

STORAGE NAME: h1389.ca

DATE: March 28, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 1389

RELATING TO: City of Lauderdale

SPONSOR(S): Representative Rayson

COMPANION BILL(S): SB 2016 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The corporate limits of the City of North Lauderdale are extended by annexing approximately 13.7 acres of unincorporated land. The City indicates the land proposed for annexation is contiguous to the City of North Lauderdale.

According to the attached Economic Impact Statement, the City of North Lauderdale will experience an increase in water and sewer revenues of \$77,760 and an increase in revenues from other fees and taxes of \$147,533 in fiscal year 1997-98. The City of Tamarac will experience a decrease in water and sewer revenues of \$106,704 in fiscal year 1997-98. Broward County will experience a decrease in revenues for other fees and taxes of \$147,533 in fiscal year 1997-98.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Florida Annexation Law

Under Article VIII, Section 2(c), of the Florida Constitution, the Legislature is authorized to annex by special act, and to establish by general law a procedure for local annexations in all Florida counties.

The Legislature established local annexation procedures in 1974, with the creation of chapter 171, Florida Statutes, the "Municipal Annexation or Contraction Act." This Act establishes alternative procedures for adjusting municipal boundaries locally through annexation or contraction, and sets forth criteria for determining when local annexations or deannexations may take place. This law only addresses annexation of unincorporated property into a municipality and deannexation of municipal property into an unincorporated area.

Requirements for Annexation

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

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality. This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. The specified exceptions are where the area is separated from the city's boundary by a publicly owned county park, right-of-way, or body of water.
- The area to be annexed must be reasonably compact.
- No part of the area to be annexed may fall within the boundary of another municipality.
- The majority of the land to be annexed must be developed for urban purposes. Urban purposes are defined as:
 - having a population of at least two persons per acre; or
 - if 60 percent of the subdivided lots are one acre or less, having a density of one person per acre; or
 - having at least 60 percent of the subdivided lots used for urban purposes; or
 - that at least 60 percent of the total urban residential acreage is divided into lots of 5 acres or less.

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

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place following the tax levy for that year. In the case of municipal contractions, the city and county must agree on the transfer of indebtedness or property--the amount to be assumed, its fair value, and the manner of transfer and financing.

Immediately upon being annexed, an area is subject to all laws, ordinances, and regulations applicable to other city residents. An exception is that applicable county land use and zoning regulations continue in effect until the area is rezoned by the annexing municipality. Also, the county land use plan, and zoning or subdivision regulations of the unincorporated area will remain in effect (after the annexation has been approved) until the annexing municipality adopts a local comprehensive plan amendment to include the new area. In contractions, excluded territory is immediately subject to laws, ordinances, and regulations in effect in the county.

Voluntary Annexation

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

- Submission to the municipal governing body of a petition seeking the annexation, signed by all property owners in the area proposed to be annexed.
- Adoption of an ordinance by the governing body of the annexing municipality to annex the property after publication of notice at least once a week for 2 consecutive weeks, setting forth the proposed ordinance in full.
- A restriction against the creation of enclaves.

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation. This process is called *involuntary annexation*. In general, the requirements for an involuntary annexation are:

- Adoption of an annexing ordinance by the governing body of the annexation of one "reasonably compact" area.
- Submittal of the ordinance to a vote of the registered electors of the area proposed to be annexed once the ordinance has been adopted by the governing body.
- Submittal of the ordinance to a separate vote of the registered electors of the annexing municipality and of the area proposed to be annexed. This dual referendum is required if the proposed ordinance would cause the total area annexed by a municipality during any one calendar year period to cumulatively exceed more than 5 percent of the total land area of the municipality, or cumulatively to exceed more than 5 percent of the municipal population.

If there is a majority vote in favor of annexation in the area proposed to be annexed, and a majority in favor in cases where a referendum must be held in the annexing city, the area becomes a part of the city. If, however, there is a majority vote against annexation in either the annexing municipality or the area proposed to be annexed, the annexation does not happen. That area cannot be made the subject of another annexation proposal for 2 years from the date of the referendum.

Judicial Review of Annexations or Contractions

Affected persons who believe they will suffer material injury because of the failure of the city to comply with annexation or contraction laws as they apply to their property can appeal the ordinance. They may file a petition with the circuit court seeking the court's review. If the appeal is won, the person is entitled to reasonable costs and attorney's fees.

The Broward County Ad Hoc Committee on Annexation Policy

After the 1995 Regular Legislative Session, the Broward County Legislative Delegation created the Ad Hoc Committee on Annexation Policy (Committee) composed of legislators, local officials, and residents to study the orderly annexation of the remaining unincorporated areas of Broward County. The Committee met during the interim and produced a report that made numerous recommendations. Of these, the Committee recommended discouraging dual referenda for annexations within Broward County. The Committee also recommended requiring approval of the Broward Legislative Delegation before an annexation conducted in Broward County pursuant to chapter 171, Florida Statutes, becomes effective.

Annexations in Broward County

Chapter 96-542, Laws of Florida, states that the provision requiring a referendum of the electors of an annexing municipality contained in the second sentence of section 171.0413(2), Florida Statutes, shall not be effective with respect to any proposed annexation pursuant to chapter 171, Florida Statutes, in Broward County. The sentence states:

“If the proposed ordinance would cause the total area annexed by a municipality pursuant to this section during any one calendar year period cumulatively to exceed more than 5 percent of the total land area of the municipality or cumulatively to exceed more than 5 percent of the municipal population, 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.”

Chapter 96-542, Laws of Florida, provides that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to chapter 171, Florida Statutes, must first be considered at a public hearing conducted by the Broward Legislative Delegation pursuant to its adopted rules, and shall not be effective until the first day of October following adjournment sine die of the next regular Legislative Session following the accomplishment of all procedures necessary for annexation pursuant to chapter 171, Florida Statutes. However, any voluntary annexation ordinance adopted by a municipality in Broward County prior to January 1, 1996, the

subject matter of which has had a public hearing before the Broward County Legislative Delegation, shall be given effect according to its terms.

Proposed Annexation of the Courtyards of Broward into the City of North Lauderdale

According to information provided by the City of North Lauderdale, the area proposed for annexation is contiguous to the City and the annexation would be the logical extension of municipal services. The area proposed for annexation, a condominium community known as Courtyards of Broward County, is an enclave surrounded on all sides by the City. However, water and sewer services are provided to area residents by the City of Tamarac.

B. EFFECT OF PROPOSED CHANGES:

The corporate limits of the City of North Lauderdale are extended by annexing approximately 13.7 acres of unincorporated land, the Courtyards of Broward County. The City indicates the land proposed for annexation is contiguous to the City of North Lauderdale.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

None.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The City of North Lauderdale will be responsible for providing municipal services to the residents of the area proposed for annexation.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

- (2) what is the cost of such responsibility at the new level/agency?

Not applicable.

- (3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

See attached Economic Impact Statement.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Residents of the annexed area will receive municipal services and will be obligated to taxes, assessments, and fees.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

E. SECTION-BY-SECTION RESEARCH:

Section 1. The corporate limits of the City of North Lauderdale are extended by annexing approximately 13.7 acres of unincorporated land. The City indicates the land proposed for annexation is contiguous to the City of North Lauderdale.

Section 2. This section declares this annexation is consistent with and meets the requirements of chapter 171, Florida Statutes, and the specific requirements imposed pursuant to chapter 96-542, Laws of Florida, affecting annexation of unincorporated property located within Broward County (See Comments section).

Section 3. An effective date of upon becoming law is provided.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 29, 1997

WHERE? Sun-Sentinel, Broward County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

House Rule 92(a)

House Rule 92(a), provides that "if a committee determines that a local bill may be enacted into law under the authority of a local governing body, that committee shall not report the bill to the Clerk."

The Co-Chairs of the House Committee on Rules, Resolutions, & Ethics have interpreted this rule to imply that if a local governing authority may enact an ordinance achieving the same purpose as the substance of a proposed local bill, the committee should not report the bill to the Clerk. In the event that a referendum would be required in order to achieve the purpose of a local bill, the committee may report the bill.

This bill can be accomplished locally through the procedures established in chapter 171, Florida Statutes. However, under the involuntary annexation procedures established in chapter 171, Florida Statutes, as modified for Broward County by chapter 96-542, Laws of Florida, a referendum of the registered electors of the area proposed for annexation is required to accomplish the annexation locally.

House Rule 92(b)

House Rule 92(b), provides that "if a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill."

By accomplishing the annexation through a special act, the bill is not consistent with chapter 171, Florida Statutes, and is an exception to chapter 171, Florida Statutes, requirements. The bill accomplishes the annexation without referendum approval of the electors of the area to be annexed. Several additional procedures required by chapter 171, Florida Statutes, are circumvented. First, the process for citizen input at a public hearing and provision for citizen challenge of an ordinance would be circumvented. Second, procedures in chapter 171, Florida Statutes, that require a report explaining how the area meets the requirements of chapter 171, Florida Statutes, and that provides plans to provide urban services to the area to be annexed also would be circumvented.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendment 1

The Broward County Legislative Delegation has approved an amendment to HB 1389. The amendment adds a new section 2 to the bill. The new section 2 provides that the annexation shall become effective on October 1, 1997, provided that an interlocal agreement is executed between the City of Tamarac and the City of North Lauderdale for the provision of water and sewer services to the annexation area. The interlocal agreement must be satisfactory to the residents of the annexed area as evidenced by the approval of the Board of Directors of the Courtyards of Broward. If the two cities fail to negotiate an interlocal agreement satisfactory to the annexation area by June 30, 1977, the annexation will not occur until October 1, 1998, and the two cities must submit a report to the Broward County Legislative Delegation on or before November 1, 1997.

Amendment 2

This amendment deletes section 2 from the bill.

Section 2 of the bill declares this annexation is consistent with and meets the requirements of chapter 171, Florida Statutes, and the specific requirements imposed pursuant to chapter 96-542, Laws of Florida, affecting annexation of unincorporated property located within

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Broward County. However, as noted above, the bill circumvents the annexation process established in chapter 171, Florida Statutes. Presumably, the annexation does comply with section 171.043, Florida Statutes, which establishes prerequisite standards for annexation that are discussed in the Present Situation under the subheading "Requirements for Annexation."

Similarly, while the annexation appears to meet requirements in chapter 96-542, Laws of Florida, requiring consideration by the Broward Legislative Delegation, it does not conform to all the procedures necessary for annexation pursuant to chapter 171, Florida Statutes, as provided for in chapter 96542, Laws of Florida.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:
Prepared by:

Legislative Research Director:

Thomas L. Hamby, Jr.

Jenny Underwood Dietzel