

STORAGE NAME: h1779.ca

DATE: March 19, 2000

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

BILL #: HB 1779

RELATING TO: Broward County/Pompano Beach

SPONSOR(S): Representative Wasserman Schultz

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill extends and enlarges the corporate limits of the City of Pompano Beach to include specified lands known as "Cresthaven" located within unincorporated Broward County. 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 "Cresthaven" 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. 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:

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.

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.

C. EFFECT OF PROPOSED CHANGES:

This bill extends and enlarges the corporate limits of the City of Pompano Beach to include specified lands known as "Cresthaven" located within unincorporated Broward County. 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 "Cresthaven" 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.

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D. SECTION-BY-SECTION ANALYSIS:

Section 1: Extends and enlarges the corporate limits of the City of Pompano Beach to include within its boundaries, a new area known as "Cresthaven"; and provides boundaries.

Section 2: Provides that on the effective date of the act, the City of Pompano Beach is responsible for all municipal powers granted in chapter 166, Florida Statutes, over the annexed territory.

Section 3: 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; and provides that Broward County continues to receive certain revenues generated by the "Cresthaven Area" until the completion of the programmed infrastructure improvements, as appropriate.

Section 4: Upon annexation, 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; and preserves vested property use rights as long as the use is not voluntarily abandoned.

Section 5: 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 "Cresthaven Area" until the area has been annexed.

Section 6: Provides for transfer of roads and public rights-of-way, with the exception of portions of Copans Road, to the annexing municipality.

Section 7: Provides effective date of September 15, 2000.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 26, 2000

WHERE? Sun-Sentinel; Broward County

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:

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A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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Laura L. Jacobs

Joan Highsmith-Smith