

STORAGE NAME: h4133a.ca

DATE: April 21, 1998

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

BILL #: HB 4133

RELATING TO: City of Cedar Key, Levy County

SPONSOR(S): Representative Boyd

COMPANION BILL(S): SB 2570 (s)

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

- (1) COMMUNITY AFFAIRS YEAS 8 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill recreates and reenacts the City of Cedar Key. The bill is a new charter for the City.

The bill changes the employment status of appointed city officials. Under the new charter, the appointed officials serve at the will of the city commission rather than serving terms. The bill also eliminates the removal procedures of the chief of police and provides that the chief serves at the will of the city commission.

The bill provides that all current charter provisions which are not contained in the bill and are not in conflict with the act are ordinances of the city.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The current charter for the City of Cedar Key was recreated in 1969 by chapter 69-929, Laws of Florida. The City's current charter provisions are:

- Chapter 1
- Section 1-1 -- Provides the short title of "The Charter of the City of Cedar Key."
- Section 1-2 -- Creates the City of Cedar Key; abolishes prior municipality created by 37-684117.
- Section 1-3 -- Provides for perpetual existence.
- Section 1-4 -- Preserves the former municipalities pending matters, ordinances, resolutions, powers & rights.
- Section 1-5 -- Provides that the terms of the present councilmen and other officers are not shortened or extended.
- Section 1-6 -- Creates the city commission as the governing body of the municipality; and grants duties and powers to commission.
- Section 1-7 -- Describes the boundaries and jurisdiction of the municipality; provides annexation procedures.

- Chapter 2
- Section 2-1 -- Provides jurisdiction within the corporate limits.
- Section 2-2 -- Provides exemptions from jurisdiction.
- Section 2-3 -- Grants powers to the city.
- Section 2-4 -- Grants powers of local self-government.
- Section 2-5 -- Grants the city the power to authorize local improvements.
- Section 2-6 -- Declares municipal functions and purposes.
- Section 2-7 -- Grants the city the power to perform, partially or completely, municipal functions.
- Section 2-8 -- Authorizes the issuance of general obligation bonds secured by ad valorem taxes.
- Section 2-9 -- Allows the city to have a corporate seal.
- Section 2-10 -- Provides limitations on causes of action against the city.
- Section 2-11 -- Requires notice of alleged injury within 30 days before a cause of action may be maintained; and provides for nonwaiver on behalf of the city.

- Chapter 3
- Section 3-1 -- Authorizes the commission to establish departments.
- Section 3-2 -- Provides for appointment of department supervision.
- Section 3-3 -- Authorizes the commission to establish duties, rules, regulations & policies.
- Section 3-4 -- Provides for department administration.

- Chapter 4

- Section 4-1 -- Creates the city commission as the city's governing body; vests the corporate authority in the commission; and provides for membership and terms.
- Section 4-2 -- Requires that commissioners remain qualified electors.
- Section 4-3 -- Grants all powers of city policy and administration to the commission; and allows for delegation of such powers.
- Section 4-4 -- Authorizes the commission to enact rules of procedures and penalties; and provides quorum.
- Section 4-5 -- Authorizes the commission to determine its own rules and order of business; and provides for recording of meetings.
- Section 4-6 -- Requires commissioners to vote in either the affirmative or negative when a vote is requested.
- Section 4-7 -- Authorizes the commissioner to determine the compensation of the commissioners, and its officials and employees.
- Section 4-8 -- Provides grounds for removal of commissioners.
- Section 4-9 -- Provides procedures for removal.

- Chapter 5
- Section 5-1 -- Authorizes the appointment of city officials at its annual organization meeting.
- Section 5-2 -- Provides for appointees terms of employment, re-appointment procedures, and vacancies.
- Section 5-3 -- Provides duties of mayor, vice-mayor, city attorney, and judge.
- Section 5-4 -- Authorizes the appointment of city manager or administrator; and provides that its an at-will position.

- Chapter 6
- Section 6-1 -- Provides for general election; and provides for primary and run-off elections by ordinance.
- Section 6-2 -- Authorizes special elections.
- Section 6-3 -- Authorizes run-off elections.
- Section 6-4 -- Declares the city as a one election district; and provides for polling places.
- Section 6-5 -- Provides election procedures.
- Section 6-6 -- Provides qualifications of electors, including residency.
- Section 6-7 -- Provides for an electors permanent registration system by ordinance.
- Section 6-8 -- Provides for an oath of candidacy.
- Section 6-9 -- THERE IS NO SECTION 6-9.
- Section 6-10 -- Provides for commissioners' induction.
- Section 6-11 -- Requires an oath of office.
- Section 6-12 -- Provides that the commission is the judge of the election and member qualifications.

- Chapter 7

- Section 7-1 -- Grants the commission the authority to exercise its powers by ordinance, motions, and resolutions.
- Section 7-2 -- Provides for procedures for passage of ordinances.
- Section 7-3 -- Provides for passage of non-emergency ordinances.
- Section 7-4 -- Provides ordinance effective date of upon final passage.
- Section 7-5 -- Provides for passage of emergency ordinances.
- Section 7-6 -- Authorizes the commission to adopt by reference any printed code.
- Section 7-7 -- Validates current code of ordinances; and provides for amending and repealing code.
- Section 16-13, 16-14, 16-15 & 16-16 are misplaced in this section. See chapter 16 for further discussion.
- Section 7-8 -- Provides that notice and posting not required relating to the passage of any ordinance.
- Section 7-9 -- Provides procedures for passage of resolutions.
- Section 7-10 -- Provides for passage of specific resolutions & dedications.
- Section 7-11 -- Provides for adoption of city contracts by resolution.

- Chapter 8
- Section 8-1 -- Creates a municipal court; provides jurisdiction for the trial of all offenses against the city charter, ordinances, and general state laws which are misdemeanors.
- Section 8-2 -- Authorizes the court to have a seal.
- Section 8-3 -- Authorizes the commission to prescribe the court procedure; and authorizes the judge to adopt procedure if commission does not.
- Section 8-4 -- Provides the qualifications of the judge; and provides that it may be the mayor, a city commissioner, or any other qualified person.
- Section 8-5 -- Grants powers to the municipal judge.
- Section 8-6 -- Provides that the city clerk is the clerk of the municipal court; and provides for appointment of deputy clerk.
- Section 8-7 -- Authorizes the commission to prescribe the duties of the clerk and deputy clerk.
- Section 8-8 -- Grants powers to the clerk and deputy clerk.
- Section 8-9 -- Provides for certification of court records by clerk and deputy clerk.
- Section 8-10 -- Designates the chief of police as the executive officer of the court; and provides for service of subpoenas.
- Section 8-11 -- Grants the judge the authority to issue search warrants.
- Section 8-12 -- Grants the judge the authority to impose penalties, judgments and sentences for any ordinance violation or state misdemeanor; provides for civil and hard labor on public works for ninety days; and provides for court costs.

- Chapter 9
- Section 9-1 -- Authorizes the city to raise by taxes and assessments monies needed for the full exercise of its powers; and authorizes the levy of a special tax to provide funds for the payment of general obligation principal and interest.

- Section 9-2 -- Authorizes the levy and collection of ad valorem and license taxes.
- Section 9-3 -- Grants the city the power to assess and value property independent of other valuations.
- Section 9-4 -- Authorizes the city to set its own millage independent of state or county valuations and assessments.
- Section 9-5 -- Authorizes the city to require annual reports by property owners regarding valuation of real and personal property.
- Section 9-6 -- Provides for a tax roll system.
- Section 9-7 -- Provides for the city tax assessor to assess all taxable property; and grants the commission the authority to provide additional duties.
- Section 9-8 -- Provides that the city tax collector shall collect all municipal taxes and license charges.
- Section 9-9 -- Provides for an equalization board which has the power to adjust proposed tax assessments.
- Section 9-10 -- Provides for the taxation as personal property any building located on public or quasi-public property used for private purposes.
- Section 9-11 -- Grants the city the power to levy a utility tax.
- Section 9-12 -- Grants the city the power to levy a garbage and trash collection charge or tax; provides for discontinuance of service; and provides limitations.
- Section 9-13 -- Provides for tax exemptions in order to encourage new business; provides for exemption criteria.
- Section 9-14 -- Provides that all taxes are liens against property; provides for foreclosure; and provides for discount for payment of taxes.
- Section 9-15 -- Authorizes the collection of taxes and enforcement.
- Section 9-16 -- Provides for foreclosure criteria and procedures.
- Section 9-17 -- Confirms and validates all 1969 and prior taxes, assessments, and valuations.
- Section 9-18 -- Cures and rectifies all defects and omissions resulting from municipal taxes for 1969 and all prior years.

- Chapter 10
- Section 10-1 -- Authorizes the city to have a finance director.
- Section 10-2 -- Provides the city's fiscal year; and defines "budget year."
- Section 10-3 -- Authorizes specific appropriations.
- Section 10-4 -- Provides that proposed expenditures become appropriated.
- Section 10-5 -- Provides that the amount to be raised by property tax is a determination of the levy amount.
- Section 10-6 -- Authorizes additional ordinances relating to the budget.
- Section 10-7 -- Authorizes additional ordinances relating to any lawful finance matter.
- Section 10-8 -- Requires an independent annual audit.
- Section 10-9 -- Authorizes ordinances relating to authorized purchases.
- Section 10-10 -- Requires sealed bids for any purchase over \$1000; and provides for procedures.

- Section 10-11 -- Authorizes the commission to make emergency purchases without public notice.
- Section 10-12 -- Authorizes the city to borrow money and give unsecured promissory notes for emergency loans.
- Section 10-13 -- Authorizes the city to establish sinking and contingent funds.
- Section 10-14 -- Authorizes the city to create a publicity fund.
- Section 10-15 -- Requires the treasurer to deposit all public monies in depositories; and provides for disbursement procedures.
- Section 10-16 -- Authorizes the treasurer to invest any city funds in Treasury bonds, certificates, notes or bills, or in time deposits; and provides that accrued interest is deposited into the general fund.
- Section 10-17 -- Requires bonding for all persons performing any duties relating to public money.
- Section 10-18 -- Authorizes the commission to enter into any government loans.

- Chapter 11
- Section 11-1 -- Authorizes the city to make special local improvement assessments against benefited property.
- Section 11-2 -- Grants the power to issue revenue bonds or certificates for local improvements; and provides procedures.
- Section 11-3 -- Grants the power to establish a special assessment certificate fund and to deposit all special assessment lien proceeds into the fund; and authorizes the issuing and selling of special assessment certificates.
- Section 11-4 -- Provides for adoption of resolution of necessity of local improvements; and provides for procedures of hearing objections.
- Section 11-5 -- Provides that the commission hear local improvement objections and take them under consideration; provides for determination; and provides for a resolution to proceed.
- Section 11-6 -- Provides for claims of damages arising out of improvements; and provides for procedures.
- Section 11-7 -- Provides for a resolution determining to proceed which may direct the cost and expense be assessed.
- Section 11-8 -- Requires sealed bids for work done by non-public employees for local improvements which special assessments are levied; and provides procedures.
- Section 11-9 -- Grants the city the power to pay out of its general fund any portion of cost of the proposed improvement as deemed to be properly borne by the city.
- Section 11-10 -- Provides procedures for making special assessments.
- Section 11-11 -- Provides for the preparation of an assessment roll; provides that roll serves as public notice of the lien; and provides additional notices.
- Section 11-12 -- Prohibits special assessments against US, and State of Florida property used for public purposes; authorizes assessments against political subdivision benefited property; provides for notice and procedures.
- Section 11-13 -- Provides for the commission hearing objections to the assessed amount; grants the power to change and correct the assessment; provides for

final approval and confirmation of assessments; and provides for challenging assessments after denial by commission.

- Section 11-14 -- Provides that when a special assessment is set aside, the commission may cause a new assessment until one is valid; and provides for the collection of assessment when found invalid.
- Section 11-15 -- Grants the right to contest the assessment within 30 days of confirmation.
- Section 11-16 -- Provides that the resolution confirming the assessment list provide the method of collection; and provides different methods of collection and procedures.
- Section 11-17 -- Provides for a lien docket in which applications for assessment installment payments are listed and become liens in favor of the city; provides that list is the official record to evidence the lien; and provides that the city may issue special assessments certificates.
- Section 11-18 -- Authorizes the city to create a special assessment revolving fund to pay the cost of local improvements; and provides for funding.
- Section 11-19 -- Provides collection procedures for delinquent payment of assessment liens; and allows for foreclosure.

- Chapter 12
- Section 12-1 -- Declares the limits of the city an independent road and bridge district; provides the city has full control and supervision over all streets; and grants the same authority over county and State roads.
- Section 12-2 -- Authorizes the commission to provide any public service, works, and utilities; and provides a list of some authorized services.
- Section 12-3 -- Authorizes the city to provide services and construction for areas outside the city by ten miles and not in other incorporated areas; and allows city to charge for the utility services.
- Section 12-4 -- Grants the power to the commission to grant any franchises after giving notice and adopting an ordinance.
- Section 12-5 -- Grants the right of eminent domain.

- Chapter 13
- Section 13-1 -- Authorizes the acquisition of property; provides property usage examples; and grants the power to dispose of property.
- Section 13-2 -- Grants the right of eminent domain.
- Section 13-3 -- Grants the power to dispose of city property
- Section 13-4 -- Authorizes the city to establish jails and its regulations.
- Section 13-5 -- Authorizes the city to establish and regulate markets.
- Section 13-6 -- Authorizes the city to make appropriations for the erection and maintenance of municipal auditoriums.
- Section 13-7 -- Authorizes the appointment of a board of trustees to operate and control a specific cemetery (leaves underlines spaces in description); and provides for appropriations and taxes to maintain and operate cemetery.

- Section 13-8 -- Provides that the city may construct municipal buildings on leased properties; and provides for the entering into options to purchase contracts.
- Section 13-9 -- Provides that the city may acquire, develop, and operate airports.
- Section 13-10 -- Provides that the city may acquire, construct, and operate recreational facilities.
- Section 13-11 -- Grants the city the authority to discontinue the use of any recreational facility.
- Section 13-12 -- Provides that the city may use any real property which it has control over for any municipal purpose or function.

- Chapter 14
- Section 14-1 -- Authorizes the city to provide a police force.
- Section 14-2 -- Grants the city police the powers of arrest.
- Section 14-3 -- Authorizes the city to regulate and control city traffic.
- Section 14-4 -- Provides for the removal, storage and impoundment of any obstructing automotive vehicle; and provides for fee and release.
- Section 14-5 -- Provides removal procedures for the Chief of Police; and provides duties and powers of the chief.
- Section 14-6 -- Provides that the chief of the police shall employ, suspend and discharge policemen; provides approval by commission in specific circumstances; and provides for compensation.

- Chapter 15
- Section 15-1 -- Provides that violators of any State misdemeanor violate city laws and may be tried in municipal court.

- Chapter 15 (this is the second chapter 15)
- Section 15-1 -- Provides that the city may provide safe and sanitary housing accommodations.
- Section 15-2 -- Provides that the city may create a housing authority.
- Section 15-3 -- Provides that the city may adopt and carry out plans for the clearance of slum districts.
- Section 15-4 -- Provides that any general law relating to urban development may be used by the city.

- Chapter 16
- Section 16-1 -- Provides for the adoption of a city plan of development.
- Section 16-2 -- Provides that the city may amend or revise its city plan.
- Section 16-3 -- Provides that owners of parcels comply with planning provisions and requirements; and provides that the city may bear some costs.
- Section 16-4 -- Allows the city to change the nature, size, etc. of streets, alleys, and right-of-ways.
- Section 16-5 -- Provides that the city may vacate and abandon its title to parks, streets, alleys and easements; provides for procedures and recording of deed.

- Section 16-6 -- Provides additional method for vacating and abandoning title to parks, etc. by resolution; and provides procedures.
- Section 16-7 -- Prohibits the vacating of any county or state roads.
- Section 16-8 -- Grants the authority to institute action or other remedies in order to prevent the illegal erection and usage of buildings.
- Section 16-9 -- Grants the city the power to regulate the use of all real estate and improvements in the city (zoning provisions).
- Section 16-10 -- Grants the power to divide the city into zoning districts ; and provides for regulations within each district.
- Section 16-11 -- Provides purposes and considerations for zoning regulations.
- Section 16-12 -- Provides that the municipality have an agricultural land zoning; provides taxation as agricultural land; provides assessments considerations and requirements; provides for the occasional changing of the zoning; and provides for ordinances reasonably regulating the area.
- Section 16-13 -- Provides that the city may have a planning and zoning board as an advisory board with no power.
- Section 16-14 -- Authorizes the commission to establish a board of adjustment; and provides membership and qualifications.
- Section 16-15 -- Provides that the commission may fix and determine the rules and procedures of the adjustment board.
- Section 16-16 -- Provides purposes of the adjustment board if created.
- Section 16-17 -- Grants duties and powers to the adjustment board.
- Section 16-18 -- Requires that all orders and decisions of the adjustment board be in writing; and states what constitutes a denial.
- Section 16-19 -- Provides for appeal of adjustment board decision to the circuit court of the county.
- Section 16-20 -- Grants the city the power to adopt building regulations and code.
- Section 16-21 -- Grants the city the authority to regulate the setback of buildings from any property line.
- Section 16-22 -- Provides that the city may prepare and adopt a city map.
- Section 16-23 -- Provides that the city may prepare and adopt a zoning map.
- Section 16-24 -- Grants the city the power to regulate and restrict use of real property, and other zoning issues.

- Chapter 17
- Section 17-1 -- Provides severability provision.
- Section 17-2 -- Repeals chapter 18447, Florida Laws, 1937 and all other acts; and provides for a referendum.

Constitutional and Statutory Provisions

Section 2, Article VIII of the Florida Constitution

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Section 2(a) of Article VIII of the Florida Constitution provides that municipalities may be established or abolished and have their charters amended by general or special law. The powers of municipalities are described in section 2(b) of Article VIII of the Florida Constitution. A municipality has governmental, corporate and corporate proprietary powers in order for them to conduct municipal government, functions and services. Unless otherwise provided by law, a municipality may exercise any power for municipal purposes. Section 2(c) of Article VIII of the Florida Constitution 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).

Florida Statute Chapters relating to Municipality Powers

Chapter 165, Florida Statutes, is the "Formation of Municipalities Act." The purpose of the act is to provide standards, directions and procedures for the formation, merger, and dissolution of municipalities. The provisions of the act preempt those general and special law provisions existing prior to July, 1974, in conflict with the act. The act also provides for the adoption of a municipal seal by ordinance.

Chapter 166, Florida Statutes, is the "Municipal Home Rule Powers Act." This act grants municipalities governmental, corporate, and proprietary powers in order for them to conduct municipal government, functions and services, and exercise any power for municipal purposes, except when expressly prohibited by law. Municipalities may exercise broad home rule powers granted by the constitution. However, municipalities are not authorized to change special law or municipal charter without approval by referendum if the change affects:

- the exercise of extraterritorial powers,
- an area which includes lands within and without a municipality,
- the creation or existence of a municipality,
- the terms of elected officers and their manner of election except for the selection of election dates and qualifying periods for candidates and for changes in terms necessitated by change in election dates,
- the distribution of powers among elected officers,
- matters prescribed by charter relating to appointive boards,
- any change in form of government, and
- any rights of municipal employees.

The act provides how a municipality's charter is amended. The governing body of a municipality may, by ordinance or petition, submit to its electors a proposed amendment. Upon adoption of the charter amendment by a majority of the voters, the amendment is incorporated into the charter. All amendments are effective on the date specified within the amendment or by the charter. The provision relating to the charter amendment is supplemental to all other laws relating to charter amendments, including the municipality's charter. A municipality may by ordinance and without referendum redefine its boundaries to include only those lands previously annexed.

Municipalities may not place restrictions on any employee's or employee group's political activity, while not working, in any referendum changing employee rights. Municipalities may, by unanimous vote of the governing board, abolish charter provisions providing for municipal departments. Municipalities may amend charter provisions which has been judicially construed to be contrary to either the Federal or State Constitution. Municipalities must also provide for vacancies either by ordinance or charter provisions.

The act also provides that an elector is any person residing in a municipality who has qualified as an elector of Florida, and who registers in the manner provided by general law and municipal ordinance.

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Section 166.041, Florida Statutes, provides the procedures for adopting ordinances and resolutions by municipalities. The notice procedures provided by the section are minimum notice procedures.

The governing body may also designate code inspectors to assure code compliance. Code inspectors are authorized to issue citations for violations after notifying violator of violation and allowing period for compliance.

Section 166.0425, Florida Statutes, allow municipalities to retain its right to establish sign ordinances, as long as such ordinance does not conflict with any applicable state or federal laws.

Municipalities may not enact ordinances or rules which impose price controls upon any lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency, unless provided by general law. Municipalities may, however, enact public service rates otherwise authorized by law. If certain criteria and procedures are met, municipalities may enact ordinances which impose controls on rents.

Ordinances relating to the amateur radio antennas can not be passed or enforced which do not conform to the limited preemption issued by the Federal Communications Commission. Municipalities can not adopt ordinances which relate to the possession or sale of ammunition.

Municipalities may not enact or enforce any ordinance, rule or policy which requires registration or background screening for a specific type of category of employment and requires an identification card as a result of the screening. Municipalities may regulate any business, profession, or occupation which requires special skills, it is not preempted to the state, and the regulation satisfies specific criteria.

Family day cares which are registered with HRS(pre-split) which are operated in a residence, qualify as a valid residential use for zoning purposes. Regulations can not be passed which requires the owners to obtain a special exemption or waiver from the municipality, or pay a fee over \$50.

Section 166.045 requires offers and documents relating to the purchase of real property to be in writing and excludes those documents from public records until an option contract is executed. The section also requires appraisals to be performed for specific purchases.

Municipalities are required to have a noticed public meeting and consider certain criteria prior to the granting of a cable franchise. Overlapping franchises can not be granted if there are more favorable conditions for one of the franchises. However, municipalities can impose additional terms and conditions as deemed necessary. Section 166.047 provides requirements and conditions in order for a municipality to be a telecommunications company.

Section 166.049 states chief of police duties, including establishing a communication system between other enforcement agencies. A municipality is also authorized to enter into interlocal agreements to provide law enforcement services to neighboring areas.

Chapter 166 also addresses municipal borrowing. The governing body of every municipality is authorized to borrow money, contract loans, and issue bonds. A municipality may use the funds to finance capital projects and other permitted projects. A municipality may also pledge funds, credit, property, and taxing power, for the payment of the debts. A public purpose of municipalities is to provide relief to claimants and policyholders having covered claims against insolvent insurers operating in Florida, by paying the covered claims. Section 166.121 requires majority electors approval of a referendum authorizing the issuance of bonds. Municipalities have the authority to determine the terms, manner of sale, and distribution of bonds and have all powers necessary for the distribution, and to establish sinking funds for the payment, purchase, and redemption of outstanding bonds. Ad valorem taxes may be assessed in order to pay the principal and interest of issued bonds or to fund sinking funds.

Part III of chapter 166 deals with municipal finance and taxation. Municipalities are authorized to raise money, by taxation, licenses, user charges, and fees, necessary to conduct municipal functions. Enforcement and collection are also permitted. Municipalities may levy ad valorem taxes on real and tangible property within the municipality in an amount not exceeding 10 mills, exclusive of taxes levied for bond repayment and voter approved taxes levied for less than 2 years. The assessment and collection is performed by appropriated officers as prescribed by general law.

A regulatory fee on businesses and professions may also be levied if reasonable, commensurate with the regulatory costs, and the regulation is not preempted by the state or county. Municipalities may also charge reasonable building code inspection fees.

A public service tax (M.U.T. -- municipal utility tax) may be charged by the municipality on purchases of electricity, gas, and water services. The tax can not be more than 10 percent of the payment. The municipality may exempt from payment of the tax. A service tax not exceeding 7 percent may also be charged on telecommunication services. A public service tax levy must be adopted by ordinance and provide notification of levy.

Municipalities must adopt by ordinance a budget each fiscal year which begins October 1. The budget's expenditures and reserves must equal taxation and other sources of revenue. Municipalities may also invest and reinvest surplus public funds in specific investments.

Part IV of chapter 166 grants the right of eminent domain to municipalities for specific municipal purposes.

Chapter 170, Florida Statutes, authorizes a municipality to provide local improvements and levy special assessments against benefitted property. Local improvements include the construction of streets, sidewalks, sewer systems, water mains, recreational facilities, and a mass transportation system. A special assessment may be levied to defray the whole or any part of the local improvement expense. A municipality may pay out of its general funds or other special funds any portion of local improvement costs. The special assessment must be prorated in proportion to the benefit derived from the improvement. A resolution is required declaring the local improvement, costs of improvement, the special assessment, and the manner of payment of the assessment. Following adoption of the resolution, the resolution must be noticed. A preliminary

assessment roll is also made which shows the lots to be assessed and the amount of assessment. The municipality must hold a meeting in which the city's governing board hears complaints regarding the assessment. The governing board may adjust the assessments. Upon completion of the improvement, the municipality credits each assessment the difference in the assessment and the actual cost of the improvement. Special assessments are liens against the property and legal proceedings may be instituted upon failure of property owners to pay the assessment. If an assessment is invalidated by a court or by the municipality, the municipality may establish a new assessment until a valid assessment is made. The assessment roll is evidence of special assessment.

Municipalities may issue improvement bonds in an amount not exceeding the amount of liens assessed for the cost of the improvements to be paid by the special assessment. The bonds are paid solely out of the special assessments which are deposited in a separate account for such purpose. Municipalities have the authority to determine the terms, manner of sale, and distribution of bonds and have all powers necessary for the distribution.

Section 170.201 also allows the levying and collection of special assessments to fund capital improvements and municipal services.

Chapter 171, Florida Statutes, is the "Municipal Annexation or Contraction Act." The Legislature established local annexation procedures in 1974 with the creation of chapter 171, F.S., the "Municipal Annexation or Contraction Act." The purpose of the act is to provide procedures for adjusting the boundaries of municipalities through annexation or contractions of corporate limits. The act also provides criteria for determining when annexations may take place. The act preempts any special act or ordinance relating to annexation or contraction in effect October 1974. Chapter 171 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.

In addition, several of the Cedar Key's current charter provisions are obsolete since this charter has not been amended since 1969.

B. EFFECT OF PROPOSED CHANGES:

The bill recreates and reenacts the charter for the City of Cedar Key. The bill is a new charter for the City. Although the bill is a simplified charter, the provisions not reenacted in this bill, which are not inconsistent, are reenacted as ordinances.

The bill changes the employment status of appointed city officials. The appointed officials serve at the will of the city commission rather than serving terms. The bill also eliminates the removal procedures of the chief of police and provides that the chief serves at the will of the city commission. With the change in employment, the annual appointment of officials at the organization meeting is eliminated.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 69-929, Laws of Florida

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?

N/A

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

Appointed city officials no longer serve for set terms, but rather serve at the will of the city commission.

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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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 that the bill codifies, reenacts, amends, and repeals.

Section 2: Recreates and reenacts the City of Cedar Key's charter.

- Article I -- Establishment Corporate Limits, and Powers
- Section 1.01 -- Provides for the continuation and vesting of all governmental, corporate and proprietary powers in order to conduct municipal government, functions, and services.
- Section 1.02 -- Provides the boundaries of the city.
- Section 1.03 -- Provides for liberal construction in favor of the city; provides that all powers and authority of the act are supplemental and additional to all other authority; and provides definitions.
- Section 1.04 -- Provides additional special powers; including, but not limited to: acquire, hold, and sell property; acquire, purchase and hire local public utilities; finance, construct and operate local improvements; provide government services; issue bonds; and levy ad valorem taxes.
- Article 2 -- City Commission
- Section 2.01 -- Creates an elective city commission as the city's governing body; vests city's corporate authority in a city commission; and provides that the commission shall enact local legislation, adopt budgets, determine policies, administer those policies and appoint officials of the city.
- Section 2.02 -- Provides that the city commission have five members; provides the appointment of a mayor and vice-mayor.

- Section 2.03 -- Provides qualifications for commission.
- Section 2.04 -- Provides duties and powers of mayor and vice-mayor.
- Section 2.05 -- Provides for general, special, & runoff elections; provides for one election district; provides for polling places; provides for qualified electors; provides for election procedures; requires an oath of candidates and oath of office; provides for induction; and provides that the commission is the judge of the election and members.
- Section 2.06 -- Provides for vacancies and terms of office.
- Section 2.07 -- Provides that the Commission determines its own rules and order of business; and provides for record of meetings.
- Section 2.08 -- Requires commissioners to cast either an affirmative or negative vote when a vote is requested.
- Section 2.09 -- Provides that the city commission determines the compensation of the commissioners, and its officials and employees.
- Section 2.10 -- Provides removal grounds for commissioners; provides procedures; and provides for recall of the commissioners and the mayor.
- Article III -- Administration
- Section 3.01 -- Grants the city commission the power to establish departments; provides for the appointment of department heads; authorizes the commission to develop rules, regulations, and policies; and provides department administration.
- Section 3.02 -- Provides appointment of city officials, including, but not limited to, the city attorney, city clerk, and chief of police; provides that they serve at the will of the commission.
- Section 3.03 -- Provides the duties of the appointees.
- Section 3.04 -- Provides for an annual audit.
- Article IV -- Special Provisions
- Section 4.01 -- Provides for charter amendments by general law, or by approved petition or ordinance.
- Section 4.02 -- Authorizes municipal officers to pursue and arrest any person in fresh pursuit which takes the officer outside of the city limits.
- Article V -- Transition Schedule

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- Section 5.01 -- Provides that all current charter provisions, not contained in this act which are not inconsistent with the act, are ordinances of the city subject to modification and repeal.
- Section 5.02 -- Gives effect to all current ordinances and resolutions.
- Section 5.03 -- Provides that nothing shall impair or effect the city officers and employees' rights or privileges, unless otherwise provided.
- Section 5.04 -- Preserves all pending matters.

Section 3: Provides severability clause.

Section 4 (misnumbered as a second section 3): Repeals chapter 69-929, Laws of Florida.

Section 5 (misnumbered as section 4): Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 4, 1997

WHERE? Chiefland, Florida; Chiefland Citizen

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:

The boundaries of the bill are larger than the boundaries under the current charter. The difference is due to the annexation procedures allowed under the charter which allows for annexation without a special act. The bill does not change the current boundaries of the District. Please see attached letter relating to the boundaries.

The following are special acts relating to the City of Cedar Key which are not being repealed by this act:

Chapter 17-7630, Laws of Florida; chapter 17-7631, Laws of Florida; chapter 29-14589, Laws of Florida; chapter 31-15117, Laws of Florida; chapter 55-30647, Laws of Florida; chapter 59-1166, Laws of Florida; chapter 59-1167, Laws of Florida; chapter 65-1352, Laws of Florida.

Chapters 55-30647, 59-1166, 59-1167, and 65-1352, Laws of Florida, amend chapter 37-18447 which was expressly repealed by chapter 69-929. Although the repealing provision repealed all expressed and implied amendments to chapter 37-18447, the special acts were not listed. Due to this, the special acts are not shown as repealed. An additional amendment was considered in order to expressly repeal the special acts relating to the charter. However, the ad did not allow for the repeal of the special acts since it states that only chapter 69-929 is repealed. The Legislature should consider repealing the special acts amending chapter 37-18447 in the future.

Chapters 17-7630, chapter 17-7631, 29-14589, and 31-15117, Laws of Florida, validate taxes and other actions by the City and should not be repealed.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs adopted the following amendments on April 21, 1998:

Amendment #1 -- Deletes section 1 of the bill repealing chapter 69-929, Laws of Florida, as section 3 also repeals chapter 69-929, Laws of Florida. Amendment 1 removes language providing for codification; however, the bill provides a new city charter;

Amendment #2 -- Deletes bill's provisions providing for appointed municipal officials to serve at the will of the city commission; reenacts the current charter provisions providing for appointment of officials at the annual organization meeting, that officials serve from the date of appointment to the following May 30, and that officials may be reappointed;

Amendment #3 -- Inserts new subsection providing for duties of the mayor and vice mayor in the section of the charter relating to the duties of officials;

Amendment #4 -- Inserts current charter provisions relating to the removal of the chief of police;

Amendment #5 -- Corrects a scrivener's error;

Amendment #6 -- Corrects the numbering scheme which orders a provision of section 2, Article V, of the charter as a section of the bill. Article V of section 2 of the bill has 5 sections.

Amendment #7 -- Clarifies repeal language.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:
Prepared by:

Legislative Research Director:

Laura L. Jacobs

Joan Highsmith-Smith