

STORAGE NAME: h3851z.ca
DATE: May 6, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

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

BILL #: 1ST ENG/HB 3851

RELATING TO: Annexation of enclaves in Pinellas County

SPONSOR(S): Representative Bradley

COMPANION BILL(S): SB 2580 (s)

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

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

House Bill 3851 was passed by the House Committee on Community Affairs on April 15, 1998, with 3 amendments. The bill passed the House on April 24, 1998, by a vote of 116 YEAS and 4 NAYS, and was ordered engrossed. The engrossed bill was received by the Senate on April 29, 1998 and was referred to the Senate Committee on Rules and Calendar. It was withdrawn from the Senate Committee on Rules and Calendar on May 1, 1998, and placed on the Senate Local Calendar. The Senate passed 1ST ENG/H 3851 on May 1, 1998, by a vote of 39 YEAS and 1 NAYS. The bill became chapter 98-484, Laws of Florida.

II. SUMMARY:

The bill provides an exemption to requirements found in the "Municipal Annexation or Contraction Act" for municipalities in Pinellas County.

The bill allows municipalities to annex specific sized enclaves, by ordinance, without the requirement of a referendum. The bill only allows "Type A" enclaves to be annexed. This type of enclave is an unincorporated improved or developed area that is surrounded on all sides by a single municipality and is one acre or less in size.

The bill provides the following prerequisites: the annexation does not create an additional enclave, the enclave must be within the municipality's defined and exclusive planning area, and the municipality must be able to provide urban services to the annexed area.

The bill provides an exemption to annexation for condominiums with over 1000 units, unless all the unit holders sign a petition.

The bill also provides for financial incentives to be paid by the municipality. The bill sunsets June, 2001. The act becomes effective July 1, 1999.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Article VIII, Section 2(c), of the Florida Constitution (1968, as amended), states that municipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities, shall be as provided by general or special law (an exception is Dade County, which has exclusive jurisdiction over its municipal annexations under Article VIII, Sections 11(1)(c), (5), and (6), of the Florida Constitution of 1885, as adopted by reference in Article VIII, Section 6(e), of the 1968 Revised Florida Constitution). The Legislature established local annexation procedures in 1974 with the creation of chapter 171, F.S., the "Municipal Annexation or Contraction Act."

Chapter 171, F.S., describes the ways that property can be annexed or deannexed by cities without passage of an act of the Legislature. There are two types of annexations in Florida, voluntary and involuntary. With *voluntary* annexations, all property owners in the area proposed for annexation formally seek the annexation by petition. For an *involuntary* annexation to occur, a majority of the electors in the area proposed for annexation and a majority of the electors in the annexing municipality must vote in favor of the annexation in a dual referendum election. Also, the law specifies that the area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality; that no part of the area to be annexed may fall within the boundary of another municipality; and that the majority of the land to be annexed must be developed for urban purposes. The law prohibits the creation of enclaves.

An enclave, as defined by section 171.031, Florida Statutes, describes two types of areas. First, unincorporated or developed areas surrounded on all sides by a single municipality. Second, unincorporated, improved or developed areas surrounded by a single municipality and a natural and manmade obstacle, and vehicular passage to the area is solely through the municipality.

Section 2.07 of Pinellas County's Charter provides that nothing in its charter prevents a municipality from annexing an unincorporated area in accordance with general law.

B. EFFECT OF PROPOSED CHANGES:

The bill provides an exemption to requirements found in chapter 171, Florida Statutes, the "Municipal Annexation or Contraction Act" for municipalities in Pinellas County.

The bill allows municipalities to annex specific sized enclaves by ordinance without the requirement of a referendum. The bill only allows "Type A" enclaves to be annexed. This type of enclave is an unincorporated, improved or developed area that is surrounded on all sides by a single municipality and is one acre or less in size.

The bill provides the following prerequisites:

- the annexation does not create an additional enclave;
- the enclave must be within the municipality's defined and exclusive planning area; and
- the municipality must be able to provide urban services to the annexed area.

The bill provides an exemption to annexation for condominiums with over 1000 units, unless all the unit holders sign a petition.

The bill also provides for financial incentives to be paid by the municipality. Those incentives include payment of connection fees and impact fees by the municipality.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

N/A

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?

N/A

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

Upon annexation, the municipality will provide services to the enclaves, not the county.

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

The annexed area will not lose a government service. Rather, the bill provides for a new provider of the services.

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?

The responsibilities of providing services to the enclaves is transferred to the annexing municipality.

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

There is the cost of the incentives provided under the bill. There is also a small decrease in municipal revenue due to a loss of a 25% surcharge on water and sewer bills for those properties outside the municipal limits but connected to the municipal water and sewer system. In addition, the 1998-99 anticipated revenues for municipalities from annexed enclaves millage is \$134,327.

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

According to the Economic Impact Statement, there is virtually no difference in the ad valorem taxes to be paid following annexation. However, according to a county representative, although ad valorem taxes are approximately the same, municipalities charge a municipal utility tax and other franchise fees. It is estimated that the annexed residents will pay at *least* an average of \$169 per year.

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

No.

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

This bill reduces the ad valorem revenues in Pinellas County by \$134,232.

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?

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

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

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1: Provides a short title.

Section 2: States the findings of the Pinellas County Annexation Study Committee.

Section 3: Provides the purpose of this act is a one-time solution to the problem of small enclaves in Pinellas County; and allows municipalities to annex certain enclaves pursuant to this act rather than chapter 171, Florida Statutes.

Section 4: Grants municipalities the authority to annex by ordinance specific types of enclaves; provides procedural requirements; and requires the municipality to determine enclave eligibility.

Section 5: Provides prerequisites for the municipality prior to initiating annexing procedures.

Section 6: Requires the municipality to pay for all of the initial cost of extending water and sewer services and impact fees applicable to existing residential property within the area to be annexed.

Section 7: Provides that this act be construed to be consistent with chapter 171, Florida Statutes, and the Home Rule Charter of Pinellas County; provides the applicability of other provisions in section 171.044, Florida Statutes; and states that the terms in the bill are consistent with definitions in section 171.031, Florida Statutes.

Section 8: Provides that condominiums which contain more than 1,000 residential dwelling units are exempt from municipal annexation unless each unit holder signs a petition proposing annexation; and provides an exemption from connection to the municipal water system for those wells or septic tanks within the enclave which meet state health regulations.

Section 9: Provides the intent of this act is to address the existing enclave problem and to allow sufficient time for a solution to be put in place; and provides the expiration of sections 1-6 on June 30, 2001.

Section 10: Provides a severability clause.

Section 11: Provides an effective date of July 1, 1999.

IV. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 30, 1998

WHERE? Clearwater, Florida; Warfield's Tampa Bay Review

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

V. COMMENTS:

Florida House of Representatives Rule 92.(b) provides:

If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill.

House Bill 3851 is local in its application but appears to provide an exemption from chapter 171, Florida Statutes. However, the bill offers alternatives to the provisions of chapter 171, Florida Statutes, and the provisions are time limited. In this instance, House Rule 92(b) may not apply.

There is opposition to the bill provision allowing annexation without referendum. Six of the thirteen members of the Pinellas County Legislative delegation voted against the bill. The Board of County Commissioners of Pinellas County opposes the bill since the bill promotes forced annexation. Some of the Commissioners concerns are addressed in an attached letter. In addition, numerous constituents have addressed several concerns regarding forced annexation, including an increase in taxes. Please see attached letter by Mr. W.C. Snipes.

The bill decreases the revenues for Pinellas County by approximately \$134,232 without the county or its residents having any say in the matter.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The following amendments were adopted by the Committee on Community Affairs on April 15, 1998:

Amendment #1 -- Decreases the size of a Type A enclave to be annexed from three acres or less to *one* acre or less;

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Amendment #2 -- Changes the expiration date of the act from the year 2000 to the year 2001; and

Amendment #3 -- Changes the effective date of the act from upon becoming law to July 1, 1999.

The amendments have the support of the sponsor and other concerned delegation members. The amendments do not affect the notice requirement.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Laura L. Jacobs

Joan Highsmith-Smith

FINAL RESEARCH PREPARED BY COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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Laura L. Jacobs

Joan Highsmith-Smith