

STORAGE NAME: h1563a.ca

DATE: March 22, 1999

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

BILL #: HB 1563

RELATING TO: Broward County/Annexation of Palm Aire Village

SPONSOR(S): Representative Wasserman-Schultz

COMPANION BILL(S): None.

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

(1) COMMUNITY AFFAIRS YEAS 7 NAYS 0

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I. SUMMARY:

The bill requires each municipality which desires to annex the area known as "Palm Aire Village" to submit transition plans providing for the impact on employees of the governments affected, along with plans for law enforcement and fire-rescue services. In addition, each municipality is required to notify the Broward County Legislative Delegation that they wish to appear on the ballot to annex the area known as "Palm Aire Village."

The bill provides boundaries. The bill directs the Broward County Board of County Commissioners to schedule an election to allow voters in the area known as "Palm Aire Village" to choose whether to annex into the Cities of Fort Lauderdale, North Lauderdale or Pompano Beach. The bill requires an interlocal agreement to be developed between Broward County and the annexing municipality to provide a financially feasible plan for the transitioning of services, buildings, infrastructure, waterways, roads, public rights-of-way and employees.

The bill provides that future land use designations, zoning districts and property usage for the area known as "Palm Aire Village" remain in effect after the annexation. Any change of zoning districts or future land use designations may only be accomplished by enactment of a majority vote of the full governing body of a municipality plus one. The bill provides for a transfer of all public roads and rights-of-way.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida Annexation Law

Under Article VIII, Section 2(c), of the Florida Constitution, the Legislature is authorized to annex by special act, and to establish by general law a procedure for local annexations in all Florida counties.

The Legislature established local annexation procedures in 1974, with the creation of chapter 171, Florida Statutes, the "Municipal Annexation or Contraction Act." This Act establishes alternative procedures for adjusting municipal boundaries locally through annexation or contraction, and sets forth criteria for determining when local annexations or deannexations may take place. This law only addresses annexation of unincorporated property into a municipality and deannexation of municipal property into an unincorporated area.

Requirements for Annexation

Before local annexation procedures may begin, the governing body of the annexing municipality must prepare a report containing the city's plans for providing urban services to the proposed area to be annexed. A copy of the report must be filed with the board of county commissioners. This report must include appropriate maps, timetables, and financing methodologies. It must certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements:

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality. This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. The specified exceptions are where the area is separated from the city's boundary by a publicly owned county park, right-of-way, or body of water.
- The area to be annexed must be reasonably compact.
- No part of the area to be annexed may fall within the boundary of another municipality.
- The majority of the land to be annexed must be developed for urban purposes. Urban purposes are defined as:
 - having a population of at least two persons per acre; or
 - if 60 percent of the subdivided lots are one acre or less, having a density of one person per acre; or
 - having at least 60 percent of the subdivided lots used for urban purposes; or
 - that at least 60 percent of the total urban residential acreage is divided into lots of 5 acres or less.

Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place following the tax levy for that year. In the case of municipal contractions, the city and county must agree on the transfer of indebtedness or property--the amount to be assumed, its fair value, and the manner of transfer and financing.

Immediately upon being annexed, an area is subject to all laws, ordinances, and regulations applicable to other city residents. An exception is that applicable county land use and zoning regulations continue in effect until the area is rezoned by the annexing municipality. Also, the county land use plan, and zoning or subdivision regulations of the unincorporated area will remain in effect (after the annexation has been approved) until the annexing municipality adopts a local comprehensive plan amendment to include the new area. In contractions, excluded territory is immediately subject to laws, ordinances, and regulations in effect in the county.

Voluntary Annexation

If the property owners of a particular unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. The following procedures govern *voluntary annexations* in every county, except those counties with charters providing an exclusive method for municipal annexation:

- Submission to the municipal governing body of a petition seeking the annexation, signed by all property owners in the area proposed to be annexed.
- Adoption of an ordinance by the governing body of the annexing municipality to annex the property after publication of notice at least once a week for 2 consecutive weeks, setting forth the proposed ordinance in full.
- A restriction against the creation of enclaves.

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation. This process is called *involuntary annexation*. In general, the requirements for an involuntary annexation are:

- Adoption of an annexing ordinance by the governing body of the annexation of one "reasonably compact" area.
- Submittal of the ordinance to a vote of the registered electors of the area proposed to be annexed once the ordinance has been adopted by the governing body.
- Submittal of the ordinance to a separate vote of the registered electors of the annexing municipality and of the area proposed to be annexed. This dual referendum is required if the proposed ordinance would cause the total area annexed by a municipality during any one calendar year period to cumulatively exceed more than 5 percent of the total land area of the municipality, or cumulatively to exceed more than 5 percent of the municipal population. (Broward County is exempt from the provision. See Broward County Annexations below for details)

If there is a majority vote in favor of annexation in the area proposed to be annexed, and a majority in favor in cases where a referendum must be held in the annexing city, the area becomes a part of the city. If, however, there is a majority vote against annexation in either the annexing municipality or the area proposed to be annexed, the annexation does not happen. That area cannot be made the subject of another annexation proposal for 2 years from the date of the referendum.

Judicial Review of Annexations or Contractions

Affected persons who believe they will suffer material injury because of the failure of the city to comply with annexation or contraction laws as they apply to their property can appeal the ordinance. They may file a petition with the circuit court seeking the court's review. If the appeal is won, the person is entitled to reasonable costs and attorney's fees.

Broward County Annexations

Broward County is located on Florida's South Atlantic coast and consists of nearly 1,200 square miles and a population of approximately 1.3 million residents. Broward County currently contains 29 municipalities, the majority of which achieved their current corporate boundaries through a multitude of annexations.

In 1996, in cooperation with the Broward County Commission, the Broward County Legislative Delegation created the Ad Hoc Committee on Annexation Policy. The delegation charged the committee with the responsibility of developing and recommending policy to the Broward Legislative Delegation regarding the terms under which it would consider future annexations. The committee recommended that annexation of all the remaining unincorporated areas of Broward County should

be encouraged to occur by the year 2010 and unincorporated areas remaining after 2010 will be subject to required annexation by the Florida Legislature.

The 1996 Florida Legislature adopted a special act (chapter 96-542, Laws of Florida) which exempts Broward County from the following general law provision in chapter 171, Florida Statutes. This provision requires a referendum of the electors of an annexing municipality where the total area annexed by a municipality during a calendar year cumulatively exceeds more than 5 percent of the total land area of the municipality or cumulatively exceeds more than 5 percent of the municipal population.

In addition, the special act requires that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to general law first must be considered at a public hearing conducted by the Broward County Legislative Delegation, pursuant to its adopted rules. The annexation is not effective until the first day of October following adjournment sine die of the next regular legislative session following the accomplishment of all procedures necessary for annexation.

Annexations may also occur by special act of the Legislature. The Broward County Legislative Delegation sponsors several local bills each year to accomplish some annexations.

B. EFFECT OF PROPOSED CHANGES:

The bill requires each municipality which desires to annex the area known as "Palm Aire Village" to submit transition plans providing for the impact on employees of the governments affected, along with plans for law enforcement and fire-rescue services. In addition, each municipality is required to notify the Broward County Legislative Delegation that they wish to appear on the ballot to annex the area known as "Palm Aire Village."

The bill provides boundaries. The bill directs the Broward County Board of County Commissioners to schedule an election to allow voters in the area known as "Palm Aire Village" to choose whether to annex into the Cities of Fort Lauderdale, North Lauderdale or Pompano Beach. The bill requires an interlocal agreement to be developed between Broward County and the annexing municipality to provide a financially feasible plan for the transitioning of services, buildings, infrastructure, waterways, roads, public rights-of-way and employees.

The bill provides that future land use designations, zoning districts and property usage for the area known as "Palm Aire Village" remain in effect after the annexation. Any change of zoning districts or future land use designations may only be accomplished by enactment of a majority vote of the full governing body of a municipality plus one. The bill provides for a transfer of all public roads and rights-of-way.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

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?

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 ANALYSIS:

Section 1: Requires the governing body of each municipality desiring to annex the area known as "Palm Aire Village" to submit a transition plan providing for the impact on employees of the governments affected, along with plans for law enforcement and fire-rescue services. Provides that the plans must be submitted in accordance with the Rules and Regulations of the Broward County Legislative Delegation.

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- Section 2: Provides that each municipality wishing to annex the are known as "Palm Aire Village" and has complied with section 1 of the bill must notify the Broward County Legislative Delegation no later than June 15, 1999 of their desire to annex.
- Section 3: Provides boundaries of the "Palm Aire Village Area".
- Section 4: Instructs the Broward County Commission to schedule an election to provide voters an opportunity to choose a city in which to annex.
- Section 5: Provides that "Palm Aire Village" shall be deemed a part of the municipality receiving a majority of vote of those voting, effective September 15, 2000. In the event that no municipality receives a majority vote a runoff shall be scheduled for Tuesday, October 4, 1999.
- Section 6: In the event of a runoff, the area known as "Palm Aire Village" shall be annexed into the municipality receiving the majority vote of those voting in the runoff elections.
- Section 7: Requires an interlocal agreement to be developed between Broward County and the annexing municipality to provide a financially feasible plan for the transitioning of services, buildings, infrastructure, waterways, roads, public rights-of-way and employees. Provides that Broward County continues to receive certain revenues generated by the "Palm Aire Village Area" until the completion of the programmed infrastructure improvements, as appropriate.
- Section 8: Authorizes the Board of County Commissioners to set the elections, to be paid by Broward County. Prohibits a mail ballot for the referendum.
- Section 9: In the event the area is annexed, provides that the present land use designation and zoning remains in effect and can only be changed by the enactment of the vote of the majority of the full governing body of a municipality plus one. Preserves vested property use rights as long as the use is not voluntarily abandoned.
- Section 10: Subsequent to the effective date of this act, no annexation by any municipality, nor change of land use designation, nor change of zoning is effective in the "Intracoastal/Beach Area" unless and until the area has been annexed.
- Section 11: Provides for transfer of roads and public rights-of-way to the annexing municipality.
- Section 12: Provides this act takes effect upon becoming a law.

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III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 31, 1999

WHERE? The Miami Herald

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? September 15, 2000

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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