

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1319 County Boundary Lines

**SPONSOR(S):** Community & Military Affairs Subcommittee; Harrell

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	12 Y, 2 N, As CS	Nelson	Hoagland
2) Finance & Tax Committee	21 Y, 2 N, As CS	Flemming	Langston
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The Florida Constitution provides for the state to be divided into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of any public debt. Since 1925, the Legislature has passed approximately 32 general laws revising existing county boundary lines.

The CS/CS for HB 1319 relocates a 129-acre piece of property known as Beau Rivage, from St. Lucie County to Martin County, by amending general law to revise the counties' boundaries. The bill also provides for the transfer of all public roads and associated rights-of-way within the property at issue. Additionally, the bill requires the governing bodies of the two counties to enter into an interlocal agreement by September 30, 2013, which addresses fiscal impact, infrastructure improvement projects, and a plan for transitioning county services, buildings, infrastructure, waterways, and employees.

This boundary revision is contingent upon its approval in a referendum of the qualified electors residing in Beau Rivage.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Florida Constitution/Statutes Relating to County Boundaries

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 7, F.S., describes the boundary lines for Florida's 67 counties. Since 1925, the Legislature has passed approximately 32 general laws revising existing county boundaries.<sup>1</sup>

##### St. Lucie and Martin Counties; the Beau Rivage Area

St. Lucie and Martin Counties are contiguous, non-charter counties located in southeastern Florida. The Beau Rivage area consists of 129 acres, which abut the north fork of the St. Lucie River in St. Lucie County. The area is divided into six subdivisions, and features 223 single family homes and 27 vacant lots. Although Beau Rivage is part of St. Lucie County, the area is not directly connected to the rest of the county by a county-owned or maintained right-of-way. Beau Rivage's 550-plus residents all have Stuart, Florida, addresses and can only travel into the rest of the St. Lucie county via Martin County roads. By interlocal agreement between the St. Lucie and Martin county school boards, students residing in Beau Rivage may attend Martin County schools.<sup>2</sup>

Beau Rivage homeowners have asked that their property be included in Martin County, citing concerns about the provision of emergency services.<sup>3</sup> According to St. Lucie County, the actual reason for the request is that the St. Lucie County School District has considered discontinuing the interlocal agreement.<sup>4</sup>

##### **Effect of Proposed Changes**

This bill revises the boundaries of Martin and St. Lucie counties. It amends s. 7.43, F.S., to expand the boundaries of Martin County and s. 7.59, F.S., to contract the boundaries of St. Lucie County, thus transferring the Beau Rivage area. The bill also provides that all public roads and associated public rights-of-way within the subject property be transferred from the jurisdiction of St. Lucie County to Martin County.

Additionally, the bill requires that the governing bodies of the two counties enter into an interlocal agreement no later than September 30, 2013, which addresses infrastructure improvement projects and includes a "financially feasible" plan for transitioning county services, buildings, infrastructure, waterways and employees.

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<sup>1</sup> Edward A. Fernald & Elizabeth D. Purdum, ATLAS OF FLORIDA 99 (1992) (noting 30 changes to county boundaries since 1925); The remaining two changes to county boundaries since 1992 were included in the following: Ch. 2007-222, L.O.F. (Broward and Palm Beach counties), and Ch. 94-313, L.O.F. (Citrus and Levy counties).

<sup>2</sup> Senate staff analysis for CS/SB 800 dated January 25, 2012, referencing information received from the St. Lucie County Property Appraiser's Office on December 20, 2011.

<sup>3</sup> See Letter from Chris Dzadovsky, chairman of the St. Lucie County Board of County Commissioners to Representative Gayle Harrell and Senator Joe Negron, pg. 2 (Jan. 27, 2012) (on file with Fla. H.R. Community & Military Affairs Subcommittee).

<sup>4</sup> *Id.*; See section III.C., *infra*, of the analysis for the St. Lucie County Board of County Commissioners' remarks regarding this issue.

The interlocal agreement must include a gradual transfer of the income generated from the area being incorporated into Martin County, to be completed by fiscal year 2022-2023. Upon the effective date of the act, the total tax and assessment revenue that would have been generated in the 2013-14 fiscal year by St. Lucie County within the area transferred to Martin County shall be transmitted to St. Lucie County, less 10 percent. That 2013-14 total tax and assessment value will serve as a base amount of tax and assessment revenue for further annual reductions of 10 percent from the base amount before annual distributions to St. Lucie County through the 2022-23 fiscal year. All distributions to St. Lucie shall occur within 30 days after the beginning of each calendar year.

The agreement shall include compensation for the value of infrastructure investments by St. Lucie County in the transferred property minus depreciation, if any.

The act shall take effect September 30, 2013, upon its approval by a majority vote of the qualified electors residing in Beau Rivage in a referendum to be held by the St. Lucie County Board of County Commissioners and conducted by the Supervisor of Elections in conjunction with the next general, special or other election held in the county.

**B. SECTION DIRECTORY:**

Section 1: Amends s. 7.43, F.S., altering the boundary lines for Martin County, Florida.

Section 2: Amends s. 7.59, F.S., altering the boundary lines for St. Lucie County, Florida.

Section 3: Creates an unnumbered section of law that transfers public roads and rights-of-way from St. Lucie County to Martin county.

Section 4: Creates an unnumbered section of law that requires St. Lucie and Martin counties to enter into an interlocal agreement.

Section 5: Provides that the act shall take effect September 30, 2013, upon approval by referendum.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The State may have expenditures associated with the change in county boundaries.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

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. Components of the allocation formulas are often a county's land area or population.

While no calculations have been undertaken, given the relative size and population of St. Lucie and Martin counties, and the limited acreage involved, the transfer should not have a significant effect on the portion of state shared revenues received by each county.

## Taxes and Assessments

St. Lucie County will lose any revenues associated with taxes and assessments paid by the property transferred to Martin County, while Martin County will gain these revenues. According to the St. Lucie County Property Appraiser's Office, the 2011 taxable value of the Beau Rivage Area is \$59,549,039.<sup>5</sup>

### 2. Expenditures:

St. Lucie County will no longer have expenditures associated with the transferred property, while Martin County will assume these expenditures.

St. Lucie County may have expenses associated with the referendum.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Area residents will no longer be subject to St. Lucie County taxing authorities, because they will be within the jurisdiction of Martin County. In 2010, Martin County had a population of 146,318<sup>6</sup> and a taxable value of \$17,492,910,077.<sup>7</sup> Total taxes levied per capita were \$947. St. Lucie County had an estimated 277,789<sup>8</sup> residents and a taxable value of \$15,165,938,592.<sup>9</sup> Total taxes levied per capita in St. Lucie County were \$453.<sup>10</sup>

Ad valorem millage rates in the two counties for 2010 were as follows:

<u>St. Lucie County</u> <sup>11</sup>		<u>Martin County</u> <sup>12</sup>	
County	6.9331	County	5.6076
School	8.1770	School	6.9560
Special Districts	3.6909	Special Districts	1.0108

## D. FISCAL COMMENTS:

None.

## 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.

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<sup>5</sup> *Id.*

<sup>6</sup> County Profile, Martin County, Office of Economic & Demographic Research, <http://edr.state.fl.us/Content/area-profiles/county/martin.pdf>.

<sup>7</sup> Ad Valorem Tax Profiles, Counties: CY 1996-2010, Office of Economic & Demographic Research, <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/advaltxco.xls>.

<sup>8</sup> County Profile, St. Lucie County, Office of Economic & Demographic Research, <http://edr.state.fl.us/Content/area-profiles/county/stlucie.pdf>.

<sup>9</sup> Ad Valorem Tax Profiles, Counties: CY 1996-2010, Office of Economic & Demographic Research, <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/advaltxco.xls>.

<sup>10</sup> *Id.*

<sup>11</sup> County Profile, St. Lucie County, Office of Economic & Demographic Research, <http://edr.state.fl.us/Content/area-profiles/county/stlucie.pdf>.

<sup>12</sup> County Profile, Martin County, Office of Economic & Demographic Research, <http://edr.state.fl.us/Content/area-profiles/county/martin.pdf>.

2. Other:

### **Notice Requirement for Special Laws**

The language in the bill that requires an interlocal agreement between St. Lucie and Martin Counties appears to have the characteristics of a local law. 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.”<sup>13</sup>

A “special law” is defined as a special or local law.<sup>14</sup> A special law is to be noticed as provided by general law,<sup>15</sup> unless the bill is conditioned on a referendum of the electors of the area affected.<sup>16</sup> It is unclear whether a referendum of the Beau Rivage area would satisfy this requirement as the transfer may affect all county residents.

Nevertheless, the Senate sponsor of the companion bill<sup>17</sup> published notices of the proposed general bill on October 19, 2011, in the *Stuart News*, a daily newspaper of general circulation published in Martin County, and in the *St. Lucie News-Tribune*, a newspaper of general circulation published in St. Lucie County.<sup>18</sup>

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

##### **Drafting Issues**

None.

##### **Other Comments**

##### St. Lucie and Martin Counties

The Board of County Commissioners of St. Lucie County has described its concerns and objections as follows (paraphrased):<sup>19</sup>

- The proposed action to move county boundaries without the consent of the affected county is unprecedented in this State and inconsistent with local home rule.
- In taking such action, the Legislature should consider that the conditions existing in Beau Rivage also exist in other areas of the state including portions of Martin County adjacent to Palm Beach County. Is this precedent for the Legislature to consider such changes in other places without the consent of the affected jurisdictions?
- The Board has met three times in the past year in various public forums to hear and consider the request and has on each occasion elected not to support the change as there remain multiple solutions to all of the issues raised such as interlocal service agreements or a long-term extension of the school board agreement.
- Much of the purported reason for the change is a concern about provision of life safety services. Martin and St. Lucie counties have mutual aid agreements for the provision of law enforcement, fire and emergency medical services. The reality of the situation is the neighborhood is often “double-served” as Martin County and St. Lucie County both frequently respond to calls. The St.

<sup>13</sup> Department of Business Regulation v. Classic Mile, Inc., 541 So. 2d 1155, 1157 (Fla. 1989) (quoting State ex rel. Landis v. Harris, 1633 So. 237, 240 (Fla. 1934)).

<sup>14</sup> Art. X, s. 12(g), Fla. Const.

<sup>15</sup> See s. 11.02, F.S.

<sup>16</sup> Art. III, s. 10, Fla. Const.

<sup>17</sup> Senator Joe Negron, sponsor of SB 800.

<sup>18</sup> A digital copy of the notices can be found by navigating to October 19, 2011, at the following website: <http://www.legalnotice.org/pl/tcpalm/landing1.aspx>.

<sup>19</sup> Letter from Chris Dzadozsky, chairman of the St. Lucie County Board of County Commissioners to Representative Gayle Harrell and Senator Joe Negron (Jan. 27, 2012) (on file with Fla. H.R. Community & Military Affairs Subcommittee).

Lucie County Fire District Chief has stated publicly that the fire district's response times to calls in Beau Rivage are well under accepted standards.

- The real reason residents have requested this change is related to schools. Neighborhood children have attended Martin County schools as the result of an agreement that has been in place for many years. In 2009, the St. Lucie County School District determined it was not in their financial interest to continue the agreement and notified residents that their children would soon be required to attend St. Lucie County schools. The request to become part of Martin County came to the Board not long after the residents were notified of that action.
- With most proposed legislation, a detailed fiscal impact analysis is conducted to show the impact of new laws on affected parties. No fiscal impact analysis has been conducted in this case to show the impact on a relatively poorer county such as St. Lucie County versus the relatively wealthier Martin County. As representatives of the taxpayers of St. Lucie County, the Board is unanimously opposed to the passage of this legislation as it would negatively impact St. Lucie County's tax base.

The Martin County Board of County Commissioners are "neutral" on the bill although they prefer that the interlocal agreement be completed earlier than the 2014 date, and they do not support a 10-year time frame for the transfer of taxes, rather preferring a five-year period.<sup>20</sup>

#### House Local Bill Policy

As noted in section III.A. above, there are aspects of this bill which are characteristic of a local bill. The Florida House of Representatives' Local Bill Policy was not followed with regard to these parts of the bill. This policy requires that three things occur before a committee or subcommittee 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 without the need for a referendum<sup>21</sup>; (2) the legislative delegation must hold a local public hearing in the area affected<sup>22</sup>; and (3) at or after the 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 delegation's rules.<sup>23</sup> House Local Bill Policy also requires that no local bill be considered by a committee or subcommittee without a completed Economic Impact Statement.<sup>24</sup>

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

At its January 31, 2012, meeting, the Community & Military Affairs Subcommittee adopted an amendment that revised the legal description of the boundary lines for St. Lucie and Martin counties.

At its February 15, 2012, meeting, the Finance & Tax Committee adopted an amendment that:

- revised the date by which the counties shall inter into an interlocal agreement;
- clarified the calculation and transfer of tax and assessment revenue within the transferred property to St. Lucie County;
- prescribed that distributions to St. Lucie shall occur within 30 days after the beginning of each calendar year; and
- revised the effective date, providing the act shall take effect September 30, 2013, upon approval of referendum, instead of taking effect immediately after approval by referendum.

The analysis has been updated to reflect the above amendments.

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<sup>20</sup> E-mail from Kate Parmelee, Intergovernmental and Grants Coordinator, Martin County Board of County Commissioners, to Fla. H.R. Community & Military Affairs Subcommittee (Jan. 25, 2012) (on file with Fla. H.R. Community & Military Affairs Subcommittee).

<sup>21</sup> Fla. H.R. Econ. Aff. Comm, Local Bill Policies and Procedures Manual 8 (2011-2012), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2605&Session=2012&DocumentType=General%20Publications&FileName=2011%20-%202012%20Local%20Procedures%20Manual.pdf>

<sup>22</sup> *Id.* at 3.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 9.