

STORAGE NAME: h1419.ca

DATE: March 25, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1419

RELATING TO: Monroe County/City of Marathon

SPONSOR(S): Representative Sorenson

COMPANION BILL(S): SB 2622 (i)

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

- (1) COMMUNITY AFFAIRS
 - (2) FINANCE AND TAXATION
 - (3) TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill authorizes a referendum for the creation of the City of Marathon and provides for its charter.

According to the Department of Revenue, there is a projected loss of revenue to Monroe County of \$971,565 annually. The other cities in Monroe County will also experience a combined loss of \$288,474 in annual revenue because of the redistribution of state revenue sharing funds.

II. SUBSTANTIVE ANALYSIS:

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 BEACH | Lee County | ch. 95-494 |
| 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)

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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)

The City of Ponte Vedra (1998)
(chapter, 98-534, Laws of Florida)

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.

The Proposed City of Marathon

Marathon Key is located in the Middle part of The Florida Keys in Monroe County. The community is a popular tourist spot. The estimated year-round resident population is approximately 11,500.

Section 380.0552 designates the Florida Keys as an area of state critical concern. The legislative intent of the "Florida Keys Area Protection Act" is:

- (a) To establish a land use management system that protects the natural environment of the Florida Keys.
- (b) To establish a land use management system that conserves and promotes the community character of the Florida Keys.
- (c) To establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services.
- (d) To provide for affordable housing in close proximity to places of employment in the Florida Keys.
- (e) To establish a land use management system that promotes and supports a diverse and sound economic base.
- (f) To protect the constitutional rights of property owners to own, use, and dispose of their real property.
- (g) To promote coordination and efficiency among governmental agencies with permitting jurisdiction over land use activities in the Florida Keys.

The Department of Community Affairs closely regulates all planning activities that occur in the Florida Keys.

Citizens to Incorporate Marathon is a grass-roots community group which have spearheaded the effort for incorporation. The primary reason for incorporation is due to dissatisfaction with Monroe County. The feasibility study lists the following reasons:

- Lack of Responsiveness of the elected County Commissioners to local issues.
- Poorly delivered services by Monroe County.
- Inadequate recreational land and programs provided by Monroe County.
- Poor maintenance of secondary roads by Monroe County.
- Lack of control over destiny of the community.
- Delayed responsiveness by Monroe County to natural disasters.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes a referendum for the creation of the City of Marathon and provides for its charter.

According to the Department of Revenue, there is a projected loss of revenue to Monroe County of \$971,565 annually. The other cities in Monroe County will also experience a combined loss of \$288,474 in annual revenue because of the redistribution of state revenue sharing funds.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

This bill creates a new 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?

Subject to referendum, the bill creates a new municipality which will have all the rights and responsibilities granted to municipalities in chapter 125, Florida Statutes, and in the Florida Constitution.

(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?

Subject to referendum, the bill grants the newly incorporated City of Southport the authority to levy any and all taxes provided for in general law and the State of Florida Constitution for municipalities.

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

Subject to referendum, the bill grants the newly incorporated City of Southport the authority to levy any and all fees provided for in general law and the State of Florida Constitution for municipalities.

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 ANALYSIS:

Section 1: Provides a short title.

Section 2: Provides legislative findings and intent.

Section 3: Provides for the creation of the City of Marathon in Monroe County and that the city is a council-manager form of government.

Section 4: Provides for the municipal powers.

Section 5: Provides for the Council composition; qualifications of Council Members; terms of office; the election and duties of the mayor; provides for the duties of the vice mayor; compensation of councilors; the general powers and duties of the Council; vacancies; provides reasons for forfeiture of office; filling of vacancies; council meetings; record-keeping; adoption of codes; limitation of employment of Council Members; and no interference by City Council Members.

Section 6: Provides the council shall adopt a budget and budget amendments.

- Section 7: Provides for charter officers; the appointment of the city manager; the powers and duties of the city manager; the appointment of a city attorney; and the powers and duties of the city attorney.
- Section 8: Provides for qualifications for electors; nonpartisan elections; how candidates qualify for office; an election schedule; special elections; determination for election to office; city canvassing board; the recall of council members; council initiatives; elector initiatives; usage of petitions; procedures for filing petitions; action on petitions; and results of elections.
- Section 9: Provides for a referendum; the initial election of the village council; authority to levy taxes and assessments; first-year expenses; transitional ordinances and resolutions; transitional comprehensive plans and land development regulations; waivers of requirements to receive state-shared revenues immediately upon incorporation; and the city receives gas tax revenues beginning October 1, 1999.
- Section 10: Provides for the corporate boundaries.
- Section 11: Provides for charter amendments and standards of conduct.
- Section 12: Provides for severability of any section of the charter.
- Section 13: Provides for and effective date, subject to referendum.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN?

WHERE?

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

IF YES, WHEN? November 2, 1999

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

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

IV. 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 Office of Economic and Demographic Research.

The reviews of the feasibility study and charter similarly conclude that the community of Marathon does not meet one of the statutory requirements for becoming a municipality. The area is compact and contiguous and meets the minimum population requirement of 5,000 persons and the minimum density requirement of 1.5 persons per acre. However the area does not meet the minimum 2 mile limit within the proximity of an existing municipality. Any unmet standards are automatically waived by virtue of the approval of this special act by the legislature.

Furthermore, while the available tax base of the community suggests that the proposed City of Marathon is financially feasible, the expectations for expenditures by the proposed city appears to be significantly underestimated. In a review of 10 other municipalities of a similar size 8 of the 10 had expenditures significantly higher than those projected by Marathon.

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The reports also provide insight into some of the flaws of the feasibility study and suggestions for amendments to make necessary changes to the charter. (See amendment section) The reports and study are available in the committee office for persons desiring to inspect them.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has agreed to a strike-everything amendment which will address some of the issues raised by staff reviews of the charter.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Lisa C. Cervenka

Joan Highsmith-Smith