

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1315 County Boundaries
SPONSOR(S): Government Efficiency & Accountability Council, Hasner and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2752

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Government Efficiency & Accountability Council</u>	<u>10 Y, 0 N, As CS</u>	<u>Nelson</u>	<u>Cooper</u>
2) <u>Policy & Budget Council</u>	<u>25 Y, 0 N</u>	<u>Voyles</u>	<u>Hansen</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Florida Constitution provides for the state to be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt. The boundary lines for Florida’s 67 counties are described by the Florida Statutes. Since 1925, approximately 31 general laws revising existing county boundaries have passed the Florida Legislature.

This bill revises the boundary between Broward and Palm Beach counties. It amends general law to extend the boundaries of Broward County and decrease the boundaries of Palm Beach County, thus transferring the property at issue, and also annexes a portion of this property into the City of Parkland in Broward County. The bill additionally provides that:

- All land use and zoning designations applicable to the subject property will continue in effect until changed by the entity with jurisdiction over the land subsequent to the effective date of the act.
- All development orders, permits and licenses pertaining to the subject property will remain in effect.
- All public roads and associated rights-of-way contained within the subject property will be transferred from Palm Beach County’s jurisdiction to the appropriate jurisdiction.
- Broward County will be embodied with all powers granted pursuant to the State Constitution, the Florida Statutes and the Broward County Charter over the transferred territory, and the City of Parkland will be embodied with all municipal powers as provided by law over the annexed territory.
- The annexation procedures provided in two special laws are superseded for purposes of the act.
- Payment or apportionment of the public debt relating to the transferred land will be provided pursuant to an interlocal agreement between Palm Beach and Broward counties.

The bill also provides for the continuation of contracts in effect prior to the effective date of the act, and for an effective date contingent on the approval of a comprehensive plan amendment by the Department of Community Affairs which would delete the extensions of two Palm Beach County roads.

Section 6 of Art. III of the State Constitution imposes a single subject restriction on laws enacted by the Legislature. See, III. COMMENTS, A. CONSTITUTIONAL ISSUES, for a discussion of how this requirement may be construed with regard to the provisions of the bill. Also, see, III. COMMENTS, C. DRAFTING ISSUES OR OTHER COMMENTS, of this analysis for a discussion of the classification of this bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

The bill will transfer responsibilities relating to annexed property from a county to the City of Parkland.

Ensure Lower Taxes

It is unknown whether property owners will pay higher taxes as a result of becoming part of Broward County or the City of Parkland.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Constitution/Statutes Relating to Counties

Section 1 (a) of Art. VIII of the State Constitution, provides that:

[t]he state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

Chapter 125, F.S., outlines the powers and duties of Florida counties. Chapter 7, F.S., describes the boundary lines for Florida's 67 counties. Since 1925, approximately 31 general laws revising existing county boundaries have passed the Legislature.¹

Constitutional/Statutory Provisions Relating to Annexation²

Section 2 (c), of Art. VIII of the 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 authorized 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 mechanisms by which property can be annexed or deannexed by cities without passage of an act by the Legislature.

Broward County Annexations

Broward County is located on Florida's South Atlantic coast and currently contains 31 municipalities, the majority of which achieved their current corporate boundaries through a multitude of annexations. The 1996 Florida Legislature adopted a special act³ which describes Broward County as having "numerous scattered unincorporated pockets which reflect the haphazard manner in which annexation

¹ The Local Government Formation Manual, Committee on Urban & Local Affairs, Florida House of Representatives, 2007.

² 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.

³ Chapter 96-542, L.O.F., which subsequently was amended by ch. 99-447, L.O.F.

into municipalities has taken place over the years by the application of general annexation laws of the state....” This law currently requires that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to ch. 171, F.S., must first 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 15th day of September following adjournment sine die of the next regular legislative session following the completion of all necessary procedures for annexation.

Palm Beach and Broward Counties

Palm Beach and Broward Counties are both charter counties located in southeastern Florida. Approximately 1,949 acres of land in the southern section of Palm Beach County is separated geographically from the remainder of the county by a water boundary created by the Hillsboro Canal. The property at issue forms a triangle-shaped parcel west of U.S. 441 (known as State Road 7 in Broward County) and south of the canal, and is commonly referred to as “The Wedge” or “The Golden Triangle.” This site consists of 67.63 percent vacant land and 27.14 percent agricultural use. The remaining land is used for industrial and commercial purposes, and includes a storage yard, distribution site and one mobile home.⁴

Multiple owners⁵ of the land intend to build 2,822 homes and 350,000 square feet of commercial space. Broward and Palm Beach counties have indicated that, at the present time, necessary governmental services may only be provided to the 1,949 acres by traveling on Broward County roadways.⁶ There has been public resistance to construction of additional access due to traffic impacts on existing residential areas.

Effect of Proposed Changes

This bill revises the boundaries of Broward and Palm Beach counties. It amends s. 7.06, F.S., to extend the boundaries of Broward County and s. 7.50, F.S., to decrease the boundaries of Palm Beach County, thus transferring the property at issue. The bill also annexes a portion of the transferred property, approximately 470 acres,⁷ into the City of Parkland.⁸

Additionally, the bill provides that:

- All land use and zoning designations applicable to the subject property will continue in effect until changed by the entity or entities with jurisdiction over the land subsequent to the effective date of the act. This language requires that the Palm Beach County land use and zoning designations will continue with regard to the property—after the property has been transferred to Broward County and the City of Parkland—until such designations are changed by Broward County or the City of Parkland.
- All development orders, permits and licenses pertaining to the subject property in existence on the date the property is transferred to Broward County will remain in effect and permitted to continue in accordance with their terms. According to the proponents of the bill, this language was included to accommodate a property owner (WCI Communities, Inc.) that has a mining

⁴ March 16, 2007, e-mail from Andy Maurodis, attorney for the cities of Parkland and Deerfield Beach.

⁵ There are 21 property owners in “The Wedge.” April 5, 2007, telephone conversation with Stephanie Toothaker, Blosser & Sayfie. It is unknown which or how many owners are involved in the development plans for the property.

⁶ The property may be accessed from Palm Beach County by driving south through Broward County on State Road 7, then west on Lox Road.

⁷ April 5, 2007, telephone conversation with Stephanie Toothaker, Blosser & Sayfie.

⁸ Letters have been received by the Committee on Urban & Local Affairs documenting the consent of the major property owners to be annexed into the City of Parkland. April 2, 2007, e-mail from Stephanie Toothaker, Blosser & Safie, transmitting letter from Triple H Ranch Property, Ltd., and April 6, 2007, e-mail from Jordana Jarjura, Blosser & Safie, transmitting letter from Debuys Property Investment Group, Ltd.

operation on its land, and an existing permit and license.⁹ Apparently, Broward County does not allow this type of activity. The existence or nature of other permits, licenses and development orders and licenses is unknown, and the future issuance of such is unpredictable.

- All public roads and associated public rights-of-way contained within the subject property will be transferred from Palm Beach County's jurisdiction to the jurisdiction of Broward County, except for those public roads and rights-of-way within the annexed lands which will be transferred to the City of Parkland.
- On the effective date of the act, Broward County will be responsible for and embodied with all powers granted pursuant to the State Constitution, Florida Statutes and Broward County Charter over the transferred territory.
- On the effective date of the act, the City of Parkland will be responsible for and embodied with all municipal powers as provided by law over the annexed territory.
- Nothing in the act be construed to affect or abrogate the rights of parties to any contracts which are in effect prior to the effective date of the act.
- For the purposes of the act, the procedures set forth in chs. 96-542 and 99-447, L.O.F., are superseded. These special acts require that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to ch. 171, F.S., 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 15th day of September following adjournment sine die of the next regular legislative session following the completion of all necessary procedures for annexation. It is questionable whether these two special acts would apply to this annexation, as it is not being conducted pursuant to ch. 171, F.S., but would be effected by this bill.
- Palm Beach and Broward counties will be responsible for any public debt associated with the transferred property as required by s. 1, Art. VIII of the State Constitution, pursuant to an interlocal agreement to be executed no later than September 30, 2007.
- The provisions of the act are severable.

Lastly, the act provides for a for an effective date contingent on the approval of a comprehensive plan amendment by the Department of Community Affairs which would delete the extensions of Riverside Drive and University Drive in Palm Beach County, or the successful abandonment of such by Palm Beach County. See, III. COMMENTS, A. CONSTITUTIONAL ISSUES, for a discussion of contingent effective dates.

C. SECTION DIRECTORY:

Section 1: Amends s. 7.06, F.S., to revise the boundary lines of Broward County.

Section 2: Amends s. 7.50, F.S., to revise the boundary lines of Palm Beach County.

Section 3: Provides an unnumbered section of law which annexes specified property into the City of Parkland.

Section 4: Provides an unnumbered section of law relating to land use and zoning designations, and development orders, permits and licenses.

⁹ April 5, 2007, telephone conversation with Stephanie Toothaker, Blosser & Sayfie.

Section 5: Provides an unnumbered section of law relating to public roads and the public rights-of-way.

Section 6: Provides an unnumbered section of law relating to Broward County's powers.

Section 7: Provides an unnumbered section of law relating to the City of Parkland's municipal powers.

Section 8: Provides an unnumbered section of law relating to continuation of contracts.

Section 9: Provides an unnumbered section of law which provides that the procedures in chs. 96-542 and 99-447, L.O.F., are superseded for purposes of the act.

Section 10: Provides for payment or apportionment of public debt.

Section 11: Provides for severability.

Section 12: Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:¹⁰

1. Revenues:

Revenue Sharing

A number of taxes are distributed to counties pursuant to an allocation formula including the Constitutional Fuel Tax, County Fuel Tax, County Revenue Sharing Program and Local Government Half-Cent Sales Tax Program. Typical allocation formulas include:

Constitutional Fuel Tax

$\frac{1}{4}$ x $\frac{\text{County Area}}{\text{State Area}}$

$\frac{1}{4}$ x $\frac{\text{County Population}}{\text{State Population}}$

$\frac{1}{2}$ x $\frac{\text{Total Tax Collected Countywide during the previous fiscal year}}{\text{Total Tax Collected Statewide during the previous fiscal year}}$

County Fuel Tax:

¹⁰ Fiscal impact data has been requested from both Broward and Palm Beach counties, but is unavailable.

$$\begin{aligned} & \frac{1}{4} \quad \times \quad \frac{\text{County Area}}{\text{State Area}} \\ & \frac{1}{4} \quad \times \quad \frac{\text{County Population}}{\text{State Population}} \\ & \frac{1}{2} \quad \times \quad \frac{\text{Total Tax Collected on County Retail Sales and Use in the Prior FY}}{\text{Total Tax Collected Statewide on Retail Sales and Use in the Prior FY}} \end{aligned}$$

County Revenue Sharing Program:

Apportionment

$$\text{Factor} = \frac{\text{County Population} + \text{Unincorporated County Population} + \text{County Sales Tax Collection}}{\text{County Population} + \text{Unincorporated County Population} + \text{County Sales Tax Collection}} \times \frac{1}{3}$$

While no calculations have been undertaken, given the relative size and population of Palm Beach and Broward Counties, and the limited acreage involved, the transfer should have an insignificant effect on the portion of state shared revenues received by each county. A request has been made to the Department of Revenue to confirm this statement.

Taxes and Assessments

Palm Beach County will lose any revenues associated with taxes and assessments paid by the property transferred to Broward County, while Broward County will gain any such revenues.

2. Expenditures: Palm Beach County will no longer have expenditures associated with the property transferred to Broward County, while Broward County may now have such expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

D. FISCAL COMMENTS:

The City Attorney for Deerfield Beach has indicated that no special taxing districts exist within the boundaries of the land to be transferred.¹¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Contingent Effective Dates

Section 9 of Art. III of the State Constitution provides, in relevant part, that:

¹¹ March 16, 2007, e-mail from Andy Maurodis.
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DATE: 4/13/2007

Each law shall take effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted or as otherwise provided therein.

While the Legislature may not delegate power to enact a law, it does not appear to be precluded from predicating the effectiveness of an act on the happening of an event absent constitutional or statutory provisions to the contrary. The Florida Supreme Court also has opined that the Legislature may leave the determination of the time when a statute becomes effective to the decision of executive or other officials when the matter is dependent on future conditions. Ex parte Lewis, 135 So. 147 (Fla. 1931). If such conditions are not fulfilled, the statute will not become effective. Brown v. City of Tampa, 149 Fla. 482, 6 So.2d 287 (1942).

Notice Requirement for Special Acts

The language in the bill which annexes the property into the City of Parkland and the language which proposes to supersede chs. 96-542 and 99-447, L.O.F., (both of which are special acts), appears to have the characteristics of a local bill. The State Constitution defines a “special law” as a special or local law (the result of a local bill).¹² As explained by case law, a local law is one relating to, or designed to operate only in, a specifically indicated part of the state, or one that purports to operate within classified territory when classification is not permissible or the classification is illegal. Department of Business Regulation v. Classic Mile, Inc., 541 So. 2d 1155 (Fla. 1989) quoting from State ex rel. Landis v. Harris, 120 Fla. 555, 1633 So. 237 (Fla. 1934).

Section 10, Art. III of the State Constitution requires a local bill to be noticed as provided by general law¹³ unless the bill is conditioned on a referendum of the electors of the area affected. While the proponents of the bill noticed portions of it in the *Sun-Sentinel*, a newspaper published in Broward and Palm Beach counties, on February 7, 2007, this notice did not include the provisions in the bill which state that the procedures in chs. 96-542 and 99-447, L.O.F., are superseded for purposes of the act. These are the two special acts which require that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to ch. 171, F.S., first must be considered at a public hearing conducted by the Broward County Legislative Delegation, and are not effective until the 15th day of September following adjournment sine die of the next regular legislative session. Nonetheless, it is questionable whether these two special acts would apply to this annexation, as it is being effected in accordance with the bill, not ch. 171, F.S. Thus, this defect should not be significant. See, Drafting Issues, below.

Single Subject Restriction

Section 6 of Art. III of the State Constitution imposes a single subject restriction on laws enacted by the Legislature: “Every law shall embrace but one subject and matter properly connected therewith....” The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise or fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by the court in determining whether a particular provision violates the single subject rule, the fact that the scope of a legislative enactment is broad and comprehensive is not fatal under the single subject rule so long as the matters included in the enactment have a natural or logical connection.¹⁴

It could be determined that this bill violates the constitutional single subject rule. A county boundary change is effected by amending ch. 7, F.S. A municipal annexation which is not conducted on the local

¹² Section 12(g), Art. X. of the State Constitution.

¹³ See, s. 11.02, F.S.

¹⁴ Chenoweth v. Kemp, 396 So.2d 1122 (Fla. 1981).

level pursuant to the procedures provided in ch. 171, F.S., generally is accomplished pursuant to a special act.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The Sponsor of the bill may want to remove Section 9 of the bill which provides for the superseding of chs. 96-542 and 99-447, L.O.F., as these laws do not appear to apply to the subject annexation.

Other Comments

Palm Beach and Broward Counties

Both Palm Beach and Broward counties support this bill. ¹⁵

House Local Bill Policy

As noted in III. COMMENTS, CONSTITUTIONAL ISSUES, above, there are aspects of this bill which are characteristic of a local bill. The Florida House of Representatives has a local bill policy which was not followed with regard to these parts of the bill. This policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or by a higher threshold if so required by the legislative delegation. House Policy also requires that no local bill be considered by a council or a committee without an original Economic Impact Statement which has been prepared at the local level. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction.

D. STATEMENT OF THE SPONSOR

No statement submitted.

AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 11, 2007, the Government Efficiency & Accountability Council adopted a strike-all amendment and reported HB 1315 as a council substitute. This analysis has been updated to reflect the council substitute.

¹⁵ Conversation with Edward Labrador, Broward County Office of Public & Governmental Relations, March 14, 2007, and conversation with Todd J. Bonlarron, Legislative Affairs Director, Palm Beach County Board of County Commissioners, on March 15, 2007.