

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1215 Alachua County

SPONSOR(S): Perry

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 3 N	Darden	Miller
2) Local & Federal Affairs Committee	12 Y, 6 N	Darden	Kiner

SUMMARY ANALYSIS

The Florida Constitution authorizes the Legislature to establish procedures for municipal annexations and contractions by general or special law. Most municipalities in the state conduct annexations in accordance with ch. 171, F.S. Annexations in Alachua County, however, are governed by the Alachua County Boundary Adjustment Act (Act). The Act requires Alachua County and the municipalities therein to carve unincorporated areas of the county into "reserve areas," each specifically designated for potential annexation only by a particular municipality. The Act also requires the county and its municipalities to reach agreements concerning land use regulations and the provision of municipal services in reserve areas.

The bill repeals the Alachua County Boundary Adjustment Act, placing annexation in Alachua County under the general scheme provided by ch. 171, F.S.

The bill does not appear to have a fiscal impact on state or local governments. The Economic Impact Statement submitted with the bill states the bill will help individuals and businesses by providing increased certainty about the annexation process.

The effective date of the bill is February 29, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Annexation under General Law

The Florida Constitution authorizes the Legislature to develop procedures for the municipal annexation of unincorporated territory by general or special act.¹ The “Municipal Annexation or Contraction Act,” passed in 1974, sets forth a mechanism for municipalities to annex territory (or recede from territory by contraction).² Municipalities may annex territory that is:³

- Contiguous (a substantial part of a boundary of the territory to be annexed is coterminous with a part of the boundary of the municipality);⁴
- Compact (concentration of a piece of property in a single area, precluding the creation of enclaves, pockets, or finger areas in serpentine patterns);⁵
- Unincorporated (not within the boundaries of another municipality);⁶ and
- Developed for urban purposes.⁷

Annexation may be accomplished in two ways: by ordinance of the annexing municipality⁸ or on a voluntary basis.⁹

The governing body of a municipality may adopt an ordinance annexing a piece of contiguous, compact, unincorporated territory.¹⁰ The municipality must hold at least two public hearings before the adoption of the ordinance.¹¹ A resulting ordinance approved by the governing body is then submitted to a referendum of electors in the area to be annexed.¹² The municipality may, but is not required, to submit approval for the annexation its own electors.¹³ If the ordinance is approved by the electors, the ordinance takes effect either ten days after the referendum or on the date provided in the ordinance (which may not be more than one year following the date of the referendum).¹⁴

Alternatively, the property owners of an unincorporated area may petition for voluntary annexation, unless the county charter provides for an exclusive method for municipal annexation.¹⁵ Voluntary annexation requires the consent of all property owners in the area to be annexed, as well as the adoption of an ordinance by the annexing municipality.¹⁶

Contraction under General Law

¹ Art. VIII, s. 2(c), Fla. Const.

² Ch. 171, part I, F.S.

³ S. 171.043, F.S.

⁴ S. 171.031(11), F.S.

⁵ S. 171.031(12), F.S.

⁶ S. 171.043(1), F.S.

⁷ S. 171.042(2), F.S.

⁸ S. 171.0413, F.S.

⁹ S. 171.044, F.S.

¹⁰ S. 171.0413(1), F.S.

¹¹ *Id.*

¹² S. 171.0413(2), F.S.

¹³ *Id.*

¹⁴ S. 171.0413(1), F.S.

¹⁵ S. 171.044(4), F.S.

¹⁶ S. 171.044(2), F.S.

Municipalities may contract their boundaries by municipal ordinance. The governing body of the municipality initially may propose the ordinance,¹⁷ or may do so after receiving a petition from at least fifteen percent of the qualified voters in the area requesting to be removed from the boundaries of the municipality.¹⁸ Immediately upon receiving the petition the municipality must study the feasibility of the contraction.¹⁹ The municipality must adopt a contraction ordinance within six months after receiving the petition, or must reject the petition with a specific statement of facts.²⁰

After adopting a contraction ordinance, the municipality is required to publish notice, describing the area to be excluded from the boundaries of the municipality. The notice must show the area would fail to meet the general criteria for annexation if it were unincorporated and must set a time and place for the meeting where the ordinance will be considered.²¹ Residents of the area to be contracted may, upon presentation at the meeting of a petition signed by at least fifteen percent of the qualified voters in the area, force a referendum.²² The municipality's governing body may also opt to place the contraction question to the voters of the affected area in a referendum, absent any petition.²³

Areas to be contracted must meet three criteria:

- The area would fail to meet the requirements for annexation if it were not currently part of the municipality.²⁴
- The contraction must not make the municipality non-contiguous.²⁵
- The contracting ordinance provides for the apportionment of existing debt and property.²⁶

Alachua County Boundary Adjustment Act

Municipal annexations in Alachua County are governed by the Alachua County Boundary Adjustment Act (Act).²⁷ The Act established a procedure for municipalities, in concert with the county, to establish "reserve areas."²⁸ The Act provides that it shall be the sole method for annexation or contraction after the establishment of reserve areas.²⁹

Reserve areas were established as the result of an extensive negotiating process between the county and each municipality therein.³⁰ Each municipality was charged with designating reserve areas, then comparing those designations with a proposal by the county and by those of other municipalities in the county.³¹ Municipalities and the county were charged with stating who would provide municipal services in the proposed reserve areas.³² The county is required to identify the land uses, densities, and intensities allowed by the county's comprehensive plan in the proposed reserve areas,³³ while each municipality must state the land uses, densities, and intensities it deems most appropriate for its reserve area(s).³⁴

¹⁷ S. 171.051(1), F.S.

¹⁸ S. 171.051(2), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ S. 171.051(7), F.S.

²² S. 171.051(4), F.S.

²³ S. 171.051(5), F.S.

²⁴ S. 171.052(1), F.S.

²⁵ *Id.*

²⁶ S. 171.052(2), F.S.

²⁷ Ch. 90-496, Laws of Fla., as amended.

²⁸ Ch. 90-496, s. 5, Laws of Fla.

²⁹ Ch. 90-496, s. 3, Laws of Fla.

³⁰ *See generally* ch. 90-496, s.5, Laws of Fla. Alachua County contains nine municipalities (Alachua, Archer, Gainesville, Hawthorne, High Springs, Micanopy, Newberry, and Waldo).

³¹ Ch. 90-496, ss. 5(2), 5(5)(a), 5(6), Laws of Fla.

³² Ch. 90-496, ss. 5(3), (4), Laws of Fla.

³³ Ch. 90-496, s. 5(3), Laws of Fla.

³⁴ Ch. 90-496, s. 5(4), Laws of Fla.

If the county or a municipality fails to submit proposed reserve areas in the required time period, that entity waves its rights to participate in the reserve area selection process for five years.³⁵ Any conflicts between the county and municipality(s) are resolved through an informal negotiation process.³⁶

After completing the negotiation process, the county adopts a final reserve area designation for each municipality within its boundaries.³⁷ The county also adopts a statement for each reserve area stating:

- Whether the comprehensive plan and land use regulations of the county or municipality for which the reserve area is designated shall apply prior to annexation;³⁸
- Whether the county or the municipality shall enforce and administer the comprehensive plan and how fines and fees generated by enforcement will be distributed;³⁹
- Which services will be provided by the county or the municipality, before and after annexation, and how these services will be financed;⁴⁰ and
- Any other matters related to the reserve area on which the county and municipality agree.⁴¹

The county must notice and conduct a public hearing before adopting final reserve areas.⁴² The county is required to accept the terms of agreement reached by the county and municipalities under subsections 1-4 of s. 5 of the Act. If the county fails to adopt final reserve areas, the task falls to the most populous municipality in the county.⁴³ A municipality may challenge the reserve area designation in binding arbitration or before the Division of Administrative Hearings.⁴⁴ Reserve areas are subject to review every five years.⁴⁵

A municipality in Alachua County may only annex contiguous, compact, unincorporated territory in its reserve area.⁴⁶ The area must also be developed for urban purposes.⁴⁷ Before commencing annexation by ordinance, the governing body of the annexing municipality must prepare a report stating how the municipality plans to provide urban services to the annexed area, a map of the proposed boundaries (including major trunk water mains, sewer outfalls, and general land use patterns), that the area is developed for urban purposes, and plans for the extension of each municipal service currently provided by the municipality.⁴⁸

A municipality may initiate the annexation process by passing an ordinance annexing one reasonably compact area.⁴⁹ The municipality must then hold a referendum in the area to be annex between 90 and 180 days after the final adoption of the ordinance.⁵⁰ If the electors approve, annexation takes effect on the date specified in the ordinance, but no later than one year after the date of the referendum.⁵¹

The residents of a reserve area may also petition for annexation.⁵² The petition must be signed by all residents of the area to be annexed.⁵³ Upon receipt of the petition, the municipality must provide residents of the affected area a report on the prerequisites for annexation at least sixty days before

³⁵ Ch. 90-496, s. 5(5)(b), Laws of Fla.

³⁶ Ch. 90-496, s. 5(6), Laws of Fla.

³⁷ Ch. 90-496, s. 5(7), Laws of Fla.

³⁸ Ch. 90-496, s. 5(7)(a), Laws of Fla.

³⁹ Ch. 90-496, s. 5(7)(b), Laws of Fla.

⁴⁰ Ch. 90-496, s. 5(7)(c), Laws of Fla.

⁴¹ Ch. 90-496, s. 5(7)(d), Laws of Fla.

⁴² Ch. 90-496, s. 5(7) Laws of Fla.

⁴³ *Id.* As of the 2010 Census, Gainesville is the most populous municipality in Alachua County.

⁴⁴ Ch. 90-496, s. 5(8) Laws of Fla.

⁴⁵ Ch. 90-496, s. 7, Laws of Fla.

⁴⁶ Ch. 90-496, s. 8, Laws of Fla.

⁴⁷ Ch. 90-496, s. 9, Laws of Fla. While the Act does not reference general law annexation provisions, the terms of the Act mirror current general law.

⁴⁸ Ch. 90-496, s. 13, Laws of Fla.

⁴⁹ Ch. 90-496, s. 8(1), Laws of Fla, as amended by ch. 93-347, s. 1, Laws of Fla.

⁵⁰ Ch. 90-496, s. 8(2)(a), Laws of Fla, as amended by ch. 93-347, s. 1, Laws of Fla.

⁵¹ Ch. 90-496, s. 8(2)(e), Laws of Fla.

⁵² Ch. 90-496, s. 10, Laws of Fla.

⁵³ Ch. 90-496, s. 10(3), Laws of Fla.

adopting an annexation ordinance for the area.⁵⁴ Residents of the area to be annexed may withdraw their petition during a twenty day period following receipt of the report.⁵⁵ The Act preempts any contrary general or special law or local ordinance and states it is the sole method governing annexation or contraction for each municipality once certain conditions are met.⁵⁶

The process for contraction under the Act is the same as provided for under general law, except a longer period of notice is required before a public hearing on the ordinance and before a referendum can occur.⁵⁷

Effect of Proposed Changes

The bill repeals the Alachua County Boundary Adjustment Act. Municipal annexations in Alachua County would be governed by ch. 171, F.S.

The Economic Impact Statement submitted with the bill states the bill will encourage business formation by creating certainty and expediting the annexation process.⁵⁸

B. SECTION DIRECTORY:

Section 1: Repeals Ch. 90-496, Ch. 91-382, and Ch. 93-347, Laws of Florida.

Section 2: Providing an effective date of February 29, 2016.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 30, 2015

WHERE? The Gainesville Sun, a daily newspaper published in Alachua 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:

None.

⁵⁴ Ch. 90-496, s. 10(1), Laws of Fla.

⁵⁵ Ch. 90-496, s. 10(2), Laws of Fla.

⁵⁶ Ch. 90-496, s. 3, Laws of Fla. Whether residents may still use the procedure for voluntary annexation provided by general law is an open question. See ch. 91-382, s.6, Laws of Fla. (residents of area requesting annexation entitled to report required by Ch. 90-496, s.13, Laws of Fla., whether “effecting a voluntary annexation pursuant to this section or section 171.044, Florida Statutes”).

⁵⁷ Compare Ch. 90-496, s. 14, Laws of Fla. with s. 171.051, F.S. (general law requires notice to be published at least once a week in a newspaper of general circulation in the municipality for two weeks, the Act requires the notice to run for four weeks).

⁵⁸ Economic Impact Statement for HB 1215 (2015).

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES