenable to separate special district government if such district is to have a governing body other than a county or municipal governing body.

4. The dissolution of a municipality or special district 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 or special district area proposed for dissolution.

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

History.—s. 1, ch. 74-192.

165.071 Financial allocations.

1. The incorporation of a new municipality in previously unincorporated lands shall 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 or special districts shall assume all indebtedness of, and receive title to all property owned by, the preexisting municipalities or special districts. The proposed charter, or merger agreement in the case of special districts, 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 or special district government shall transfer the title to all property owned by the preexisting municipal or special district government to the county, which shall also assume all indebtedness of the preexisting municipality or special district, 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 or special district for repayment of any assumed indebtedness through a special purpose taxing district created for such purpose.

History.—s. 1, ch. 74-192.

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. 79-183.

165.091 Department of Veteran and Community Affairs; general powers and duties.—

(1) The department shall:

(a) Conduct studies of county, municipal, and special district formation and boundary reorganization problems throughout the state.

(b) Conduct studies relating to the need for, and the feasibility of, formation and service delivery adjustments that will strengthen the capability of local governments to provide and maintain essential public services in a fiscally equitable manner.

(c) Conduct studies relating to the fiscal conditions of units of local government.

(2) On or before July 1 of each year, the department shall develop and publish a general census of local government with respect to each county, municipality, and special district in the state. Information in the general census of local government shall be developed from any information maintained by any state agency and shall be consistent with standards developed by the United States Bureau of the Census and with s. 23.0115. Information in the census shall be summarized and organized to facilitate easy comparisons of major financial, economic, and demographic information for similar units of local government.

History.—s. 1, ch. 74-192; s. 3, ch. 79-183.

165.092 Local government service delivery; special studies.—

(1) The department shall, in consultation with the appropriate state and local agencies, conduct a continuing study of various governmental activities being conducted, and services being provided, by local governments in this state.

(2) The study of any function or activity shall consider the appropriate relationships of local-state-federal activity in the area and shall further consider the following criteria:

(a) The geographic and legal adequacy of the local governmental response;

(b) The degree of economic and social impact beyond the boundary of the local governmental unit involved in the activity or function;

(c) The degree of citizen access and control necessary for appropriate governmental response;

(d) The management and technical capability of the local governmental units involved in the function or activity; and

(e) The degree of economic efficiency and fiscal equity involved in the function or activity and any proposals for change.

(3) When a specific study of an activity or function is undertaken by the department, it shall notify the legislative committees and state agencies with jurisdiction over the subject matter, representatives of the state organizations of various local governmental units concerned, and any other person who has filed a request for such notification. The department shall further establish an advisory committee to review the study outline and any results or recommendations developed from such study.

(4) On or before February 1 of each year, the department shall report to the Governor and the presiding officers of both houses the status of the continuing study and any specific studies undertaken pursuant to this section.

History.—s. 2, ch. 74-192.

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.
PART I GENERAL PROVISIONS

166.011 Short title.—This chapter shall be known and may be cited as the “Municipal Home Rule Powers Act.”

History.—s. 1, ch. 73-129.

166.021 Powers.—

1. As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.

2. “Municipal purpose” means any activity or power which may be exercised by the state or its political subdivisions.

3. The Legislature recognizes that pursuant to the grant of power set forth in s. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except:

(a) The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;

(b) Any subject expressly prohibited by the constitution;

(c) Any subject expressly preempted to state or county government by the constitution or by general law; and

(d) Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.

4. The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those expressly prohibited. However, nothing in this act shall be construed to permit any changes in a special law or municipal charter which affect the exercise of extraterritorial powers or which affect an area which includes lands within and without a municipality or any changes in a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors as provided in s. 166.031. Any other limitation of power upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973, is hereby nullified and repealed.

5. All existing special acts pertaining exclusively to the power or jurisdiction of a particular municipality except as otherwise provided in subsection (4) shall become an ordinance of that municipality on the effective date of this act, subject to modification or repeal as other ordinances.

History.—s. 1, ch. 73-129; s. 1, ch. 77-174.

cf.—s. 125.0101 County may contract to provide services to municipalities and special districts.

166.031 Charter amendments.—

1. The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.
(2) Upon adoption of an amendment to the charter of a municipality by a majority of the electors voting in a referendum upon such amendment, the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised charter with the Department of State, at which time the revised charter shall take effect.

(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2).

(4) There shall be no restrictions by the municipality on any employee's or employee group's political activity, while not working, in any referendum changing employee rights.

(5) A municipality may, by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter and amend provisions language out of the charter which has been judicially construed to be contrary to either the state or federal constitution.

History.—s. 1, ch. 73-129.

166.032 Electors.—Any person who is a resident of a municipality, who has qualified as an elector of this state, and who registers in the manner prescribed by general law and ordinance of the municipality shall be a qualified elector of the municipality.

History.—s. 1, ch. 72-129.

166.041 Procedures for adoption of ordinances and resolutions.—

(1) As used in this section, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

(a) "Ordinance" means an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.

(b) "Resolution" means an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

(2) Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.

(3) (a) Except as provided in paragraph (c), a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 7 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of the proposed ordinances, and the place or places within the municipality where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(b) The governing body of a municipality may, by a two-thirds vote, enact an emergency ordinance without complying with the requirements of paragraph (a) of this subsection. However, no emergency ordinance shall be enacted which enacts or amends a land use plan or which rezones private real property.

(c) Enactment of ordinances initiated by the governing body or its designee which rezone private real property shall be enacted pursuant to the following procedure:

1. In cases in which the proposed rezoning involves less than 5 percent of the total land area of the municipality, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will rezone by enactment of the ordinance and whose address is known by reference to the last ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance deals with more than 5 percent of the total land area of the municipality, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. Both hearings shall be held after 5 p.m. on weekdays, and the first shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held approximately 2 weeks after the first hearing and shall be advertised approximately 5 days prior to the public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

b. The required advertisements shall be no less than one-quarter page in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the municipality and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. It is the legislative intent that, whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week unless the only newspaper in the community is published less than 5 days a week. The ad-
**NOTICE OF ZONING CHANGE**

The [name of local governmental unit] proposes to rezone the land within the area shown in the map in this advertisement.

A public hearing on the rezoning will be held on [date and time] at [meeting place].

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identifying the area.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance.

(4) A majority of the members of the governing body shall constitute a quorum. An affirmative vote of a majority of a quorum present shall be necessary to enact any ordinance or adopt any resolution; except that two-thirds of the membership of the board is required to enact an emergency ordinance. On final passage, the vote of each member of the governing body voting shall be entered on the official record of the meeting. All ordinances or resolutions passed by the governing body shall become effective 10 days after passage or as otherwise provided therein.

(5) Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the presiding officer and the clerk of the governing body.

(6) The procedure as set forth herein shall constitute a uniform method for the adoption and enactment of municipal ordinances and resolutions and shall be taken as cumulative to other methods now provided by law for adoption and enactment of municipal ordinances and resolutions. By future ordinance or charter amendment, a municipality may specify additional requirements for the adoption or enactment of ordinances or resolutions or prescribe procedures in greater detail than contained herein. However, a municipality shall not have the power or authority to lessen or reduce the requirements of this section or other requirements as provided by general law.

History. — s. 1, ch. 73-129; s. 2, ch. 76-155; s. 2, ch. 77-331.

### 166.043 Ordinances and rules imposing price controls; findings required; procedures. —

(1)(a) Except as hereinafter provided, no county, municipality, or other entity of local government shall adopt or maintain in effect an ordinance or a rule which has the effect of imposing price controls upon a lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency, unless specifically provided by general law.

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxi, or port rates.

(2) No law, ordinance, rule, or other measure which would have the effect of imposing controls on rents shall be adopted or maintained in effect except as provided herein and unless it is found and determined, as hereinafter provided, that such controls are necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.

(3) Any law, ordinance, rule, or other measure which has the effect of imposing controls on rents shall terminate and expire within 1 year and shall not be extended or renewed except by the adoption of a new measure meeting all the requirements of this section.

(4) Notwithstanding any other provisions of this section, no controls shall be imposed on rents for any accommodation used or offered for residential purposes as a seasonal or tourist unit, as a second housing unit, or on rents for dwelling units located in luxury apartment buildings. For the purposes of this section, a luxury apartment building is one wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds $250.

(5) No municipality, county, or other entity of local government shall adopt or maintain in effect any law, ordinance, rule, or other measure which would have the effect of imposing controls on rents unless:
(a) Such measure is duly adopted by the governing body of such entity of local government, after notice and public hearing, in accordance with all applicable provisions of the Florida and United States Constitutions, the charter or charters governing such entity of local government, this section, and any other applicable laws.

(b) Such governing body makes and recites in such measure its findings establishing the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency.

(c) Such measure is approved by the voters in such municipality, county, or other entity of local government.

(6) In any court action brought to challenge the validity of rent control imposed pursuant to the provisions of this section, the evidentiary effect of any such controls are necessary and proper to eliminate such grave housing emergency.

In any court action brought to challenge the validity of rent control imposed pursuant to the provisions of this section, the evidentiary effect of any findings or recitations required by subsection (5) shall be limited to imposing upon any party challenging the validity of such measure the burden of going forward with the evidence, and the burden of proof (that is, the risk of nonpersuasion) shall rest upon any party seeking to have the measure upheld.

166.051 Short title.—Sections 166.051-166.062 shall be known and may be cited as the “Municipal Code Enforcement Boards Act.”

166.052 Intent.—It is the intent of this act to promote, protect, and improve the health, safety, and welfare of the citizens of the municipalities of this state by providing an equitable, expeditious, effective, and inexpensive method of enforcing the various occupational license, fire, building, zoning, sign, and related technical codes in force in municipalities.

166.053 Applicability.—(1) This act shall apply to the incorporated areas of every municipality in this state. Each municipality may, at its option, create by ordinance a code enforcement board as provided herein.

(2) Charter counties may, by county ordinance, be exempted from the provisions of this act.

166.054 Definitions.—(1) “City council” means the legislative body of the municipality.

(2) “Code inspector” means any authorized agent or employee of the municipality whose duty it is to assure code compliance.

(3) “City attorney” means the legal counselor for the municipality.

166.055 Municipal code enforcement board; organization.—(1) The city council may appoint a six-member code enforcement board and legal counsel for the enforcement board. Members of the enforcement board shall be residents of the municipality. Appointments shall be made in accordance with the city charter on the basis of experience or interest in the fields of zoning and building control. The membership of the enforcement board shall, whenever possible, consist of an architect, a businessman, an engineer, a general contractor, a subcontractor, and a realtor.

(2) The initial appointments to the enforcement board shall be as follows:

(a) Two members appointed for a term of 1 year.

(b) Two members appointed for a term of 2 years.

(c) Two members appointed for a term of 3 years.

Thereafter, all appointments shall be made for a term of 3 years. Any member may be reappointed from term to term upon approval of the city council. Appointments to fill any vacancy on the enforcement board shall be for the remainder of the unexpired term of office. Any member who fails to attend two of three successive meetings without cause and without prior approval of the chairman shall automatically forfeit his appointment, and the city council shall promptly fill such vacancy. The members shall serve in accordance with the city charter and may be removed as provided in the city code of ordinances for removal of members of city boards.

(3) The members of the enforcement board shall elect a chairman. The presence of four or more members shall constitute a quorum of the enforcement board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city council.

(4) The city attorney shall either be counsel to the code enforcement board or shall represent the city by presenting cases before the board; but in no case shall the city attorney serve in both capacities.

166.056 Enforcement procedure.—(1) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of the board shall have the power to initiate such enforcement proceedings.

(2) Except as provided in subsection (3), if a violation of the codes is found, the code inspector shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue
beyond the time specified for correction, the code inspector shall notify the enforcement board and request a hearing pursuant to the procedure in s. 166.057. Written notice shall be mailed to said violator as provided herein.

3 If the code inspector has reason to believe a violation presents a serious threat to the public health, safety, and welfare, the code inspector may proceed directly to the procedure in s. 166.057 without notifying the violator.

History.--s. 1, ch. 80-300.

166.057 Conduct of hearing.--
(1) The chairman of the enforcement board may call hearings of the enforcement board; hearings may also be called by written notice signed by at least three members of the enforcement board. At any hearing the enforcement board may set a future hearing date. The enforcement board should attempt to convene no less frequently than once every 2 months, but may meet more or less often as the demand necessitates. Minutes shall be kept of all hearings by the enforcement board, and all hearings shall be open to the public. The city council shall provide clerical and administrative personnel as may be reasonably required by the enforcement board for the proper performance of its duties.

(2) Each case before the enforcement board shall be presented by the city attorney or by a member of the administrative staff of the municipality.

(3) The enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern said proceedings.

(4) At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record, and conclusions of law and shall issue an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those present and voting, except that at least three members of the enforcement board must vote in order for the action to be official. The record shall be presented to the court on appeal and shall be subject to review.

History.--s. 1, ch. 80-300.

166.058 Powers of the enforcement board.
The enforcement board shall have the power to:
(1) Adopt rules for the conduct of its hearings.
(2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the police department of the municipality.
(3) Subpoena evidence.
(4) Take testimony under oath.
(5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.

History.--s. 1, ch. 80-300.

166.059 Administrative fines; liens.--The enforcement board, upon notification by the code inspector that a previous order of the enforcement board has not been complied with by the set time, may order the violator to pay a fine not to exceed $500 for each day the violation continues past the date set for compliance. A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists. After 1 year from the filing of any such lien which remains unpaid, the enforcement board may authorize the city attorney to foreclose on the lien.

History.--s. 1, ch. 80-300.

166.061 Appeals.--An aggrieved party may appeal a ruling or order of the enforcement board by certiorari in circuit court. An appeal shall be filed within 30 days of the execution of the order to be appealed.

History.--s. 1, ch. 80-300.

166.062 Notices.--All notices required by this act shall be by certified mail, return receipt requested, or, when mail would not be effective, by hand delivery by the code inspector.

History.--s. 1, ch. 80-300.

PART III
MUNICIPAL BORROWING

166.101 Definitions.
166.111 Authority to borrow.
166.121 Issuance of bonds.
166.122 Establishment of sinking funds.
166.131 Levy of taxes for payment of debt.
166.141 Full authority for issuance of bonds.

166.101 Definitions.--As used in this part, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:
(1) The term "bond" includes bonds, debentures, notes, certificates of indebtedness, mortgage certificates, or other obligations or evidences of indebtedness of any type or character.
(2) The term "general obligation bonds" means bonds which are secured by, or provide for their payment by, the pledge, in addition to those special taxes levied for their discharge and such other sources as may be provided for their payment or pledged as security under the ordinance or resolution authorizing their issuance, of the full faith and credit and taxing power of the municipality and for payment of which recourse may be had against the general fund of the municipality.
(3) The term "ad valorem bonds" means bonds which are payable from the proceeds of ad valorem taxes levied on real and tangible personal property.
(4) The term "revenue bonds" means obligations of the municipality which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the municipality.
(5) The term "improvement bonds" means special obligations of the municipality which are payable
solely from the proceeds of the special assessments levied for an assessable project.

(6) The term "refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

(7) The term "governing body" means the council, commission, or other board or body in which the general legislative powers of the municipality shall be vested.

(8) The term "project" means a governmental undertaking approved by the governing body and includes all property rights, easements, and franchises relating thereto and deemed necessary or convenient for the construction, acquisition or operation thereof, and embraces any capital expenditure which the governing body of the municipality shall deem to be made for a public purpose including the refunding of any bonded indebtedness which may be outstanding on any existing project which is to be improved by means of a new project.

166.111 Authority to borrow.—The governing body of every municipality may borrow money, contract loans, and issue bonds as defined in s. 106.101 from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property, and taxing power of the municipality for the payment of such debts and bonds.

166.121 Issuance of bonds.—
(1) Bonds issued under this part shall be authorized by resolution or ordinance of the governing body and, if required by the State Constitution, by affirmative vote of the electors of the municipality. Such bonds may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, registered or not, with or without coupon, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by such resolution or ordinance or trust indenture or mortgage issued pursuant thereto.

(2) The governing body of a municipality shall determine the terms and manner of sale and distribution or other disposition of any and all bonds it may issue and shall have any and all powers necessary or convenient to such disposition.

166.122 Establishment of sinking funds.—The governing body of a municipality may establish and administer such sinking funds as it deems necessary or convenient for the payment, purchase, or redemption of any outstanding bonded indebtedness of the municipality.

166.131 Levy of taxes for payment of debt.—The governing body of a municipality may levy ad valorem taxes upon real and tangible personal property within the municipality as it deems necessary to make payment, including principal and interest, upon the general obligation and ad valorem bonded indebtedness of the municipality or into any sinking funds created under s. 166.122.

166.141 Full authority for issuance of bonds.—This part shall be full authority for the issuance of bonds authorized herein.

PART IV
MUNICIPAL FINANCE AND TAXATION

166.201 Taxes and charges.—A municipality may raise, by taxation and licenses authorized by the Constitution or general law, or by user charges or fees authorized by ordinance, amounts of money which are necessary for the conduct of municipal government and may enforce their receipt and collection in the manner prescribed by ordinance not inconsistent with law.

166.211 Ad valorem taxes.—
(1) Pursuant to s. 9, Art. VII of the State Constitution, a municipality is hereby authorized, in a manner not inconsistent with general law, to levy ad valorem taxes upon real and tangible personal property within the municipality in an amount not to exceed 10 mills, exclusive of taxes levied for the payment of bonds and taxes levied for periods of not longer than 2 years and approved by a vote of the electors.

(2) The assessment and collection of municipal ad valorem taxes shall be performed by appropriate officers as prescribed by general law. At any time millage rates are published for the purpose of giving notice, the rates shall be stated in terms of dollars and cents for every thousand dollars of assessed property value.

166.215 Remittance of funds.—Notwithstanding any other provisions of law, in the event that a county remits to a municipality, or has so remitted
for any prior year, the identified cost of services or programs as described in s. 125.011(6), all or any part of the funds so remitted to the municipality may be further remitted by the municipality, acting as the agent of its citizens and taxpayers, to the taxpayers of the municipality.

History.—s. 1, ch. 80-53.

166.221 Regulatory fees.—A municipality may levy reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter.

History.—s. 1, ch. 73-129.

166.231 Municipalities; public service tax.—(1) A municipality may levy a tax on the purchase of electricity, metered or bottled gas (natural liquefied petroleum gas or manufactured), water service, telephone service, and telegraph service. The tax shall be levied only upon purchases within the municipality and shall not exceed 10 percent of the payments received by the seller of the taxable item from the purchaser for the purchase of such service. Municipalities imposing a tax on the purchase of cable television service as of May 4, 1977, may continue to levy such tax to the extent necessary to meet all obligations to or for the benefit of holders of bonds or certificates, which were issued prior to May 4, 1977.

(b) The tax imposed by paragraph (a) shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. “Fuel adjustment charge” shall mean all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(2) Services competitive with those enumerated in subsection (1), as defined by ordinance, shall be taxed on a comparable base at the same rates. However, fuel oil shall be taxed at a rate not to exceed 4 cents per gallon. However, for municipalities levying less than the maximum rate allowable in subsection (1), the maximum tax on fuel oil shall bear the same proportion to 4 cents which the tax rate levied under subsection (1) bears to the maximum rate allowable in subsection (1).

(3) The tax on electricity authorized under subsection (1) shall not be levied and collected on the first 50 kilowatt hours per month purchased for residential use beginning October 1, 1978. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate or central meter, and shall be passed on to each individual tenant. The electric utility shall compute the amount of the tax loss resulting from such exemption for each month and:

(a) Deduct this amount from the tax due the state for sales and use tax under chapter 212; and

(b) Remit this amount to the municipality in accordance with subsection (6).

(4) The purchase of natural gas or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, or the purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines shall be exempt from taxation hereunder.

(5) A municipality may exempt from taxation hereunder the purchase of the taxable items by the United States Government, the State of Florida, or any other public body as defined in s. 1.01, and shall exempt purchases by any recognized church in this state for use exclusively for church purposes.

(6) The tax authorized hereunder shall be collected by the seller of the taxable item from the purchaser at the time of the payment for such service. The seller shall remit the taxes collected to the municipality in the manner prescribed by ordinance.

(7) A municipality shall notify in writing any known seller of items taxable hereunder of any change in the boundaries of the municipality or in the rate of taxation.

History.—s. 1, ch. 73-129; ss. 1, 2, ch. 74-108; s. 1, ch. 77-251; s. 1, ch. 77-174; s. 1, ch. 81-137; s. 1, ch. 81-402; s. 1, ch. 82-276; s. 1, ch. 83-218; s. 1, ch. 83-384; s. 1, ch. 87-329; s. 1, ch. 89-151; s. 1, ch. 90-362; s. 1, ch. 91-194.

166.232 Municipalities; public service tax; physical unit base option.—(1) At the discretion and option of the local tax authority, the tax authorized under s. 166.231 may be levied on a physical unit basis. The tax on the purchase of electric service may be based upon the number of kilowatt hours purchased; the tax on the purchase of metered or bottled gas (natural liquefied petroleum gas or manufactured) may be based on the number of cubic feet purchased; the tax on the purchase of fuel oil and kerosene may be based on the number of gallons purchased; and the tax on the purchase of water service may be based on the number of gallons purchased.

(2) In the event that a municipality shall choose the option provided in this section to tax on a physical unit basis, the tax on electricity authorized under s. 166.231 shall not be levied and collected on the first 50 kilowatt hours per month purchased for residential use. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate or central meter, and shall be passed on to each individual tenant.

(3) In exercising its option pursuant to this section, each municipality levying a tax pursuant to this section shall implement a new tax rate structure and tax base in accordance with this act. The new tax rates shall apply to prior purchases of service if the purchases were billed during the month of implementation and thereafter. The shift in the tax rate and tax base for electricity, metered or bottled gas, fuel oil, kerosene, and water shall be accomplished in the following manner:

(a) Each municipality levying the tax shall, prior to converting to unit-based rates, compute the amount of tax it received from each source for the most recent 12 months for which such data is available.

(b) The amount determined under paragraph (a) shall be divided by the number of units purchased and taxed for the same period of time used in paragraph (a).
(c) One hundred five percent of the resulting figure rounded to no more than four decimal places shall be the maximum amount per unit which the municipality may levy upon converting to unit-based rates. However, during the year of conversion to a physical unit tax, the municipality may adjust its rates to ensure that revenues derived from the tax shall equal 105 percent of the revenues derived in the immediately preceding year. In those years subsequent to the year of conversion to a physical unit tax, the municipality may amend its tax rate by ordinance.

History. - s. 5, ch. 73-129.

166.251 Service fee for dishonored check.
—The governing body of a municipality may adopt a service fee of up to $5 for the collection of a dishonored check, draft, or other order for the payment of money to a municipal official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the collector of the fee.

History. - s. 2, ch. 75-56; s. 31, ch. 79-164.

166.261 Municipalities; investments.
—Except when another procedure is prescribed by law or by ordinance as to particular funds, the governing body of each municipality shall, by resolutions to be adopted from time to time, invest and reinvest any surplus public funds in its control or possession in:

(a) The Local Government Surplus Funds Trust Fund;
(b) Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities;
(c) Interest-bearing time deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law; or
(d) Obligations of the Federal Farm Credit Banks, Federal Home Loan Mortgage Corporation, or Federal Home Loan Bank or its district banks, including Federal Home Loan Mortgage Corporation participation certificates, or obligations guaranteed by the Government National Mortgage Association.

(2)(a) All securities purchased by any such governing body under this section shall be properly earmarked and immediately placed for safekeeping in a safety-deposit box in a bank or institution carrying adequate safety-deposit box insurance within the county in which said municipality is situated, and no withdrawal of such securities, in whole or in part, shall be made from such safety-deposit box except upon authority evidenced by resolution of the governing body of the municipality.

(b) The governing body may also receive bank trust receipts in return for investment of surplus funds in securities. Any trust receipts received must enumerate the various securities held, together with the specific number of each security held. The actual securities on which the trust receipts are issued may be held by any bank depository chartered by the United States Government or the State of Florida or their designated agents.

(3) When the money invested in such securities is needed in whole or in part for the purposes originally intended, the governing body of the municipality is authorized to sell such security or securities at the then prevailing market price and to pay the proceeds of such sale into the proper account or fund of the municipality.

(4) For the purposes of this section, the term "surplus funds" is defined as funds in any general or special account or fund of the municipality, held or controlled by the governing body of the municipality, which funds in reasonable contemplation will not be needed for the purposes intended within a reasonable time from the date of such investment.

(5) Any surplus public funds subject to any contract or agreement on the date of this enactment shall not be invested contrary to said contract or agreement.

(6) The provisions of this section are supplemental to any and all other laws relating to the legal investments of municipalities.

History. - s. 4, ch. 77-394; s. 2, ch. 79-119; s. 4, ch. 79-262.

PART V

EMINENT DOMAIN

166.401 Right of eminent domain.

166.411 Eminent domain; uses or purposes.

166.401 Right of eminent domain.—All municipalities in the state may exercise the right and power of eminent domain; that is, the right to appropriate property within the state, except state or federal property, for the uses or purposes authorized
pursuant to this part. The absolute fee simple title to all property so taken and acquired shall vest in such municipal corporation unless the municipality seeks to condemn a particular right or estate in such property.

History.—s. 1, ch. 73-129.

166.411 Eminent domain; uses or purposes.
—Municipalities are authorized to exercise the power of eminent domain for the following uses or purposes:
(1) For the proper and efficient carrying into effect of any proposed scheme or plan of drainage, ditching, grading, filling, or other public improvement deemed necessary or expedient for the preservation of the public health, or for other good reason connected in anywise with the public welfare or the interests of the municipality and the people thereof;
(2) Over railroads, traction and streetcar lines, telephone and telegraph lines, all public and private streets and highways, drainage districts, bridge districts, school districts, or any other public or private lands whatsoever necessary to enable the accomplishment of purposes listed in s. 180.06;
(3) For streets, lanes, alleys, and ways;
(4) For public parks, squares, and grounds;
(5) For drainage, for raising or filling in land in order to promote sanitation and healthfulness, and for the taking of easements for the drainage of the land of one person over and through the land of another;
(6) For reclaiming and filling when lands are low and wet, or overflowed altogether or at times, or entirely or partly;
(7) For the abatement of any nuisance;
(8) For the use of water pipes and for sewerage and drainage purposes;
(9) For laying wires and conduits underground; and
(10) For city buildings, waterworks, ponds, and other municipal purposes which shall be coextensive with the powers of the municipality exercising the right of eminent domain.

History.—s. 1, ch. 73-129.
CHAPTER 170
SUPPLEMENTAL AND ALTERNATIVE METHOD OF MAKING LOCAL MUNICIPAL IMPROVEMENTS

170.01 Authority for providing improvements and levying and collecting special assessments against property benefited.—Any city, town, or municipal corporation of this state, hereinafter referred to as the “municipality,” whether organized under the general law, or under special act, or having a charter adopted by vote under an enabling act, (hereinafter referred to as the “governing authority”) may, by its governing authority, provide for the construction, reconstruction, repair, paving, repaving, hard surfacing, rehard surfacing, widening, guttering, and drainage of streets, boulevards, and alleys and for grading, regrading, leveling, laying, relaying, paving, repaving, hard surfacing, and rehard surfacing sidewalks; order the construction or recon-

struction of sanitary sewers, storm sewers, and drains, including the necessary appurtenances there-
to; order the construction or reconstruction of water mains, water laterals, and other water distribution fa-
cilities, including the necessary appurtenances there-
to; provide for the drainage and reclamation of wet, low, or overflowed lands; provide for offstreet park-
ing facilities, parking garages, or similar facilities; and provide for the payment of all or any part of the costs of any such improvements by levying and collect-
ing special assessments on the abutting, adjoining, contiguous, or other specially benefited property. However, offstreet parking facilities, parking garages, or other similar facilities shall have prior approval of affected property owners.

170.02 Method of prorating special assessments.—Special assessments against property deemed to be benefited by local improvements, as provided for in s. 170.01, shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, and said special benefits to be determined and prorated according to the foot frontage of the respective prop-
erties specially benefited by said improvement, or by such other method as the governing body of the muni-
cipality may prescribe.

170.03 Resolution required to declare special assessments.—When the governing authority of any municipality may determine to make any public improvement authorized by s. 170.01 and defray the whole or any part of the expense thereof by special assessments, said governing authority shall so declare by resolution stating the nature of the proposed improvement, designating the street or streets or sidewalks to be so improved, the location of said sanit-
tary sewers, storm sewers, and drains, the location of said water mains, water laterals, and other water dis-
tribution facilities, or the location of the drainage project, and the part or portion of the expense there-
of to be paid by special assessments, the manner in which said assessments shall be made, when said ass-
sumptions are to be paid, what part, if any, shall be apportioned to be paid from the general improve-
ment fund of the municipality; and said resolution shall also designate the lands upon which the special assessments shall be levied, and in describing said lands it shall be sufficient to describe them as “all lots and lands adjoining and contiguous or bounding and abutting upon such improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for.” Such resolu-
tion shall also state the total estimated cost of the improvement. Such estimated cost may include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property,
rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for 1 year after completion of construction, discount on the sale of special assessment bonds, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expense, and such other expense as may be necessary or incident to the financing herein authorized.

170.04 Plans and specifications, with estimated cost of proposed improvement required before adoption of resolution.—At the time of the adoption of the resolution provided for in s. 170.03, there shall be on file with the town or city clerk, or like officer, of the municipality adopting said resolution, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement, which assessment plat, plans and specifications and estimate shall be open to the inspection of the public.

History.—s. 4, ch. 9298, 1923; CGL 3025; s. 3, ch. 59-396.

170.05 Publication of resolution.—Upon the adoption of the resolution provided for in s. 170.03, the municipality shall cause said resolution to be published one time in a newspaper of general circulation published in said municipality, and if there be no newspaper published in said municipality, the governing authority of said municipality shall cause said resolution to be published once a week for a period of 2 weeks in a newspaper of general circulation published in the county in which said municipality is located; provided that the last publication shall be at least 1 week prior to the date of the hearing. Said notice shall describe the streets or other areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the clerk of the municipality. Such service by publication shall be verified by the affidavit of the publisher and filed with the clerk of said municipality.

History.—s. 7, ch. 9298, 1923; CGL 3028; s. 4, ch. 59-396; s. 1, ch. 77-102.

170.06 Assessment roll.—Upon the adoption of the resolution aforesaid, the governing authority of the municipality shall cause to be made an assessment roll in accordance with the method of assessment provided for in said resolution, which assessment roll shall be completed and filed with the governing authority of the municipality as promptly as possible; said assessment roll shall show the lots and lands assessed, the amount of the benefit to and the assessment against each lot or parcel of land, and if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall also be entered and shown upon said assessment roll.

History.—s. 6, ch. 9298, 1923; CGL 3027; s. 3, ch. 67-552.

170.07 Publication of assessment roll.—Upon the completion of said assessment roll, the governing authority of the municipality shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons interested therein may appear before said governing authority and be heard as to the property and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor and as to the amount thereof to be assessed against each property so improved. Ten days' notice in writing of such time and place shall be given to such property owners which shall be served by mailing a copy of such notice to each of such property owners at his last known address, the names and addresses of such property owners to be obtained from the records of the property appraiser or from such other sources as the city or town clerk or engineer deems reliable, proof of such mailing to be made by the affidavit of the clerk or deputy clerk of said municipality, or by the engineer, said proof to be filed with the clerk, provided, that failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. Notice of the time and place of such hearing shall also be given by two publications a week apart in a newspaper of general circulation in said municipality, and if there be no newspaper published in said municipality the governing authority of said municipality shall cause said notice to be published in like manner in a newspaper of general circulation published in the county in which said municipality is located; provided that the last publication shall be at least 1 week prior to the date of the hearing. Said notice shall describe the streets or other areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the clerk of the municipality. Such service by publication shall be verified by the affidavit of the publisher and filed with the clerk of said municipality.

History.—s. 5, ch. 9298, 1923; CGL 3026.

170.08 Equalizing board to hear complaints and adjust assessments; rebate of difference in cost and assessment.—At the time and place named in the notice provided for in s. 170.07, the governing authority of the municipality shall meet as an equalizing board to hear and consider any and all complaints as to the special assessments and shall adjust and equalize the assessments on a basis of justice and right; and when so equalized and approved by resolution or ordinance of the governing authority, such assessments shall stand confirmed and remain legal, valid, and binding first liens, upon the property against which such assessments are made, until paid; however, upon completion of the improvement, the municipality shall credit to each of the assessments the difference in the assessment as originally made, approved, and confirmed and the proportionate part of the actual cost of the improvement to be paid by special assessments as finally determined upon the completion of the improvement, but in no event shall the final assessments exceed the amount of benefits originally assessed. Promptly after such confirmation, the assessments shall be recorded by the city clerk in a special book, to be known as the “Improvement Lien Book,” and the record of the lien in this book shall constitute prima facie evidence of its validity. The governing authority of the municipality may by resolution grant a discount equal to all or a part of the payee’s proportionate share of the cost of the project consisting of bond financing costs, such as capitalized interest, funded reserves, and bond discount included in the estimated cost of the project,
upon payment in full of any assessment during such period prior to the time such financing costs are incurred as may be specified by the governing authority.  

History.—s. 8, ch. 9298, 1923; CGL 3029; s. 5, ch. 59-396; s. 1, ch. 78-330; s. 73, ch. 81-599.

170.09 Priority of lien; interest; and method of payment.—The special assessments shall be payable at the time and in the manner stipulated in the resolution providing for the improvement; shall remain liens, equal to the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest, at a rate not to exceed 1 percent above the rate of interest at which the improvement bonds authorized pursuant to this chapter and used for the improvement are sold, from the date of the acceptance of the improvement; and may, by the resolution aforesaid, be made payable in not more than 10 equal yearly installments, to which, if not paid when due, there shall be added a penalty at the rate of 1 percent per month, until paid. However, the assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority.

History.—s. 9, ch. 9298, 1923; CGL 3030; s. 6, ch. 59-396; s. 1, ch. 61-440; s. 4, ch. 67-552; s. 3, ch. 80-318; s. 74, ch. 81-599.

170.10 Legal proceedings instituted upon failure of property owner to pay special assessment or interest when due; foreclosure; service of process.—Each annual installment provided for in s. 170.09 shall be paid upon the dates specified in said resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and upon the failure of any property owner to pay any annual installment due, or any part thereof, or any annual interest upon deferred payment, the governing authority of the municipality shall cause to be brought the necessary legal proceedings by a bill in chancery to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable solicitor's fee, to be assessed as part of the costs and in the event of default in the payment of any installment of an assessment, or any accrued interest on said assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment service of process against unknown or nonresident defendants may be had by publication, as now provided by law in other chancery suits. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages; or, in the alternative, said proceeding may be instituted and prosecuted under chapter 173.

History.—s. 10, ch. 9298, 1923; CGL 3031; s. 7, ch. 59-396.

170.11 Bonds may be issued to an amount not exceeding the amount of liens assessed for the cost of improvements to be paid by special assessment.—After the equalization, approval and confirmation of the levying of the special assessments for improvements as provided by s. 170.08 and as soon as a contract for said improvement has been finally let, the governing authority of the municipality may by resolution or ordinance authorize the issuance of bonds, to be designated "Improvement bonds, series No. ______," in an amount not in excess of the aggregate amount of said liens levied for such improvements. Said bonds shall be payable from a special and separate fund, to be known as the "Improvement fund, series No. ______," which shall be used solely for the payment of the principal and interest of said "Improvement bonds, series No. ______" and for no other purpose. Said fund shall be deposited in a separate bank account; and all the proceeds collected by the city from the principal, interest, and penalties of said liens shall be deposited and held in said fund. Said bonds so issued shall never exceed the amount of liens assessed, and said bonds shall mature not later than 2 years after the maturity of the last installment of said liens. Said bonds shall bear certificates signed by the clerk of the municipality certifying that the amount of liens levied, the proceeds of which are pledged to the payment of said bonds, are equal to the amount of the bonds issued. The bonds may be delivered to the contractor in payment for his work or may be sold at public or private sale for not less than 95 percent of par and accrued interest, the proceeds to be used in paying for the cost of the work. Said bonds shall not be a charge on, or payable out of, the general revenues of the city, but shall be payable solely out of said assessments, installments, interest, and penalties. Any surplus remaining after payment of all bonds and interest thereon shall revert to the city and be used for any municipal purpose.

History.—s. 11, ch. 9298, 1923; CGL 3032; s. 8, ch. 59-396; s. 5, ch. 67-552; s. 1, ch. 78-230.

170.14 Governing authority of municipality required to make new assessments until valid assessment is made if special assessment is omitted or held invalid.—If any special assessment made under the provisions of this chapter to defray the whole or any part of the expense of any said improvement shall be either in whole or in part null, vacated or set aside by the judgment of any court, or if the governing authority of any municipality shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the governing authority of a municipality shall have omitted to make such assessment when it might have been made, the governing authority of the municipality shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property benefited by any improvement, following as nearly as may be the provisions of this chapter and in case such second assessment shall be annulled, said governing authority of any municipality may obtain and make other assessments until a valid assessment shall be made.

History.—s. 14, ch. 9298, 1923; CGL 3033; s. 11, ch. 59-396.

170.15 Expenditures for improvements.
The governing authority of any municipality may pay out of its general funds or out of any special fund that may be provided for that purpose such portion of the cost of any improvement as it may deem proper.

History.—s. 15, ch. 9298, 1923; CGL 3036; s. 12, ch. 59-396.

170.16 Assessment roll sufficient evidence of assessment and other proceedings of this chapter; variance not material unless party objecting materially injured thereby.—Any informality or irregularity in the proceedings in connection with the levy of any special assessment under the provisions of this chapter shall not affect the validity of the same where the assessment roll has been confirmed by the governing authority, and the assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of the said assessment roll were duly had, taken and performed as required by this chapter; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

History.—s. 16, ch. 9298, 1923; CGL 3037.

170.17 Denomination of bonds, interest, place of payment, form, signatures, coupons and delivery.—All bonds issued under this chapter shall be the denomination of $100, or some multiple thereof, and shall bear interest at a uniform rate not exceeding 7.5 percent per annum, payable annually or semiannually thereafter until maturity, and 10 percent per annum after maturity, and both principal and interest shall be payable at such place or places as the governing authority may determine. The form of such bonds shall be fixed by resolution of the governing authority of the municipality and said bonds shall be signed by the mayor or chief executive officer of the municipality and the clerk or other like officers thereof, under the seal of the municipality; the coupons, if any, shall be executed by the facsimile signatures of said officers. The delivery of any bond and coupon so executed at any time thereafter shall be valid although before the date of delivery the person signing such bond or coupons shall cease to hold office.

History.—s. 17, ch. 9298, 1923; CGL 3038; s. 13, ch. 59-306; s. 16, ch. 73-302.

170.18 Notice required where no newspaper is published in county in which municipality is situated.—Where, by any of the provisions of this chapter, any notice is required to be given by publication in a newspaper, if there be no newspaper published in the county in which the municipality is situated, then such notice shall be posted for the prescribed period of time in at least five public places in the municipality, one of which shall be the city or town hall, or the place of meeting of the governing authority, if there be no city or town hall.

History.—s. 18, ch. 9298, 1923; CGL 3039.

170.19 Construction and authority of chapter.—This chapter shall, without reference to any other law of Florida, be full authority for the issuance and sale of the bonds by this chapter authorized, and shall be construed as an additional and alternative method for the financing of the improvements referred to herein. No ordinance, resolution, election or proceeding in respect of the issuance of any bonds hereunder shall be necessary, except such as is required by this chapter, and no publication of any resolution, ordinance, election, notice or proceeding relating to the issuance of the bonds provided for by this chapter shall be required, except such as required by this chapter.

History.—s. 19, ch. 9298, 1923; CGL 3040; s. 14, ch. 59-396.

170.20 Bonds negotiable.—Bonds issued under s. 170.11 shall have all the qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestable in the hands of bona fide purchasers or holders thereof for value.

History.—s. 20, ch. 9298, 1923; CGL 3041; s. 15, ch. 59-396.

170.21 Provisions of chapter supplemental, additional and alternative procedure.—This chapter shall not repeal any other law relating to the subject matter hereof, but shall be deemed to provide a supplemental, additional and alternative method of procedure for the benefit of all cities, towns and municipal corporations of the state, whether organized under special act or the general law, and shall be liberally construed to effectuate its purpose.

History.—s. 21, ch. 9298, 1923; CGL 3042; s. 16, ch. 59-396.
CHAPTER 171
MUNICIPAL ANNEXATION OR CONTRACTION

171.011 Short title. - This chapter shall be known and may be cited as the "Municipal Annexation or Contraction Act."

171.021 Purpose. - The purposes of this act are to set forth procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits and to set forth criteria for determining when annexations or contractions may take place so as to:

(1) Insure sound urban development and accommodation to growth.
(2) Establish uniform legislative standards throughout the state for the adjustment of municipal boundaries.
(3) Insure the efficient provision of urban services to areas that become urban in character.
(4) Insure that areas are not annexed unless municipal services can be provided to those areas.

171.022 Preemption; effect on special laws. -

(1) It is further the purpose of this act to provide viable and usable general law standards and procedures for adjusting the boundaries of municipalities in this state.
(2) The provisions of any special act or municipal charter relating to the adjusting of municipal boundaries in effect on October 1, 1974, are repealed except as otherwise provided herein.

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

(1) "Annexation" means the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.
(2) "Contraction" means the reversion of real property within municipal boundaries to an unincorporated status.
(3) "Municipality" means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.
(4) "Newspaper of general circulation" means a newspaper printed in the language most commonly spoken in the area within which it circulates, which is readily available for purchase by all inhabitants in its area of circulation, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.
(5) "Parties affected" means any persons or firms owning property in, or residing in, either a municipality proposing annexation or contraction or owning property that is proposed for annexation to a municipality or any governmental unit with jurisdiction over such area.
(6) "Qualified voter" means any person registered to vote in accordance with law.
(7) "Sufficiency of petition" means the verification of the signatures and addresses of all signers of a petition with the voting list maintained by the county supervisor of elections and certification that the number of valid signatures represents the required percentage of the total number of qualified voters in the area affected by a proposed annexation.
(8) "Urban in character" means an area used intensively for residential, urban recreational or conservation parklands, commercial, industrial, institutional, or governmental purposes or an area undergoing development for any of these purposes.
(9) "Urban services" means any services offered by a municipality, either directly or by contract, to any of its present residents.
(10) "Urban purposes" means that land is used intensively for residential, commercial, industrial, institutional, and governmental purposes, including any parcels of land retained in their natural state or kept free of development as dedicated greenbelt areas.
(11) "Contiguous" means that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. The separation of the territory sought to be annexed from the annexing municipality by a right-of-way for a highway, road, railroad, canal, or utility or by a body of water, a watercourse, or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this act, provided the presence of such a division does not, as a practical matter, prevent the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal ser-
ices or prevent their inhabitants from fully associating and trading with each other, socially and economically. However, nothing herein shall be construed to allow local rights-of-way, utility easements, railroad rights-of-way, or like entities to be annexed in a corridor fashion to gain contiguity; and when any provision or provisions of special law or laws prohibit the annexation of territory that is separated from the annexing municipality by a body of water or watercourse, then that law shall prevent annexation under this act.

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

History.—s. 1, ch. 74-190; s. 1, ch. 75-297; s. 75, ch. 81-259.

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

(1) An ordinance proposing to annex an area of contiguous, compact, unincorporated territory shall be adopted by the governing body of the annexing municipality pursuant to the procedure for the adoption of a nonemergency ordinance established by s. 166.041. Each such ordinance shall propose only one reasonably compact area to be annexed. However, prior to the ordinance of annexation becoming effective, a referendum on annexation shall be held as set out below, and, if approved by the referendum, the ordinance shall become effective 10 days after the referendum or as otherwise provided in the ordinance, but not more than 1 year following the date of the referendum.

(2) Following the final adoption of the ordinance of annexation by the governing body of the annexing municipality, the ordinance shall be submitted to a separate vote of the registered electors of the annexing municipality and of the area proposed to be annexed. The referendum on annexation shall be called and conducted and the expense thereof paid by the governing body of the annexing municipality.

(a) The referendum on annexation shall be held at the next regularly scheduled election following the final adoption of the ordinance of annexation by the governing body of the annexing municipality or at a special election called for the purpose of holding the referendum. However, the referendum, whether held at a regularly scheduled election or at a special election, shall not be held sooner than 30 days following the final adoption of the ordinance by the governing body of the annexing municipality.

(b) The governing body of the annexing municipality shall publish notice of the referendum on annexation at least once a week for the 4 consecutive weeks immediately preceding the date of the referendum in a newspaper of general circulation in the area in which the referendum is to be held. The notice shall give the time and places for the referendum and a description of the area proposed to be annexed. The description shall be by metes and bounds and shall include a map clearly showing such area.

(c) On the day of the referendum on annexation there shall be prominently displayed at each polling place a copy of the ordinance of annexation and a description of the property proposed to be annexed. The description shall be by metes and bounds and shall include a map clearly showing such area.

(d) Ballots or mechanical voting devices used in the referendum on annexation shall offer the choice “For annexation of property described in ordinance number ______ of the City of ______” and “Against annexation of property described in ordinance number ______ of the City of ______” in that order.

(e) If there is a separate majority vote for annexation in the annexing municipality and in the area proposed to be annexed, the ordinance of annexation shall become effective on the effective date specified therein. If there is a majority vote against annexation in either the annexing municipality or in the area proposed to be annexed, or in both, the ordinance shall not become effective, and the area proposed to be annexed shall not be the subject of an annexation ordinance by the annexing municipality for a period of 2 years from the date of the referendum on annexation.

(3) Any improved parcel of land which is owned by one individual, corporation, or legal entity, or owned collectively by one or more individuals, corporations, or legal entities, proposed to be annexed under the provisions of this act shall not be severed, separated, divided, or partitioned by the provisions of said ordinance, but shall, if intended to be annexed, or if annexed, under the provisions of this act, be annexed in its entirety and as a whole. However, nothing herein contained shall be construed as affecting the validity or enforceability of any ordinance declaring an intention to annex land under the existing law that has been enacted by a municipality prior to July 1, 1975. The owner of such property may waive the requirements of this subsection if such owner does not desire all of his tract or parcel included in said annexation.

(4) Except as otherwise provided in this law, the annexation procedure as set forth in this section shall constitute a uniform method for the adoption of an ordinance of annexation by the governing body of any municipality in this state, and all existing provisions of special laws which establish municipal annexation procedures are repealed hereby; except that any provision or provisions of special law or laws which prohibit annexation of territory that is separated from the annexing municipality by a body of water or watercourse shall not be repealed.

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

History.—s. 2, ch. 75-297; s. 1, ch. 76-176; s. 44, ch. 77-104; s. 1, ch. 80-350; s. 76, ch. 81-259.

171.042 Prerequisites to annexation.—

(1) Prior to commencing the annexation proce-
duries under s. 171.0413, the governing body of the municipality shall prepare a report setting forth the plans to provide urban services to any area to be annexed, and the report shall include the following:

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

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

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

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

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

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

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

(2) The Department of Veteran and Community Affairs shall lend its technical assistance to any such municipality in preparing for annexation or deannexation.

(3) Prior to commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall file a copy of the report required by this section with the board of county commissioners of the county wherein the municipality is located.

History.--s. 1, ch. 74-190; s. 3, ch. 75-397; s. 1, ch. 78-19; s. 3, ch. 81-167.

171.043 Character of the area to be annexed.--A municipal governing body may propose to annex an area only if it meets the general standards of subsection (1) and the requirements of either subsection (2) or subsection (3).

(1) The total area to be annexed must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun and reasonably compact, and no part of the area shall be included within the boundary of another incorporated municipality.

(2) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

(a) It has a total resident population equal to at least two persons for each acre of land included within its boundaries;

(b) It has a total resident population equal to at least one person for each acre of land included within its boundaries and is subdivided into lots and tracts so that at least 60 percent of the total number of lots and tracts are 1 acre or less in size; or

(c) It is so developed that at least 60 percent of the total number of lots and tracts in the area at the time of annexation are used for urban purposes, and it is subdivided into lots and tracts so that at least 60 percent of the total acreage, not counting the acreage used at the time of annexation for nonresidential urban purposes, consists of lots and tracts 5 acres or less in size.

(3) In addition to the area developed for urban purposes, a municipal governing body may include in the area to be annexed any area which does not meet the requirements of subsection (2) if such area either:

(a) Lies between the municipal boundary and an area developed for urban purposes, so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services or water or sewer lines through such sparsely developed area; or

(b) Is adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (2).

The purpose of this subsection is to permit municipal governing bodies to extend corporate limits to include all nearby areas developed for urban purposes and, where necessary, to include areas which at the time of annexation are not yet developed for urban purposes whose future probable use is urban and which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes.

History.--s. 1, ch. 74-190; s. 2, ch. 76-176.

171.044 Voluntary annexation.--(1) The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality.

(2) Upon determination by the governing body of the municipality that the petition bears the signatures of all owners of property in the area proposed to be annexed, the governing body may, at any regular meeting, adopt a nonemergency ordinance to annex said property and redefine the boundary lines of the municipality to include said property. Said ordinance shall be posted after same has been published once a week for 4 consecutive weeks in some newspaper in such city or town or, if no newspaper is published in said city or town, then in a newspaper published in the same county; and if no newspaper is published in said county, then at least three printed copies of said ordinance shall be posted for 4 consecutive weeks at some conspicuous place in said city or town.

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(3) An ordinance adopted hereunder shall be filed with the clerk of the circuit court of the county in which the municipality is located and with the Department of State.

(4) The method of annexation provided by this section shall be supplemental to any other procedure provided by general or special law, except that this section shall not apply to municipalities in counties with charters which provide for an exclusive method of municipal annexation.

(5) Land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves.

History.—s. 1, ch. 74-190; ss. 4, 5, ch. 75-297; s. 3, ch. 76-176.

171.045 Annexation limited to a single county.—In order for an annexation proceeding to be valid for the purposes of this chapter, the annexation must take place within the boundaries of a single county.

History.—s. 2, ch. 74-190.

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

(1) The governing body shall by ordinance propose the contraction of municipal boundaries, as described in the ordinance, and provide an effective date for the contraction.

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

(3) After introduction, the contraction ordinance shall be noticed at least once per week for 4 successive weeks in a newspaper of general circulation in the municipality, such notice to describe the area to be excluded. Such description shall include a statement of findings to show that the area to be excluded fails to meet the criteria of s. 171.043, set the time and place of the meeting at which the ordinance will be considered, and advise that all parties affected may be heard.

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

(5) The governing body may also call for a referendum on the question of contraction on its own volition and in the absence of a petition requesting a referendum.

(6) The referendum, if required, shall be held at the next regularly scheduled election, or, if approved by a majority of the municipal governing body, at a special election held prior to such election, but no sooner than 30 days after verification of the petition or passage of the resolution or ordinance calling for the referendum.

(7) The municipal governing body shall establish the date of election and publish notice of the referendum election at least once a week for the 4 successive weeks immediately prior to the election in a newspaper of general circulation in the area proposed to be excluded or in the municipality. Such notice shall give the time and places for the election and a description of the area to be excluded, which shall be both in meters and bounds and in the form of a map clearly showing the area proposed to be excluded.

(8) Ballots or mechanical voting devices shall offer the choices “For deannexation” and “Against deannexation,” in that order.

(9) A majority vote “For deannexation” shall cause the area proposed for exclusion to be so excluded upon the effective date set in the contraction ordinance.

(10) A majority vote “Against deannexation” shall prevent any part of the area proposed for exclusion from being the subject of a contraction ordinance for a period of 2 years from the date of the referendum election.

History.—s. 1, ch. 74-190.

171.052 Criteria for contraction of municipal boundaries.—

(1) Only those areas which do not meet the criteria for annexation in s. 171.043 may be proposed for exclusion by municipal governing bodies. If the area proposed to be excluded does not meet the criteria of s. 171.043, but such exclusion would result in a portion of the municipality becoming noncontiguous with the rest of the municipality, then such exclusion shall not be allowed.

(2) The ordinance shall make provision for apportionment of any prior existing debt and property.

History.—s. 1, ch. 74-190.

171.061 Apportionment of debts and taxes in annexations or contractions.—

(1) The area annexed to a municipality shall be subject to the taxes and debts of the municipality upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the municipal governing body levies such tax.

(2) The municipal governing body, in the event of exclusion of territory, shall reach agreement with the county governing body to determine what portion, if any, of the existing indebtedness or property of the municipality shall be assumed by the county of which the excluded territory will become a part, the fair value of such indebtedness or property, and the manner of transfer and financing.

History.—s. 1, ch. 74-190.
171.062 Effects of annexations or contrac­
tions.—
(1) An area annexed to a municipality shall be
subject to all laws, ordinances, and regulations in
force in that municipality and shall be entitled to the
same privileges and benefits as other parts of that
municipality upon the effective date of the annexa­
tion.
(2) If the area annexed was subject to a county
land use plan and county zoning or subdivi sion regu­
lations, said regulations shall remain in full force and
effect until otherwise provided by law. However, a
municipal governing body shall not be authorized to
increase, and is expressly prohibited from increasing,
or decrease the density allowed under such county
plan and regulations for a period of 2 years from the
effective date of the annexation unless approval of
such increase is granted by the governing body of the
county.
(3) An area excluded from a municipality shall no
longer be subject to any laws, ordinances, or regula­
tions in force in the municipality from which it was
excluded and shall no longer be entitled to the privi­
leges and benefits accruing to the area within the mu­
nicipal boundaries upon the effective date of the ex­
clusion. It shall be subject to all laws, ordinances, and
regulations in force in that county.

171.071 Effect in Dade County.—Municipali­
ties within the boundaries of Dade County shall
adopt annexation or contraction ordinances pursuant
to methods established by the home rule charter es­
tablished pursuant to s. 6(e), Art. VIII of the State
Constitution.
History.—s. 1, ch. 74-190.

171.081 Appeal on annexation or contrac­
tion.—No later than 30 days following the passage of
an annexation or contraction ordinance, any party af­
fected who believes that he will suffer material injury
by reason of the failure of the municipal governing
body to comply with the procedures set forth in this
chapter for annexation or contraction or to meet the
requirements established for annexation or contrac­
tion as they apply to his property may file a petition
in the circuit court for the county in which the mu­
nicipality or municipalities are located seeking review
by certiorari. In any action instituted pursuant to
this section, the complainant, should he prevail, shall
be entitled to reasonable costs and attorney's fees.
History.—s. 1, ch. 74-190; s. 9, ch. 78-95.

171.091 Recording.—Any change in the munici­
pal boundaries through annexation or contraction
shall revise the charter boundary article and shall be
filed as a revision of the charter with the Department
of State within 30 days.
History.—s. 1, ch. 74-190.
173.01 Foreclosure of municipal tax certificates authorized.—The lien of any and all taxes, except those ad valorem taxes collectible by the county tax collector, tax certificates, and special assessments imposed by any incorporated city or town in the state upon real estate may be foreclosed by such city or town by suit in chancery. The practice, pleading, and procedure in any such suit shall be in substantial accordance with the practice, pleading, and procedure for the foreclosure of mortgages of real estate, except as herein otherwise provided.  

History.—s. 1, ch. 16039, 1931; CGL 1936 Supp. 3004(1); s. 31, ch. 73-332.

173.02 Proceedings in rem against the lands.—Suits for the foreclosure of tax liens and special assessments under this chapter shall be in the nature of proceedings in rem against the lands upon which said taxes or special assessments are a lien or liens, and it shall not be material that the ownership of said lands be correctly alleged in said proceedings or that parties having an interest or interests in or liens or claims upon said lands be made parties to such proceedings by name or description or be served with process therein, except as hereinafter provided. In any such suit as many lots, parcels or tracts of land, regardless of ownership, and as many tax liens, tax certificates and assessment liens may be included in one suit as the complainant may desire. Any judgment or decree that may be rendered in any such suit shall be enforceable only against such lands.  

History.—s. 2, ch. 16039, 1931; CGL 1936 Supp. 3004(2).
shall be obtained by publication of a notice to be issued as of course by the clerk of the circuit court in chancery to enforce the same will be filed, unless paid on or before said date.

(2) A certificate of the attorney shall be attached to the bill of complaint to the effect that said written notice has been given, and such certificate shall be prima facie evidence that the provisions of this section have been complied with. The complainant's counsel shall make diligent inquiry as to the address of the record title and holders of record liens other than judgments and the clerk of the circuit court shall mail by registered mail a copy of the notice hereinafter provided for, to such record owner and holders of record liens other than judgments at such last known address.

(3) Jurisdiction of any of said lands and of all parties interested therein or having any lien thereon shall be obtained by publication of a notice to be issued as of course by the clerk of the circuit court in which such bill is filed on the request of complainant, once each week for not less than 4 consecutive weeks, directed to all persons and corporations interested in or having any lien or claim upon any of the lands described in said notice and said bill. Such notice shall describe the lands involved and the respective principal amounts sought to be recovered in such suit for taxes, tax certificates and special assessments on such respective parcels of land, and requiring all such parties to appear and defend said suit on or before the day specified in said notice, which shall be not less than 4 weeks after the date of the first publication of such notice. Said notice may be in substantially the following form, with blanks appropriately filled in:

```
Name City or Town,
Complainant,

vs.

Certain lands upon which __ (here insert the word "taxes," or the words "special assessments" or both, as the case may be) are delinquent,

Defendant.

IN THE CIRCUIT COURT FOR __ (Clerk of said court)
COUNTY, FLORIDA.
IN CHANCERY.

NOTICE
To all persons and corporations interested in or having any lien or claim upon any of the lands described herein:

You are hereby notified that (name city or town) has filed its bill of complaint in the above named court to foreclose delinquent __ (here insert the words "tax liens, tax certificates or special assessments," as the case may be) interest and penalties, against said respective parcels of land, as set forth in said bill of complaint, being set opposite such parcels in the following schedule, to wit:

<table>
<thead>
<tr>
<th>DESCRIPTION OF LANDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of __ (here insert the word &quot;taxes,&quot; or the words &quot;special assessments&quot; or both, as the case may be).</td>
</tr>
</tbody>
</table>

In addition to the amounts set opposite each parcel of land in the foregoing schedule, interest and penalties, as provided by law, on such delinquent taxes and special assessments, together with a proportionate part of the costs and expenses of this suit, are sought to be enforced and foreclosed in this suit.

You are hereby notified to appear and make your defenses to said bill of complaint on or before the day of __, and if you fail to do so on or before said date the bill will be taken as confessed by you and you will be barred from thereafter contesting said suit, and said respective parcels of land will be sold by decree of said court for nonpayment of said taxes and assessment liens and interest and penalties thereon and the costs of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said court, this day of __.

(Clerk of said court)

By: (Deputy clerk)

(4) Proof of publication of said notice, as herein required, shall be by affidavit of the publisher or some agent or employee thereof filed in said cause.

History.—s. 4, ch. 15038, 1931; CGL 1936 Supp. 3004(5); s. 32, ch. 71-355.

cf.—s. 1.01 Define registered mail to include certified mail with return receipt requested.

173.05 Parties; time for appearance.—Every person interested in or having any lien upon any parcel of land described in the bill of complaint shall be deemed a party to said cause and may appear and defend said cause within the time specified in such notice. Any person not appearing and defending within such time shall be deemed to have confessed said bill, but the court may in its discretion and for cause shown enlarge the time within which any such person may appear and defend said cause.

History.—s. 5, ch. 15038, 1931; CGL 1936 Supp. 3004(6).

173.06 Affidavits and certificates as prima facie evidence; proof of validity or invalidity.—

(1) An affidavit or affidavits of the tax collector or other officer of complainant having the duty of issuing or collecting such taxes, special assessments or tax certificates, as to the existence of delinquent taxes, tax certificates and special assessments upon any parcel of land and the time when the same became due, the amount due thereon, including interest and penalties, and the nonpayment thereof, shall be received in evidence as prima facie proof of the facts so certified and of the validity of all proceedings in and about the levying and assessment of such taxes and special assessments and the issuing of such tax certificates or certificates.

(2) Tax certificates shall be admissible in evidence and shall be prima facie valid.

(3) No tax certificate shall be held invalid except upon proof that the property was not subject to taxation or that the taxes had been paid previous to any tax sale or prior to the institution of the suit.

History.—s. 5, ch. 15038, 1931; CGL 1936 Supp. 3004(6).
173.07 Tender of correct amount as condition precedent.—If any person shall claim that any tax, tax certificate or assessment is improper or illegal, and seek to contest the same, then such person at the time of filing an answer resisting the foreclosure of any tax lien, tax certificate or assessment lien shall tender into the registry of the court such amount as he claims was properly assessable or for which the property of such person was properly assessable. History.—s. 5, ch. 15038, 1931; CGL 1936 Supp. 3004(6).

173.08 Judgment for complainant; amounts included; attorney's fee.—
(1) In all cases where the cause may be decided for the complainant, for delinquent taxes, tax certificates and special assessments against any parcel of land, the court shall determine the principal of, and interest and penalties on such taxes, tax certificates and special assessments, the costs of the suit and a reasonable attorney's fee; such costs and attorney's fee to be apportioned among and charged against the various parcels of land involved in proportion to the amount of taxes, tax certificates and special assessments adjudged against such respective parcels of land.

(2) In fixing the fees of complainant's attorney the court shall take into consideration the use which the complainant has made of the privilege thereby given of including in one suit divers taxes, tax certificates and assessment liens, and if the court be of the opinion that there has been an unnecessary separation of causes of action on the same or different parcels of land which might have been joined in the same action, it shall not allow an attorney's fee greater than would have been allowed if the action had been combined. History.—s. 5, ch. 15038, 1931; CGL 1936 Supp. 3004(6).

173.09 Judgment for complainant; special master's sale; complainant may purchase and later sell.—
(1) Any such decree shall direct the special master thereby appointed to sell the several parcels of land separately to the highest and best bidder for cash (or, at the option of complainant, to the extent of special assessments included in such judgment, for bonds or interest coupons issued by complainant), at public outcry at the courthouse door of the county in which such suit is pending, or at such point or place in the complainant municipality as the court in such final decree may direct, after having advertised such sale (which advertisement may include all lands so advertised for sale be not sold on the day specified in such advertisement, such sale shall be continued from day to day until the sale of all such land is completed.

(2) Such sales shall be subject to confirmation by the court, and said special master shall, upon confirmation of the sale or sales, deliver to the purchaser or purchasers at said sale a deed of conveyance of the property so sold; provided, however, that in any case where any lands are offered for sale by the special master and the sum of the tax, tax certificates and special assessments, interest, penalty, costs and attorney's fee is not bid for the same, the complainant may bid the whole amount due and the special master shall thereupon convey such parcel or parcels of land to the complainant.

(3) The property so bid in by complainant shall become its property in fee simple and may be disposed of by it in the manner provided by law, except that in the sale or disposition of any such lands the city or town may, in its discretion, accept in payment or part payment therefor any bonds or interest coupons constituting liabilities of said city or town. History.—s. 6, ch. 15038, 1931; CGL 1936 Supp. 3004(6).

173.10 Judgment for complainant; court may order payment of other taxes or sale subject to taxes; special master's conveyances.—
(1) In the judgment or decree the court may, in its discretion, direct the payment of all unpaid state and county taxes and also all unpaid city or town taxes and special assessments or installments thereof, imposed or falling due since the institution of the suit, with the penalties and costs, out of the proceeds of such foreclosure sale, or it may order and direct such sale or sales to be made subject to such state and county and city or town taxes and special assessments.

(2) Any and all conveyances by the special master shall vest in the purchaser the fee simple title to the property so sold, subject only to such liens for state and county taxes or taxing districts whose liens are of equal dignity, and liens for municipal taxes and special assessments, or installments thereof, as are not directed by the decree of sale to be paid out of the proceeds of said sale. History.—s. 5, ch. 15038, 1931; CGL 1936 Supp. 3004(5).

173.11 Distribution of proceeds of sale.—The proceeds of any foreclosure sale authorized by this chapter shall be distributed by the special master conducting the sale according to the final decree and if any surplus remains after the payment of the full amount of the decree, costs and attorney's fees and any subsequent tax lien which may be directed by such decree to be paid from the proceeds of sale, such surplus shall be deposited with the clerk of the court and disbursed under order of the court. History.—s. 6, ch. 15038, 1931; CGL 1936 Supp. 3004(7).

173.12 Lands may be redeemed prior to sale.—Any person interested in any lands included in the suit may redeem such lands at any time prior to the sale thereof by the special master by paying into the registry of the court the amount due for delinquent taxes, interest and penalties thereon and such proportionate part of the expense, attorney's fees and costs of suit as may have been fixed by the court in its decree of sale, or by written stipulation of complainant, and thereupon such lands shall be dismissed from the cause. History.—s. 7, ch. 15038, 1931; CGL 1936 Supp. 3004(8).
173.13 Procedure under this chapter optional.—The exercise of the power and provisions conferred in this chapter shall be optional with the municipalities and shall not be mandatory upon any municipality of the state. Any municipality desiring to proceed hereunder may elect to proceed hereunder by formal action of its governing authority and by proceeding as described herein.

History.—s. 8, ch. 15038, 1931; CGL 1936 Supp. 3004(9).

173.14 Chapter supplemental to other law.—This chapter shall not repeal any other statute relating to the subject matter hereof, but shall be deemed to provide a supplemental, additional and alternative method of enforcement of tax liens and special assessments for the benefit of all incorporated cities or towns of the state of Florida, whether organized under special act or general laws, and shall be liberally construed to effectuate its purpose.

History.—s. 9, ch. 15038, 1931; CGL 1936 Supp. 3004(10).

173.15 Parties and subject matter; tax liens of equal dignity.—

(1) In the foreclosure of municipal tax and special assessment liens by suit in the nature of proceedings in rem, as provided by chapter 173, for the purpose of adjudicating therein all tax liens against the lands being proceeded against, or any portion thereof, and receiving from the proceeds of any foreclosure sale in such proceedings a proper and proportionate share of such proceeds in satisfaction of tax liens so adjudicated, the owner, holder or assignee of any tax lien, however evidenced, of equal or inferior dignity with those of the complainant on or against the lands being proceeded against, or any portion thereof, may be included as and made a party defendant in such proceedings by the service of process on such party defendant in the manner provided by law for service of process on defendants in chancery.

(2) This section is intended to broaden the scope of the foreclosure proceedings authorized by chapter 173, so as to permit the adjudication of tax liens of equal dignity in said proceedings, and shall be liberally construed to effectuate such purpose.

History.—s. 1, 2, ch. 22021, 1943.
CHAPTER 175

MUNICIPAL FIREFIGHTERS PENSION TRUST FUNDS

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175.351 Municipalities having their own pension plans for firefighters.
175.361 Termination of plan and distribution of fund.

175.021 Legislative declaration.—It is hereby declared by the Legislature that firefighters, as hereinafter defined, perform state and municipal functions; that it is their duty to extinguish fires, to protect life, and to protect property at their own risk and peril; that it is their duty to prevent conflagration and to continuously instruct school personnel, public officials, and private citizens in the prevention of fires and firesafety; that they protect both life and property from local disasters; and that their activities are vital to the public's safety. Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters as hereinafter defined.

History.—s. 1, ch. 63-349; s. 1, ch. 79-380.

175.032 Definitions.—The following words and phrases used in this act shall have the following meanings, unless a different meaning is plainly required by the context:

(1)(a) “Firefighter” means any person employed solely in a constituted fire department of any municipality, or special fire control district established by this state law prior to 1963, who is certified as a firefighter as a condition of employment in accordance with the provisions of s. 633.35 and whose duty it is to extinguish fires, to protect life, and to protect property. However, for purposes of this chapter only, “firefighter” also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Insurance Commissioner and Treasurer as participating in this chapter prior to October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter shall be considered police officers for retirement purposes and shall be eligible to participate in chapter 185.

(b) “Volunteer firefighter” means any person whose name is carried on the active membership roll of a constituted volunteer fire department or a combination of a paid and volunteer fire department of any municipality and whose duty it is to extinguish fires, to protect life, and to protect property. Compensation for services rendered by a volunteer firefighter shall not disqualify him as a volunteer. A person shall not be disqualified as a volunteer firefighter solely because he has other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a volunteer firefighter within the meaning of this paragraph.

(2)(a) “Average final compensation for a full-time firefighter” means the average salary of the 10 best contributing years of the last 15 years prior to retire-
175.041 Municipal Firefighters' Pension Trust Fund created; applicability of provisions.

(1) There is hereby created a special fund to be known as the "Municipal Firefighters' Pension Trust Fund," exclusively for the purpose of this act, in each municipality of this state heretofore or hereafter created which now has or which may hereafter have a constituted fire department or an authorized volunteer fire department, or any combination thereof, and which municipality does not presently have established by law, special law, or local ordinance a similar fund.

(2) To qualify as a fire department or volunteer fire department or combination thereof under the provisions of this chapter, the department shall own and use apparatus for the fighting of fires that is in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus.

(3) The provisions of this act shall apply only to municipalities organized and established pursuant to the laws of the state, and said provisions shall not apply to the unincorporated areas of any county or counties nor shall the provisions hereof apply to any governmental entity whose employees are eligible for membership in a state or state and county retirement system.

(4) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 185, nor shall any municipality establish a retirement plan for public safety officers which receive premium tax funds from both this chapter and chapter 185.

History.—s. 1, ch. 79-159; s. 2, ch. 79-380; s. 1, ch. 81-168.

175.051 Actuarial deficits not state obligation.—Actuarial deficits, if any, arising under this act, shall not be the obligation of the state.

History.—s. 1, ch. 63-249.

175.061 Board of trustees; members, terms of office.

(1) In each municipality there is hereby created a board of trustees of the municipal firefighters' pension trust fund. The board of trustees shall consist of the mayor, or corresponding officer when the municipality does not have a mayor; the chief of the fire department; two firefighters of the municipality, to be elected by a majority of the firefighters whose names appear on the rolls as members of the fire department of the municipality; and one legal resident of the municipality, to be appointed by the legislative body of the municipality. The mayor, or corresponding officer of the municipality, and the chief of the fire department shall serve as long as they shall continue to hold office as mayor or chief, respectively; and, upon a vacancy in the office of mayor or chief, their respective successors shall automatically succeed to the position of trustee, and each of the firefighters shall be trustee, appointed for a period of 2 years, unless he sooner leaves the employment of the municipality, whereupon a successor shall be elected by a majority of the firefighters in the municipality.
where such vacancy exists; the resident member shall be a trustee for a term of 2 years, and he may succeed himself in office. The resident member shall hold office at the pleasure of the legislative body of the municipality that he represents.

(2) The mayor shall be the chairman of the board. The board of trustees shall elect one of its members as secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

History.—s. 1, ch. 63-249; s. 2, ch. 81-168.

175.071 Powers of board of trustees.—

(1) The board of trustees may:

(a) Invest and reinvest the assets of the municipal firefighters’ pension trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the municipal firefighters’ pension trust fund shall be entitled under the provisions of this act and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the municipal firefighters’ pension trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Federal Deposit Insurance Corporation, or a savings, building and loan association insured by the Federal Savings and Loan Insurance Corporation.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the Government of the United States.

3. County bonds containing a pledge of the full faith and credit of the county involved, bonds of the Division of Bond Finance of the Department of General Services, or of any other state agency, which have been approved as to legal and fiscal sufficiency by the State Board of Administration.

4. Obligations of any municipal authority issued pursuant to the laws of this state; provided, however, that for each of the 5 years next preceding the date of investment the income of such authority available for fixed charges shall have been not less than 1.5 times its average annual fixed-charges requirement over the life of its obligations.

5. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

a. The corporation is listed on any one or more of the recognized national stock exchanges and holds a rating in one of the three highest classifications by a major rating service;

b. The corporation has paid cash dividends for a period of 7 fiscal years next preceding the date of acquisition;

c. The corporation fulfills either of the following standards: The corporation, over the period of the 7 fiscal years immediately preceding purchase, must have earned, after federal income taxes, an average amount per annum at least equal to 2 times the amount of the yearly interest charges upon its bonds, notes, or other evidences of indebtedness of equal or greater security outstanding at date of purchase and earned, after federal income taxes, an amount at least equal to 2 times the amount of such interest charges in each of the 3 fiscal years immediately preceding purchase; or the corporation, over the period of 7 fiscal years immediately preceding purchase, must have earned, after federal income taxes, an average amount per annum at least equal to 6 percent of the par value of its bonds, notes, or other evidences of indebtedness of equal or greater security outstanding at date of purchase and earned, after federal income taxes, an amount at least equal to 6 percent of the par value of such obligations in each of the 3 fiscal years immediately preceding purchase. No investment shall be made under this paragraph upon which any interest obligation is in default or which has been in default within the immediately preceding 5-year period; and

d. The board of trustees shall not invest more than 1 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 1 percent of the outstanding capital stock of that company; nor shall the aggregate of its investments under this section at cost exceed 10 percent of the assets of the fund.

(c) Issue drafts upon the municipal firefighters’ pension trust fund pursuant to this act and rules and regulations prescribed by the board of trustees; all such drafts shall be consecutively numbered and shall be signed by the chairman and secretary and shall state upon their faces the purpose for which the drafts are drawn. The treasurer or depository of each municipality shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money shall be otherwise drawn from the fund.

(d) Convert into cash any securities of the fund.

(e) Keep a complete record of all receipts and disbursements and of the board’s acts and proceedings.

(2) Any and all acts and decisions shall be by at least three members of the board; however, no trustee shall take part in any action in connection with his own participation in the fund, and no unfair discrimination shall be shown to any individual firefighter participating in the fund.

(3) The board’s action on all claims for retirement under this act shall be final, provided, however, that the rules and regulations of the board have been complied with.

(4) The general administration of, and the responsibilities of, the proper operation of the municipal firefighters’ pension trust fund and for making effective the provisions of this act are vested in the board of trustees. The board of trustees shall keep in convenient form such data as shall be necessary for an actuarial valuation of the municipal firefighters’ pension trust fund and for checking the actual experience of the fund.

History.—s. 1, ch. 63-249; s. 1, ch. 63-305; ss. 22, 35, ch. 69-106; s. 3, ch. 81-168.

175.081 Use of annuity or insurance policies.

—When the board of trustees purchases annuity or life insurance contracts to provide all or any part of
the benefits as provided for by this act, the following principles shall be observed:

(1) Only those firefighters who have been members of the municipal firefighters' pension trust fund for 1 year or more may participate in the insured plan.

(2) Individual policies shall be purchased only when a group insurance plan is not feasible.

(3) Each application and policy shall designate the municipal firefighters' pension trust fund as owner of the policy.

(4) Policies shall be written on an annual premium basis.

(5) The type of policy shall be one which for the premium paid provides each individual with the maximum retirement benefit at his earliest statutory normal retirement age.

(6) Death benefit, if any, should not exceed:
   (a) One hundred times the estimated normal retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date, or
   (b) Twice the annual rate of compensation as of the date of termination of service, or
   (c) The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service, whichever is greatest.

(7) An insurance plan may provide that the assignment of insurance contract to separating firefighters shall be at least equivalent to the return of the firefighters' contributions used to purchase the contract. An assignment of contract discharges the municipality from all further obligation to the participant under the plan even though the cash value of such contract may be less than the firefighters' contributions.

(8) Provisions shall be made, either by issuance of separate policies or otherwise, that the separating firefighter does not receive cash value and other benefits under the policies assigned to him which exceed the present value of his vested interest under the municipal firefighters' pension trust fund, inclusive of his contribution to the plan; the contributions by the state shall not be exhausted faster merely because the method of funding adopted was through insurance companies.

(9) The firefighter shall have the right at any time to give the board of trustees written instructions designating the primary and contingent beneficiaries to receive death benefits or proceeds and the method of settlement of the death benefit or proceeds, or requesting a change in the beneficiary designation or method of settlement previously made, subject to the terms of the policy or policies on his life. Upon receipt of such written instructions, the board of trustees shall take necessary steps to effectuate the designation or change of beneficiary or settlement option.

175.091 Creation and maintenance of fund.

The municipal firefighters' pension trust fund in each municipality shall be created and maintained in the following manner:

(1) By payment to the fund of the net proceeds of the 2-percent excise on property insurance premiums authorized; procedure.

(2) By mandatory payment by the municipality of a sum equal to the normal cost and the amount required to fund over a period of 40 years or on a 40-year basis, any actuarial deficiency shown by a quinquennial actuarial valuation. The first such actuarial valuation shall be conducted for the calendar year ending December 31, 1967.

(5) By all gifts, bequests, and devises when donated to the fund.

(6) By all accretions to the fund by way of interest or dividends on bank deposits, or otherwise.

(7) By all other sources or income now or hereafter authorized by law for the augmentation of such municipal firefighters' pension trust fund.
erages in such policies, 70 percent of such premium shall be used as the basis for the 2-percent tax. This excise or license tax shall be payable annually on March 1 of each year after the passage of an ordinance assessing and imposing the tax herein authorized. Every insurance company, corporation or other insurer paying such tax shall receive credit for the amount thereof, when paid, on the amount payable by such insurer to the state for the similar state excise tax now imposed by other provisions of law; provided, however, that this chapter shall not be construed to require the payment of any excise tax by an insurance company that does not now pay such tax.

History.-s. 1, ch. 63-249; s. 2, ch. 67-218; ss. 13, 35, ch. 69-106; s. 6, ch. 81-168.

175.111 Certified copy of ordinance filed; insurance companies' annual report of premiums; duplicate files; book of accounts.—Whenever any municipality shall pass an ordinance assessing and imposing the taxes authorized in s. 175.101, a certified copy of such ordinance shall be deposited with both the Department of Banking and Finance and the Department of Insurance, and thereafter every insurance company, association, corporation or other insurer carrying on the business of property insurance on real or personal property, on or before the succeeding March 1 after date of the passage of said ordinance shall report fully in writing and under oath to the Department of Banking and Finance and the Department of Insurance, a just and true account of all premiums by such insurer received for property insurance policies covering or insuring any real or personal property located within the corporate limits of each such municipality during the period of time elapsing between the date of the passage of said ordinance and the succeeding March 1. Said report shall include the city code designation as prescribed by the insurance commission for each piece of insured property, real or personal, located within the corporate limits of each municipality. The aforesaid insurer shall annually thereafter, on March 1, file with the same departments, a similar report covering the preceding year's premium receipts, and every such insurer at the same time of making such reports shall pay to the Insurance Commissioner and Treasurer the amount of the tax hereinbefore mentioned. Every insurer engaged in carrying on such insurance business in the state shall keep accurate books of accounts of all such business done by it within the corporate limits of each such municipality, and in such manner as to be able to comply with the provisions of this section. The Department of Insurance shall furnish to any municipality requesting the same a copy of any of the reports filed by insurers under this section.

History.-s. 1, ch. 63-249; ss. 12, 13, 35, ch. 69-106; s. 1, ch. 75-740.

175.121 Moneys received by Insurance Commissioner and Treasurer paid into trust fund; Comptroller to pay municipalities annually.—The Insurance Commissioner and Treasurer of the state shall keep a separate account of all moneys collected for each municipality, under the provisions of this act and any and all moneys so collected, after deducting the necessary expenses incurred by the Department of Insurance (not to exceed $30,000 per annum) in carrying out the provisions of this act, shall be paid into the State Treasury in a fund known as the Insurance Commissioner's Regulatory Trust Fund. The Comptroller shall, on or before June 1 of each year, and at such other times as the State Treasurer may elect, draw his warrant on the Insurance Commissioner and Treasurer for the full net amount of money then on deposit with the Insurance Commissioner and Treasurer in the Insurance Commissioner's Regulatory Trust Fund, specifying the municipality to which said moneys shall be paid and the net amount collected for and to be paid to each said municipality, which said sums payable to said municipality are hereby appropriated annually out of the Insurance Commissioner's Regulatory Trust Fund. The warrants of the Comptroller shall be countersigned by the Governor and shall be payable to the municipality entitled to receive the same, and shall be remitted annually by the Comptroller to each municipality.

History.-s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 1, ch. 74-294.

175.122 Limitation of disbursement.—Any municipality participating in the municipal firefighters' pension trust fund pursuant to provisions of this chapter shall be limited to receiving any moneys from such fund in excess of that produced by one-half of the excise tax, as provided for in s. 175.101; however, any such municipality receiving less than 6 percent of its fire department payroll from such fund shall be entitled to receive from such fund the amount determined under s. 175.121, in excess of one-half of the excise tax, not to exceed 6 percent of its fire department payroll.

History.-s. 1, ch. 67-217; s. 7, ch. 81-168.

175.131 Funds received by municipality; deposit in municipal firefighters' pension trust fund.—All funds received by any municipality under the provisions of this chapter shall be paid immediately by the Comptroller to the Department of Banking and Finance and the succeeding March 1 after date of the passage of said ordinance shall report fully in writing and under oath to the Department of Banking and Finance and the Department of Insurance, a just and true account of all premiums by such insurer received for property insurance policies covering or insuring any real or personal property located within the corporate limits of each such municipality during the period of time elapsing between the date of the passage of said ordinance and the succeeding March 1. Said report shall include the city code designation as prescribed by the insurance commission for each piece of insured property, real or personal, located within the corporate limits of each municipality. The aforesaid insurer shall annually thereafter, on March 1, file with the same departments, a similar report covering the preceding year's premium receipts, and every such insurer at the same time of making such reports shall pay to the Insurance Commissioner and Treasurer the amount of the tax hereinbefore mentioned. Every insurer engaged in carrying on such insurance business in the state shall keep accurate books of accounts of all such business done by it within the corporate limits of each such municipality, and in such manner as to be able to comply with the provisions of this section. The Department of Insurance shall furnish to any municipality requesting the same a copy of any of the reports filed by insurers under this section.

History.-s. 1, ch. 63-249; s. 9, ch. 81-168.

175.141 Tax imposed by municipalities under this act not additional to state excise tax; credit given on state tax.—The tax herein authorized to be imposed by each municipality shall in no wise be in addition to any similar state excise or license tax imposed by law, but the payer of the tax hereby authorized shall receive credit therefor on his said state excise or license tax and the balance of said state excise or license tax shall be paid to the State Treasurer as is now provided by law.

History.-s. 1, ch. 63-249.

175.151 Penalty for failure of insurers to comply with this act.—Should any insurance company, corporation or other insurer fail to comply with the provisions of this act, on or before March 1 of each year as herein provided, the certificate of authority issued to said insurance company, corporation or other insurer to transact business in this state
may be canceled and revoked by the Department of Insurance, and it is unlawful for any such insurance company, corporation, or other insurer to transact business thereafter in this state unless such insurance company, corporation, or other insurer shall be granted a new certificate of authority to transact any business in this state, in compliance with provisions of law authorizing such certificate of authority to be issued.

History.---s. 1, ch. 63-248; ss. 13, 35, ch. 69-106.

175.162 Requirements for retirement.---Any firefighter who has attained the age of 60 years, or more, and who at such time has completed at least 10 years of continuous service within the contemplation of this act as a firefighter and who for such minimum period has been a member of the municipal firefighters' pension trust fund is eligible for normal retirement benefits. Normal retirement under the plan is retirement from the service of the municipality, on or after the normal retirement date. In such event, payment of retirement income will be governed by the following provisions of this section:

1. The normal retirement date of each firefighter will be the first day of the month coincident with or following the date on which he has attained the age of 60 years and has completed 10 years, in the aggregate within the contemplation of this act, of service.

2. (a) The amount of monthly retirement income payable to a full-time firefighter who retires on or after his normal retirement date shall be an amount equal to the number of his years of credited service multiplied by 2 percent of his average final compensation as a full-time firefighter. If the firefighter has been contributing only 3 percent of his salary, his monthly retirement income shall be an amount equal to the number of his years of credited service multiplied by 1.2 percent of his average final compensation.

(b) The amount of monthly retirement income payable to a volunteer firefighter who retires on or after his normal retirement date shall be an amount equal to the number of his years of credited service multiplied by 2 percent of his average final compensation as a volunteer firefighter. If the firefighter has been contributing only 3 percent of his salary, his monthly retirement income shall be an amount equal to the number of his years of credited service multiplied by 1.2 percent of his average final compensation.

3. The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the firefighter's normal retirement date, or on the first day of the month coincident with or next following his actual retirement, if later, and the last payment will be the payment due next preceding the firefighter's death; except that, in the event the firefighter dies after his retirement but before he has received retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries), as designated by the firefighter for the balance of such 10-year period. If a firefighter continues in the service of the municipality beyond his normal retirement date and dies prior to his date of actual retirement, without an option made pursuant to s. 175.171 being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the firefighter as if the firefighter had retired on the date on which his death occurred.

4. Early retirement under the plan is retirement from the service of the municipality, with the consent of the municipality, as of the first day of any calendar month which is prior to the firefighter's normal retirement date but subsequent to the date of which he has both attained the age of 50 years and has been a member of this fund for 10 continuous years. The monthly amount of retirement income payable to a firefighter who retires prior to his normal retirement date shall be in the amount computed as described in subsection (2), such amount of retirement income to be actuarially reduced to take into account the firefighter's younger age and the earlier commencement of retirement income benefits. The amount of monthly income payable in the event of early retirement will be paid in the same manner as in subsection (3).

History.---s. 1, ch. 63-248; s. 1, ch. 70-129; s. 9, ch. 81-168.

175.171 Optional forms of retirement income.---

1. In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified in s. 175.162, a firefighter, upon written request to the board of trustees and submission of evidence of good health (except that such evidence will not be required if such request is made at least 3 years prior to the date of commencement of retirement income or if such request is made within 6 months following the effective date of the plan, if later), and subject to the approval of the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(a) A retirement income of larger monthly amount, payable to the firefighter for his lifetime only.

(b) A retirement income of a modified monthly amount, payable to the firefighter during the joint lifetime of the firefighter and a dependent joint pensioner designated by the firefighter, and following the death of either of them, 100 percent, 66⅔ percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor.

(c) Such other amount and form of retirement payments or benefits as, in the opinion of the board of trustees, will best meet the circumstances of the retiring firefighter.

1. The firefighter upon electing any option of this section will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the plan in the event of his death, and will have the power to change such designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the board of trustees. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. If a firefighter has elected an option with a joint pensioner or beneficiary and his retirement in-
come benefits have commenced, he may thereafter change his designated joint pensioner or beneficiary, but only if the board of trustees consents to such change and if the joint pensioner last previously designated by him is alive when he files with the board of trustees his request for such change.

2. The consent of a firefighter’s joint pensioner or beneficiary to any such change shall not be required.

3. The board of trustees may request such evidence of the good health of the joint pensioner that is being removed as it may require and the amount of the retirement income payable to the firefighter upon designation of a new joint pensioner shall be actuarially redetermined taking into account the age and sex of the former joint pensioner, the new joint pensioner, and the firefighter. Each such designation will be made in writing on a form prepared by the board of trustees and on completion will be filed with the board of trustees. In the event that no designated beneficiary survives the firefighter, such benefits as are payable in the event of the death of the firefighter subsequent to his retirement shall be paid as provided in s. 175.181.

(2) Retirement income payments will be made under the option elected in accordance with the provisions of this section and will be subject to the following limitations:

(a) If a firefighter dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under s. 175.201.

(b) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the firefighter’s retirement under the plan, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the firefighter upon his retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the firefighter prior to his retirement and within 90 days after the death of the beneficiary.

(c) If both the retired firefighter and the beneficiary (or beneficiaries) designated by him die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of paragraph (1)(c), the board of trustees may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum, and in accordance with s. 175.181.

(d) If a firefighter continues beyond his normal retirement date pursuant to the provisions of s. 175.162(1) and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the firefighter in the amount or amounts computed as if the firefighter had retired under the option on the date on which his death occurred.

175.181 Beneficiaries.—

(1) Each firefighter may, on a form provided for that purpose, signed and filed with the board of trustees, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his death; and each designation may be revoked by such firefighter by signing and filing with the board of trustees a new designation-of-beneficiary form.

(2) If a deceased firefighter fails to name a beneficiary in the manner prescribed in subsection (1), or if the beneficiary (or beneficiaries) named by a deceased firefighter predecease the firefighter, the death benefit, if any, which may be payable under the plan with respect to such deceased firefighter may be paid, in the discretion of the board of trustees, to the following:

(a) The wife or dependent children of the firefighter;

(b) The dependent living parents of the firefighter.

History.—s. 1, ch. 63-249; s. 11, ch. 81-168.

175.191 Disability retirement.—

(1) A firefighter having 10 or more continuous years of credited service and having contributed to the municipal firefighters’ pension trust fund for 10 years or more may retire from the service of the municipality under the plan if, prior to his normal retirement date, he becomes totally and permanently disabled as defined in subsection (2), by reason of any cause other than a cause set out in subsection (3), on or after the effective date of the plan. Such retirement shall herein be referred to as “disability retirement.”

(2) A firefighter will be considered totally disabled if, in the opinion of the board of trustees, he is wholly prevented from rendering useful and efficient service as a firefighter; and a firefighter will be considered permanently disabled if, in the opinion of the board of trustees, he is likely to remain so disabled continuously and permanently from a cause other than is specified in subsection (3).

(3) A firefighter will not be entitled to receive any disability retirement income if the disability is a result of:

(a) Excessive and habitual use by the firefighter of drugs, intoxicants, or narcotics;

(b) Injury or disease sustained by the firefighter while willfully and illegally participating in fights, riots, or civil insurrections or while committing a crime;

(c) Injury or disease sustained by the firefighter while serving in any armed forces; or

(d) Injury or disease sustained by the firefighter after his employment has terminated.

(4) No firefighter shall be permitted to retire under the provisions of this section until he is examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any firefighter retiring under this section shall be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of
service multiplied by 1.2 percent of his average final amount equal to the number of his years of credited compensation.

the payment due next preceding his death or the retirement will be payable on the first day of each salary, his monthly retirement income shall be an amount equal to the number of his years of credited service multiplied by 1.2 percent of his average final compensation.

(6) The monthly retirement income to which a firefighter is entitled in the event of his disability retirement will be payable on the first day of each month. The first payment will be made on the first day of the month following the later to occur of the date on which the disability has existed for 3 months and the date the board of trustees approved the payment of such retirement income. The last payment will be, if the firefighter recovers from the disability prior to his normal retirement date, the payment due next preceding the date of such recovery or, if the firefighter dies without recovering from his disability, the payment due next preceding his death or the 120th monthly payment, whichever is later. Any monthly retirement income payments due after the death of a disabled firefighter shall be paid to the firefighter's designated beneficiary (or beneficiaries) as provided in ss. 175.181 and 175.201.

(7) If the board of trustees finds that a firefighter who is receiving a disability retirement income is, at any time prior to his normal retirement date, no longer disabled, as provided herein, the board of trustees shall direct that the disability retirement income be discontinued. “Recovery from disability” as used herein means the ability of the firefighter to render useful and efficient service as a firefighter.

(8) If the firefighter recovers from disability and reenters the service as a firefighter, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service will not be considered as credited service for the purpose of this plan.

175.201 Death prior to retirement; refunds of death benefits.—If a firefighter dies before being eligible to retire under the provisions of this act, the heirs, legatees, beneficiaries, or personal representatives of such deceased firefighter shall be entitled to a refund of 100 percent, without interest, of the contributions made to the municipal firefighters' pension trust fund by such deceased firefighter; or in the event an annuity or life insurance contract has been purchased by the board of trustees on such firefighter, then to the death benefits available under such life insurance or annuity contract subject to the limitations on such death benefits set forth in s. 175.081, whichever amount is greater. In the event that the death benefit paid by a life insurance company exceeds the limit set forth in s. 175.081, the excess of the death benefit over the limit shall be paid to the municipal firefighters' pension trust fund.

175.211 Separation from service; refunds.—If a firefighter leaves the service of the municipality before accumulating aggregate time of 10 years toward retirement and before being eligible to retire under the provisions of this act, he shall be entitled to a refund of all of his contributions made to the municipal firefighters' pension trust fund after July 1, 1963, without interest, less any disability benefits paid to him after July 1, 1963. If a firefighter who has been in the service of the municipality for at least 10 years and has contributed to the municipal firefighters' pension trust fund for at least 10 years elects to leave his accrued contributions in the municipal firefighters' pension trust fund, such firefighter upon attaining the age of 50 years may retire at the actuarial equivalent of the amount of such retirement income otherwise payable to him.

History.—s. 1, ch. 63-249; s. 12, ch. 81-168.

175.221 Lump-sum payment of small retirement income.—Notwithstanding any provisions of the plan to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than $30, or if the single-sum value of the accrued retirement income is less than $750, as of the date of retirement or termination of service, whichever is applicable, the board of trustees, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in a lump sum.

History.—s. 1, ch. 63-249.

175.231 Diseases of firefighters suffered in line of duty; presumption.—Any condition or impairment of health of a firefighter caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence, provided, such firefighter shall have successfully passed a physical examination before entering into such service, which examination failed to reveal any evidence of such condition. This section shall be applicable to all firefighters employed in Florida only with reference to pension and retirement benefits under this chapter.

History.—s. 1, ch. 63-249.

175.241 Exemption from execution.—The pensions, annuities, or other benefits accrued or accruing to any person under the provisions of this act and the accumulated contributions and the cash securities in the funds created under this act are hereby exempted from any state, county, or municipal tax and shall not be subject to execution or attachment.
or to any legal process whatsoever, and shall be unassignable.

History.--s. 1, ch. 63-249.

175.251 Employment records required to be kept by secretary of board of trustees.--The secretary of the board of trustees shall keep a record of all persons receiving retirement payments under the provisions of this act, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. This record, the secretary shall keep a list of all firefighters employed by the municipality. The record shall be kept in such manner as to show the name, address, and time of employment of such firefighters and when they cease to be employed by the municipality.

History.--s. 1, ch. 63-249; s. 10, ch. 65-16.

175.261 Report to Department of Insurance.

(1) Each year, by February 1, the chairman or secretary of the board of trustees of each municipal firefighters’ pension trust fund shall file a report with the Department of Insurance, containing the following:

(a) Whether in fact the municipality is within the provisions of s. 175.041.

(b) A certified statement of accounting for the most recent fiscal year of the municipality, showing a detailed listing of assets (and methods used to value them) and a statement of all income and disbursements, and a reconciliation of all income and disbursements with the assets at the beginning and end of the year.

(c) A statistical exhibit showing the total number of firefighters on the force, the number included in the retirement plan and the number ineligible, classified according to the reason for their being ineligible, and the number of disabled firefighters and retired firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments received by them.

(d) A statement of the amount the municipality, or other income source, contributed to the retirement fund for the most recent fiscal year and the amount the municipality will contribute to the retirement fund during its current fiscal year.

(e) If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the insured benefits to the benefits provided by this act as well as the name of the insurer and information about the basis of premium rates, mortality table, interest rates, and method used in valuing retirement benefits.

(2) By February 1 of each quinquennial year, beginning with February 1, 1968, the chairman of each municipal firefighters’ pension trust fund shall report to the Department of Insurance such data that it needs to complete an actuarial valuation of each fund. The forms for each municipality shall be supplied by the department. The expense of this actuarial valuation shall be borne by the municipal firefighters’ pension trust fund established by ss. 175.041 and 175.121.

History.--s. 1, ch. 63-249; s. 4, ch. 65-58; ss. 13, 35, ch. 69-106; s. 17, ch. 81-168.

175.271 Advisory committee.--The Department of Insurance shall appoint annually an advisory committee to serve for 1 year, consisting of seven members, one of whom shall be from the department, as chairman, to receive such reports as may be brought to its attention and to advise and assist the department in matters relating to the municipal firefighters’ pension trust fund.

History.--s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 4, ch. 78-323.

Note.--Repealed by s. 4, ch. 78-323, effective October 1, 1981.

175.291 Attorney for municipality to represent board of trustees upon request; failure to do so; board may employ independent counsel.

The attorney or corporation counsel of each municipality shall give advice to the board of trustees in all matters pertaining to its duties in the administration of the municipal firefighters’ pension trust fund whenever thereunto requested; and he shall represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it and bring all suits and actions in its behalf that may be required or determined upon by the board. However, if he fails or refuses to comply with the request of the board of trustees in this relation, the board of trustees in its discretion may employ independent legal counsel for such purpose.

History.--s. 1, ch. 63-249; s. 18, ch. 81-168.

175.301 Deposit of funds and securities with municipal treasurer.--The funds and securities of the municipal firefighters’ pension trust fund shall be deposited with the treasurer or depository of the municipality, who shall keep the same in a separate fund and shall be liable for the safekeeping of same, under the bond given by him to the municipality, and he shall be liable in the same manner and to the same extent as he is liable for the safekeeping of the funds of the municipality.

History.--s. 1, ch. 63-249; s. 19, ch. 81-168.

175.311 Each municipality independent of any other municipality in the operation of this act.--In the enforcement of this and the interpretation of the provisions of this act, each municipality shall be independent of any other municipality, and the board of trustees of the municipal firefighters’ pension trust fund of each municipality shall function for the municipality which it is to serve as trustee.

History.--s. 1, ch. 63-249; s. 4, ch. 79-380.

175.321 Application of ss. 175.101-175.121, 175.131-175.151.--Sections 175.101-175.121 and 175.131-175.151 shall be applicable in relation to all municipalities of the state which now have or hereafter establish a municipal firefighters’ pension trust fund or a pension fund for firefighters, regardless of whether the municipality shall fall within the classification of s. 175.041 and have its municipal firefighters’ pension trust fund established under the provisions thereof, or whether the pension fund of the municipality shall exist under other general or special laws of the state or a local ordinance. The remaining sections of this act, which apply specifically to the creation of a board of trustees, define its powers, and establish a municipal firefighters’ pension
trust fund in each municipality, as well as such sections as define the person who shall be entitled to a pension out of such fund and the amount thereof, govern the conditions upon which such pensions shall be allowed, and define the duties of the officers of those municipalities in relation to such fund, shall not apply to any municipality which now has a municipal firefighters' pension trust fund or municipal pension fund for firefighters and policemen.

History.---s. l, ch. 63-249; s. 20, ch. 81-166.

175.331 Rights of firemen under former law.
---The rights of firemen established by any former provisions of this act shall not be impaired nor shall their benefits be reduced by virtue of any provisions of this act; provided, however, that no member may receive the benefits under the former act and also be entitled to receive the benefits under this act. Unless an election is made in writing before January 1, 1964, to the board of trustees, to remain under the provisions of the former act, it shall be conclusively presumed that the provisions of this act as amended, will apply to all firemen. Members who have retired under the former act prior to the enactment of this act, shall continue to receive their benefits under the former act.

History.---s. 1, ch. 63-249.

175.333 Discrimination in benefit formula prohibited.
---No plan established under the provisions of this chapter and participating in the distribution of premium tax moneys as provided in this chapter shall discriminate in its benefit formula based on color, national origin, sex, or marital status. Nothing herein shall preclude a plan from actuarially adjusting benefits or offering options based upon sex, age, early retirement, or disability.

History.---s. 4, ch. 79-380.

175.341 Department of Insurance to establish rules and regulations.
---The Department of Insurance shall establish rules and regulations pertaining to the operation of this fund.

History.---s. 1, ch. 63-249; ss. 13, 35, ch. 81-106.

175.351 Municipalities having their own pension plans for firefighters.
---In order for municipalities with their own pension plans for firefighters, or for firefighters and other employees, to participate in the distribution of the tax fund established in ss. 175.101-175.121 and 175.131-175.151, their pension funds must meet each of the following standards:

1. The plan must be for the purpose of providing retirement and disability income for firefighters or their beneficiaries.
2. The normal retirement age, if any, shall not be more than age 65.
3. If the plan provides for a stated period of service as a requirement to receive a retirement income, that period must not be more than 35 years.
4. The benefit formula to determine the amount of monthly pension should be equal to at least one-twelfth of 1 percent of the firefighter's total earnings during his period of credited service.
5. If a ceiling on the monthly payment is stated in the plan, it should be no lower than $100.
6. Death or survivor benefits and disability benefits may be incorporated into the plan as the municipalities wish, but in no event should the single-sum value of such benefits as of the date of termination of service because of death or disability exceed:
   a. One hundred times the estimated normal retirement income, based on assumption that the present rate of compensation continues without change to normal retirement date, or
   b. Twice the annual rate of compensation as of date of termination of service, or
   c. The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service, whichever is greatest; provided, however, that nothing in this paragraph shall require any reduction in death or disability benefits provided by a retirement plan in effect prior to July 1, 1963.
7. Eligibility for coverage under the plan must be based upon length of service or attained age, or both; and benefits must be determined by a nondiscriminatory formula based upon:
   a. Length of service and compensation, or
   b. Length of service.
8. If the retirement plan requires participants to contribute toward the cost of the plan, it must set forth the termination rights, if any, of an employee before retirement.
9. An actuarial valuation of the retirement plan must be made at least once in every 5 years commencing with December 31, 1968, subject to the following:
   a. The assets shall be valued at cost or market, or on such other basis as may be approved by the Department of Insurance.
   b. Minimum actuarial assumptions and methods to be used in valuing the liabilities will be provided by the Department of Insurance and revised from time to time by it. The valuation must be on basis and methods not less conservative than those set forth by the Department of Insurance.
   c. Cost of the actuarial valuation must be paid by each individual firefighters' retirement fund or by the municipality.
   d. A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the Department of Insurance within 3 months after the date of valuation. If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the retirement plan benefits to the insured benefits and, in addition, the name of the insurer, basis of premium rates, mortality table, interest rate, and method used in valuing the retirement benefits.
   e. However, if an actuarial valuation has been made subsequent to December 31, 1963, the 5-year period will commence on the date of that valuation.
10. The municipality shall contribute to the plan annually an amount which together with the contributions from the firefighters and the amount derived from the premium tax provided in s. 175.101 and other income sources as authorized by law will be sufficient to meet the normal cost of the plan and to
fund the actuarial deficiency over a period of not more than 40 years. The advisory committee shall have authority to grant a maximum of five extensions of 1 year each for this mandatory payment.

(11) No retirement plan or amendment to a retirement plan shall be proposed without the proposed plan or amendment containing an actuarial estimate of the costs involved.

(12) Each year, on or before March 15, the trustees of the retirement plan shall submit the following information to the Department of Insurance in order for the retirement plan of such municipality to receive a share of the state funds for the then current calendar year; when any of these items would be identical with the corresponding item submitted for a previous year, it will not be necessary to submit duplicate information, but to make reference to the item in such previous year's report:

(a) A certified copy of each and every instrument constituting or evidencing the plan. This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement material.

(b) A certified statement of accounting for the most recent fiscal year of the municipality showing:
1. A detailed listing of assets and
2. A statement of all income and disbursements during the year.

Such income and disbursements must be reconciled with the assets at the beginning and end of the year.

(c) A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.

(d) A statistical exhibit showing the total number of firefighters, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible.

(e) A certified statement describing the methods, factors, and actuarial assumption used in determining the costs.

(f) A certified statement by an actuary who is a member of the Society of Actuaries, Casualty Actuarial Society, Conference of Actuaries in Public Practice, or Fraternal Actuarial Association showing the results of the latest quinquennial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.

(g) A statement of the amount the municipality or other income source has contributed toward the plan for the most recent fiscal year and will contribute toward the plan for the current fiscal year.

(13) When a municipality has a firefighters’ retirement fund, which in the opinion of the Department of Insurance meets the standards set forth in subsections (1) through (12), the board of trustees of the pension fund, as approved by a majority of firefighters of the municipality affected, or the official pension committee, as approved by a majority of firefighters of the municipality affected, may place the income from the premium tax in s. 175.101 in its existing pension fund for firefighters, where it shall become an integral part of that fund, or may use such income to pay extra benefits to the firefighters included in the fund.

(14) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies thereof must be made available to the participants and to the general public.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; a. 5, ch. 79-380; a. 21, ch. 81-158.

Note.—The advisory committee provided for under s. 175.271 was abolished by s. 4, ch. 78-323.

175.361 Termination of plan and distribution of fund.—Upon termination of the plan for any reason, or upon written notice to the board of trustees that contributions thereunder are being permanently discontinued, the fund shall be apportioned and distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value to be distributed, after taking into account the expenses of such distribution.

(2) The board of trustees shall determine the method of distribution of the asset value, that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each firefighter entitled to benefits under the plan as specified in subsection (3).

(3) The board of trustees shall apportion the asset value as of the date of termination in the manner set forth below, on the basis that the amount required to provide any given retirement income shall mean the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.

(a) Apportionment shall first be made in respect of each retired firefighter receiving a retirement income hereunder on such date, each person receiving a retirement income on such date on account of a retired (but since deceased) firefighter, and each firefighter who has, by such date, become eligible for normal retirement but has not yet retired, in the amount required to provide such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.

(b) If there is any asset value remaining after the apportionment under paragraph (a), apportionment shall next be made in respect of each firefighter in the service of the municipality on such date who has completed at least 10 years of credited service and who has contributed to the municipal firefighters’ pension trust fund for at least 10 years and who is not entitled to an apportionment under paragraph (a), in the amount required to provide the actuarial equivalent of the accrued normal retirement income, based on the firefighter’s credited service and earnings to such date, and each former participant then entitled to a benefit under the provisions of s. 175.211, who has not, by such date, reached his normal retirement
date, in the amount required to provide the actuarial equivalent of the accrued normal retirement income to which he is entitled under s. 175.211; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(c) If there is any asset value after the apportionments under paragraphs (a) and (b), apportionment shall lastly be made in respect of each firefighter in the service of the municipality on such date who is not entitled to an apportionment under paragraphs (a) and (b) in the amount equal to his total contributions to the plan to date of termination; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(d) In the event that there is asset value remaining after the full apportionment specified in paragraphs (a), (b), and (c), such excess shall be returned to the municipality, less return of the state's contributions to the state; provided that, if the excess is less than the total contributions made by the municipality and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality and state.

History.—s. 1, ch. 63-249; s. 5, ch. 65-58; s. 22, ch. 81-168.
CHAPTER 177
LAND BOUNDARIES
PART I PLATTING (ss. 177.011-177.151)
PART II COASTAL MAPPING (ss. 177.25-177.40)
PART III RESTORATION OF CORNERS (ss. 177.501-177.510)

PART I

PLATTING

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177.011 Purpose and scope of part I.—This part shall be deemed to establish consistent minimum requirements, and to create such additional powers in local governing bodies, as herein provided to regulate and control the platting of lands. This part establishes minimum requirements and does not exclude additional provisions or regulations by local ordinance, laws, or regulations.

177.021 Legal status of recorded plats.—The recording of any plats made in compliance with the provisions of this chapter shall serve to establish the identity of all lands shown on and being a part of such plats, and lands may thenceforth be conveyed by reference to such plat.

177.031 Definitions.—As used in this chapter:

(1) “Alley” means a right-of-way providing a secondary means of access and service to abutting property.

(2) “Block” includes “tier” or “group” and means a group of lots existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter, or other name through which it may be identified.

(3) “Board” means any board appointed by a municipality, county commission, or state agency, such as the planning and zoning board, area planning board, or the governing board of a drainage district.

(4) “Governing body” means the board of county commissioners or the legal governing body of a county, municipality, town, or village of this state.

(5) “Cul-de-sac” means a street terminated at the end by a vehicular turnaround.

(6) “Developer” means the person or legal entity that applies for approval of a plat of a subdivision pursuant to this chapter.

(7) “Easement” means any strip of land created by a subdivider for public or private utilities, drainage, sanitation, or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the reservation of the servitude.

(a) “Public utility” includes any public or private utility, such as, but not limited to, storm drainage, sanitary sewers, electric power, water service, gas service, or telephone line, whether underground or overhead.

(8) “Survey data” means all information shown on the face of a plat that would delineate the physical boundaries of the subdivision and any parts thereof.

(9) “Improvements” may include, but are not limited to, street pavements, curbs and gutters, sidewalks, alley pavements, walkway pavements, water mains, sanitary sewers, storm sewers or drains, street names, signs, landscaping, permanent reference monuments (“P.R.M.s”), permanent control points (“P.C.P.s”), or any other improvement required by a governing body.

(10) “Land surveyor” means a land surveyor registered under chapter 472 who is in good standing with the Florida State Board of Professional Engineers and Land Surveyors.

(11) “Lot” includes tract or parcel and means the least fractional part of subdivided lands having limited fixed boundaries, and an assigned number, letter, or other name through which it may be identified.

(12) “Municipality” means any incorporated city, town, or village.

(13) “P.C.P.” means permanent control point, which shall be a secondary horizontal control monument and shall be a metal marker with the point of reference marked thereon or a 4-inch by 4-inch concrete monument a minimum of 24 inches long with the point of reference marked thereon. “P.C.P.s”
177.041 Title certification.—Every plat of a subdivision submitted to the approving agency of the local governing body must be accompanied by a title opinion of an attorney-at-law licensed in Florida or a certification by an abstractor or a title company showing that apparent record title to the land as described and shown on the plat is in the name of the person, persons, or corporation executing the dedication, if any, as is shown on the plat and, if the plat does not contain a dedication, that the developer has apparent record title to the land. The title opinion or certification shall also show all mortgages not satisfied or released of record.

History.—s. 1, ch. 71-339; s. 1, ch. 72-77.

177.051 Name of subdivision.—Every subdivision shall be given a name by which it shall be legally known. Such name shall not be the same or in any way so similar to any name appearing on any recorded plat in the same county as to confuse the records or to mislead the public as to the identity of the subdivision, except when the subdivision is subdivided as an additional unit or section by the same developer or his successors in title. Every subdivision’s name shall have legible lettering of the same size and type, including the words “section,” “unit,” “replat,” “amended,” etc. The name of the subdivision shall be shown in the dedication and shall coincide exactly with the subdivision name.

History.—s. 1, ch. 71-339.

177.061 Qualification of person making survey and plat certification.—Every subdivision of lands made within the provisions of this chapter shall be made under the responsible direction and supervision of a land surveyor who shall certify on the plat that the plat is a true and correct representation of the lands surveyed, that the survey was made under his responsible direction and supervision, and that the survey data complies with all of the requirements of this chapter. The certification shall bear the signature, registration number, and the official seal of the land surveyor.

History.—s. 1, ch. 71-339.

177.071 Approval of plat by governing bodies.—

(1) Before a plat is offered for recording, it shall be approved by the appropriate governing body, and evidence of such approval shall be placed on such plat. If not approved, the governing body shall return the plat to the land surveyor. However, such examination and approval for conformity to this chapter by
the appropriate governing body shall not include the verification of the survey data, except by a land surveyor either employed by or under contract to the local governing body for the purpose of such examination. For the purposes of this chapter:

(a) When the plat to be submitted for approval is located wholly within the boundaries of a municipality, the governing body of such municipality shall have exclusive jurisdiction to approve such plat.

(b) When a plat lies wholly within the unincorporated areas of a county, the governing body of such county shall have exclusive jurisdiction to approve such plat.

(c) When a plat lies within the boundaries of more than one governing body, two plats shall be prepared and each governing body shall have exclusive jurisdiction to approve the plat within its boundaries, unless the governing bodies having said jurisdiction agree that one plat is mutually acceptable.

(2) Any provision in a county charter, or in an ordinance of a county chartered under s. 6(e), Art. VIII of the State Constitution, which provision is inconsistent with anything contained in this section shall prevail in such charter county to the extent of any such inconsistency.

History.—s. 1, ch. 71-339; s. 2, ch. 79-86.

177.085 Platted streets; reversionary clauses.—

(1) Any owner of land subdivides the land and dedicates streets, other roadways, alleys or similar strips on the map or plat, and the dedication contains a provision that the reversionary interest in the street, roadway, alley or other similar strip is reserved unto the dedicatee or his heirs, successors, assigns, or legal representative, or similar language, and thereafter conveys abutting lots or tracts, the conveyance shall carry the reversionary interest in the abutting street to the centerline or other appropriate boundary, unless the owner clearly provides otherwise in the conveyance.

(2) As to all plats of subdivided lots heretofore recorded in the public records of each county, the holder of any interest in any reversionary rights in streets in such plats, other than the owners of abutting lots, shall have 1 year from July 1, 1972 to institute suit in a court of competent jurisdiction in this state to establish or enforce the right, and failure to institute the action within the time shall bar any right, title or interest, and all right of forfeiture or reversion shall thereupon cease and determine, and become unenforceable.

History.—s. 1, ch. 72-297; s. 50, ch. 73-333.

177.091 Plats made for recording.—Every plat of a subdivision offered for recording shall conform to the following:

(1) It shall be:

(a) An original drawing made with black permanent drawing ink or varitype process on a good grade linen tracing cloth or with a suitable permanent black drawing ink on a stable base film, a minimum of 0.003 inches thick, coated upon completion with a suitable plastic material to prevent flaking and to assure permanent legibility; or

(b) A nonadhered scaled print on a stable base film made by photographic processes from a film scribing tested for residual hypo testing solution to assure permanency.

Marginal lines, standard certificates and approval forms shall be printed on the plat with a permanent black drawing ink. A print or photographic copy of the original drawing shall be submitted with the original drawing.

(2) The size of each sheet shall be determined by the local governing body and shall be drawn with a marginal line, or printed when permitted by local ordinance, completely around each sheet and placed so as to leave at least a ½-inch margin on each of three sides and a 3-inch margin on the left side of the plat for binding purposes.

(3) When more than one sheet must be used to accurately portray the lands subdivided, each sheet must show the particular number of that sheet and the total number of sheets included, as well as clearly labeled matchlines to show where other sheets match or adjoin.

(4) In all cases, the scale used shall be of sufficient size to show all detail and shall be both stated and graphically illustrated by a graphic scale drawn on every sheet showing any portion of the lands subdivided.

(5) The name of the plat shall be shown in bold legible letters, as stated in s. 177.051. The name of the subdivision shall be shown on each sheet included.

(6) A prominent “north arrow” shall be drawn on every sheet included showing any portion of the lands subdivided. The bearing or azimuth reference
shall be clearly stated on the face of the plat in the notes or legend.

(7) Permanent reference monuments shall be placed at each corner or change in direction on the boundary of the land being platted; however, “P.R.M.s” need not be set closer than 310 feet, but shall not be more than 1400 feet apart. In all cases there shall be a minimum of four “P.R.M.s” placed on the boundary of the lands being platted. Where such corners are in an inaccessible place, “P.R.M.s” shall be set on a nearby offset within the boundary of the plat and such offset shall be so noted on the plat. Where corners are found to coincide with a previously set “P.R.M,” the number on the previously set “P.R.M.” shall be shown on the new plat or, if unnumbered, shall so state. Permanent reference monuments shall be set before the recording of the plat and this will be so stated in the surveyor’s certificate on the plat. Such “P.R.M.” shall be shown on the plat by an appropriate designation.

(8) “P.C.P.s” shall be set at the intersection of the centerline of the right-of-way at the intersection of all streets, at “P.C.s,” “P.T.s,” “P.R.C.s,” and “P.C.C.s,” and no more than 1,000 feet apart, on tangent, between changes of direction, or along the street right-of-way or block lines at each change in direction and no more than 1,000 feet apart. Such “P.C.P.s” shall be shown on the plat by an appropriate designation. In those counties or municipalities that do not require subdivision improvements and do not accept bonds or escrow accounts to construct improvements, “P.C.P.s” may be set prior to the recording of the plat and shall be set within 1 year of the date the plat was recorded and shall be referred to in the surveyor’s certificate. In the counties or municipalities that require subdivision improvements and have the means of insuring the construction of said improvements, such as bonding requirements, “P.C.P.s” shall be set prior to the expiration of the bond or other surety. It is the land surveyor’s responsibility to furnish the clerk or recording officer of the county or municipality his certificate that the “P.C.P.s” have been set and the dates the “P.C.P.s” were set.

(9) Each plat shall show the section, township, and range as applicable, or, if in a land grant, the plat will so state.

(10) The name of the city, town, village, county, and state in which the land being platted is situated shall appear under the name of the plat as applicable.

(11) Each plat shall show a description of the lands subdivided, and the description shall be the same in the title certification. The description must be so complete that from it, without reference to the plat, the starting point and boundary can be determined.

(12) The dedications and approvals required by ss. 177.071 and 177.081.

(13) The circuit court clerk’s certificate and the land surveyor’s certificate and seal.

(14) All section lines and quarter section lines occurring in the map or plat shall be indicated by lines drawn upon the map or plat, with appropriate words and figures. If the description is by metes and bounds, the point of beginning shall be indicated, together with all bearings and distances of the boundary lines. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses. The initial point in the description shall be tied to the nearest government corner or other recorded and well established corner.

(15) Location, width, and names of all streets, waterways, or other right-of-way shall be shown, as applicable.

(16) Location and width of easements shall be shown on the plat or in the notes or legend, and their intended use shall be clearly stated.

(17) All contiguous properties shall be identified by subdivision title, plat book, and page, or, if unplatted, land shall be so designated. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made; the fact of its being a resubdivision shall be stated as a subtitle following the name of the subdivision wherever it appears on the plat.

(18) All lots shall be numbered either by progressive numbers or, if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.

(19) Block corner radii dimensions shall be shown.

(20) Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, and all other areas shown on the plat. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a witness line showing complete data, with distances along all lines extended beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as “more or less,” if variable. Lot, block, street, and all other dimensions except to irregular boundaries, shall be shown to a minimum of hundredths of feet. All measurements shall refer to horizontal plane and in accordance with the definition of a foot or meter adopted by the United States Bureau of Standards.

(21) Curvilinear lots shall show the radii, arc distances, and central angles or radii, chord, and chord bearing, or both. Radial lines will be so designated. Direction of nonradial lines shall be indicated.

(22) Sufficient angles, bearings, or azimuth to show direction of all lines shall be shown, and all bearings, angles, or azimuth shall be shown to the nearest second of arc.

(23) The centerlines of all streets shall be shown with distances, angles, bearings or azimuth, “P.C.s,” “P.T.s,” “P.R.C.s,” “P.C.C.s,” arc distance, central angles, tangents, radii, chord, and chord bearing or azimuth, or both.

(24) Park and recreation parcels as applicable shall be so designated.

(25) All interior excepted parcels shall be clearly indicated and labeled “Not a part of this plat.”
177.101 Vacation and annulment of plats subdividing land.—

(1) Whenever it is discovered, after the plat has been recorded in the public records, that the developer has previously caused the lands embraced in the second plat to be differently subdivided under and by virtue of another plat of the same identical lands, and the first plat was also filed of public record at an earlier date, and no conveyances of lots by reference to the first plat so filed appears of record in such county, the governing body of the county is authorized and directed to and shall, by resolution, vacate and annul the first plat of said lands appearing of record upon the application of the developer of such lands under the first plat or upon application of the owners of all the lots shown and designated upon the second and subsequent plat of such lands, and the circuit court clerk of the county shall thereupon make proper notation of the annulment of such plat upon the face of such annulled plat.

(2) Whenever it is discovered that after the filing of a plat subdividing a parcel of land located in the county, the developer of the lands therein and thereby subdivided did cause such lands embraced in said plat, or a part thereof, to be again and subsequently differently subdivided under another plat of the same and identical lands or a part thereof, which said second plat was also filed at a later date; and it is further made to appear to the governing body of the county that the filing and recording of the second plat would not materially affect the right of convenient access to lots previously conveyed under the first plat, the governing body of the county is authorized by resolution to vacate and annul such a plat of said lands appearing of record as are included in the second plat, upon application of the owners and developer of such lands under the first plat or their successors, grantees, or assignees, and the circuit court clerk of the county shall thereupon make proper notation of the action of the governing body upon the face of the first plat.

(3) The governing bodies of the counties of the state may adopt resolutions vacating plats in whole or in part of subdivisions in said counties, returning the property covered by such plats either in whole or in part into acreage. Before such resolution of vacating any plat either in whole or in part shall be entered by the governing body of a county, it must, by resolution, decide that persons making application for said vacation own the fee simple title to the whole or that part of the tract covered by the plat sought to be vacated, and it must be further shown that the vacation by the governing body of the county will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

(4) Persons making application for vacations of plats either in whole or in part shall give notice of their intention to apply to the governing body of the county to vacate said plat by publishing legal notice in a newspaper of general circulation in the county in which the tract or parcel of land is located, in not less than two weekly issues of said paper, and must attach to the petition for vacation the proof of such publication, together with certificates showing that all state and county taxes have been paid. For the purpose of the tax collector's certification that state, county, and municipal taxes have been paid, the taxes shall be deemed to have been paid if, in addition to any partial payment under s. 194.171, the owner of the platted lands sought to be vacated shall post a cash bond, approved by the tax collector of the county where the land is located and by the Department of Revenue, conditioned to pay the full amount of any judgment entered pursuant to s. 194.192 adverse to the person making partial payment, including all costs, interest, and penalties. The circuit court shall fix the amount of said bond by order, after considering the reasonable time frame for such litigation and all other relevant factors; and a certified copy of such approval, order, and cash bond shall be attached to the application. If such tract or parcel of land is within the corporate limits of any incorporated city or town, the governing body of the county shall be furnished with a certified copy of a resolution of the town council or city commission, as the case may be, showing that it has already by suitable resolution vacated such plat or subdivision or such part thereof sought to be vacated.

(5) Every such resolution by the governing body shall have the effect of vacating all streets and alleys which have not become highways necessary for use by the traveling public. Such vacation shall be effective until a certified copy of such resolution has been filed in the offices of the circuit court clerk and duly recorded in the public records of said county.

(6) All resolutions vacating plats by the governing body of a county prior to September 1, 1971 are hereby validated, ratified, and confirmed. Such resolutions shall have the same effect as if the plat had been vacated after September 1, 1971.

177.111 Instructions for filing plat.—After the approval by the appropriate governing body required by s. 177.071, the plat shall be recorded by the circuit court clerk or other recording officer upon submission thereto of such approved plat. The circuit court clerk or other recording officer shall maintain in his office a book of the proper size for such papers so that they shall not be folded, to be kept in the vault. A print or photographic copy on cloth shall be filed in a similar book and kept in his office for the use of the public. The clerk shall make available to the public a full size copy of the record plat at a reasonable fee.

177.121 Misdemeanor to molest monument or deface or destroy map or plat.—It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person to molest any monuments established according to this chapter or to deface or destroy any map or plat placed on public record.
177.131 Recordation of the Department of Transportation official right-of-way maps and other governmental right-of-way maps.—

(1) The circuit court clerk of a county shall record in the public land records of the county any map prepared and adopted by the Department of Transportation or any other governmental entity as its official right-of-way map after the same has been approved by the appropriate governmental authority. The clerk shall use special plat books provided by the appropriate governmental authority for such maps, which shall be kept with other plat books. The clerk shall make available to the public a full size copy of the right-of-way maps at a reasonable fee.

(2) Sections 177.011-177.121 of this chapter are not applicable to this section. Upon request of the clerk, the Department of Transportation shall furnish without charge a reproducible copy of its right-of-way maps.

History.—s. 1, ch. 71-339.

177.132 Preservation of unrecorded maps.—

(1) The clerk of the circuit court of a county may receive and copy, as unrecorded maps, otherwise unrecorded plats and maps, including sales maps, which describe or illustrate the boundaries and subdivision of parcels of land, but which do not necessarily indicate proper metes and bounds or otherwise comply with the recording requirements of this chapter. The receipt and copying of such documents shall not affect or impair the title to the property in any manner, nor shall it be construed as actual or constructive notice, but shall be for informational purposes only and shall not be referred to for the purpose of conveying property or for circumventing the lawful regulation and control of subdividing lands by local governing bodies. The clerk may maintain a separate book or other filing process provided by the county for this purpose. The clerk shall make reproductions of these copies available to the public at a reasonable fee.

(2) Sections 177.021-177.121 of this chapter shall not apply to this section.

History.—s. 3, ch. 76-110.

177.141 Affidavit confirming error on a recorded plat.—In the event an appreciable error or omission in the data shown on any plat duly recorded under the provisions of this chapter is detected by subsequent examination or revealed by a retracement of the lines run during the original survey of the lands shown on such recorded plat, the land surveyor who was responsible for the survey and the preparation of the plat as recorded may file an affidavit confirming that such error or omission was made. However, the affidavit must state the he has made a re-survey of the subject property in the recorded subdivision within the last 10 days and that no evidence existed on the ground that would conflict with the corrections as stated in the affidavit. The affidavit shall describe the nature and extent of such error or omission and the appropriate correction that in his opinion should be substituted for the erroneous data shown on such plat or added to the data on such plat. When such an affidavit is filed, it is the duty of the circuit court clerk to record such affidavit, and he may place in the margin of such recorded plat a notation that the affidavit has been filed, the date of filing, and the book and page where it is recorded. The affidavit shall have no effect upon the validity of the plat or on the information shown thereon.

History.—s. 1, ch. 71-339.

177.151 State plane coordinate.—

(1) Coordinates may be used to define or designate the position of points on the surface of the earth within the state for land descriptions and subdivision purposes, provided the initial point in the description shall be tied to the nearest government corner or other recorded and well established corner. The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate projection and zone system, shall consist of two distances, expressed in feet and decimals of a foot. One distance, to be known as the "x-coordinate," shall give the position in an east and west direction; the other, to be known as the "y-coordinate," shall give the position in a north and south direction. These coordinates shall be made to depend upon and conform to the origins and projections on the Florida Coordinate System and the triangulation and traverse stations of the National Ocean Survey within the state, as those origins and projections have been determined by the said survey. When any tract of land to be defined by a single description extends from one into the other of the above projections or zones, the positions of all points on its boundary may be referred to either of the zones or projections, with the zone and projection being used specifically named in the description.

(2) The position of points on the Florida Coordinate System shall be as marked on the ground by triangulation or traverse stations established in conformity with standards adopted by the National Ocean Survey for first-order and second-order work, the geodetic positions of which have been rigidly adjusted on the North American Datum of 1927, and the coordinates of which have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the Florida Coordinate System.

(3) No coordinates based on the Florida Coordinate System purporting to define the position of a point on a land boundary shall be presented to be recorded in any public land records or deed records unless such point is within one-half mile of a triangulation or traverse station established in conformity with the standards described in s. 177.031(19). However, the said one-half mile limitation may be waived when coordinates shown are certified as having been established in accordance with National Ocean Survey requirements and procedures for first-order or second-order work by a surveyor licensed in the state. This certification of order-of-accuracy must be included in the description of the land involved.

(4) The use of the term "Florida Coordinate System" on any map, report of survey, or other document shall be limited to coordinates based on the Florida Coordinate System as defined in this chapter.

(5) Whenever coordinates based on the Florida
Coordinate system are used to describe a tract of land which in the same document is also described by reference to any subdivision, line, or corner of the United States Public Land Survey, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line, or corner contained in the official plats and field notes of record, and, in the event of any conflict, the description by reference to the subdivision, line or corner of the United States Public Land Survey shall prevail over the description by coordinates.

(6) Nothing contained in this chapter shall require any purchaser or mortgagee to rely on a description any part of which depends exclusively upon the Florida Coordinate System.

History.—s. 1, ch. 71-339.

PART II

COASTAL MAPPING

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177.25 Short title.—This part shall be cited as the “Florida Coastal Mapping Act of 1974.”

History.—s. 1, ch. 74-56.

177.26 Declaration of policy.—The Legislature hereby declares that accurate maps of coastal areas are required for many public purposes, including, but not limited to, the promotion of marine navigation, the enhancement of recreation, the determination of coastal boundaries, and the implementation of coastal zone planning and management programs by state and local governmental agencies. Accordingly, a state coastal mapping program is declared to be in the public interest. The Legislature further recognizes the desirability of confirmation of the mean high-water line, as recognized in the State Constitution and defined in s. 177.27(15) as the boundary between state sovereignty land and uplands subject to private ownership, as well as the necessity of uniform standards and procedures with respect to the establishment of local tidal datums and the determination of the mean high-water and mean low-water lines, and therefore directs that such uniform standards and procedures be developed.

History.—s. 2, ch. 74-56.

177.27 Definitions.—The following words, phrases, or terms used herein, unless the context otherwise indicates, shall have the following meanings:

(1) “Apparent shoreline” means the line drawn on a map or chart in lieu of the mean high-water line or mean low-water line in areas where either or both may be obscured by marsh or mangrove, cypress, or other types of marine vegetation. This line represents the intersection of the mean high-water datum with the outer limits of vegetation and appears to the navigator as the shoreline.

(2) “Approved coastal zone map” means a map approved by the department.

(3) “Comparison of simultaneous observations” means a method of determining mean values by comparison of short-period observations at a station with simultaneous observations made at a station for which mean values, based on long-period observations, are available.

(4) “Control tide station” means a place so designated by the department or the National Ocean Survey at which continuous tidal observations have been taken or are to be taken over a minimum of 19 years to obtain basic tidal data for the locality.

(5) “Datum” means a reference point, line, or plane used as a basis for measurements.

(6) “Datum plane” means a surface used as reference from which heights or depths are reckoned. The plane is called a tidal datum when defined by a phase of the tide—for example, high water or low water.

(7) “Demarcation” means the act of setting and marking limits or boundaries on the ground.

(8) “Department” means the Department of Natural Resources.

(9) “Diurnal tides” means tides having a period or cycle of approximately one tidal day.

(10) “Foreshore” means the strip of land between the mean high-water and mean low-water lines that is alternately covered and uncovered by the flow of the tide.

(11) “Geodetic bench mark” means a permanently monumented and precisely referenced and described mark, usually a bronze tablet or copper or bronze bolt leaded or cemented into a masonry structure, which is established to give a definite high point on the monument to which geodetic elevations are referred.

(12) “Interpolated water elevation” means a point between two adjacent tide stations where the water elevation has been determined by interpolation from established datums at the two tide stations.

(13) “Leveling” means the operation of determining differences of elevation between points on the surface of the earth or of determining the elevations of points relative to some arbitrary or natural level surface called a datum.

(14) “Local tidal datum” means the datum established for a specific tide station through use of tidal observations made at that station.

(15) “Mean high water” means the average height
177.28 Legal significance of the mean high-water line.—

(1) Mean high-water line along the shores of land immediately bordering on navigable waters is recognized and declared to be the boundary between the foreshore owned by the state in its sovereign capacity and upland subject to private ownership. However, no provision of this part shall be deemed to constitute a waiver of state ownership of sovereignty submerged lands, nor shall any provision of this part be deemed to impair the title to privately owned submerged lands validly alienated by the State of Florida or its legal predecessors.

(2) No provision of this part shall be deemed to modify the common law of this state with respect to the legal effects of accretion, reliction, erosion, or avulsion.

History.—s. 4, ch. 74-56.

177.29 Powers and duties of the department.—

(1) The provisions of this part shall be administered by the Department of Natural Resources.

(2) In addition to such powers as may be specifically delegated to it under the provisions of this part, the department is authorized to perform the following functions:

(a) To coordinate the efforts of all public and private agencies and organizations engaged in the making of tidal surveys and maps of the coastal areas of this state, with the object of avoiding unnecessary duplication and overlapping;

(b) To serve as a coordinating state agency for any program of tidal surveying and mapping conducted by the Federal Government;

(c) To assist any court, tribunal, administrative agency, or political subdivision, and to make available to them information, regarding tidal surveying and coastal boundary determinations;

(d) To contract with federal, state, or local agencies or with private parties for the performance of any surveys, studies, investigations, or mapping activities, for preparation and publication of the results thereof, or for other authorized functions relating to the objectives of this part;

(e) To develop permanent records of tidal surveys and maps of the state's coastal areas;

(f) To develop uniform specifications and regulations for tidal surveying and mapping coastal areas of the state;

(g) To collect and preserve appropriate survey data from coastal areas;

(h) To act as a public repository for copies of coastal area maps and to establish a library of such maps and charts.

History.—s. 5, ch. 74-56.

177.30 Authorization of coastal mapping program.—The Department of Natural Resources is authorized and directed to conduct a comprehensive program of coastal boundary mapping with the object of providing accurate surveys of the coastline of the state at the earliest possible date.

History.—s. 6, ch. 74-56.