

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2310

SPONSOR: Senator Dawson

SUBJECT: The City of Pompano Beach, Broward County

DATE: April 20, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bowman	Yeatman	CA	Favorable
2.	_____	_____	RC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends the required interlocal agreement between Broward County and the City of Pompano Beach relating to the annexation of the area known as “Cresthaven.” The interlocal agreement must now include provisions related to jointly funded programmed infrastructure improvements. However, the City of Pompano Beach may not be limited in its ability to receive anticipated utility taxes, utility franchise fees, or other franchise fees. This bill also provides that the population calculation, for purposes of calculating fiscal year 2000 revenue, for the City of Pompano Beach, includes the residents of the annexed area.

This bill amends Chapter 2000-476, Laws of Florida.

II. Present Situation:

Section 2(c), article 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 de-annexed 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 must vote in favor of the annexation. In addition, for the annexation to be valid under Chapter 171, Florida Statutes, the annexation must take place within the boundaries of a single county.

There is a twofold purpose of the Florida annexation laws: 1) to set forth local annexation/contraction procedures, and 2) to establish prerequisites for achieving the legislative goals of sound urban development, uniform legislative standards, and efficient provision of urban services.

Subsection 171.044(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. The Legislature may allow municipalities to annex property by passage of a special act and are empowered to waive any and all statutory requirements.

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 1.5 million residents. Broward County currently contains 31 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, as amended by chapter 99-447, Laws of Florida), which exempts Broward County from the 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 fifteenth day of September 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.

Chapter 2000-476, Laws of Florida

In 2000, the Legislature passed HB 1779, which extended and enlarged the corporate limits of the City of Pompano Beach to include specified lands known as “Cresthaven” located within unincorporated Broward County as of September 15, 2000. An interlocal agreement is required 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. In addition, 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 transfer of all public roads and rights-of-way to the City of Pompano Beach was also provided.

Section 186.901, Florida Statutes, requires the Office of Economic and Demographic Research to provide annually to the Executive Office of the Governor population estimates of local governmental units as of April 1 of each year, utilizing accepted statistical practices. This population estimate of local governments is applied to any revenue-sharing formula with local governments under the provisions of sections 218.20-218.26, Florida Statutes. The Office of Economic and Demographic Research also provides the Executive Office of the Governor population estimates for municipal annexations or consolidations occurring during the period April 1 through February 28. The Executive Office of the Governor includes these estimates in its certification to the Department of Revenue for the annual revenue-sharing calculation.

Population is computed as the number of residents, employing the same general guidelines used by the United States Bureau of the Census. However, for the purpose of revenue-sharing distribution formulas and distribution proportions for the local government half-cent sales tax, inmates and patients residing in institutions operated by the Federal Government, the Department of Corrections, the Department of Health, or the Department of Children and Family Services are not considered as residents of the governmental unit in which the institutions are located.

In cases of annexation or consolidation, local governments are required to submit to the Executive Office of the Governor, within 30 days following annexation or consolidation, a statement as to the population census effect of the action.

Section 218.26, Florida Statutes, address the administration and distribution schedule for revenue sharing programs. The Department of Revenue establishes, for all taxes collected and received into the revenue sharing trust funds, a schedule of equal monthly distribution for any computation period. The Department of Revenue computes the apportionment factors once each fiscal year for use during the fiscal year. The computation is made prior to July 25 of each fiscal year and is based upon information submitted and certified to the department prior to June 1 of each year. Except in the case of error, the apportionment factors remain in effect for the fiscal year.

Retroactive Clauses

Substantive statutes will not operate retroactively absent clear legislative intent to the contrary. *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55, 61 (Fla. 1995). However, if the application of the statute impairs vested rights, creates new obligations, or imposes new penalties, the statute may not be applied retroactively, regardless of legislative intent. *Id.*

In addition, procedural or remedial statutes may be applied retroactively. *Id.* Procedural relates to the means and methods of applying and enforcing those duties and rights prescribed by substantive law. *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1358 (Fla. 1994).

III. Effect of Proposed Changes:

This bill amends the required interlocal agreement between Broward County and the City of Pompano Beach relating to the annexation of the area known as “Cresthaven” as provided in chapter 00-476, Laws of Florida. The interlocal agreement must now include provisions related to jointly funded programmed infrastructure improvements. However, the City of Pompano Beach may not be limited in its ability to receive anticipated utility taxes, utility franchise fees, or other franchise fees.

This bill creates a new section within chapter 00-476, Laws of Florida, which provides that the population calculation for fiscal year 2000 revenue purposes for the City of Pompano Beach includes the residents of the newly annexed area. This allows the City of Pompano Beach to include the census figures from the annexed area as part of the calculation for the City before the next census from the date of the annexation.

This bill provides that both of the above revisions to chapter 00-476, Laws of Florida, are applied retroactively to September 15, 2000, the annexation’s effective date. It appears as though these revisions may be applied retroactively as it does not impair any vested rights, impose any new penalties, or create new obligation.

The bill’s economic impact statement provides that there is no fiscal impact.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Revenue has stated that this bill's impact on revenue sharing is minimal.

VI. Technical Deficiencies:

Section 2 of the bill provides that for the purpose calculating utility taxes, utility franchise fees or other franchise fees, the population figures for the City of Pompano Beach shall include all of the new residents added to the city as a result "of the enactment of this act." The way this section is drafted the "act" would appear to refer to SB 2310 when the intention is for act to refer to chapter 2000-476, Laws of Florida.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
