

**STORAGE NAME:** h4325.ca

**DATE:** April 12, 1998

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

**BILL #:** HB 4325

**RELATING TO:** Monroe County (Islamorada Incorporation Glitch Bill)

**SPONSOR(S):** Representative Horan

**COMPANION BILL(S):** None

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

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

This bill extends the date that Islamorada, Village of Islands may receive state shared revenues, through state fiscal year 1999-2000. Furthermore, Islamorada is authorized to utilize the millage levied by the Monroe County Mosquito Control District for purposes of meeting the minimum amount of revenue required to be raised for revenue sharing eligibility. The bill provides clarification of legislative intent regarding the referendum required to effectuate the charter.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The area known as Islamorada is a group of islands in the Florida Keys in Monroe County that includes the entire islands of Plantation Key, Windley Key, Lower Matecumbe Key, Teatable Key, and all land filled in between these islands, all connected by U.S. One, the Overseas Highway. The nearest city to the north is Homestead in Dade County more than 30 miles away. To the south and west the nearest city is Layton which is 4 miles away. The area is no wider than .5 miles and is 18.3 miles long. There is a mix of residential and commercial uses, with no manufacturing. A large proportion is state land. The estimated permanent population is approximately 7,173 persons. There is also a large seasonal population.

Islamorada was incorporated as a municipality, subject to a referendum, by the 1997 Legislature. The referendum was held on November 4, 1997 and the incorporation was successful. However, the Third District Court invalidated the incorporation on December 29, 1997, due to perceived ambiguous language, in the special act, relating to specific precincts that were required to approve the incorporation. Upon receiving further evidence of Legislative intent relating to the referendum, the court reversed itself on January 21, 1998 thereby re-validating the incorporation.

Chapter 97-348, Laws of Florida, provides an exception for Islamorada, to section 218.23, Florida Statutes, relating to state shared revenues for local governments. Section 218.23, Florida Statutes, states a local government is required, at a minimum, to have reported its finances for the most recently completed fiscal year to the Department of Banking and Finance; made provision for annual post-audits of its financial accounts; levied ad valorem taxes of 3 mills; certified that law enforcement officers and fire fighters meet state qualifications; and certified that any dependent special district has made provision for separate annual post-audits of its financial accounts. Islamorada could not meet the deadlines and receive shared revenues the first year without such an exemption.

B. EFFECT OF PROPOSED CHANGES:

This bill extends the date that Islamorada, Village of Islands may receive state shared revenues, through state fiscal year 1999-2000. Furthermore, Islamorada is authorized to utilize the millage levied by the Monroe County Mosquito Control District for purposes of meeting the minimum amount of revenue required to be raised for revenue sharing eligibility. The bill provides clarification of legislative intent regarding the referendum required to effectuate the charter.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 97-348, 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?

N/A

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:** Extends the waiver for Islamorada from section 218.23(1), Florida Statutes, through state fiscal year 1999-2000. Authorizes Islamorada to utilize the millage levied by the Monroe County Mosquito Control District for purposes of satisfying the minimum amount of revenue required to be raised for revenue sharing eligibility. Conforms F.S. to read Florida Statutes.

**Section 2:** Provides that the charter for Islamorada, Village of Islands is effective pursuant to approval of a referendum that was held on November 4, 1997. The effective date of the operating provisions of the charter are adopted nunc pro tunc as originally

provided in chapter, 97-348, Laws of Florida, (See comment section for explanation of nunc pro tunc).

**Section 3:** Provides that this act shall take effect upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? February 12, 1998

WHERE? The Reporter (Florida Keys)

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:

According to the Department of Revenue, without the waiver to subsection 218.23(1), Florida Statutes, Islamorada is ineligible to participate in the state shared revenue programs for the state fiscal year 1998-1999.

The waiver to subsection 218.23(1), Florida Statutes, provided by chapter 97-348, Laws of Florida, was from the date of incorporation through the state fiscal year 1997-1998. Section 218.23, Florida Statutes, states a local government is required, at a minimum, to have reported its finances for the most recently completed fiscal year to the Department of Banking and Finance; made provision for annual post-audits of its financial accounts; levied ad valorem taxes of 3 mills; certified that law enforcement officers and firefighters meet state qualifications; and certified that any dependent special district has made provision for separate annual post-audits of its financial accounts. Marco Island cannot meet these deadlines and receive shared revenues the second year without such an exemption.

Islamorada should also apply for a waiver from section 218.26(3), Florida Statutes, to provide for Monroe County's apportionment factor to be recalculated. A waiver from this section was granted for the same purpose to the City of Marco Island, when it was incorporated by the Legislature in 1997.

The bill provides that the effective date of the operating provisions of the charter are adopted nunc pro tunc as originally provided in chapter, 97-348, Laws of Florida. "Nunc pro tunc" is a Latin term, which when legally applied means now for then, or in other words, a thing is done now, which shall have the same legal force and effect as if done at the time it ought have been done ( State v. Hatley, 72 N.M. 377 P.2d 252, 254).

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has agreed to an amendment which would extend Islamorada's waiver from section 218.26(3), Florida Statutes, through state fiscal year 1998 - 1999.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

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Lisa C. Cervenka

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Joan Highsmith-Smith