

STORAGE NAME: h1197a.ca
DATE: March 23, 2000

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

BILL #: HB 1197
RELATING TO: Lee County & City of Fort Myers
SPONSOR(S): Representative C. Green
TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 7 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill removes the requirement that a dual referendum must be held prior to the ratification and approval of the interlocal agreement for annexation of “Dunbar” and “Belle Vue” enclaves in Lee County by the City of Fort Myers. This bill removes the requirement that a majority of the *combined* registered electors in the enclaves and within the city limits of Fort Myers must vote affirmatively for the annexation to be valid. Rather, only a majority of the combined registered electors in the enclaves must vote affirmatively for the annexation to be valid.

Although the Economic Impact Statement for this bill states that there is a significant fiscal impact on both Lee County and the City of Fort Myers, it does not appear as though there is a fiscal impact. This bill only revises referendum procedures for the adoption of an interlocal agreement for annexation. This bill does not actually annexation the enclaves of “Dunbar” and “Belle Vue.” Upon approval at referendum by the voters residing in the enclaves, there is a fiscal impact.

The Committee on Community Affairs adopted two technical amendments that are traveling with the bill. As indicated in the “AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES” section, the amendments clarify the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Annexation

Section 2(c), Art. VIII of the State Constitution authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property by local action.

The Legislature established local annexation procedures by general law in 1974, with the enactment of chapter 171, Florida Statutes. Chapter 171, Florida Statutes, named the "Municipal Annexation or Contraction Act," describes the ways that property can be annexed or contracted by cities without passage of an act by the Legislature. There are two types of annexations in Florida, voluntary and involuntary. With voluntary annexations, all property owners in the area proposed for annexation formally seek the annexation by petition. For an involuntary annexation to occur, at least a majority of the electors in the area proposed for annexation and a majority of the electors in the annexing municipality must vote in favor of the annexation in a dual referendum election.

Statutory Requirements that must be met before Annexation may Occur

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
 - having at least 60 percent of the total urban residential acreage 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.

Annexation Procedures

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 for those counties with charters providing an exclusive method for municipal annexation:

Submission to the municipal governing body of a petition seeking 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.

In addition, the annexation must not create enclaves. An enclave is:

- (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or
- (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.

Upon publishing notice of the ordinance, the governing body of the municipality must provide a copy to the board of county commissioners of the county where the municipality is located.

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation pursuant to section 171.0413(1) and (2), Florida Statutes. This process is called involuntary annexation. In general, the requirements for an involuntary annexation are:

- Adoption of an annexation ordinance of a "reasonably compact" area by the annexing municipality's governing body.
- Prior to the adoption of an annexation ordinance, the governing body of the municipality must hold at least two advertised public hearings, with the first meeting being held on a weekday at least seven days after the first advertisement and the second meeting being held on a weekday at least five days after the first advertisement.
- Submission of the ordinance to a vote of the registered electors of the area proposed to be annexed once the governing body has adopted the ordinance.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes a part of the city. If there is no majority vote, that area cannot be made the subject of another annexation proposal for 2 years from the date of the referendum.

Annexation by Special Act

Subsection 177.044(4), Florida Statutes, provides that the procedures for voluntary annexation shall be "supplemental to any other procedure provided by general law or special law." There are a number of special annexation laws that exist in Florida, and hence special laws should always be checked prior to beginning annexation procedures. The Legislature may allow municipalities to annex property and are empowered to waive any and all statutory requirements.

Annexation by Charter

Also provided in subsection 117.044(4), Florida Statutes, voluntary annexation procedures do not apply to municipalities and counties with charters that provide for an exclusive method of municipal annexation.

Annexation of Enclaves

As previously described, an enclave is any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.

With the passage of section 171.046, Florida Statutes, the Legislature recognized that enclaves can create significant problems in planning, growth management, and service delivery. The intent of the legislation was to make it easier to eliminate enclaves of small land areas.

In order to expedite the process of annexing enclaves, there is a separate process for annexing enclaves of 10 acres or less. Using this process, a municipality may annex an enclave by interlocal agreement with the county having jurisdiction of the enclave. It may also annex an enclave with fewer than 25 registered voters by municipal ordinance, when

the annexation is approved in a referendum by at least 60 percent of the voters in the enclave. These procedures do not apply to undeveloped or unimproved real property.

Chapter 98-488, Laws of Florida

Chapter 98-488, Laws of Florida, authorizes the City of Fort Myers and Lee County to enter into an interlocal agreement, subject to referendum approval, for the municipal annexation of two unincorporated enclaves commonly known as "Dunbar" and "Belle Vue". Upon annexation, there is a transfer of authority for municipal service duties and infrastructure, subject to the interlocal agreement. Subsequent to an adoption of an interlocal agreement between the City of Fort Myers and Lee County, a dual-referendum must be held in the City of Fort Myers for the ratification and approval of the interlocal agreement. A majority of the combined registered electors in the enclaves and within the city limits of Fort Myers must vote affirmatively for the annexation to be valid. The referendum is to be held by the city at any regular election following adoption of the interlocal agreement. If approved by the voters the agreement becomes effective as may be provided in the agreement or not more than one year following the referendum.

C. EFFECT OF PROPOSED CHANGES:

This bill removes the requirement that a dual referendum must be held prior to the ratification and approval of the interlocal agreement for annexation of "Dunbar" and "Belle Vue" enclaves in Lee County by the City of Fort Myers. This bill removes the requirement that a majority of the *combined* registered electors in the enclaves and within the city limits of Fort Myers must vote affirmatively for the annexation to be valid. Rather, only a majority of the combined registered electors in the enclaves must vote affirmatively for the annexation to be valid.

This bill conforms chapter 98-488, Laws of Florida, to the provisions of section 171.0413, Florida Statutes, which was amended in 1999 by chapter 99-378, Laws of Florida. The 1999 Legislature removed the requirement for a dual referendum in specific circumstances.

Although the Economic Impact Statement for this bill states that there is a significant fiscal impact on both Lee County and the City of Fort Myers, it does not appear as though there is a fiscal impact. This bill only revises referendum procedures for the adoption of an interlocal agreement for annexation. This bill does not actually annex the enclaves of "Dunbar" and "Belle Vue." Upon approval at referendum by the voters residing in the enclaves, there is a fiscal impact.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Removes the requirement that a dual referendum must be held prior to the ratification and approval of the interlocal agreement for annexation of "Dunbar" and "Belle Vue" enclaves in Lee County by the City of Fort Myers; removes the requirement that a majority of the *combined* registered electors in the enclaves and within the city limits of Fort Myers must vote affirmatively for the annexation to be valid; and provides that only a majority of the combined registered electors in the enclaves must vote affirmatively for the annexation to be valid.

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Section 2: Provides effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 21, 2000

WHERE? News-Press; Fort Myers

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs, at its March 23, 2000 meeting, adopted two technical amendments, offered by Representative C. Green, that clarify that the referendum need only be submitted and approved by a majority of the voters residing in the enclaves, unless the City of Fort Myers submits the referendum to the voters residing in the city as well.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Laura L. Jacobs, Esq.

Joan Highsmith-Smith