

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 985 w/CS Conflict Resolution/Annexation
SPONSOR(S): Ross
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>19 Y, 0 N w/CS</u>	<u>Nelson</u>	<u>Cutchins</u>
2) <u>Judicial Appropriations</u>	_____	_____	_____
3) <u>Appropriations</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill requires a governmental entity which is affected by the passage of an annexation or contraction ordinance to initiate and proceed through ch. 164, F.S., conflict resolution procedures before it may file a petition in circuit court seeking review by certiorari. The bill also provides legislative intent with regard to the creation of interlocal service boundary agreements.

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

Annexation¹

Article VIII, s. 2(c), of the State Constitution, authorizes the Legislature:

- to annex unincorporated property into a municipality by special act; and
- 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 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. Florida annexation laws have a twofold purpose: 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.

Florida’s annexation laws have remained largely unchanged for 30 years. During this period, many municipalities have expanded their boundaries to reach an expanding population in urbanizing counties. This expansion, in some cases, has created conflict between cities and counties.

Chapter 171, F.S., currently provides that no later than 30 days following the passage of an annexation or contraction ordinance, any affected party who believes that he or she will suffer material injury by reason of the failure of the municipal governing body to comply with the procedures or meet the requirements set forth in the chapter may file a petition in the circuit court seeking review by certiorari. In any action instituted pursuant to this section, the complainant, should he or she prevail, is entitled to reasonable costs and attorney’s fees.

Florida Governmental Conflict Resolution Act

Chapter 164, F.S., is known as the “Florida Governmental Conflict Resolution Act.” The stated purpose of the act is to promote, protect and improve the public health, safety and welfare and to enhance intergovernmental coordination efforts by the creation of a governmental conflict resolution procedure that can provide an equitable, expeditious, effective and inexpensive method for resolution of conflicts between and among local and regional governmental entities. It is the intent of the Legislature that conflicts between governmental entities be resolved to the greatest extent possible without litigation.

¹ “Annexation” is defined by s. 171.031(1), F.S., as “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.”

If a governmental entity files suit against another governmental entity, court proceedings on the suit must be abated, by order of the court, until the procedural options of the act have been exhausted.

The provisions of the act do not apply to conflicts between governmental entities if an alternative dispute resolution process, such as mediation or arbitration, is specifically required by general law or agreed to by contract, interlocal agreement, or other written instrument, or if the governmental entities have reached an impasse during an alternative dispute resolution process engaged in prior to the initiation of court action. The act specifically states that it applies to governmental conflicts arising from municipal annexation.

Pursuant to ch. 164, F.S., the governing body of a governmental entity is required to initiate the conflict resolution procedures through passage of a resolution by its members. Within five days after the passage of the resolution, a letter and a certified copy of the resolution must be provided to the chief administrator of the governmental entity or entities with which the governing body has a conflict by certified mail, return receipt requested.

After the initiation of the conflict resolution procedure and after proper notice by certified letter has been given, a conflict assessment meeting is scheduled to be held within 30 days of the receipt of the letter initiating the conflict resolution procedure. The assistance of a facilitator may be enlisted for this meeting. If a tentative resolution can be agreed upon, the governmental entities may proceed with whatever steps deemed appropriate to fully resolve the conflict. A governmental entity may request mediation after conclusion of the conflict assessment meeting.

In the event that no tentative resolution can be reached, the governmental entities must schedule a joint public meeting within 50 days of the receipt of the first letter initiating the conflict resolution process. If the parties agree, the assistance of a facilitator may be enlisted. In this meeting, the governing bodies of the governmental entities:

- consider the statement of issues prepared in the conflict assessment phase;
- seek an agreement;
- schedule additional meetings to continue to seek resolution of the conflict.

If no agreement is reached, the governmental entities are required to participate in mediation.

If there is failure to resolve a conflict between governmental entities through the above-described procedures, the entities participating in the dispute resolution process may avail themselves of any otherwise available legal rights.

HB 985

HB 985 requires a governmental entity which is adversely affected by the passage of an annexation or contraction ordinance to initiate and proceed through ch. 164, F.S., conflict resolution procedures before it may file a petition in circuit court seeking review by certiorari. The petition may be filed no later than 30 days after the conclusion of such procedures.

The Sponsor of the bill has indicated that current law does not preclude a governmental unit from filing a suit before it participates in dispute resolution proceedings. He cites an example of two municipalities currently involved in an annexation dispute which have incurred costs of over \$100,000 to hire attorneys, pay court filing costs, etc, to get to the point where the court can "abate" the suit and conflict resolution can begin in earnest.

C. SECTION DIRECTORY:

Section 1: Amends s. 171.081, F.S., to require a governmental entity to initiate ch. 164, F.S., conflict resolution proceedings no later than 30 days following the passage of an annexation or contraction

ordinance, if it believes that it will suffer material injury by reason of the failure of the municipal governing body to comply with statutory annexation/contraction procedures or requirements.

Provides that the governmental entity may file a petition seeking review by certiorari no later than 30 days following the conclusion of the ch. 164, F.S., procedures if the conflict is not resolved.

Defines "governmental entity" as a county, municipality, or special district.

Section 2: Creates part II, of ch. 171, F.S., the "Interlocal Service Boundary Agreement Act." Provides legislative intent to provide an alternative to part I of the chapter regarding annexation. Provides for definitions. Provides legislative intent to develop a process for local governments to enter into interlocal service boundary agreements.

Section 3: Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may result in the resolution of local government disputes before litigation is initiated, thus saving attorneys' fees and court costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on Local Government & Veterans' Affairs adopted an amendment at its meeting on April 14, 2004, which creates part II of ch. 171, F.S., the "Interlocal Service Boundary Agreements Act" and provides legislative intent to develop a process for local governments to enter into such agreements.