

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1473 Manatee County
SPONSOR(S): Military & Local Affairs Policy Committee and Fitzgerald
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Military & Local Affairs Policy Committee</u>	<u>14 Y, 0 N, As CS</u>	<u>Nelson</u>	<u>Hoagland</u>
2)	<u>Economic Development & Community Affairs Policy Council</u>	<u>15 Y, 0 N</u>	<u>Nelson</u>	<u>Tinker</u>
3)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

SUMMARY ANALYSIS

This CS for HB 1473 amends a special act to correct the legal description of the City of Anna Maria and annex described submerged property into the city limits. The bill additionally amends the charter of the City of Holmes Beach to add a boat ramp owned by the Florida Department of Transportation.

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

The bill has an effective date of upon becoming law.

This bill may not comply with s. 6 of Art. III of the State Constitution. See, III. COMMENTS, A. CONSTITUTIONAL ISSUES, of this analysis.

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.

Effect of Proposed Changes

The City of Anna Maria

The City of Anna Maria was incorporated pursuant to ch. 9675, L.O.F. (1923). The last time the boundaries of the city were changed was in 2002.³ The CS for HB 1473 amends Section 6 of ch. 30561, L.O.F. (1955), as amended, to correct what is thought to be a scrivener’s error in the legal description of the city. This discrepancy was recognized by a surveyor doing work for the census. The property is approximately a quarter mile square and has always been considered to be part of the City of Holmes Beach by the local governments, the residents, the police and the tax collector. There are no records which serve to explain why the subject property was included in the legal descriptions for both cities.⁴

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*, ch. 2002-384, L.O.F.

⁴ March 15, 2010, e-mail from James Dye, attorney for the City of Anna Maria.

The bill also annexes described submerged land into the city limits, extending the Anna Maria city limits on the Gulf and Tampa Bay shorelines to the mean low water line⁵ plus 10 feet. This change is based upon recognition of the regulatory hardships caused by the city limits ending at the mean high water line.⁶

The current city description consists of several U.S. lots, which are a surveyor's tool for describing parcels that are irregular and have water boundaries. The government lots' boundaries end at the mean high water line. Anna Maria has concluded that it cannot police or regulate anything beyond this point because the area is not within the city limits.

This issue came to the forefront recently when the city was pursuing a code enforcement case against a property owner for building several boat docks without proper permitting. The property owner relied on the fact that the docks were actually located in unincorporated Manatee County because they extended into the water. Until this dispute, the city had conducted all permitting, policing and provision of governmental service for docks and other near-shore situations.

The mean high water line is often near the point between the dry and wet sand. This creates an additional problematic situation where only a part of the beach is within the city's jurisdiction.⁷

The city's attorney suggested that Manatee County issue building permits, conduct inspections, and provide certificates of occupancy for private boat docks originating on land within the city boundaries. The county declined to duplicate the work of city building officials.⁸

The bill also exempts Manatee County from any codes, ordinances, resolutions, rules and regulations of the City of Anna Maria relating to the construction, installation, placement or location of county structures, signage, markers, navigation aids, and other facilities and improvements within the annexed submerged waters.

City of Holmes Beach

The City of Holmes Beach was created in 1950. It is the largest of three island communities (the others being Anna Maria and Bradenton Beach) on Anna Maria Island, which is located on the Gulf of Mexico just south of the mouth of Tampa Bay.

The CS for HB 1473 additionally amends the charter of the City of Holmes Beach to add a boat ramp. The bill provides that, in the exercise of police powers and jurisdictional authority within this property, the City of Holmes Beach is required to apply Manatee County codes, ordinances, resolutions, rules and regulations.

This property, known as the "Kingfish Boat Ramp," is adjacent to the city, and also consists of a picnic and parking area. The property is owned by the state Department of Transportation, and partially leased to Manatee County for a public recreation area.

The City of Holmes Beach has been policing this recreational area through an interlocal agreement with the county, which has to be re-executed every two years. This bill would eliminate the need for the interlocal agreement.

Department of Transportation legal staff has reviewed this matter and has no concerns as the annexation will not affect the department's lease with the county.⁹

⁵ Pursuant to s. 177.27(16), F.S., "mean low water" means the average height of the low waters over a 19-year period. For shorter periods of observation, "mean low water" means the average height of low waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of mean 19-year value. "Mean low-water line" means the intersection of the tidal plane of mean low water with the shore. Section 177.27(17), F.S.

⁶ Section 177.27(14), F.S. provides that "[m]ean high water" means the average height of the high waters over a 19-year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value. "Mean high-water line" means the intersection of the tidal plane of mean high water with the shore. Section 177.27 (15), F.S.

⁷ March 15, 2010, e-mail from James Dye, attorney for the City of Anna Maria.

⁸ March 15, 2010, e-mail from Maureen Sikora, Deputy County Attorney.

The act has an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends the boundaries of the City of Anna Maria.

Section 2: Provides for county exemption.

Section 3: Amends the boundaries of the City of Holmes Beach.

Section 4: Provides for police powers and jurisdictional authority.

Section 5: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 30, 2009.

WHERE? The *Bradenton Herald*, a daily newspaper published in Manatee County, Florida.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

This bill may not comply with s. 6 of Art. III of the State Constitution, which provides in relevant part:

Every law shall embrace but one subject and matter properly connected herewith....

Generally, local bills are contained to a single governmental unit. In this case, while both cities at issue are located in Manatee County, there is no connection between the annexations in the individual municipal jurisdictions.

B. RULE-MAKING AUTHORITY:

None.

⁹ April 5, 2010, telephone conversation with Eva Baxter, Chief of Staff/Legislative Programs Administrator for the Department of Transportation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

The Florida Department of Environmental Protection

The Department of Environmental Protection indicates that this bill “sits natural with [their] position.”¹⁰

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 8, 2010, the Military & Local Affairs Policy Committee adopted an amendment providing that Manatee County will be exempt from any codes, ordinances, resolutions, rules and regulations of the City of Anna Maria relating to construction, installation, placement or location of county structures, signage, markers, navigation aids, and other facilities and improvements within the annexed submerged waters. The amendment also made technical corrections to the bill.

This analysis is drafted to the Committee Substitute.

¹⁰ March 12, 2010, e-mail from Katherine Goletz, Legislative Specialist.