



# Florida Legislative Committee on Intergovernmental Relations

*Interim Project Report*



## Review of Municipal Incorporation Feasibility Studies December 2007

### I. Introduction

Under Florida's Constitution, municipal governments are created by the Legislature through the local bill process. To assist in determining whether to establish an incorporated city, the Legislature has required certain conditions as a prerequisite for incorporation.

In 1974, state standards for municipal incorporation were established within s. 165.061, F.S., in order to provide uniform standards, direction, and procedures for the formation of municipalities and provision of municipal services.<sup>1</sup> In 1996, the Legislature required a feasibility study be submitted 90 days prior to the start of the next regular legislative session in order to be considered during that legislative session.<sup>2</sup> In 1999, the components of the required feasibility study were further articulated and detailed to include a 5-year proposed budget with identified revenue streams and expenditures and proposed municipal services and service providers.<sup>3</sup>

This study examines the adequacy of information provided in municipal feasibility studies with particular focus on the proposed budgets presented in them. Ancillary issues considered in this review address the role of state standards for municipal incorporation and their continued use in the creation of future municipalities. In addition, this review includes a summary of Florida's current municipal incorporation

process. A historic overview of state policies governing municipal incorporation is provided in Appendix A.

### Methodology

This review examines feasibility studies from municipalities established by the Legislature subsequent to passage of the Formation of Municipalities Act in 1974. As noted below, 26 municipalities have incorporated since 1974, however, only 17 were created by the Florida Legislature.

Florida's Municipal Incorporations Since 1974 by Year

Year Incorporated	Municipality - County
1983	Jacob City - Jackson
1984	Destin - Okaloosa
1986	Midway - Gadsen
1991	Key Biscayne- Miami-Dade
1993	DeBary - Volusia
1995	Aventura - Miami-Dade
1995	Deltona - Volusia
1995	Fort Myers Beach - Lee
1995	Pinecrest - Miami-Dade
1995	Wellington - Palm Beach
1996	Weston - Broward
1997	Islamorda - Monroe
1997	Marco Island - Collier
1997	Sunny Isle Beach - Miami-Dade
1999	Bonita Springs - Lee
1999	Marathon- Monroe
1999	Palm Coast - Flagler
2000	Miami Lakes - Miami-Dade
2000	Southwest Ranches - Broward
2002	Palmetto Bay - Miami-Dade
2003	Doral - Miami-Dade
2003	Miami Gardens - Miami-Dade
2005	Cutler Bay -Miami-Dade
2005	West Park - Broward
2006	Grant-Valkaria - Brevard
2006	Loxahatchee Groves - Palm Beach

Source: <http://www.floridalcir.gov/UserContent/docs/File/data/muniinc.xls>

The remaining nine municipalities, established by Miami-Dade County government under its home rule charter

<sup>1</sup> Section 1, Chapter 74-192, Laws of Florida.

<sup>2</sup> Section 8, Chapter 96-416, Laws of Florida.

<sup>3</sup> Section 11, Chapter 99-378, Laws of Florida.

powers, are not subject to the provisions of chapter 165, F.S., and as such are not included in the review.<sup>4</sup> Furthermore, complete feasibility study and reported revenue and expenditure data are available for only 11 of the 17 municipalities created by the Florida Legislature.

Projected budgets in the feasibility studies are assessed for their accuracy in predicting revenue and expenditure totals, revenue sources, and expenditure categories in years following incorporation. Reported revenues and expenditures data for municipalities are obtained from annual financial reports that municipalities submit to the Florida Department of Financial Services. This review also draws upon the experience gleaned from the feasibility study reviews conducted by Legislative Committee on Intergovernmental Relations (LCIR) staff.

The LCIR upon numerous occasions has reviewed the issues pertaining to municipal incorporations. In 2001, the LCIR conducted an interim project which provided a historical context to municipal incorporations and offered suggested practices to be used in future incorporation initiatives, particularly with regard to the feasibility study and proposed charter. Additionally, since the early 1990's, the LCIR has reviewed and commented on approximately 30 incorporation feasibility studies at the request of the House Committee on Urban and Local Affairs and its predecessors. These reviews considered the following issues:

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<sup>4</sup> Article VIII, section 6(e), of the Florida Constitution, 1968 revision. This provision recognized Miami-Dade County's authority to abolish, create, and change boundaries of local governments within Miami-Dade County, including municipal incorporations.

- Does the proposed incorporation meet standards for municipal incorporations specified in s. 165.061, F.S.?
- Does the Study meet the requirements for a feasibility study in s. 165.041, F.S.?
- Are the proposed revenues and expenditures contained in the Study consistent with statutory provisions?
- Are the proposed revenues and expenditures contained in the Study consistent with those of municipalities of similar size?
- What are the fiscal impacts to State Shared Revenue distributions to existing governments within the parent county as a result of the proposed incorporation?
- Are charter provisions consistent with the Florida Constitution and statutory provisions?

## **II. Overview of the Municipal Incorporation Process**

The formation of a municipal government in Florida is governed by three sets of state policies: standards for municipal incorporation and feasibility study requirements established in chapter 165, F.S.; state policies governing special acts; and local bill policies and procedures established by the Florida House of Representatives.

### **A. State Standards for Municipal Incorporation**

The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following

conditions in the area proposed for incorporation, unless the standard is waived by the Legislature:

- It must be compact, contiguous and amenable to separate municipal government.
- It must have a population in the area proposed to be incorporated of at least 1,500 persons in counties with a population of less than 75,000, and a population of at least 5,000 in counties with a population of more than 75,000.
- 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.
- It must have a minimum distance of 2 miles from an existing municipality or have an extraordinary natural boundary, which requires a separate municipal government.
- It must have a proposed municipal charter which prescribes the form of government and clearly defines the responsibility for legislative and executive functions and does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.
- The plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for 5 years or the remainder of the contract term, whichever is less.

### **B. Feasibility Study Requirements**

A feasibility study is a study of the proposed area to be incorporated. The purpose of the

study is to enable the Legislature to determine whether the area: 1) meets the statutory requirements for incorporation; and 2) is financially feasible. Pursuant to s. 165.041, F.S., the municipal incorporation feasibility study must include the following elements:<sup>5</sup>

- The general location and a map of the area proposed for incorporation.
- The major reasons for incorporation.
- The following characteristics of the area:
  - A list of current land use designations applied to the subject area in the county comprehensive plan.
  - A list of the current county zoning designations applied to the subject area.
  - A general statement of present land use characteristics of the area.
  - A description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
- A list of all public agencies, such as local governments, school districts, and special districts, whose current boundaries fall within the boundary of the territory proposed for incorporation.
- A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each current service.

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<sup>5</sup> Section 165.041(1)(b), F.S.

- A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such proposed services.
- The names and addresses of three officers or persons submitting the proposal.
- Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation that, at a minimum, includes:
  - Existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise fees, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate.
  - A 5-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets.
- Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.
- Evaluation of the alternatives available to the area to address its policy concerns.
- Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S.

Once the local delegation approves the proposed incorporation bill, the House Committee on Urban and Local Affairs coordinates a review of the feasibility study findings and proposed charter with various legislative committees, including the LCIR,

and appropriate state agencies. If a local bill proposing the incorporation is filed and referred, the Committee on Urban and Local Affairs prepares an analysis of the information for use by legislators in deliberation of the proposal. The Senate generally does not prepare an analysis for local bills, including those proposing a new municipal incorporation.<sup>6</sup>

### **III. Feasibility Study Budget Projections**

The common theme in this review is gauging the accuracy of the budget projections presented in the feasibility studies. Accuracy is measured through comparisons of budget projections with reported revenues and expenditures and the extent to which revenues were generated from sources projected and expended on the type of activities identified in the proposed budgets.

#### **A. Projected and Reported Revenue and Expenditure Totals**

The first measurement of accuracy is the extent to which total revenues and expenditures projected in the feasibility study matched total revenues and expenditures that were later reported in the municipality's annual financial reports. Table 1 on page 9 provides a comparison of projected revenue and expenditure totals for the first completed fiscal year of the newly formed municipalities and the revenues and expenditures subsequently reported for those fiscal years by the municipal governments.

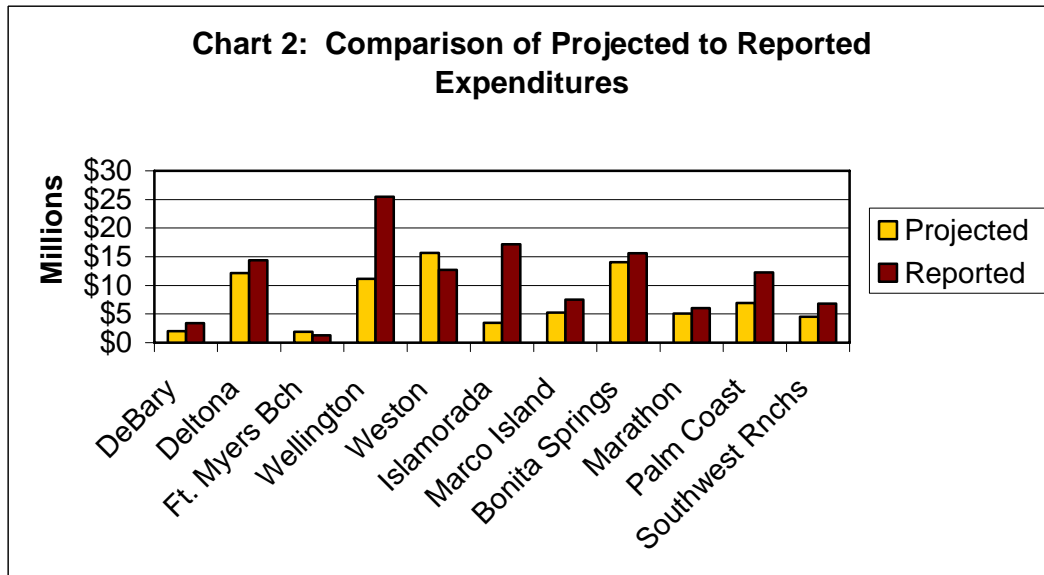
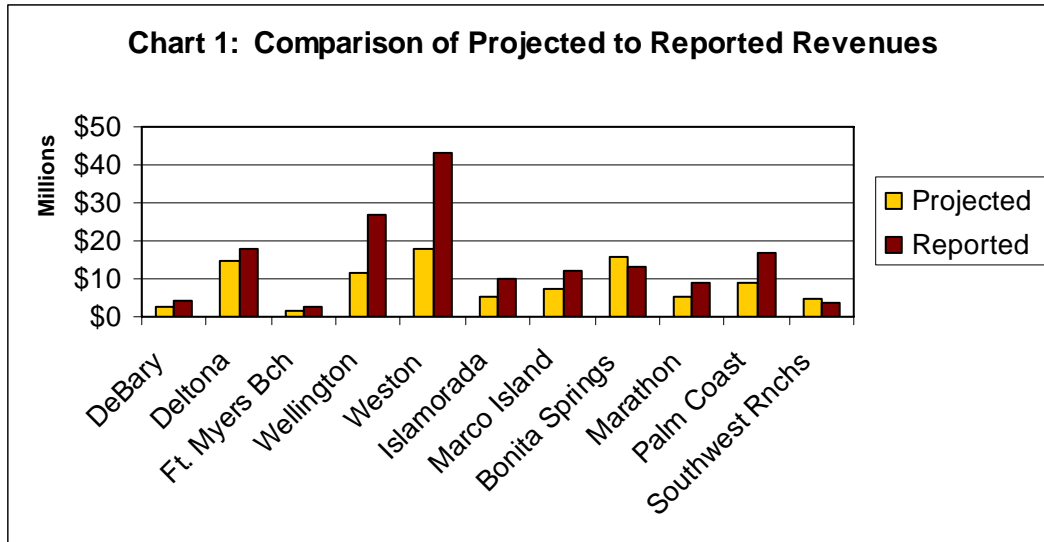
Overall, as depicted in the bar graphs in Charts 1 and 2 on the next page, budget

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<sup>6</sup> The Senate Rules and Calendar Committee and Senate Bill Drafting review local bills to assure the Constitutional notice requirement is met before consideration by the Senate where the bill is usually introduced on the floor.

projections underestimated, and in some cases significantly, both the amount of revenues collected by the municipality as well as its total expenditures. Of the 11 municipalities, only the reported revenues of Bonita Springs and Southwest Ranches were less than those projected in their feasibility studies. In contrast, total revenues reported for Wellington and Weston were more than

twice the amounts projected. Similarly, Fort Myers Beach and Weston were the only municipalities with reported total expenditures less than their projected expenditures, while Wellington and Islamorada reported expenditures that were twice the amounts projected.



## **B. Revenue Sources**

A second measurement of accuracy is the extent to which the revenue sources identified in the feasibility study generate the amount of revenues projected. This is essentially a comparison whereby projected and reported revenues are grouped under one of the six major revenue classifications modeled after the Florida Department of Financial Service's Uniform Accounting System and expressed as a percent of total projected or reported revenues for that fiscal year. The classifications are: 1) taxes; 2) licenses and permits; 3) intergovernmental revenues; 4) charge for services; 5) fines and forfeitures; and 6) miscellaneous revenues.<sup>7</sup>

The projected and reported sources of revenues expressed as a percent of total revenues for the municipalities in their first complete fiscal year are presented in Table 2 on page 10. The revenue sources projected to generate the larger proportion of total revenues for the municipalities – taxes and intergovernmental revenues – generally did generate a larger percentage of total revenues. However, the projections, generally overestimated the percent of total collections derived through taxes.

The projected share of total revenues generated through intergovernmental revenue streams appears fairly consistent with actual collections. This accuracy reflects the ease in calculating distributions from state shared revenue programs.

Revenue projections from charges for services and miscellaneous revenue classifications appeared most troublesome to accurately predict. This difficulty may arise in part from misidentifying a revenue source with its proper classification that is later

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<sup>7</sup> A list of the six revenue classifications and major sub-classifications are presented in Appendix B.

corrected in the review of the annual financial reports. It also reflects the political reality that certain revenue sources such as taxes are easier to propose than to levy. In contrast, other revenue streams, such as charge for services, special assessments and impact fees are more easily accessed when fiscal necessity arises. The projected revenues from licenses and permits and fines and forfeitures accurately predicted the limited use of these revenue sources.

## **C. Expenditures**

The third measurement of accuracy is whether the projected expenditures occurred. Similar to the measurement of revenue sources, the accuracy of projected expenditures compares projected and reported expenditures grouped under one of eight general expenditure categories modeled after the Florida Department of Financial Service's Uniform Accounting System and expressed as a percent of total projected or reported expenditures for that fiscal year. These categories include: 1) general government services; 2) public safety; 3) physical environment; 4) transportation; 5) economic environment; 6) human services; 7) culture and recreation; and 8) debt service.<sup>8</sup>

Projected and reported expenditure scores for the municipalities in their first complete fiscal year are presented in Table 3 on page 11. As noted in the table, the largest expenditure projections are for general government services, public safety, and physical environment and with few exceptions, the larger proportion of total reported expenditures for the municipalities were in these three categories. The municipalities were evenly split between those that overestimated the amount spent

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<sup>8</sup> A list of the eight expenditure categories and major subcategories are provided in Appendix C.

for general government services and those that underestimated their costs.

All feasibility studies projected a large percent of their budget for public safety with nine of 11 projections overestimating actual expenditures. Expenditure projections for economic environment, human services, and debt service accurately predicted little expenditures in these areas. Projected expenditures for culture and recreation were most likely to underestimate actual costs in these areas.

#### **IV. Additional Observations**

Based in large part on the LCIR's experiences in the review of incorporation feasibility studies, and discussions with local delegations, representatives from county and municipal governments, the Florida Department of Community Affairs and the Department of Revenue, and staff from House and Senate Committees, the following observations are presented.

*State Standards for Municipal Incorporation*  
Since 1990, the majority of communities seeking incorporation have requested the Legislature to waive one or more of the state standards for municipal incorporation. Most frequently requested are waivers from the 2-mile minimum distance from a neighboring municipality, minimum population, and minimum density requirements.

Traditionally, the Legislature has granted these requests in deference to the community's local delegation. However, the information presented in the waiver request is useful in that it provides a better understanding of the reasons behind the proposed incorporation. Additionally, the minimum population and minimum density standards impact the potential fiscal capacity

of the community as well as costs associated with the delivery of municipal type services.

#### *Defensive Incorporations*

Originally, communities incorporated as a means to proclaim their identity and to generate revenues to provide residents with a range of municipal type services. More recently, communities have pursued incorporation as a means to protect their identity, future land use patterns, and tax base.

With the exception of the three incorporations in Broward County, all incorporation proposals submitted for review by the Legislature were driven in large part from fear of annexation by an adjacent municipality, to gain control of future growth and development, or to avoid becoming a "donor" community to less affluent areas in their county.<sup>9</sup>

#### *Contract City or Limited Service City*

One consequence of the defensive incorporations is an increasing number of municipal governments that contract for major governmental services from neighboring jurisdictions. In some instances, city administration is performed by a private business. Other variations

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<sup>9</sup> Broward County is striving for the incorporation of the entire populated area of the county through aggressive annexation or incorporation. In 1995, at the request of the Broward County Board of County Commissioners, the Broward County Legislative Delegation formed an Ad Hoc Committee on Annexation Policy. The committee's final report included the recommendation that all unincorporated neighborhoods be annexed or incorporated by the year 2010. A major objective of this policy is to reduce the number of traditional municipal services that the County provides, thus enabling it to focus on the provision of county-wide, urban, and regional services. This policy was approved and codified by the Legislature. Most of Broward County is incorporated at this juncture, but there remain about sixty unincorporated neighborhoods in the county.

include communities that continue to receive services from the governmental entities that provided those services prior to incorporation.

#### *Interlocal Agreements*

The majority of recent incorporation proposals approved as special acts by the Legislature have included memoranda of understanding or letters of intent from local governments to provide the services identified in the feasibility study for the amount stipulated in the budget proposals. Such agreements enable the municipality to participate in economies of scale savings and provide existing service providers with a broader, more stable tax base. County governments are more supportive of incorporations proposed by communities that wish to continue to use county infrastructure and thereby support the county tax base.

#### *Feasibility Study Client Group*

Historically, feasibility studies have been prepared or contracted for by proponents of incorporation. It follows that these studies were designed as much as marketing tools for incorporation as they are a method to adjudge the community's fiscal capacity to assume the functional responsibilities of a municipal incorporation and communicate these findings to the Legislature.

While the feasibility study continues its traditional role to promote incorporation, the additional study elements required under the 1999 legislation have resulted in a more comprehensive review of a community's current service delivery arrangements and how incorporation would alter it. Potential future service providers identified in the study are increasingly becoming contributors to, if not participants in its development.

## **V. Conclusion**

In general, municipal incorporation feasibility study revenue and expenditure projections, in conjunction with the additional information provided in the study, fulfill their primary purpose to inform the Legislature on whether the proposed incorporation meets the state standards for incorporation and is financially feasible.

The feasibility studies inform local residents and affected governmental entities on the fiscal capacity of the local community and identify potential changes to current service delivery arrangements. The inclusion of this information in the studies serves to reduce the number and size of unanticipated consequences following incorporation.

The municipalities' budget projections contained in the feasibility studies generally underestimate the amount of total revenues and expenditures that are later reported in their annual financial reports.

Although the analysis indicates there can be some variation between projected revenues and expenditures and actual revenues and expenditures, the potential for such discrepancies are usually identified and discussed in the legislative review of the feasibility study prior to its passage as a local bill.

Accordingly, amendments to existing state policies concerning the regulation of municipal government formations and elements of the required incorporation feasibility study are not warranted at this time.

**Table 1  
Comparison of Feasibility Study Budget Projections With Reported Revenues and Expenditures**

Municipality	Year of Incorporation	Feasibility Study Data				Reported (2)		Revenue Differences		Expenditure Differences	
		Initial Pop.	First Full Fiscal Yr	Projected (1) Revenues	Projected (1) Expenditures	Revenues	Expenditures	Projection	%	Projection	%
Jacob City	1983	290	1985-86	not provided	not provided	\$9,722	\$48,690	N/A	N/A	N/A	N/A
Destin	1984	6,322	1985-86	not provided	not provided	\$2,094,422	\$537,378	N/A	N/A	N/A	N/A
Midway	1986	1,118	1987-88	not provided	not provided	\$255,718	\$350,442	N/A	N/A	N/A	N/A
DeBary	1993	8,391	1995-96	\$2,619,704	\$1,994,378	\$4,046,036	\$3,377,844	-\$1,426,332	-54%	-\$1,383,466	-69%
Deltona	1995	54,442	1996-97	\$14,748,155	\$12,156,584	\$18,109,685	\$14,364,914	-\$3,361,530	-23%	-\$2,208,330	-18%
Ft. Myers Bch	1995	5,815	1997-98	\$1,634,490	\$1,895,187	\$2,869,591	\$1,306,483	-\$1,235,101	-76%	\$588,704	31%
Wellington	1995	24,593	1996-97	\$11,435,100	\$11,146,000	\$26,782,261	\$25,459,970	-\$15,347,161	-134%	-\$14,313,970	-128%
Weston	1996	28,350	1996-97	\$17,878,396	\$15,680,260	\$43,120,835	\$12,726,916	-\$25,242,439	-141%	\$2,953,344	19%
Islamorada	1997	7,173	1998-99	\$5,303,616	\$3,430,906	\$9,804,630	\$17,199,690	-\$4,501,014	-85%	-\$13,768,784	-401%
Marco Island	1997	12,700	1998-99	\$7,376,862	\$5,222,701	\$11,919,786	\$7,525,981	-\$4,542,924	-62%	-\$2,303,280	-44%
Bonita Springs	1999	23,186	2001-02	\$15,804,886	\$14,032,553	\$12,977,922	\$15,616,324	\$2,826,964	18%	-\$1,583,771	-11%
Marathon	1999	11,500	2000-01	\$5,518,604	\$5,054,771	\$9,124,097	\$6,022,385	-\$3,605,493	-65%	-\$967,614	-19%
Palm Coast	1999	32,828	2000-01	\$8,724,018	\$6,933,650	\$16,795,251	\$12,241,708	-\$8,071,233	-93%	-\$5,308,058	-77%
Southwest Rnchs	2000	7,284	2000-01	\$4,489,494	\$4,489,494	\$3,920,780	\$6,809,367	\$568,714	13%	-\$2,319,873	-52%
West Park	2005	12,713	2005-06	\$6,747,209	\$6,916,057	not available	not available	N/A	N/A	N/A	N/A
Grant-Valkaria	2006	3,907	2007-08	\$1,891,519	\$1,777,937	not available	not available	N/A	N/A	N/A	N/A
Loxahatchee Grvs	2006	3,122	2007-08	\$1,085,673	\$1,085,673	not available	not available	N/A	N/A	N/A	N/A

Data Sources:

(1) Incorporation Feasibility Studies.

(2) Florida Department of Financial Services.

**Table 2  
Comparison of Projected and Reported Revenues By Category in First Full Fiscal Year of Operation**

Municipality	First Full Fiscal Year	Taxes		Licenses and Permits		Intergov'tal Revenues		Charge for Services		Fines and Forfeitures		Misc Revs		Total	
		Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported
Jacob City	1985-86	N/A	30	N/A	1	N/A	69	N/A	-	N/A	-	N/A	-	N/A	100
Destin	1985-86	N/A	61	N/A	9	N/A	21	N/A	1	N/A	4	N/A	5	N/A	100
Midway	1987-88	N/A	15	N/A	-	N/A	84	N/A	-	N/A	-	N/A	-	N/A	100
DeBary	1995-96	68	55	5	4	22	20	-	16	3	-	2	5	100	100
Deltona	1996-97	66	51	-	2	23	20	-	20	3	1	6	5	100	100
Ft. Myers Bch	1997-98	73	67	-	1	27	27	-	1	-	-	-	10	100	100
Wellington	1996-97	99	27	-	1	-	14	-	35	-	-	-	23	100	100
Weston	1996-97	55	-	-	-	-	3	38	16	-	-	1	80	100	100
Islamorada	1998-99	78	42	3	4	15	24	-	20	-	1	4	10	100	100
Marco Island	1998-99	65	59	-	9	29	15	-	1	-	1	5	16	100	100
Bonita Springs	2001-02	26	66	-	-	14	25	47	2	-	1	14	6	100	100
Marathon	2000-01	69	57	6	4	24	17	-	19	-	2	-	1	100	100
Palm Coast	2000-01	69	35	7	10	15	48	1	3	-	1	8	4	100	100
Southwest Rchs	2000-01	56	74	2	3	14	21	25	1	-	-	3	1	100	100
West Park	2005-06	59	N/A	-	N/A	20	N/A	-	N/A	-	N/A	21	N/A	100	N/A
Grant-Valkaria	2007-08	87	N/A	-	N/A	13	N/A	-	N/A	-	N/A	-	N/A	100	N/A
Loxahatchee Grvs	2007-08	93	N/A	-	N/A	7	N/A	-	N/A	-	N/A	-	N/A	100	N/A

Notes:

- (1) Feasibility study projected funding in the municipality's first full fiscal year are presented as a percent of the total budget for that year.
- (2) Reported expenditures identified in the Annual Financial Report for the first full fiscal year are presented as percent of total reported expenditures.
- (3) N/A - Data not available.

Data Sources:

- (1) Florida Department of Financial Services.
- (2) Incorporation Feasibility Studies.

**Table 3  
Comparison of Projected and Reported Expenditures by Category in First Full Fiscal Year of Operation**

Municipality	First Full Fiscal Year	General Government Services		Public Safety		Physical Environment		Transportation		Economic Environment		Human Services		Culture Recreation		Debt Service		TOTALS	
		Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported	Projected	Reported
Jacob City	1985-86	N/A	100	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	100
Destin	1985-86	N/A	54	N/A	18	N/A	-	N/A	22	N/A	-	N/A	-	N/A	4	N/A	1	N/A	100
Midway	1987-88	N/A	71	N/A	-	N/A	8	N/A	21	N/A	-	N/A	-	N/A	-	N/A	-	N/A	100
DeBary	1995-96	25	25	46	35	-	15	23	20	-	-	-	1	5	4	-	-	100	100
Deltona	1996-97	34	19	43	40	23	21	-	14	-	-	-	1	13	5	-	-	100	100
Ft. Myers Bch	1997-98	63	65	4	2	33	1	-	6	-	8	-	-	-	19	-	-	100	100
Wellington	1996-97	32	12	12	9	43	41	2	10	-	-	-	-	11	28	-	3	100	100
Weston	1996-97	20	6	29	-	21	94	6	-	-	-	-	-	8	-	1	-	85	100
Islamorada	1998-99	12	9	78	6	-	19	-	3	-	-	-	-	10	60	-	4	100	100
Marco Island	1998-99	26	19	45	50	8	3	13	17	-	-	-	-	9	12	-	-	100	100
Bonita Springs	2001-02	4	22	75	-	1	5	5	51	15	-	-	1	-	22	-	-	100	100
Marathon	2000-01	22	32	17	29	38	26	-	2	-	-	-	-	23	11	-	-	100	100
Palm Coast	2000-01	24	34	44	18	-	33	21	12	-	-	-	-	-	4	-	-	93	100
Southwest Rchs	2000-01	35	15	40	19	20	-	-	1	-	-	-	-	4	65	-	-	100	100
West Park	2005-06	22	N/A	51	N/A	3	N/A	15	N/A	-	N/A	-	N/A	9	N/A	-	N/A	100	N/A
Grant-Valkaria	2007-08	100	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	100	N/A
Loxahatchee Grvs	2007-08	32	N/A	50	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	82	N/A

- Notes:
- (1) Feasibility study projected funding in the municipality's first full fiscal year are presented as a percent of the total budget for that year.
  - (2) Reported expenditures identified in the Annual Financial Report for the first full fiscal year are presented as percent of total reported expenditures.
  - (3) N/A - Not Available
  - (4) Budget totals do not include reserve revenues for the cities of Weston (15%), Palm Coast (7%), and Loxahatchee Groves (18%).
  - (5) Deltona projected cash reserves of \$2,591,572 are not reflected in budget projections.

- Data Sources:
- (1) Incorporation Feasibility Studies
  - (2) Florida Department of Financial Services and Incorporation Feasibility Studies.

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**APPENDIX A**  
**Historic Overview of State Policies**  
**Governing Municipal Incorporation in Florida**

**Introduction**

For 150 years, the State of Florida has regulated the formation of municipal incorporations through the use of numerical standards, public notice requirements, and procedural requirements. Amendments to the Constitutions of the United States and State of Florida, and changes to state laws have, at times, resulted in dramatic changes in state requirements governing municipal incorporation. A chronology of major changes in the state constitution and state laws related to municipal incorporation is presented below.

**Florida’s Legal History Regarding Municipal Incorporations**

Changes in provisions within the Florida Constitution and general law has directly, and in some instances indirectly, affected the conditions under which municipal incorporations have been formed. To the extent possible, changes are presented in a chronological order and cover the time period of 1821 - 1996.

**1821** The two oldest cities in Florida, Pensacola and St. Augustine, were designated by Major General Andrew Jackson, by ordinance in 1821.<sup>1</sup> These cities were not so much formed, as they were recognized as existing governmental entities by General Jackson. Municipal incorporations formed between 1821 and 1845, when Florida was admitted into the Union, were created through individual acts of the Legislative Council, the precursor to Florida’s Legislature.

**1846** The Florida General Assembly created general law that provided procedures for residents of a town to be incorporated.<sup>2</sup> Requirements for incorporation addressed in the law include: a minimum population of 100 white males; a 10 day public notice requirement identifying time and place of meeting by advertising in a newspaper of the town or by posting public notices in at least three of the most public places in the town. The general law appears to have provided that if a majority of eligible voters attending the meeting voted in favor of incorporation of the town, the town was considered incorporated following the election of President, Clerk, and Trustees. In addition, the law required that the boundaries of the town could not exceed one mile square.

**1861** Section 24 of article IV of the Florida Constitution directed the general assembly to enact general law for the incorporation of towns and prohibited incorporation of towns by special act.

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<sup>1</sup> Ordinance of Major General Andrew Jackson, 25, F.S.A. pp. 305-307 (1970).

<sup>2</sup> Chapter 84, ss. 1-21 [1846] Florida Laws 28-33; Thompson’s Digest 2nd Division, Title VIII, Chapter II (1847).

**1868** Section 22 of article IV of the Florida Constitution mandated use of general law for incorporation of municipalities. Changes in general law<sup>3</sup> requirements for incorporation included: a minimum population of 100 males (eliminating the prior qualifier of “white” males); a minimum of 2/3 of the registered voters within the area considered for incorporation must be present at the meeting (without reference to voting for incorporation, suggesting that if less than 2/3 of the eligible voters were not present at the meeting then the incorporation proposal failed); public notice requirements increased from 10 days to 30 days prior to the meeting; and the town clerk was required to provide a record of proceedings identifying election results for town officers, name of town, town seal with the clerk of the circuit clerk and the county where the newly incorporated town was located.

Additional changes in the general law included provisions to designate incorporated municipalities with populations of 300 or more registered voters as “cities” and those municipalities with less than 300 registered voters as a “towns.” Another change in the general law was the elimination of the requirement to limit the geographical area of an incorporated town or city to no more than one mile square.

**1869** Change in general law<sup>4</sup> reduced the minimum population requirements for incorporation from 100 males to 50 males.

**1875** Changes in general law<sup>5</sup> reduced the minimum population requirements for incorporation from 50 males to 25 males and included the additional requirement that a minimum of 25 eligible voters to be present at the incorporation meeting.

**1885** Article IV, section 8 of the Florida Constitution reauthorized the Legislature to establish and to abolish municipalities, to provide for their government, to prescribe their jurisdiction and powers, and to alter or amend the same at any time.<sup>6</sup> The significant element of the revised section was the elimination of the prohibition of the Legislature establishing municipal incorporations by special act and the provision that mandated use of general law for incorporation of municipalities.

**1933** An amendment to article III, section 24 of the Florida Constitution required the Legislature to establish a uniform system of county and municipal governments, except where inconsistent with local or special laws for counties. The amendment also directed the Legislature to enact general law that would classify cities and towns according to population, and provide for their incorporation, government, jurisdiction, powers, duties, and privileges under such classifications.

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<sup>3</sup> Chapter 1638 - [No. 14.] Laws of Florida, August 6, 1868.

<sup>4</sup> Chapter 1688 - [No. 4.] Laws of Florida, February 4, 1869.

<sup>5</sup> Chapter 2047 - [No. 8] Laws of Florida, 1875, became law without signature of Governor.

<sup>6</sup> Section 8, Article VIII, of the Constitution of the State of Florida adopted by the Convention of 1885.

Moreover, the amendment reiterated and expanded upon existing constitutional provisions that prohibited incorporation of cities or towns through special or local laws.<sup>7</sup>

The intent of the amendment was never realized and was perceived to be effectively squashed by a Florida Supreme Court decision on a case brought before it soon after the amendment was adopted.<sup>8</sup> In this case, the court held that special and local laws granting certain authorities and powers to local governments, including the authority to levy certain taxes, were operative because the Legislature had not enacted a general law classification system of local governments that prescribed powers, duties, and privileges.

**1947** Changes in general law<sup>9</sup> expanded language to minimum population requirements to include females.

**1951** Changes in general law<sup>10</sup> increased the minimum population requirement from 25 males and females to 150 males and females.

**1955** Proposed amendment to Article VIII, section 11 of the Florida Constitution that grants the electors of Dade County the power to adopt, revise, and amend a home rule charter government for Dade County.<sup>11</sup> The charter was permitted to include provisions that granted the Dade County Board of County Commissioners the authority to establish or abolish, to change boundaries, merge or consolidate new local governmental entities, including municipalities, and to provide for their government and prescribe their jurisdiction and powers. The proposed amendment was ratified by Florida voters at the general election held in November 1956. The voters in Dade County adopted their Home Rule Charter May 21, 1957.

**1967** Changes in general law increased the minimum population requirements from 150 to 1000.<sup>12</sup> In addition, the town clerk was now required to file a copy of the proceedings of the local incorporation meeting with the Secretary of State, as well as with the clerk of the circuit court and the county where the newly incorporated town was located.

**1968** Amendments to Article VIII, section 2 of the Florida Constitution changed the method for municipal incorporation from the local community to the Legislature. The amendments provided that: “Municipalities may be established or abolished and their charters amended pursuant to

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<sup>7</sup> Senate Joint Resolution No. 296, [1933], Laws of Florida, p. #880, approved June 6, 1933.

<sup>8</sup> State ex rel. Mathews v. Alsop, 120 Fla. 628, 163 so. 80 (1933).

<sup>9</sup> Chapter 23656, section 1, Laws of Florida (1947)

<sup>10</sup> Chapter 26913, section 1, Laws of Florida (1951)

<sup>11</sup> Senate Joint Resolution No. 1046, filed in Office Secretary of State June 23, 1955.

<sup>12</sup> Chapter 67-159, section 1, Laws of Florida (1967)

general or special law.”<sup>13</sup> Additional provisions in the amendments provided that all provisions of the Metropolitan Dade County Home Rule Charter adopted by the electors of Dade County pursuant to article VII, section 11 of the Constitution of 1885, as amended shall remain in full force.<sup>14</sup> This provision recognized Dade County’s authority to abolish, create, and change boundaries of local governments within Dade County, including municipal incorporations.

**1974** Changes in general law<sup>15</sup> repealed all prior statutory provisions related to the formation, organization, and dissolution of municipalities and established current provisions. The new provisions increased the total number of state requirements, expanded the scope of state oversight, and, for the first time, established state standards governing municipal incorporation.

These standards include: requiring that the area to be incorporated be compact and contiguous; increasing the minimum population requirement to 1,500 in counties with populations less than 50,000 and 5,000 in counties with populations greater than 50,000; requiring density requirements of 1.5 persons per acre in the area proposed for incorporation; and a minimum of 2 miles distance between the boundary of the proposed incorporated municipality and any existing municipalities within the same county.

Additional requirements include a proposed municipal charter that prescribes the form of government, clearly defines the responsibilities for executive and legislative functions, and does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the constitution or general law.

Another provision within the general law provided that a charter for incorporation of a municipality, except in the case of a merger, shall be adopted only by a special act of the legislature after determination that the standards and requirements provided in the law have been met. This provision made general law consistent with the 1968 constitutional revisions on creation of municipalities.

**1996** Changes in general law required that a feasibility study be completed and submitted to the Legislature in conjunction with a proposed special act for the enactment of the municipal charter.<sup>16</sup> Prior to this legislation, feasibility studies for new incorporations were required as a general policy of the House of Representatives Committee on Community Affairs and identified in the House Local Government Formation Manual.<sup>17</sup>

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<sup>13</sup> Article VIII, section 2, of the Florida Constitution, 1968 revisions

<sup>14</sup> Article VIII, section 6(e) of the Florida Constitution, 1968 revisions

<sup>15</sup> Chapter 74-192, section 1, Laws of Florida (1974)

<sup>16</sup> Chapter 96-416, section 8, Laws of Florida.

<sup>17</sup> Florida House of Representatives, Committee on Community Affairs, 1995 Florida Local Government Formation Manual, 4th Edition, pp.2-4 - 2-7.

While the elements required in the feasibility study are somewhat more specific than those previously required in the Formation Manual, the significant feature of this legislation is that the feasibility study now has the authority of general law. Elements required in the feasibility study include: 1) quantitative analysis that incorporation is necessary and financially feasible; 2) evidence to support the conclusion that alternatives to incorporation are insufficient; 3) evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S.; and 4) in counties that have adopted a municipal overlay for municipal incorporation pursuant to s. 163.3217, F.S., a copy of the overlay in conjunction with the required documents regarding the proposed incorporation is to be submitted to the legislature in order to evaluate the feasibility of the proposed incorporation in the geographic area.

Section 7 of the new legislation authorized counties to adopt a municipal overlay as an amendment to its comprehensive plan in order to assist in the planning for future municipal incorporations in specific geographical areas within the county.<sup>18</sup> The purpose of the municipal overlay is to allow a county, in cooperation with the public, to address the future possible municipal incorporation of a specific geographic area and the impact of municipal incorporation on the provision of public services to serve the area. Contents for the municipal overlay include the following elements: 1) boundary options for the creation of the new municipality; 2) a feasibility study as outlined in s. 165.041, F.S.; 3) a map of existing and proposed land uses in the area by type and density; 4) population projections for the area; and 5) data and analysis relating to the provision of public facilities for the area.

**1998** Amendment to general law changed the population criteria of a “small county” from counties with a population of 50,000 or less to counties with a population not to exceed 75,000.<sup>19</sup> One consequence of this definitional change is that the 1,500 minimum population standard for a municipality within a county of 50,000 or less population is now extended to counties with populations which do not exceed 75,000.

**1999** Amendments to general law expanded the types of information required in the municipal incorporation feasibility study.<sup>20</sup> Provisions were established that require the feasibility study to be submitted to the legislature 90 days before the first day of the regular session of the legislature during which the municipal charter would be enacted.

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<sup>18</sup> Chapter 96-416, section 7, Laws of Florida.

<sup>19</sup> Chapter 98-258, Laws of Florida.

<sup>20</sup> Section 11, Chapter 99-378, Laws of Florida.

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## **APPENDIX B**

### **Reported Municipal Revenues**

#### **Revenue Category**

##### **Total Taxes**

Property Taxes  
Sales and Use Taxes  
Franchise Taxes and Fees  
Utility Service Taxes  
Communications Services Taxes  
Other Taxes

##### **Total Licenses and Permits**

Professional and Occupational  
Building Permits  
Other Licenses and Permits

##### **Total Intergovernmental Revenues**

Federal Grants  
Federal Shared Revenues and PILT  
State Grants  
State Shared Revenues and PILT  
Local Grants  
Local Shared Revenues and PILT

##### **Total Charges for Services**

General Government  
Public Safety  
Court Related  
Electric  
Gas  
Water  
Garbage and Solid Waste  
Sewer  
Water and Sewer Combination  
Other Physical Environment  
Transportation  
Economic Environment  
Human Services  
Recreation and Culture  
Other Charges for Services

##### **Total Fines and Forfeitures**

##### **Total Miscellaneous Revenues**

Interest Earnings  
Rents and Royalties  
Special Assessments and Impact Fees  
Sales and Comp. for Loss of Assets  
Contributions and Donations  
Other Miscellaneous Revenue

## **APPENDIX C**

### **Total Reported Municipal Expenditures**

#### **Expenditure Category**

##### **Total General Government Services**

Legislative  
Executive  
Financial and Administrative  
Legal  
Comprehensive Planning  
Judicial  
Other General Government Services

##### **Total Public Safety**

Law Enforcement  
Fire Control  
Detention and Correction  
Protective Inspections  
Ambulance and Rescue  
Other Public Safety

##### **Total Physical Environment**

Electric  
Gas  
Water  
Garbage and Solid Waste  
Sewer  
Water and Sewer Combination  
Flood Control  
Other Physical Environment

##### **Total Transportation**

Road and Street Facilities  
Airports  
Water Transportation  
Transit Systems  
Parking and Other Transportation

##### **Total Economic Environment**

Employment Development  
Downtown and Industrial Development  
Housing and Urban Development  
Other Economic Environment

##### **Total Human Services**

Hospitals  
Health  
Mental Health  
Welfare  
Other Human Services

##### **Total Culture and Recreation**

Libraries  
Park and Recreation  
Other Recreation

##### **Debt Service**