

STORAGE NAME: h2405.ca

DATE: April 20, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 2405 (PCB CA 00-09)

RELATING TO: Municipal Annexation

SPONSOR(S): Committee on Community Affairs

TIED BILL(S): None

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

(1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill addresses municipal annexation of property within the boundary of an independent special district that levies ad valorem taxes. This bill provides an orderly transition of special district service responsibilities to an annexing municipality in an equitable manner.

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 [X] |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A [X] |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A [X] |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A [X] |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A [X] |

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.

Section 171.061, F.S.

Upon annexation, the annexed area is subject to the taxes and debts of the municipality upon the effective date of the annexation. However, the annexed area is not subject to then municipal ad valorem tax if the annexation date is after the municipality has levied such tax.

C. EFFECT OF PROPOSED CHANGES:

This bill addresses municipal annexation of property within the boundary of an independent special district which levies ad valorem taxes. This bill provides an orderly transition of special district service responsibilities to an annexing municipality in an equitable manner. Upon annexation of property within a special district's boundaries, a municipality has the option to elect the assumption of the special service responsibilities. If the municipality elects to assume the responsibilities, the municipality and special district may enter into an interlocal agreement to address the transition. If no interlocal agreement can be reached, then the district remains the service provider in the annexed area for a period of four years. During this time, the municipality pays the district an amount equal to the ad valorem taxes or assessment that would have been collected had the property remained in the district. At the end of the four years, or other agreed upon extension, the municipality and district must enter into an agreement regarding the transfer of district property located within the municipality. If no agreement is reached, then the parties precede to circuit court. The bill requires that district service and capital expenditures within the annexed area be rationally related to the annexed area's service needs and that service and capital expenditure shall also be related to received revenues. In addition, a district is prohibited from having a capital expenditure of more than \$25,000 for use primarily within the annexed area without the express consent of the municipality.

If the municipality does not elect to assume district responsibilities, the district continues providing service to the annexed area. In addition, the annexed area remains within the district's boundaries. Finally, the bill allows the district to continue assessing user charges and impact fees within the annexed area while it remains the service provider.

This bill authorizes municipalities to levy assessments on property located within the annexed area to off set all or a portion of the costs incurred by assuming district responsibilities.

Finally, these annexation provisions do not apply to community development districts and water management districts.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates section 171.093, Florida Statutes; provides that the purpose of this section is to provide an orderly transition of special district service responsibilities to an annexing municipality in an equitable manner, when the independent special district levies ad valorem taxes; provides that upon annexation of property within a special district's boundaries, a municipality has the option to elect the assumption of the special service responsibilities;

provides that if the municipality elects to assume the responsibilities, the municipality and special district may enter into an interlocal agreement to address the transition; describes issues that the interlocal agreement must address; provides that if no interlocal agreement can be reached, then the district remains the service provider in the annexed area for a period of four years; requires the municipality to pay the district an amount equal to the ad valorem taxes or assessment that would have been collected had the property remained in the district; requires that at the end of the four years, or other agreed upon extension, the municipality and district must enter into an agreement regarding district property located within the municipality; provides that if no agreement is reached, then the parties proceed to circuit court; requires that district service and capital expenditures within the annexed area be rationally related to the annexed area's service needs; requires that service and capital expenditure shall also be related to received revenues; prohibits a capital expenditure of more than \$25,000 for use primarily within the annexed area without the express consent of the municipality; provides that if the municipality does not elect to assume district responsibilities, the district continues providing service to the annexed area; provides that the annexed area remains within the district's boundaries if the municipality elects not to assume district services; provides for contraction of the district's boundaries if the municipality elects to assume district services; prohibits the district from levying ad valorem taxes during the calendar years its boundaries contract; allows the district to continue assessing user charges and impact fees within the annexed area while it remains the service provider; authorizes municipalities to levy assessments on property located within the annexed area to off set all or a portion of the costs incurred by assuming district responsibilities; provides that these annexation provisions do not apply to community development districts and water management districts.

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has a neutral fiscal impact on local government revenues.

2. Expenditures:

This bill has a neutral fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

This bill is an effort to isolate, on a limited basis, independent special districts from the annexation activity going on in this state. Oftentimes, independent special districts receive no protection from annexing municipalities, even though the district continues to be liable for its debts. As an independent special district's tax base continues to decrease due to annexations, the district may become economically inefficient and unstable. A situation may arise where an independent special district no longer has any property within its boundaries due to annexations. This bill provides a method to allow independent special districts to factor the decreased property base into its budget, while at the same time not restricting municipalities' ability to annex.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise the revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the tax authority that counties or municipalities have to raise revenue in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Association of Independent Special Districts supports this bill.

The League of Cities does not oppose this bill.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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