

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 1215 City of Weeki Wachee, Hernando County

SPONSOR(S): Local Administration Subcommittee, Ingoglia

TIED BILLS: **IDEN./SIM. BILLS:**

FINAL HOUSE FLOOR ACTION: 113 Y's 1 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 1215 passed the House on February 26, 2020, and subsequently passed the Senate on March 11, 2020.

The City of Weeki Wachee was created in 1965. The City, located in Hernando County, is one of the smallest cities in the United States, encompassing one square mile with a population of nine. The City is also home to Weeki Wachee Springs, a 27-acre state park built around a natural spring that features live "mermaid" shows.

The City operates under a city commission form of government. All elections in the City must be conducted and supervised by the Supervisor of Elections of Hernando County under rules governing general elections in the county. Commissioners serve four-year terms, are paid \$120 per year and elect one of their members to serve as the Mayor. To qualify, commissioners must:

- Have been Florida residents for one year;
- Have been City residents for three months immediately preceding the date they would begin serving in office;
- Be electors in the City; and
- Be taxpayers on real property in the City.

The City has had numerous financial issues, including failing to file required financial reports, meeting a condition for financial emergency and having an outstanding legal bill of over \$1 million for services provided by the attorney representing the City.

The bill abolishes the City of Weeki Wachee and transfers all assets and legitimate liabilities to Hernando County.

According to the Economic Impact Statement filed for the bill, the Hernando County Board of County Commissioners would become responsible for the City's expenses and liabilities.

The bill was approved by the Governor on June 9, 2020, ch. 2020-196, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

City of Weeki Wachee

The City of Weeki Wachee was created in 1965.¹ The City, located in Hernando County, is one of the smallest cities in the United States, encompasses one square mile² and has a population of nine.³ The City is also home to Weeki Wachee Springs, a 27-acre state park built around a natural spring that features live “mermaid” shows.

The City operates under a city commission form of government. The three-member City commission has the power to:

- Purchase, lease, receive and hold property and to sell, lease or otherwise dispose of the same;
- Pass ordinances;
- Exercise the power of condemnation;
- Levy, assess and collect taxes;
- Invest surplus City funds;
- Borrow money and issue bonds;
- License professions, business and occupations;
- Impose excise taxes;
- Furnish local public services and utilities;
- Purchase, hire, construct, own and maintain local public utilities excepting public utilities for the sale, delivery or transportation of water;
- Grant public utilities franchises, except franchise pertaining to the sale, delivery or transportation of water;
- Define, prevent and abate nuisances;
- Exercise all police powers;
- Own, establish and operate hospitals, libraries, etc.;
- Construct, operate and maintain streets, etc.;
- Regulate encroachments;
- Provide police, fire, sanitary and similar protections and services;
- Drain swamp and overflow lands;
- Establish and regulate a uniform system of employment;
- Own and maintain cemeteries;
- Regulate building and density of population and the height and use of buildings;
- Make local improvements;
- Advertise and promote the interest of the municipality; and
- Borrow money.⁴

Commissioners serve four-year terms, are paid \$120 per year and elect one of their members to serve as the Mayor. To qualify, commissioners must:

- Have been Florida residents for one year;
- Have been City residents for three months immediately preceding the date they would begin serving in office;

¹ Ch. 65-2378, Laws of Fla., as amended.

² City of Weeki Wachee, *History of the City of Weeki Wachee*, <https://www.cityofweekiwachee.com/> (last visited Jan. 13, 2020).

³ Florida Population Estimates by County and Municipality (April 1, 2019), pg. 3. at http://edr.state.fl.us/Content/population-demographics/data/2019_Pop_Estimates.pdf (last visited Jan. 16, 2020).

⁴ Ch. 65-2378, s. 3, Laws of Fla.

- Be electors in the City; and
- Be taxpayers on real property in the City.⁵

The City charter also provides for all elections in the City to be conducted and supervised by the Supervisor of Elections of Hernando County under rules governing general elections in the county.⁶

Residents who live in the City are mostly Weeki Wachee Springs Park employees who live in the park.⁷ Property owners receive no municipal services from the City.

Financial Matters

The City has a history of failing to file required financial reports.⁸ Between the 2002-03 fiscal year (FY) and the 2008-09 FY, the City annually met the threshold⁹ requiring the preparation and filing of an audited financial statement and failed to do so. In 2014, the Joint Legislative Auditing Committee, “in an effort to assist the City in becoming compliant, agreed to accept a financial audit report for either the 2012-13 or 2013-14 [FY] in lieu of the required audits from earlier years.”¹⁰ The City, while not meeting the audit threshold for either year, agreed to proceed with an audit for the 2013-14 FY. The auditor findings included:

- The City’s revenues exceeded expenses by \$80,504.¹¹
- The City reported an unrestricted deficit balance of \$1,102,746 at FY -end.¹²
- The City met a condition of a financial emergency described in s. 218.503(1)(b), F.S.¹³ The audit finding stated:¹⁴
 - The City failed to pay uncontested claims from creditors within 90 days after the claim was presented, due to lack of funds.
 - The City accrued unpaid legal fees totaling \$1,239,360 incurred in several prior FYs.
 - Although the City made payments against the accrued payable, the balance at FY -end was \$1,164,360 and the City did not have a formal repayment plan with the creditor.¹⁵
 - The accrual of these unpaid fees led to the deficit fund balance.

The auditors recommended that the City negotiate with the creditor in order to come to an agreement on a long-term payment plan.

⁵ Ch. 65-2378, s. 5, Laws of Fla.

⁶ Ch. 2004-432, Laws of Fla.

⁷ Barbara Behrendt, *Is it time to take the ‘city’ out of Weeki Wachee’s City of Live Mermaids?*, Tampa Bay Times, November 14, 2019, <https://www.tampabay.com/news/herando/2019/11/14/is-it-time-to-disband-the-city-in-weeki-wachees-city-of-live-mermaids/> (last visited Jan. 14, 2020).

⁸ See s. 218.32, F.S., relating to requirements for local governments to file annual financial reports.

⁹ S. 218.39, F.S., requires municipalities with revenues or the total of expenditures and expenses in excess of \$250,000 to have an annual financial audit prepared by an independent certified public accountant. If these amounts are between \$100,000 and \$250,000, a municipality must have a financial audit if it has not had a financial audit during the preceding two fiscal years.

¹⁰ Joint Legislative Auditing Committee analysis for consideration of a request for an Auditor General operational audit of the City of Weeki Wachee, pg. 38 (Dec. 12, 2019), <http://www.leg.state.fl.us/Data/Committees/Joint/JCLA/Meetingpackets/121219.pdf> (last visited Jan. 14, 2019).

¹¹ The City of Weeki Wachee, Florida Independent Auditor’s Report, *Management’s Discussion and Analysis*, pg. 3 (Sept. 30, 2014), https://flauditor.gov/pages/mun_efile%20rpts/2014%20weeki%20wachee.pdf (last visited Jan. 14, 2020).

¹² *Id.*

¹³ The City of Weeki Wachee, Florida Independent Auditor’s Report, *Independent Auditor’s Management Letter*, pg. 24 (Sept. 30, 2014), https://flauditor.gov/pages/mun_efile%20rpts/2014%20weeki%20wachee.pdf (last visited Jan. 14, 2020).

¹⁴ The City of Weeki Wachee, Florida Independent Auditor’s Report, *Schedule of Findings and Recommendations-Other Matters*, pg. 26 (Sept. 30, 2014), https://flauditor.gov/pages/mun_efile%20rpts/2014%20weeki%20wachee.pdf (last visited Jan. 14, 2020).

¹⁵ The creditor is an attorney who provided legal services for the city.

The City is required to submit an annual financial report to the Department of Financial Services.¹⁶ The following table summarizes the City's timely filed reports from 2016-2019:

Year	Total Revenues	Total Expenditures	Total Debt ¹⁷
2019	\$57,116	\$63,083	\$1,019,360
2018	\$71,472	\$61,729	\$1,039,360
2017	\$60,709	\$60,546	\$1,064,360
2016	\$54,813	\$65,809	\$1,089,360

Constitutional Provisions Pertaining to Dissolving Municipalities

The Legislature may establish or abolish municipalities or amend their charters pursuant to general or special law.¹⁸ If a municipality is abolished, the Constitution requires that provision be made for the protection of its creditors. The Constitution provides that municipalities are granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by law.

By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality, or special district may be transferred to or contracted to be performed by another county, municipality, or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.¹⁹

Statutory Provisions Pertaining to Dissolving Municipalities

The Municipal Home Rule Powers Act²⁰ acknowledges the constitutional grant to municipalities of governmental, corporate and proprietary power necessary to conduct municipal government, functions and services. The purpose of the Act is to provide municipalities with broad home rule powers, while respecting expressed limits on municipal powers established by the Florida Constitution, applicable laws and county charters.²¹

The Formation of Municipalities Act²² provides for the general standards, direction and procedures for the incorporation, merger and dissolution of municipalities. A municipal charter may be revoked, dissolving the municipality by the following two methods:²³

- The Legislature passes a special act repealing the enabling act of the municipality and any subsequent amendatory acts.
- The governing body of the municipality seeking dissolution may pass an ordinance dissolving the municipality, subject to approval of the qualified voters in the affected area.

A municipality also may voluntarily dissolve its charter if the following three requirements are met:²⁴

- The municipality must not be substantially surrounded by other cities;
- The county or another municipality must be able to provide the necessary municipal services to the municipal area proposed for dissolution; and

¹⁶ S. 218.32(1)(a), F.S.

¹⁷ This is the amount owed to the attorney providing legal services to the City.

¹⁸ Art. VIII, s. 2, Fla. Const. Under an exception to this power, Miami-Dade County has the exclusive power to establish, modify, or abolish municipalities within the county boundaries. Art. VIII, s. 6(e), Fla. Const., incorporating by reference art. VIII, s. 11, Fla. Const. (1885).

¹⁹ Art. VIII, s. 4, Fla. Const.

²⁰ Ch. 166, F.S.

²¹ S. 166.021(4), F.S.

²² Ch. 165, F.S.

²³ S. 165.051, F.S.

²⁴ S. 165.061(3), F.S.

- The municipality to be dissolved must arrange to resolve its bonded indebtedness and the vested rights of employees.

Effect of the Bill

The bill abolishes the City of Weeki Wachee and transfers all assets and legitimate liabilities to Hernando County.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

According to the Economic Impact Statement filed for the bill, the Hernando County Board of County Commissioners would become responsible for the City's expenses and liabilities. On December 17, 2019, the Weeki Wachee City attorney submitted an invoice to the City for \$1,014,359.89. It is unclear whether the County would be able to require the City's lump-sum creditors with legitimate, valid claims to accept a repayment schedule.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 29, 2019

WHERE? *Hernando Sun*, a weekly newspaper published in Brevard County, Florida

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?