

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1039 Alachua County

SPONSOR(S): Chestnut and others

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Nelson	Hoagland
2)	Economic Development & Community Affairs Policy Council			
3)	Finance & Tax Council			
4)				
5)				

SUMMARY ANALYSIS

The State Constitution authorizes the establishment of general law procedures for annexation. It also authorizes the Legislature to annex unincorporated property into a municipality by special act.

Local annexation processes which differ from general law have been established by special act for Alachua County. The "Alachua County Boundary Adjustment Act" governs annexation in the county, and provides procedures for establishing municipal reserve areas.

This bill updates the Alachua County Boundary Adjustment Act. According to the Economic Impact Statement, the bill will not have a fiscal impact.

The bill has an effective date of upon becoming law.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Constitutional/Statutory Provisions Relating to Annexation¹

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.² 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 ways that property can be annexed or deannexed by cities without passage of an act by the Legislature. In 2006, this chapter was expanded to provide an alternative process for annexation that allows counties and municipalities to jointly determine how services are provided to residents and property.³

Between 1971 and 2008, the Legislature passed approximately 254 special acts for the purpose of annexing, deannexing and/or adjusting the boundaries of the state’s municipalities. No statewide record exists regarding the number and character of annexations accomplished by local action pursuant to general law during this same period.

Local annexation processes which differ from general law also have been established by special act for Alachua and Broward counties.

The Alachua County Boundary Adjustment Act

The Alachua County Boundary Adjustment Act was created by ch. 90-496, L.O.F., and amended by chs. 91-382, L.O.F., and 93-347, L.O.F.⁴ This special act governs annexation in Alachua County. It

¹ 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.

² Miami-Dade County, however, has exclusive jurisdiction over its municipal annexations under ss. 11(1)(c), (5) and (6), Art. VIII of the 1885 State Constitution, as adopted by reference in s. 6(e), Art. VIII of the State Constitution.

³ See, part II of ch. 171, F.S., the “Interlocal Service Boundary Agreement Act.”

⁴ The act also is codified as ch. 225 of the Alachua County Code.

provides procedures for establishing municipal reserve areas, and adjusting boundaries of municipalities through annexations or contractions of corporate limits.

More specifically, the Act requires that municipalities within Alachua County designate areas to be reserved for annexation. The Act is the sole method for annexation within a municipality's reserve area, whether that annexation is voluntary or involuntary. Municipalities with designated reserve areas may only annex from those areas. The Act does not address the proper procedure for voluntary or involuntary annexation where a municipality has no reserve area. In fact, the Act provides that a municipality failing to designate a reserve area waives its right to participate in annexation pursuant to the Act. Two municipalities within Alachua County, Hawthorne and LaCrosse, did not have reserve areas until 2006,⁵ and, until that time, proceeded with voluntary annexations in accordance with general law.

In January 2008, a "Countywide Visioning and Planning Committee" was reconvened to provide a forum for dialogue concerning annexation, future growth, and development in Alachua County. In April 2008, the Committee created a multi-jurisdictional task force, the "Boundary Adjustment Act Task Force," to amend the Alachua County Boundary Adjustment Act.

The Countywide Visioning and Planning Committee and the Boundary Adjustment Act Task Force jointly completed recommendations for amending the Alachua County Boundary Adjustment Act which were presented to the local legislative delegation in December for the purpose of seeking a local bill to amend the Act.

Effect of Proposed Changes

HB 1039 updates the Alachua County Boundary Adjustment Act. The bill clarifies that this act is the sole method of annexation or contraction for a municipality in Alachua County. Specifically, the bill:

- amends the definition of "contiguous" to provide for annexation of land that is separated from a municipality by publicly-owned property, as long as the annexation does not prevent the municipal area from becoming a unified whole with respect to municipal services or cause the residents from "fully associating and trading" with each other. Previously, this provision only extended to land separated by county parks. The change contemplates instances where proper annexations are prevented by small county-owned parcels such as fire stations.⁶
- updates the definition of "enclave" to mirror the definition contained in s. 171.031(13), F.S.
- removes the definition of "most populous municipality," as the term is no longer used in the Act.
- clarifies the definition of "parties affected" to mirror the definition in s. 171.031(5), F.S.
- provides that the reserve areas established by the county commission that became effective on March 13, 2006, will remain in effect until amended. This date signifies the last time that reserve areas were evaluated pursuant to the current Act.⁷
- rewrites provisions relating to reserve areas to provide that beginning on October 1, 2010, and every 10 years thereafter, that each municipality in the county review its reserve areas.⁸ Within 90 days of October 1, municipalities are required to hold public hearings to receive input on potential changes to reserve areas, and notify the county, municipalities and the regional planning agency. The procedures relating to the designation of reserve areas have been removed from the Act as all Alachua County municipalities now have established such areas.

⁵ March 20, 2006, telephone conversation with Richard Drummond, Assistant Alachua County Administrator.

⁶ Ibid.

⁷ Ibid.

⁸ Previously, this review took place every five years.

- removes a requirement that property owned by one entity or individual must be “improved” to be subject to a provision that dictates such property be annexed as a whole;
- provides that if an area is voluntarily annexed pursuant to the Act, that the ordinance also be filed with the chief administrative officer of the county within seven days of its adoption. The ordinance must include a map that clearly shows the annexed area and a complete legal description of the area. The complete legal description must include a statement that both it and the ordinance can be obtained from the office of the city clerk. This language mirrors s. 171.044, F.S., with regard to voluntary annexation.
- removes language which provides that appeal of annexation or contraction will be as provided in general law, and adds language which reflects s. 171.081(1), F.S. It does not include the s. 171.081(2), F.S., language that requires governmental entities to use the conflict resolution procedures established in ch. 164, F.S., the “Florida Governmental Conflict Resolution Act,” before filing suit. The intent of Alachua County and its municipalities is to continue to comply with ch. 164, F.S.⁹
- rewrites language which previously tracked s. 171.041, F.S. The current provisions require that, as a prerequisite to annexation, a municipality prepare a report detailing plans to provide urban services to the area, making it mandatory that the report include information relating to major trunk water mains and sewer interceptors, future land use plans, any projected adjustment of services and taxes to existing residents within the next five years, as well as a statement certifying that the area to be annexed meets criteria. The new language makes the inclusion of these items permissive in order to allow for the reports to avoid a “one-size-fits-all” approach that was considered to be onerous by the municipalities.¹⁰
- requires that the governing body of an annexing municipality approve the report, rather than adopt such report by a nonemergency ordinance, and file a copy of such with the county, for informational purposes at least 60 days before the municipality adopts an ordinance effecting a voluntary annexation. For annexation by referendum, the governing body of the municipality must file a copy of the report with the county not less than 30 days prior to commencing the annexation.
- adds language that reflects general law provisions in s. 171.046, F.S., regarding annexation of enclaves, with modification. It deletes a size limitation of 10 acres or less, thus allowing the provisions to apply to larger enclaves. It further deletes a limitation that requires less than 25 registered voters to reside in an enclave for use of a procedure that allows annexation of the area by municipal ordinance, thereby extending the process to enclaves with greater density. This section also adds language that requires a municipality requesting the county to sign an interlocal agreement regarding annexation of an enclave to provide all property owners written notice of the date, time and location of the municipality and county action to approve or reject the proposed interlocal agreement; and,
- makes technical changes to the Act.

The bill provides an effective date of upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends ch. 90-496, L.O.F., the “Alachua County Boundary Adjustment Act,” as amended by chs. 91-382 and 93-347, L.O.F.

Section 2: Provides an effective date.

⁹ March 20, 2006, telephone conversation with Richard Drummond, Assistant Alachua County Administrator.

¹⁰ Ibid.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 19, 2009

WHERE? *The Gainesville Sun*, a daily newspaper of general circulation published in Alachua County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, the bill will not have a fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

There appears to be a typographical error in the bill on Line 132 with regard to the use of the term "unity." This should be changed to read "unit."

Other Comments

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may create exemptions to ch. 171, F.S., the "Municipal Annexation or Contraction Act."

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES