

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Operations Committee

BILL: CS/SB 2752

INTRODUCER: Governmental Operations Committee and Senator Ring

SUBJECT: County Boundaries

DATE: April 19, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/1 amendment
2.	McKay	Wilson	GO	Fav/CS
3.			JU	
4.				
5.				
6.				

I. Summary:

The bill moves 1,949 acres from the jurisdiction of Palm Beach County to Broward County, of which 470 acres are annexed by the City of Parkland. Land use and zoning designations applicable to the 1,949 acres remain in effect until changes are made by the entity with jurisdiction after the effective date of the bill. Development orders, permits, and licenses in existence on the effective date of this bill remain in effect and shall continue according to their terms. Public roads and the associated rights-of-way within the 1,949 acres are transferred from Palm Beach County to the appropriate jurisdiction. Broward County and the City of Parkland are embodied with all powers in chapters 125 and 166, respectively, with respect to the lands. The bill contains a savings clause for contracts entered into prior to the bill's effective date, and a severability clause.

This bill substantially amends sections 7.06 and 7.50 of the Florida Statutes. It also creates nine unnumbered sections of law.

II. Present Situation:

History of Counties in Florida

While the provisional government and territorial councils provided for county forms of government in Florida, counties did not receive constitutional status until 1861. The Constitution of 1885 first recognized counties as legal subdivisions of the state. In addition, the Legislature was granted the power to create new counties and alter county boundaries.¹ Gilchrist County was

¹ *The Local Government Formation Manual*, Government Efficiency and Accountability Council, Committee on Urban and Local Affairs, Florida House of Representatives, 2007 at p. 5.

created in 1925 as the last of Florida's current 67 counties.² Since 1925, there have been minor changes to a few county boundaries.

The revised State Constitution of 1968 amended the provision in the 1885 Constitution relating to county formation. Section 1(a), Art. VIII of the State Constitution of 1968, states:

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

Chapter 7, F.S., provides the boundary lines for Florida's 67 counties. Chapter 125, F.S., outlines the powers and duties of counties.

Constitutional/Statutory Provisions Relating to Annexation³

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 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 mechanisms by which property can be annexed or deannexed by cities without passage of an act by the Legislature.

Golden Wedge or Triangle

The 1,949 acres that are the subject of this bill refers to an area in Palm Beach County that is sometimes known as "the wedge" or the "the golden triangle." This area is located south of the Hillsboro Canal, bordered by Lox Road to the north, and can only be accessed by traveling south on State Road 7 through Broward County and then west on Lox Road.

III. Effect of Proposed Changes:

Section 1 amends s. 7.06, F.S., expand the boundary lines of Broward County by approximately 1,949 acres.

Section 2 amends s. 7.50, F.S., to contract the boundary lines of Palm Beach County by approximately 1,949 acres.

Section 3 annexes approximately 470 acres of the 1,949 acres that are the subject of the bill into the City of Parkland in Broward County.

Section 4 provides that land use and zoning designations applicable to the lands remain in effect until the entity with jurisdiction after the effective date of this bill makes changes. All

² See *id.* citing Allen Morris, *The Florida Handbook 1993-1994*, (Tallahassee, Florida: The Peninsular Publishing Company, 1993), pp. 416-418.

³ The term "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."

development orders, permits, and licenses in existence on the effective date of this bill remain in effect and shall be permitted to continue under their terms of issuance, notwithstanding the transfer of the lands to Broward County.

Section 5 provides that public roads and the associated rights-of-way within the lands are transferred from Palm Beach County to either Broward County or the City of Parkland.

Section 6 provides that on the effective date of the bill, Broward County is responsible for and embodied with all powers in ch. 125, F.S., and the Broward County Charter with respect to the 1,949 acres.

Section 7 provides that on the effective date of the bill, the City of Parkland is responsible for and embodied with all powers in ch. 166, F.S., and as otherwise provided in law, with respect to its annexed territory.

Section 8 provides a savings clause for contracts entered into prior to the effective date of the bill.

Section 9 provides that the procedures of chs. 96-542 and 99-447, L.O.F., are superseded.

Chapters 96-542 and 99-447, L.O.F, are special acts that 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.

Section 10 provides for the payment or apportionment of public debt, pursuant to an interlocal agreement between the counties to be executed by September 30, 2007.

Section 11 provides for the severability of any provisions held invalid.

Section 12 conditions the effective date of the bill on latter of the:

- the date of the final order by the Department of Community Affairs finding the specified plan amendment to Palm Beach County's local comprehensive plan to be in compliance with s. 163.3184, F.S.;
- issuance of a final order by the Administration Commission finding the plan amendment in compliance with s. 163.3184, F.S.; or
- abandonment by Palm Beach County of the road rights-of-way identified in the bill and expiration of any appeal of the abandonment.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Contingent Effective Dates

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

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.⁴ If such conditions are not fulfilled, the statute will not become effective.⁵

Notice Requirement for Special Acts

The provisions in the bill which annex certain property into the City of Parkland, and the provisions which propose to supersede chs. 96-542 and 99-447, L.O.F., (both of which are special acts), appear 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).⁶ 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.⁷

Section 10, Art. III of the State Constitution requires a local bill to be noticed as provided by general law,⁸ unless the bill is conditioned on a referendum of the electors of the area affected. Though portions of the bill were apparently noticed in the *Sun-Sentinel*, a newspaper published in Broward and Palm Beach counties, on February 7, 2007, this notice did not apparently 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

⁴ *Ex parte Lewis*, 135 So. 147 (Fla. 1931).

⁵ *Brown v. City of Tampa*, 149 Fla. 482, 6 So.2d 287 (1942).

⁶ Section 12(g), Art. X. of the State Constitution.

⁷ *Department of Business Regulation v. Classic Mile, Inc.*, 541 So. 2d 1155 (Fla. 1989), citing *State ex rel. Landis v. Harris*, 120 Fla. 555, 1633 So. 237 (Fla. 1934).

⁸ See, s. 11.02, F.S.

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. However, it is questionable whether these two special acts would apply to this annexation, as it is being implemented in accordance with the bill, not ch. 171, F.S.

Single Subject Restriction

Section 6 of Article III of the State Constitution requires every law to “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.⁹

A county boundary change is effected by amending ch. 7, F.S. A municipal annexation which is not conducted on the local level pursuant to the procedures provided in ch. 171, F.S., generally is accomplished pursuant to a special act. It is questionable whether a bill combining a special act and general law meets the single subject requirements of the State Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Palm Beach County, Broward County, and the City of Parkland will each have corresponding increases or decreases to their tax bases.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁹ *Chenoweth v. Kemp*, 396 So.2d 1122 (Fla. 1981).

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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