

STORAGE NAME: h4821a.ca

DATE: April 21, 1998

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

BILL #: HB 4821

RELATING TO: St. Johns County (Incorporation of the City of Ponte Vedra)

SPONSOR(S): Representative Arnall

COMPANION BILL(S): None

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

- (1) COMMUNITY AFFAIRS YEAS 8 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill authorizes a referendum for the creation of the Town of Ponte Vedra and provides for its charter.

According to the Department of Revenue, there is a projected loss of revenue to St. Johns County of \$1,479,046 annually. The other cities in St. Johns County will also experience a loss of revenue because of the redistribution of revenue sharing funds.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 165, Florida Statutes

Florida law governing the formation and dissolution of municipal governments is found in chapter 165, Florida Statutes, the "Formation of Municipalities Act." The stated purpose of the "Formation of Municipalities Act" is to provide standards, direction, and procedures for the incorporation of municipalities, and to achieve the following goals:

- Orderly patterns of growth and land use;
- Adequate public services;
- Financial integrity in government;
- Equity in fiscal capacity; and
- Fair cost distribution for municipal services.

Under Florida law, there is only one way to establish a city government where no such government existed before: the Legislature must pass a special act enacting the city's charter. The special act must include a proposed municipal charter that prescribes the form of government and clearly defines the legislative and executive functions of city government, and cannot prohibit tax levies authorized by law.

The 1996 Legislature revised section 165.041, Florida Statutes, to require completion of a feasibility study for any area requesting incorporation. The purpose of the study is to enable the Legislature to determine whether or not the area: 1) meets the statutory requirements for incorporation, and 2) is financially feasible. Specifically, the study must include:

- Data and analysis to support the conclusions that incorporation is necessary and financially feasible.
- Population projections and population density calculations and an explanation concerning methodologies used for such analysis.
- Evaluation of the alternatives available to the area to address its policy concerns.
- Evidence that the proposed municipality meets the standards for incorporation of section 165.061, Florida Statutes. These standards are:

The area to be incorporated must be compact and contiguous and amenable to separate municipal government.

The area must have a total population of at least 1,500 persons in counties with a population of less than 50,000, as determined in the latest official state census, special census, or estimate of population in the area proposed to be incorporated, and of at least 5,000 population in counties with a population of more than 50,000.

The area must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.

The area must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government.

Recent Municipal Incorporations

From 1972 to the present, at least 14 municipalities were either created by special act (Lake Mary, Sanibel, Destin, Jacob City, Midway, DeBary, Ft. Myers Beach, Deltona, Wellington, Weston, Islamorada, Marco Island, and Suntree) or recreated by special act after previous incorporation under authority of general law in effect prior to 1974 (Seminole). The cities of Key Biscayne, Aventura and Pinecrest were created under the charter provisions of Dade County's Charter. The following table indicates recent municipal incorporations by year, city, county, enabling law, and any other applicable chapter of the Laws of Florida:

Recent Municipal Incorporations

1970	SEMINOLE	Pinellas County	general law
1972	SEMINOLE	Pinellas County	ch. 72-693
1973	LAKE MARY	Seminole County	ch. 73-522
1974	SANIBEL	Lee County	ch. 74-606
1983	JACOB CITY	Jackson County	ch. 83-434 ch. 84-456
1984	DESTIN	Okaloosa County	ch. 84-422 ch. 85-471
1986	MIDWAY	Gadsden County	ch. 86-471
1991	KEY BISCAYNE	Dade County	by authority of the Dade Charter
1993	DEBARY	Volusia County	ch. 93-351 ch. 93-363
1995	AVENTURA	Dade County	by authority of the Dade Charter
1995	PINECREST	Dade County	by authority of the Dade Charter
1995	FT. MYERS	Lee County	ch. 95-494

BEACH

1995	DELTONA	Volusia County	ch. 95-498
1995	WELLINGTON	Palm Beach County	ch. 95-496
1996	WESTON	Broward County	ch. 96-472
1997	ISLAMORADA	Monroe County	ch. 97-348
1997	MARCO ISLAND	Collier County	ch. 97-367
1997	SUNTREE	Brevard County	ch. 97-352

Recently Failed Incorporations

Over the years, a number of incorporation attempts have failed. Since 1980, some Floridians have rejected municipal government by voting down the incorporation efforts of:

The City of Deltona (1987/1990)
(chapter 87-449, and chapter 90-410, Laws of Florida)

The City of Fort Myers Beach (1982/1986)
(chapters 82-295, and 86-413, Laws of Florida)

A city in the Halifax area of Volusia County (1985)
(chapter 85-504, Laws of Florida)

The City of Marco Island (1980/1982/1986/1990/1993)
(chapters 80-541, 82-330, 86-434, 90-457, and 93-384, Laws of Florida)

The City of Spring Hill (1986)
(chapter 86-463, Laws of Florida)

The City of Port LaBelle (1994)
(chapter 94-480, Laws of Florida)

The City of Destiny (1995)
(by authority of the Dade County Charter)

Municipal Dissolutions

During the last decade or so, several cities have been dissolved:

- Bayview in Bay County by chapter 77-501, Laws of Florida;
- Munson Island in Monroe County by chapter 81-438, Laws of Florida;
- Painters Hill in Flagler County by chapter 81-453, Laws of Florida;
- Hacienda Village in Broward County by chapter 84-420, Laws of Florida; and
- Pennsuco in Dade County under authority of the Dade County Charter.

Ponte Vedra

In the 1930s developers created a plan for the development of a resort and leisure community in northern St. Johns County. Currently, the community, known as Ponte Vedra has an approximate population of 25,000. The community's land use evolved in the 1980s to include a mixture of residential and commercial as a complement to the resort area.

The community of Ponte Vedra Beach is bordered by unincorporated St. Johns County to the North, by the Atlantic Ocean to the East, by the Guana Wildlife Preserve State Park to the East and the Intracoastal Waterway to the West.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes a referendum for the creation of the Town of Ponte Vedra and provides for its charter.

According to the Department of Revenue, there is a projected loss of revenue to St. Johns County of \$1,479,046 annually. The other cities in St. Johns County will also experience a loss of revenue because of the redistribution of revenue sharing funds.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Creates a special act.

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?

The bill creates a new municipal government. As such, there is a new governmental entity that is available to make rules and adjudicate disputes.

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

The bill creates a new municipal government. As such there is a new governmental entity that has responsibilities to provide services and conduct land use planning and regulations for its residents.

(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?

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?

Subject to referendum, the bill authorizes the newly created Town of Ponte Vedra to assess taxes, fees and surcharges as a municipality to support the town as a provider of urban services. It is expected that the residents now living in unincorporated St. Johns County will pay increased taxes upon adoption of the incorporation.

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

See 2a.

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?

See 2a.

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 this act shall be known as the Town of Ponte Vedra Beach Charter.

Section 2: Provides Legislative intent. Subsection A. provides that the Ponte Vedra Beach area in St. Johns County includes a compact and contiguous community of approximately 25,000 residents, which constitutes a community amenable to separate municipal government. Subsection B. provides that the Legislature shall not cast its final vote on this bill until a feasibility study has been accepted which is sufficient enough for potential voters to reach an informed decision prior to a referendum on the issue of incorporation.

Section 3: Effective December 31, 1998, provides for the creation of a new municipality in St. Johns County, to be known as the Town of Ponte Vedra Beach, which shall have a council-manager form of government.

Section 4: Provides for the town's municipal powers. The town shall be a body corporate and politic and shall have all the powers of a municipality under the Constitution and laws of the State of Florida, subject to the powers enumerated in the town's charter. The town shall have all powers necessary to conduct municipal government.

Section 5: Provides provisions related to the town council. Subsection A. provides for: the council; composition of the council; and qualification of the council members. Subsection B. provides that the term of office for council members is four years. Each council member will remain in office until a successor is elected and assumes all the duties of the position. Council members may only serve two terms of office.

Subsection C. provides for the powers and duties of the mayor. Subsection D. provides for the compensation and expenses of council members. Council members are compensated at the rate of \$500 per month and are entitled to receive reimbursement for authorized travel and per diem expenses incurred in the performance of official duties. The council may elect to provide for an increase in compensation, by ordinance by a vote of a majority plus one of the entire council.

Subsection E. provides for the general powers and duties of the council. Legislative and police powers of the town are vested in the council. The council provides for exercise of its powers and for the performance of all duties and obligations imposed on the town by law. Subsection F. gives provisions for addressing: vacancies; forfeiture of office; suspension and filling of vacancies.

Subsection G. provides for the frequency and the location of the council meetings. Provides requirements for the calling of special meetings of the council. Provides for when council members are inducted and defines a quorum. Subsection H. provides that the council must maintain public records of all meetings and public documents which are available to the public.

Subsection I. provides for the adoption of a code for technical regulation by reference. Subsection J. provides that council members may not be in employment of the town. Subsection K. provides that the council members may not interfere with the performance of duties, by any employee of the town who is under the supervision of the council manager or council attorney.

Section 6: Provides for the town's budget and appropriations. Subsection A. provides for the town's fiscal year. Subsection B. provides for the adoption of the budget. Subsection C. provides for appropriations amendments during the fiscal year.

Section 7: Provides for charter offices. Subsection A. provides that the council manager and the council attorney are charter officers. Subsection B. provides for the appointment, removal, compensation and filling of vacancies for charter officers. Subsection C. provides for the qualifications, duties and powers of the town manager. Subsection D. provides for the qualifications, duties and powers of the town attorney.

Section 8: Provides for the requirements related to elections. Subsection A. defines who qualifies as an elector. Subsection B. provides that elections are non-partisan. Subsection C. provides that candidates attempting to become council members must qualify to run for office. Subsection D. provides for staggered town elections and runoffs. Subsection E. provides for the scheduling of other elections. Subsection F. provides for determination of election to office. Subsection G. provides for the formation of the town canvassing board. Subsection H. provides the requirements for the recall of a council member.

Subsection I. provides powers to the electors of the town to propose ordinances to the town council and to initiate referendums. Provides requirements for initiating such ordinances or referendums.

Section 9: Provides for the transition schedule of the new town. Subsection A. provides for approval of the charter of the Town of Ponte Vedra. Subsection B. provides for the initial election of council members. Subsection C. provides for the creation and establishment of the town. Subsection D. provides for the payment of the first years' expenses.

Subsection E. provides for urban services during the transition of duties from St. Johns County to the Town of Ponte Vedra. Subsection F. provides for transitional ordinances and resolutions. Subsection G. provides for transitional comprehensive plan and land development regulations.

Subsection H. provides that the town is entitled to participate in state-shared revenues. The provisions of section 218.23(1) (a)-(c) are waived through the state fiscal year 2000-2001. Subsection I provides that the town is entitled to receive a local option gas tax revenue.

Section 10: Provides requirements related to land use and zoning.

Section 11: Provides for: interim municipal services; the continuation, merger, and dissolution of existing districts; and the continuation and allocation of St. Johns County imposed taxes to fund town operations.

Section 12: Provides the boundaries of the Town of Ponte Vedra.

Section 13: Provides general provisions for charter amendments and standards of conduct.

Section 14: Provides that if any provision of this act is held invalid, the invalidity has no effect on other provisions of the act. The provisions of the act are declared severable.

Section 15: Provides that this act shall take effect upon becoming law by approval of a majority vote of those qualified electors residing within the corporate limits of the proposed town of Ponte Vedra Beach as described in section 12.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? December 9, 1997

WHERE? St. Augustine Record

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DATE: April 21, 1998

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B. REFERENDUM(S) REQUIRED? Yes [x] No []

IF YES, WHEN? November 3, 1998

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

IV. COMMENTS:

Agency Review Comments

The House Committee on Community Affairs coordinates a review of the feasibility study required by section 165.041, Florida Statutes, and the proposed charter with various other legislative committees and appropriate state agencies. Attached are review comments from the Department of Revenue, The Legislative Committee on Intergovernmental Relations and the Governors Office of Planning and Budgeting.

The reviews of the feasibility study and charter similarly conclude that the community of Ponte Vedra meets the statutory requirements for becoming a municipality. Furthermore, the tax base of the community provides that the proposed Town of Ponte Vedra is financially feasible. However, the reports provide insight into some of the flaws of the feasibility study and suggestions for recalculating certain revenue sources and expenditures. The reports and study are available in the committee office for persons desiring to inspect them.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At their April 21, 1998 meeting, the House Committee on Community Affairs adopted four amendments. Amendment 1 removed language related to completing a feasibility study. Amendment 2 removed language related to gas tax revenues. Amendment 3 provides the boundaries of the area commonly known as Palm Valley. Amendment 4 change the provisions of the referendum to provide for an opt-out measure for Palm Valley.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Lisa C. Cervenka

Joan Highsmith-Smith