

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1272

SPONSOR: Senator Casas

SUBJECT: Hialeah County

DATE: April 17, 2000

REVISED: 04/18/00 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	<u>Lombardi</u>	<u>Hadi</u>	<u>FP</u>	<u>Fav/1 amendment</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill creates Hialeah County out of the portion of Miami-Dade County that now comprises the City of Hialeah.

This bill creates section 7.275 and amends section 7.13, Florida Statutes.

## II. Present Situation:

### History of Counties in Florida

While the provisional government and territorial councils provided for county forms of government in Florida, it was not until 1861 that counties were provided some form of constitutional status. The new Constitution of 1885 addressed counties and municipalities in separate articles, with counties recognized as legal subdivisions of the state. In addition, the Legislature was granted the power to create new counties and alter county boundaries. By 1925, county boundaries were fairly fixed and have, with a few minor changes, remained that way today. There are currently 67 counties in Florida.

In 1956, an amendment to the 1885 Florida Constitution provided that Dade County had the authority "to adopt, revise and amend from time to time a home rule charter government for Dade County." The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status as it is the only county with its charter included in the State Constitution.

The authors of the revised Florida Constitution of 1968 amended the provision in the 1885 Constitution relating to county formation and included the following clause:

The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished, or changed by law, with provision for payments or apportionment of the public debt.<sup>1</sup>

The Constitution also provided for general “home rule” authority for counties. In addition, ch. 125, F.S., outlines the powers and duties of counties. There is no provision in the statutes addressing the creation and abolishing of counties.

### **Recent Research on the Creation of New Counties**

In March 1995, the Florida Institute of Government published *The Creation of New Counties in Florida: History and Future Prospects*. The author concluded that the Legislature must decide whether the creation of a new county is in the best interest of the state and its residents, weighing the impact of creating an additional county on the state’s governmental structure against the value of the implied right of citizens to reform government.

The paper proposed a set of standards to be applied when evaluating whether to create a new county. These standards are as follows:

- The new county should not significantly affect the “parent” county’s ability to equitably finance and provide county services to their remaining residents.
- The essential demographic characteristics of the new county should be similar to the remaining county. This is necessary to prevent the creation of counties solely on the grounds of income, race, ethnicity and age. Each of these characteristics is likely to be linked to the county’s tax base and the demand for services.
- The general tax base of the new county should not be significantly different from that of the parent county. This standard is necessary to prevent the partitioning of a county into a rich new county and a poorer parent county. Without this standard, the creation of a new county could make it more expensive for the parent county to continue to provide the same level and quality of county services.
- The new county should be an area separate and distinct from the existing county.

The Advisory Council on Intergovernmental Relations (ACIR, which was renamed the Legislative Advisory Council on Intergovernmental Relations, or LCIR, in 1996) contributed to the research by publishing *ACIR Comments on the Formation of Counties* in May 1995. The report offered additional standards to minimize the unanticipated negative consequences of creating new counties, to include:

- setting a minimum population size for the new and parent counties, thereby ensuring each has the financial reserves and tax base necessary to provide the services required under current law;
- establishing a population density requirement;

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<sup>1</sup>Article VIII, s. 1 of the State Constitution.

- requiring proposed counties to become charter counties, thereby establishing how the new county would interact with all affected local governments, including the parent county and school district, and county constitutional officers;
- requiring a feasibility study, which would provide:
  - background information on the area within the proposed boundaries of the new county;
  - identification of problems or difficulties confronting the area residents who would reside within the boundaries of the new county and an explanation of why the formation of a new county is the only or the best available method to address the identified problems;
  - proposed budget expenditures and revenue sources for the new county;
  - a five year projection of revenue sources and amounts, and proposed budget expenditures for the new county;
  - a letter of intent or memorandum of understanding from all local governments identified as provider of services to the new county; the local government should verify that it is prepared to provide the identified service for the amount specified in the budget expenditure section of the feasibility study;
  - an analysis of the new county's fiscal impact on municipalities within the "parent" county and within the new county;
  - an analysis of the new county's fiscal and legal impact on all affected special districts contained in part or completely within the boundaries of the "parent" county and the new county;
  - an analysis of fiscal impact on the new county's formation on all affected state shared revenue programs and affected local option taxes;
  - identification of all pre-existing interlocal agreements affected by the formation of the new county and a brief explanation on how the new county proposes to mitigate those impacts;
  - a time-line schedule that specifies dates of critical events, including the date the Legislature approves the formation of the new county, the date of referendum for the county formation, date of local elections, and the date(s) for transfer of specified responsibilities from the "parent" county to the new county; and
  - identification of the potential costs incurred by the state as a result of the new county's creation.

The last time the Legislature created a new county was in 1925 (Gilchrist County) and the impact on both the new and parent counties was relatively minimal compared to the impact of a similar action today. In 1965, legislation was proposed to create "Kennedy County" out of a portion of Dade County. The bill included a number of notable provisions:

- a referendum approval requirement by the voters of the proposed county;
- designation of the City of Hialeah as the temporary county seat;
- creation of a school district and county constitutional offices, and transfer of associated public records;
- proration of indebtedness of county and school districts; and
- transfer of county convicts whose offenses were committed within the territory included in Kennedy County.

### III. Effect of Proposed Changes:

**Section 1** creates s. 7.275, F.S., to define the boundary lines of the proposed Hialeah County.

**Section 2** amends s. 7.13, F.S., to define the proposed boundary lines for Miami-Dade County, less the land defined as Hialeah County in section 1. It appears that an enclave of Miami-Dade County is left in the proposed Hialeah County boundary.

**Section 3** transfers all property owned by Dade County located in Hialeah County to Hialeah County on the effective date of this act.

Personal property owned by Dade County is transferred in an amount equal to the proportion of the value of property in the proposed Hialeah County relative to the value of property in Miami-Dade County as of the previous January 1. Hialeah County must assume responsibility for the obligations of Miami-Dade County, as of the effective date of this bill, to the proportion of the value of property in the proposed Hialeah County bears to the value of property in Miami-Dade County as of the previous January 1.

**Section 4** directs the Miami-Dade County Board of County Commissioners to call and hold a special election that coincides with the 2002 primary and general election to select officers for Hialeah County. The costs in excess of the cost that would otherwise be incurred for the election will be reimbursed to Miami-Dade County by Hialeah County. Electors in the proposed Hialeah County are declared eligible to vote in this election.

**Section 5** provides that sections 1-3 will take effect on the first Tuesday after the first Monday in November, 2002. Section 4 will take effect upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Inasmuch as this bill requires Miami-Dade County to incur expenses, i.e., in the transfer of property to Hialeah County and reorganization of services within Miami-Dade County, the bill falls within the purview of subsection (a) of Article VII, section 18, of the Florida Constitution, which provides that cities and counties are not bound by general laws requiring them to spend funds or to take an action which requires the expenditure of funds unless certain specified exemptions or exceptions are met.

The bill may be exempted from subsection (a) if the bill's net aggregate fiscal impact on cities or counties does not exceed \$1.5 million. At this time the fiscal impact cannot be accurately determined.

If the fiscal impact is determined to be more than \$1.5 million, absent a legislative determination that the bill fulfills an important state interest and approval by 2/3 vote of the membership of each house of the Legislature, Miami-Dade County will not be bound by the

provisions of this bill should it become law. The bill does not contain a legislative finding that its provisions fulfill an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In 1999, the County Attorney for Miami-Dade County opined that this proposed legislation creating a new county lying wholly within Miami-Dade County's current boundaries contravenes the Home Rule Amendment and thus, would be unconstitutional. However, the State Constitution provides the Legislature the authority to create new counties and alter the boundaries of existing counties.<sup>2</sup>

V. **Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

The following is an outline of tax and fees that are affected by this bill:

**Local Fees:** Generally, Miami-Dade County will be ineligible to assess fees for county services currently provided in the City of Hialeah. To assume the assessment of these fees, Hialeah county will have to enact ordinances authorizing their levy.

**Local Option Revenues:** Hialeah County would be eligible to levy a variety of local option taxes and surtaxes. Miami-Dade County would lose the base for these and other taxes unique to the county. Since these tax revenues may have been pledged against debt, it could impact repayment or require restructuring of such debt.

**State Shared Revenues:** Miami-Dade County, and to a lesser degree the other 66 counties, will lose a portion of their state shared revenues to Hialeah County. If the City of Hialeah is abolished after Hialeah County is established, they would be ineligible for state municipal revenue sharing funds.

**Municipal Utility Tax:** Charter counties are eligible to levy a municipal utility tax up to 10 percent on purchases of electricity, gas, and water, telephone or telegraph service. The bill does not give charter status to Hialeah County, who would be ineligible to impose the tax. Correspondingly, Dade County would lose that pro rata share of its existing levy permitted in Hialeah County.

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<sup>2</sup>Article VIII, s. 1, State Constitution.

**Para-mutual Taxes:** Hialeah County would receive \$446,500 annually in the guaranteed county distribution of pari-mutuel taxes. This extra sixty-eighth county distribution would act as a negative offset of a like amount to the state General Revenue Fund.

**B. Private Sector Impact:**

Individuals and businesses located in the new county will have to establish new “governmental” relationships, which is likely to be temporarily disruptive.

**C. Government Sector Impact:**

The newly created county will be eligible to share in the distribution of local option taxes, gas taxes, and other county revenue sharing through redistribution of such funds as are now directed to Miami-Dade County.

Estimated costs to the Department of Revenue associated with creation of the New County:  
The following table summary discloses the operational costs of creating the County of Hialeah to the department:

<b>Department of Revenue Operational Cost Estimates</b>			
	<b>FY-1</b>	<b>FY-2</b>	<b>Each FY Thereafter</b>
<b>Nonrecurring Costs:</b>			
Contract Labor and associated expenses <sup>3</sup>	<b>\$1,070,561</b>	<b>\$108,000</b>	<b>\$0</b>
<b>Recurring:</b>			
1 Additional FTE <sup>4</sup>	<b>\$50,156</b>	<b>\$50,156</b>	<b>\$50,156</b>
<b>Totals</b>	<b>\$1,120,717</b>	<b>\$158,156</b>	<b>\$50,156</b>

Child Support Enforcement: Chapter 85-178, L.O.F. authorized three child support enforcement demonstration projects, Dade County being one of those legislatively created demonstration sites. The State Attorney for the Eleventh Judicial Circuit administers this project through a contract with DOR including Title IV-D child support

<sup>3</sup> Programming modifications to math audit, distribution, and registration modules in the tax processing system which includes: sales taxes, fuel taxes, and other miscellaneous taxes. Cost: **\$800,000** (8,000 hours of contract labor @ \$100/hr. FY-1 only). Child support data processing program modification. Cost: **\$324,000** (2,880 hours of contract labor @ \$75/hr. In the first year and 1,440 hours in year 2). GTA/Refund and Distribution Process programming modifications: **\$50,000** (FY-1 only). Standard expense and OCO package for 1 additional FTE. Cost: **\$4,561** (FY-1 only).

<sup>4</sup> Estimated salary and benefits package: \$43,415 and \$6,741 respectively.

enforcement services. The State Attorney has indicated that it will continue to provide these same services through contract to the newly created county.

Sales and Use Tax: This applies to businesses which collect and remit local discretionary sales surtaxes, tourist development taxes, and convention development taxes within the newly created county. The bill effects the department's situation regarding this matter in 2 ways: 1. the department will need to assign new sales tax registration numbers to dealers located in Hialeah County, since their Dade County numbers will no longer apply; and 2. the application of Dade County tax collection by the dealers may cover more than a one fiscal year sales tax coupon period requiring the department to notify all businesses within the newly created county that tax collections are no longer necessary.

Discretionary Surtax on Documents: Dade County is authorized to impose a Discretionary Surtax on Documents pursuant to s. 201.031, F.S. The DOR must notify affected businesses and collection agents in the newly created county that the imposition of this local surtax on certain transactions has been eliminated.

Motor Fuel and Diesel Fuel Taxes: Local option taxes collected on the sale or use of diesel fuel are distributed based, in part, on sales of diesel in each county for the base FY 1995-96, pursuant to s. 336.021(1)(c), F.S. Since Hialeah County did not exist during the base year, a new method of calculating the distribution must be determined for the newly created county. Furthermore, the department will have to notify Hialeah County businesses collecting Dade County's local option fuel taxes to discontinue collections.

Revenue Distribution Programs: The department is required to administer several programs which distribute state and/or locally imposed taxes to counties and municipalities. A determination will need to be made as to whether the newly created county will receive a share of these distributions in the first year of operation.

### **Other Related Entities**

**School Board**: Article IX, s. 4 of the State Constitution, requires that "(e)ach county shall constitute a school district." Hialeah County will incur significant expenses in establishing the new school district. Correspondingly, Miami-Dade School District will lose both its tax base and significant state funding (Florida Education Finance Program funds for operating dollars and Public Educational Capital Outlay program funds for capital expenses). There is no provision in this bill to address public schools.

**State Courts System**: The creation of a new county will also have a fiscal effect upon the state courts system. Article V, section 6, Florida Constitution, provides: "There shall be a county court in each county. There shall be one or more judges for each county court as prescribed by general law." Creation of a new county would require courthouse facilities to be constructed and/or leased within the county boundaries, as there are currently none located within the City of Hialeah.

The size of the courthouse facilities necessary can only be roughly estimated. Approximately four County judges might be needed for the newly created Hialeah County (based on simple

extrapolations of population estimates for the City of Hialeah and Dade County as of April 1, 1999, figures provided by the Governor's Office of Planning & Budgeting) under Article V, section 8, Florida Constitution, which requires judges to reside "...in the territorial jurisdiction of his (sic) court." These four judgeships would require personal support staff and both chambers, courtrooms, and office space. Using these same extrapolations, up to seven circuit judge FTEs would need to be provided facilities (both chambers and courtrooms), support staff work space, and operational services to conduct circuit business within the county jurisdiction. Hearing officers/general masters would create additional facility demands. These figures have been utilized to demonstrate the size of the courthouse facilities that could be necessary, but should not be taken as dispositive of the number of judgeships to be assigned or created for a Hialeah County Court.

Other than judgeships and personal staff, which are paid for by the state, most court positions are currently paid for by the county. This situation will change substantially over the next four years with the implementation of Revision 7. These staff include court administrator staff, clerk's staff, court reporters, court interpreters, and hearing officers, among others. In addition, specialized court services would need to be established, such as alternative dispute resolution programs, domestic violence services, indigency examinations, court-ordered psychological evaluations, expert witness fees, witness coordinators and a variety of victim services.

These figures do not include the expenses related to operating the court infrastructure, which can likewise be substantial. Counties are responsible for the majority of these expenses, including utilities, maintenance, repair, and the cost of daily operations.

**Organization:** Hialeah County will incur significant expenses in establishing and operating county constitutional offices and support staff. At this time, it is uncertain as to whether the combination of county property taxes and fees would be enough to offset such expenses. At this time, no feasibility studies have been completed to measure the fiscal and service effects of creating Hialeah County.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

**Transportation:** Carving out a significant portion of the county complicates both the planning and operation of transportation systems and mass transit for Miami-Dade County. Likewise, Hialeah County would have to either assume these responsibilities or contract with Miami-Dade to continue current services. This bill does not address this issue.

**Redistricting:** The district boundaries for both the Miami-Dade County commission and school district will need to be redrawn.



**Comprehensive Planning:** Miami-Dade will be required to amend their existing comprehensive plan and Hialeah County will need to submit a new comprehensive plan to the Department of Community Affairs. It is not clear whether Miami-Dade County's comprehensive plan will control in the intervening period.

**Legal Issues:** Two transition issues with significant legal impact will have to be addressed. First, Hialeah County must be substituted as a party in interest in any legal proceeding affecting administrative and judicial matters then in process in which the original venue was Dade County; and, second, at least a temporary set of ordinances must be enacted, or existing ordinances preserved for a time certain, to provide for the transition of police power from Dade to Hialeah Counties. Absent that transition set of local laws, there may be no activity of a previous criminal nature in Dade County otherwise prosecuted as an ordinance violation which is available for prosecution in Hialeah County.

On November 2, 1999, the City of Hialeah held a Primary and Special Election and considered, among other things, the following non-binding straw ballot question:

Would you vote in favor of the creation of a new county if the State of Florida Legislature were to pass a law creating a new county that would include the territorial boundaries of the City of Hialeah?

Sixty-one percent of the 14,259 electors responding to the question voted "YES."

#### **VIII. Amendments:**

#1 by Fiscal Policy:

The amendment re-authorizes the contractual relationship between the Department of Revenue and the Office of the State Attorney, 11th Judicial Circuit to provide child support services to the County of Hialeah that are now being provided to the citizens of Hialeah within Dade County.