

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

HB 1669 provides new requirements for a charter county that wishes to avail itself of the exemption from the voluntary annexation provisions of s. 171.044(4), F.S.

The bill renames s. 171.044, F.S., from “voluntary” to “expedited” annexation.

The bill requires a charter county to “set forth verbatim” their exclusive method an “expedited” annexation, and for a “metes and bounds” description to identify the area to be governed by such exclusive method.

The bill appears to require a charter county to amend its charter to provide an exclusive voluntary, now expedited, annexation methodology in a very detailed manner to include a specific identification of the area to be affected.

Background

Currently, s. 171.044(4), F.S., provides:

The method of annexation provided by this section shall be supplemental to any other procedure provided by general or special law, except that this section shall not apply to municipalities in counties with charters which provide for an exclusive method of municipal annexation.

According to a representative of the Florida Association of Counties¹, some six charter counties² currently have charter provisions which provide for an exclusive voluntary annexation method. The bill may invalidate some of these charter provisions.

C. SECTION DIRECTORY:

Section 1. Amends ss. 171.044(2), (4), and (5), F.S.

Section 2. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ Sarah M. Bleakley, Nabors, Giblin & Nickerson, P.A., Special Counsel to Florida Association of Counties.

² Including Orange County in 1990; Pinellas County in the 2000-2002 time period; and the most recent, Palm Beach County.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Comments

The bill appears to affect the outcome of pending litigation wherein The Village of Wellington (Village) is seeking a declaratory judgment and injunctive relief as against Palm Beach County.³ According to an Amended Complaint filed October 12, 2004, the Village seeks relief to invalidate a charter amendment which establishes an exclusive method for voluntary municipal annexation, pursuant to s. 171.044(4), F.S., including the designation of an unincorporated protection area and designation of an unincorporated rural neighborhood.

³ The *Village of Wellington, et. al, v. Palm Beach County, et. al*, Circuit Court, 15th Judicial Circuit, Palm Beach County, Case No. 50-2004-CA9387-XXXXMB-AB.

Proponents: According to a representative⁴ of The Village of Wellington, this municipality supports the bill. The Village of Wellington, through its representative⁵, offered the following additional remarks.

“House Bill 1669 seeks to clarify existing law that provisions concerning expedited (voluntary) annexation pursuant to Fla. Stat. ss. 171.044 must appear in full in the charter, rather than be adopted merely by county ordinance. HB 1669 will be amended to delete, on page 2, lines 37 and 38, all underlined portions.

Article VIII, Florida Constitution, provides that municipal annexation will be governed by general law. In light of this constitutional provision, it is inconceivable that provisions regarding voluntary annexation methods could be governed by county ordinances. Accordingly, Florida general law, Fla. Stat. 171.044, refers to home rule county adoption of voluntary annexation methods in their charter, rather than by ordinance.

Nonetheless, two counties, Pinellas and Palm Beach, are attempting to regulate municipal annexation by county ordinance. The ordinances are authorized by blanket provisions in their charters, which grant their county commission authority to regulate annexation methods by ordinance. This is contrary to both constitutional and statutory provision in Fla. Stat. ss. 171.044. The bill would simply clarify that these annexation methods must appear in the charter, and that the charter cannot delegate authority to regulate these matters by simple ordinance.

If the annexation method does not appear in the charter itself, it is left unclear to the voters what annexation method will ultimately be adopted by ordinance. Further, the county commission could change or delete the ordinance at any time without voter approval.

The bill only affects two counties (Pinellas and Palm Beach), which did not afford their voters the opportunity to decide on the annexation method in their charters. Orange County is not affected because its method is contained in its charter. Miami-Dade County is likewise not affected because of its constitutional home-rule provision adopted in the 1950s. Both Pinellas and Palm Beach County have been sued by local municipalities for attempting to regulate annexation by ordinance.”

Opponents: According to a representative⁶, the Florida Association of Counties (FAC) opposes the bill. The FAC believes that HB 1669 will have the effect of repealing several charter county provisions adopted by referendum governing the methods that property may be annexed by a city, in accordance with the provisions of chapter 171, Florida Statutes. Those charter counties include the following: Palm Beach, Pinellas, Orange, Volusia; Seminole. The Florida Association of Counties opposes legislation to repeal those charter provisions that have been approved by the voters.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

⁴ Claudio Riedi, Esq., Lehtinen Vargas & Riedi, Counsel to The Village of Wellington.

⁵ Dexter W. Lehtinin, Esq., Lehtinen, Vargas & Riedi, P. A.

⁶ Sarah M. Bleakley, Nabors, Giblin & Nickerson, P.A., Special Counsel to Florida Association of Counties.