



## 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:

##### Background

Chapter 171, F.S., provides general law procedures for municipal annexation. Section 171.044, F.S., provides a mechanism for “voluntary annexation” within this context. 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 Counties,<sup>1</sup> some six charter counties<sup>2</sup> currently have charter provisions which provide for an exclusive voluntary annexation method.

##### 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 requires such counties to “set forth verbatim” their exclusive method an “expedited” annexation.

The bill exempts from its application those municipalities in counties where expedited annexation procedures in the county charter were officially approved by a countywide planning council which represents local governments within the county prior to a referendum vote amending the charter to permit expedited annexation procedures to be established by county ordinance.

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

#### 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.

##### 2. Expenditures:

None.

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

<sup>2</sup> Including Orange, Pinellas and Palm Beach counties.

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

The use of the term "expedited" in lieu of "voluntary" annexation on lines 16 and 47 of the CS for HB 1669 may be confusing. The Sponsor of the bill may want to consider an amendment to the bill which retains original language for the title of s. 171.044, F.S., and at (5).

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 against Palm Beach County.<sup>3</sup> 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.

<sup>3</sup> 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 representative<sup>4</sup> of The Village of Wellington, this municipality supports the bill. The Village of Wellington, through its representative,<sup>5</sup> offered the following additional remarks.

House Bill 1669 seeks to clarify existing law that provisions concerning expedited (voluntary) annexation pursuant to s.171.044, F.S., must appear in full in the charter, rather than be adopted merely by county ordinance.

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, s.171.044, F.S., 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 s. 171.044, F.S. 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),<sup>6</sup> 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 representative,<sup>7</sup> 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 ch. 171, F. S. Those charter counties include the following: Palm Beach, Pinellas, Orange, Volusia and 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**

On April 12, 2005, the Growth Management Committee adopted two amendments as described below.

- Amendment No. 1: Provided an exemption from the voluntary annexation procedure so that the bill applies to certain municipalities.

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<sup>4</sup> Claudio Riedi, Esq., Lehtinen Vargas & Riedi, Counsel to The Village of Wellington.

<sup>5</sup> Dexter W. Lehtinen, Esq., Lehtinen, Vargas & Riedi, P. A.

<sup>6</sup> *Id.* The provisions of the bill, as amended, only apply to Palm Beach County

<sup>7</sup> Sarah M. Bleakley, Nabors, Giblin & Nickerson, P.A., Special Counsel to Florida Association of Counties.

- Amendment No. 2: Removed a requirement to identify by metes and bounds all areas governed by an exclusive county charter method for voluntary annexation.