

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Background

Constitutional/Statutory Provisions Relating to Annexation¹

Article VIII, s. (c), State Constitution, provides that “[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.” This provision 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.

The Legislature established local annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the “Municipal Annexation or Contraction Act.” Chapter 171, F. S., 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 must formally seek the annexation by petition to the governing body of a municipality. 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 an annexation to be valid under ch. 171, F. S., 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 criteria for achieving the legislative goals of sound urban development, uniform legislative standards and efficient provision of urban services.

Statutory Requirements That Must Be Met Before Annexation May Occur

Before local annexation procedures may begin, the governing body of the municipality must prepare a report containing plans for providing urban services to any area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, plans for extending municipal services, 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:

¹ The term “annexation” is defined in the Florida Statutes to mean “the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.” See, s. 171.031(1), F.S.

- 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 an 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 resident population of at least two persons per acre;
 - if 60 percent of the subdivided lots are one acre or less, having a density of one person (resident) per acre; or
 - having at least 60 percent of the subdivided lots used for urban purposes, and having at least 60 percent of the total urban residential acreage divided into lots of five 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 for the extension of municipal services.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.

Types of Annexations

Voluntary Annexation

If the property owners of a particular unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section.171.044 (4), F. S., provides that the procedures for voluntary annexation are “supplemental to any other procedure provided by general law or special law.” 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 municipality to annex the property after publication of notice at least once a week for two 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 Annexations

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is called involuntary annexation. In general, the

requirements for an involuntary annexation are:

- The adoption of an annexation ordinance by the annexing municipality's governing body.
- Prior to the adoption of the ordinance, the governing body of the municipality must hold at least two advertised public hearings, with the first meeting held on a weekday at least seven days after the first advertisement and the second meeting held on a weekday at least five days after the first advertisement.²
- 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.

In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

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 two years from the date of the referendum.

Annexation of Enclaves

With the passage of ch. 93-206, L.O.F.,³ 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. A separate process for annexing enclaves of 10 acres or less was created. 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.

Effect of Annexation on an Area

Upon the effective date of an annexation, the area becomes subject to all laws, ordinances and regulations applicable to other city residents. An exception occurs pursuant to s. 171.062(2), F.S., in that if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in effect until the municipality adopts a comprehensive plan amendment that includes the annexed area. In contractions, excluded territory is immediately subject to laws, ordinances and regulations in effect in the county.

Affected persons who believe they will suffer material injury because of the failure of the city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If the appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.

Finally, any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.

² (This new requirement was passed by the 1999 Legislature.)

³ Section 171.046, F.S.

HB 1151

This bill provides for the City of Melbourne to annex its water treatment plants, located on Lake Washington Road in an unincorporated area of Brevard County. The annexation is being proposed in an effort to improve security at these plants. Because the plants are not in the city limits, they do not fall within existing police patrol zones. Upon annexation, the Melbourne Police Department will reconfigure existing zones to provide regular patrol coverage. The annexed area surrounds a Brevard County park, which is not included in the annexation.

C. SECTION DIRECTORY:

Section 1: Provides that the corporate limits of the City of Melbourne are enlarged to include property which is legally described.

Section 2: Provides for the transfer to the city of all county public roads and public rights-of-way, except for county collector roads⁴ and all roads within the state highway system and any associated public rights-of-way.

Section 3: Provides that the city will have all municipal powers granted pursuant to ch.166, F.S., over the annexed territory on the effective date of the act.

Section 4: Provides an effective date of July 1, 2004.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 12, 2004

WHERE? *Florida Today*, a newspaper of general circulation, Brevard County, Florida

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

According to the Economic Impact Statement, there are no costs associated with this bill.

III. COMMENTS

⁴ Section 334.03, F.S., defines a "collector road" as "... a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs."

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.