

STORAGE NAME: h1597.ca

DATE: March 24, 1999

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

BILL #: HB 1597

RELATING TO: Monroe County/Village of Key Largo

SPONSOR(S): Representative Sorenson

COMPANION BILL(S): SB 2640 (s)

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

- (1) COMMUNITY AFFAIRS
- (2) FINANCE & TAXATION
- (3)
- (4)
- (5)

I. SUMMARY:

This bill authorizes a referendum for the creation of the Village of Key Largo and provides for its charter.

According to the Department of Revenue, there is a projected loss of revenue to Monroe County of \$1,105,529 annually. The other cities in Monroe County will also experience a combined loss of \$326,006 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)

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 Village of Key Largo

Key Largo is located in the Northern part of The Florida Keys in Monroe County. The community is a world-renowned vacation destination popular among tourists for fishing, camping, diving, and "eco tourism." The estimated resident population is approximately 13,000, and during the tourist season the population swells to nearly 30,000.

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

- To establish a land use management system that protects the natural environment of the Florida Keys;
- To establish a land use management system that conserves and promotes the community character of the Florida Keys;
- 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;
- To provide for affordable housing in close proximity to places of employment in the Florida Keys;
- To establish a land use management system that promotes and supports a diverse and sound economic base;
- To protect the constitutional rights of property owners to own, use, and dispose of their real property; and
- 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 for Island Government 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; and
- Delayed responsiveness by Monroe County to natural disasters.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes a referendum for the creation of the Village of Key Largo and provides for its charter.

According to the Department of Revenue, there is a projected loss of revenue to Monroe County of \$1,105,529 annually. The other cities in Monroe County will also experience a combined loss of \$326,006 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 Key Largo 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 Key Largo 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 legislative findings and intent.

Section 1.01 provides for the creation of the Village of Key Largo in Monroe County.

Section 1.02 provides that the village is a council-manager form of government.

Section 1.03 provides for the corporate boundaries.

Section 1.04 provides for the village powers.

Section 2.01 provides for the purpose and rights.

Section 2.02 provides for the enumeration of citizen's rights.

Section 2.03 provides for the remedies for violations.

Section 2.04 provides that all provisions for the bills of rights shall not be in conflict with general law.

Section 3.01 provides for the Council structure.

Section 3.02 provides for the terms of office.

Section 3.03 provides for the election and duties of the mayor.

Section 3.04 provides for the duties of the vice mayor.

Section 3.05 provides for the general powers and duties of the council.

Section 3.06 relates to vacancies.

Section 3.07 provides reasons for forfeiture of office.

Section 3.08 provides for filling of vacancies.

Section 3.09 provides for council meetings.

Section 3.10 provides for compensation of councilors.

Section 3.11 provides prohibitions.

Section 4.01 provides for the authentication of signatures.

Section 4.02 provides for record-keeping by the village clerk.

Section 4.03 provides for availability of all public records.

Section 5.01 provides for the appointment of the village manager.

Section 5.02 provides for the removal of the village manager.

Section 5.03 provides for compensation of the village manager.

Section 5.04 provides for the powers and duties of the village manager.

Section 5.05 provides for appropriate actions to be taken during the absence or disability of the village manager.

Section 5.07 provides that the council may obtain a fidelity bond for the village manager.

Section 5.08 provides for the village clerk.

Section 5.09 provides for the removal of the village clerk.

Section 5.10 provides for a village attorney.

Section 6.01 provides the village the authority to levy taxes and assessments.

Section 6.02 provides requirements for borrowing funds.

Section 6.03 provides the village fiscal year runs from October 1 through September 30.

Section 6.04 provides the council shall adopt a balanced budget.

Section 6.05 provides for budget amendments.

Section 7.01 provides qualifications for electors.

Section 7.02 provides for nonpartisan elections.

Section 7.03 provides how candidates qualify for office.

Section 7.04 provides limitations on lengths of service.

Section 7.05 provides for an election schedule.

Section 7.06 provides for special elections.

Section 7.07 provides for determination for election to office.

Section 7.08 provides for a village canvassing board.

Section 7.09 provides for the recall of council members.

Section 7.10 provides for the commencement of terms.

Section 8.01 provides for council initiatives.

Section 8.02 provides for elector initiatives.

Section 8.03 provides for usage of petitions.

Section 8.04 provides procedures for filing petitions.

Section 8.05 provides for action on petitions.

Section 8.06 provides for the results of elections.

Sections 9.01 provides for proposal of charter amendments by ordinance.

Section 9.02 provides for proposal of charter amendments by petition.

Section 9.03 provides for submission to electors of petition proposal.

Section 9.04 provides for the certification of election results.

Section 10.01 provides for severability of any section of the charter.

Section 10.02 provides for ethical standards.

Section 10.03 provides for a village personnel system.

Section 10.04 provides that the village shall not make charitable contributions, unless approved by all the council members.

Section 10.05 provides for revision of the charter.

Section 10.06 provides that all pronouns in the charter are gender neutral.

Section 10.07 provides that the village will not discriminate.

Section 10.08 provides for deferred compensation benefits.

Section 10.09 provides that a day means a calendar day.

Section 11.01 provides for a referendum.

Section 11.02 provides for the initial election of the village council.

Section 11.03 provides for first-year expenses.

Section 11.04 provides for transitional ordinances and resolutions.

Section 11.05 provides for transitional comprehensive plans and land development regulations.

Section 12.01 provides for waivers of requirements to receive state-shared revenues immediately upon incorporation.

Section 12.02 provides that the village receives gas tax revenues beginning November 2, 1999.

Section 2. Provides for an 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 Key Largo does not meet some of the statutory requirements for becoming a municipality. The area is compact and contiguous and meets the minimum population requirement of 5,000 persons. However, the area does not meet the minimum density requirement of 1.5 persons per acre; nor does the area meet the minimum 2-mile limit within the proximity of an existing municipality. These 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 Key Largo is financially feasible, the expectations for expenditures by the proposed city appears to be significantly underestimated. In a review of 11 other municipalities of a similar size 10 of the 11 had expenditures significantly higher than those projected by Key Largo.

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.

It should also be noted that a group called the Citizens Against the Incorporation of Key Largo have organized to oppose the incorporation effort. The group has raised some concerns relating to the feasibility study projections.

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.

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VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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