

STORAGE NAME: h0451s1.go

DATE: February 16, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: CS/HB 451

RELATING TO: Hialeah County Study Commission

SPONSOR(S): Committee on Community Affairs and Representative Rojas

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 1
 - (2) GOVERNMENTAL OPERATIONS
 - (3) GENERAL APPROPRIATIONS (FRC)
 - (4)
 - (5)
-

I. SUMMARY:

This bill creates the Proposed Creation of Hialeah County Study Commission (commission) whose purpose is to review the feasibility of creating a new county out of portions of Miami-Dade County in the area commonly known as Hialeah.

This bill appropriates \$150,000 from the General Revenue Fund to the Legislative Committee on Intergovernmental Relations to be used to carry out the duties of the commission.

A committee substitute was adopted on January 19, 2000 by the House Committee on Community Affairs. Please see section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

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:

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. *Article VIII, Section 1 of the State Constitution.*

The Constitution also provided for general "home rule" authority for counties. In addition, chapter 125, F.S., outlines the powers and duties of counties. There is no provision in the statutes addressing the creation and abolishment of counties. Counties' legal boundaries are provided in chapter 7, F.S., and have, from time to time, been legislatively changed.

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 Committee 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;
- 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 5-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 the referendum for the county formation, the 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;
- Pro-ration of indebtedness of county and school districts; and
- Transfer of county convicts whose offenses were committed within the territory included in Kennedy County.

In 1999, House Bill 857 was introduced which created Hialeah County out of the portion of Miami-Dade County that now comprises the City of Hialeah. This bill was referred to the House Committees on Community Affairs; Governmental Operations; Finance and Taxation; and Education Appropriations on February 25, 1999. The bill died in the Committee on Finance and Taxation on April 30, 1999.

C. EFFECT OF PROPOSED CHANGES:

This bill creates the Proposed Creation of Hialeah County Study Commission whose purpose is to review the feasibility of creating a new county out of portions of Miami-Dade County in the area commonly known as Hialeah and to report such findings by January 31, 2001 to the Governor and the Legislature. In addition, the commission is an advisory board to the Governor and the Legislature.

The proposed study commission is made up of fifteen members. The makeup of the commission is as follows:

- The Governor appoints six members which are comprised of one Miami-Dade commissioner, one member of the South Florida Regional Planning Council who does not live in Miami-Dade, two business representatives who live in Miami-Dade, and two citizen representatives who live in Miami-Dade.
- The Speaker of the House appoints two Representatives.
- The Senate President appoints two Senators.

- Five members are not appointed and are comprised of the chair of the South Florida Water Management District, or his or her designee; the Department of Community Affairs Secretary or his or her designee; the Department of Revenue Director or his or her designee; the Education Commissioner or his or her designee; and the Attorney General or his or her designee.

The chair of the commission is elected by a majority vote of the commission members. There is a technical assistance group which is comprised of representatives from ten different associations, including representatives from the Florida League of Cities, the Florida Association of Counties, and the Florida Association of Property Appraisers. The ten association representatives serve as ex officio members of the commission.

Those members which are appointed must be appointed within 45 days of the effective date of this bill. Within 60 days of the effective date, an initial meeting must be held where rules of procedures are adopted. Following the initial meeting, monthly or more frequent meetings shall be called by the chair.

The commission is given specific and advisory issues to study. Some of these issues include: costs estimates with creating Hialeah County, the fiscal impacts on Miami-Dade and other affected local governments, and revenue sources.

The commission expires on June 1, 2001.

This bill appropriates \$150,000 from General Revenue to the Legislative Committee on Intergovernmental Relations (LCIR) to carry out the duties of the Commission. LCIR is directed to provide technical support to the Commission and is authorized to employ staff or enter into contracts to provide technical support for the commission.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates the Proposed Creation of Hialeah County Study Commission; provides for 15 Commission members; provides that members must be appointed within 45 days of bill's effective date; provides for the election of a chair; provides for the appointment and membership of a technical assistance group to serve as ex officio members; provides the manner of filling vacancies; authorizes the reimbursement of travel and per diem expenses by LCIR for commission members; provides that travel and per diem expenses of ex officio members are paid by their respective association; provides that the commission is an advisory board to the Governor and Legislature; provides for commission meetings; requires the commission to review the feasibility of creating Hialeah County; requires that the commission make certain estimates and projections; requires specified issues be researched by the commission; encourages additional issues to be considered by the commission; requires that state and local governmental entities cooperate in providing necessary information and assistance; requires the commission to report its findings to the Governor and Legislature; provides for expiration of commission.

Section 2: Authorizes LCIR to employ staff or enter into contracts to provide technical support to the commission; authorizes the expenditure of funds in carrying out the duties of the commission; appropriates funds from general revenue to LCIR.

Section 3: Provides effective date of upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There is a non-recurring appropriation from general revenue to LCIR in the amount of \$150,000 to be used by LCIR in carrying out the official duties of the commission.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is an impact on the 10 associations which comprise the technical assistance group. Although travel and per diem reimbursement are provided for commission members, the bill provides that travel and per diem expenses of ex officio members (those representatives from the 10 associations) are assumed by their respective associations.

D. FISCAL COMMENTS:

None.

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 revenues in the aggregate.

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

The bill does not reduce the total aggregate percentage share of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

This bill requires technical support from LCIR and appropriates \$150,000 to LCIR to carry out the duties of the commission. After a review of this bill, LCIR makes the following comments:

- In providing technical support, LCIR is authorized to either employ staff or contract out for support. If LCIR determined that providing support was best done in-house, then a full time employee would most likely be hired to be in charge of the project. In addition, several meetings would be scheduled in Miami to avoid travel expenses except for those for LCIR representatives. LCIR believes that through this project, it would have two functions/duties. First, it would create a template which would state which issues and topics should be considered in creating a new county (this would be useful for future new county attempts). Second, this template would be applied to each of the affected areas (City of Hialeah, Miami-Dade County, State of Florida, etc.). Out of these two duties, creating the template would be the most difficult. If LCIR determined that it should contract out for technical support, LCIR would most likely select an organization that was regionally placed, as that organization would know the local issues, local government, and staff, and would also be able to obtain data easier. The \$150,000 appropriation is sufficient to cover the costs associated with both options.
- LCIR could assume a more objective role if their resources were used to prepare the template as an interim project. By using existing resources, LCIR could do an interim project with Economic & Demographic Research, Department of Revenue, Department of Community Affairs, Department of Education, House and Senate Finance and Tax committees, House and Senate Community Affairs, and representatives from each constitutional officer. In addition, if accepted as an interim project, no appropriation would be required. Once the interim project was completed, then it would be provided to the study commission in year two (2002) for a review by the study commission. This would require adjusting the dates currently provided in the bill for the commission to report to the Governor and Legislature.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 19, 2000, the House Committee on Community Affairs favorably reported the bill as a committee substitute for HB 451 after the adoption of an amendment offered by Rep. Barreiro. The amendment removed the mayor of the City of Hialeah as a member and chair of the commission, and included the chair of the South Florida Water Management District as a member of the commission. The amendment also provided that the chair of the commission is elected by a majority vote of the commission.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Laura L. Jacobs, Esq.

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

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