

STORAGE NAME: h1573a.ca

DATE: March 22, 1999

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

BILL #: HB 1573

RELATING TO: The Cities of Deerfield Beach and Pompano Beach

SPONSOR(S): Representative Wasserman Schultz

COMPANION BILL(S): None.

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

(1) COMMUNITY AFFAIRS YEAS 8 NAYS 0

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I. SUMMARY:

The bill requires Broward County to perform studies to determine the effects and economic impacts on specified areas being annexed by the Cities of Deerfield Beach and Pompano Beach. The study shall determine the impact on employees of the governments affected, along with plans for law enforcement and fire-rescue services.

The bill provides the Broward County Board of County Commissioners shall schedule two separate elections, allowing registered voters to decide whether to annex into the Cities of Deerfield Beach and Pompano Beach. If the areas are annexed, the bill provides that future land use designations, zoning districts and property usage for the specified areas remains in effect after the annexations. Any change of land use designation or zoning must be accomplished by enactment of the vote of the majority of the full governing body of the City of Deerfield Beach or the City of Pompano Beach. All public roads and public rights-of-way, within the annexed area, are transferred from the jurisdiction of Broward County to the annexing jurisdictions.

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 this 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 Broward County to perform studies to determine the effects and economic impacts on specified areas being annexed by the Cities of Deerfield Beach and Pompano Beach. The study shall determine the impact on employees of the governments affected, along with plans for law enforcement and fire-rescue services.

The bill provides the Broward County Board of County Commissioners shall schedule two separate elections, which allows registered voters to decide whether to annex into the Cities of Deerfield Beach and Pompano Beach. If the areas are annexed, the bill provides that future land use designations, zoning districts and property usage for the specified areas remains in effect after the annexations. Any change of land use designation or zoning must be accomplished by enactment of the vote of the majority of the full governing body of the City of Deerfield Beach or the City of Pompano Beach. All public roads and public rights-of-way, within the annexed area, are transferred from the jurisdiction of Broward County to the annexing jurisdictions.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

A new special act is created.

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: Provides, by the effective date of this act, Broward County will have completed a study of a certain area to determine the effects of annexation into Deerfield Beach. The study shall contain: the economic impact on the area due to the annexation; the effects of annexation on the employees of Broward County and the employees of the Broward County Sheriff's Office; provision of law enforcement and fire rescue services. Broward county is responsible for printing and distributing the study to residents.

Directs the Broward County Board of County Commissioners to schedule an election in accordance with the provisions of law relating to elections currently in force on September 7, 1999. The subject of the election is the proposed annexation of a certain area into Deerfield Beach. Prohibits a mail ballot. Provides boundaries.

Provides if a majority of voters voting in the unincorporated area within the described area vote for annexation into the City of Deerfield Beach, the annexation is effective on September 15, 2002.

Provides, upon the annexation of the property, the present land use designation and zoning remains the law and can only be changed by the enactment of the vote of a majority of the full governing body of a municipality plus one. Provides the legal description of the property known as the Broward County Work Release Facility and provides that neither the land use designation nor the land use and zoning regulations for this site may be modified without the consent of the Broward County Board of County Commissioners.

Provides for the transfer of public roads and public rights-of-way from Broward County to the annexing municipality, with exceptions.

Section 2: Provides, by the effective date of this act, Broward County will have completed a study of a certain area to determine the effects of annexation into Pompano Beach. The study shall contain: the economic impact on the area due to the annexation; the effects of annexation on the employees of Broward County and the employees of the Broward County Sheriff's Office; provision of law enforcement and fire rescue services. Broward county is responsible for printing and distributing the study to residents.

Directs the Broward Board of County Commissioners to schedule an election in accordance with the provisions of law relating to elections currently in force on September 7, 1999. The subject of the election is the proposed annexation of a certain area into Pompano Beach. Prohibits a mail ballot. Provides boundaries.

Provides if a majority of voters voting in the unincorporated area within the described area vote for annexation into the City of Pompano Beach, the annexation is effective on September 15, 2002.

Provides, upon the annexation of the property, the present land use designation and zoning remains the law and can only be changed by the enactment of the vote of the majority of the full governing body of a municipality plus one.

Provides for the transfer of public roads and public rights-of-way from Broward County to the annexing municipality, with exceptions.

Section 3: Notwithstanding the provisions of sections 186.901 and 218.26, Florida Statutes, to the contrary, for all purposes under state law the calculation of the total census of the Cities of Pompano Beach and Deerfield Beach, Florida, beginning in FY 1999, shall include all of the new residents added to the cities as a result of the enactment of this act.

Section 4: Provides, the City of Pompano Beach will extend and enlarge the corporate limits to include certain properties. Prohibits any governmental entity from taking any action to limit the ability of the City of Pompano Beach to receive anticipated utility taxes, utility franchises fees, or other franchise fees.

Section 5: Provides, subsequent to the effective date of this act, no annexation by any municipality is effective in the areas described in the act.

Section 6: This act takes effect only upon its approval by a majority vote of those qualified electors residing in those areas as described in sections 1 and 2, respectively, voting in a referendum election to be called by the Broward County Board of County Commissioners, to be held on September 7, 1999. Section 6 takes effect upon becoming law.

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III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? January 31, 1999

WHERE? The Miami Herald

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

IF YES, WHEN? September 7, 1999

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

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

IV. COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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