

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1488

INTRODUCER: Community Affairs Committee and Senator Clemens

SUBJECT: Annexation Procedures for Municipalities

DATE: April 4, 2017

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Present | Yeatman | CA | Fav/CS |
| 2. | | | JU | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1488 revises the circumstances under which a municipality is required to take a vote of the electors of the area proposed to be annexed prior to annexation.

The bill provides that if the area proposed to be annexed does not have any registered electors on the date the ordinance is adopted, or has fewer than five registered electors and such electors do not own property in the area to be annexed on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.

II. 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 law.¹ The Legislature passed the “Municipal Annexation or Contraction Act,” in 1974, which provides a mechanism for municipalities to annex territory and to recede from territory by contraction.² Municipalities may annex territory that is:³

- Contiguous;⁴

¹ Art. VIII, s. 2(c), Fla. Const.

² Ch. 171, part I, F.S.

³ Section 171.043, F.S.

⁴ “Contiguous” means that a substantial part of a boundary of the territory a municipality seeks to annex is coterminous with a part of the boundary of the municipality. Section 171.031(11), F.S.

- Compact;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 initiated by the owners of real property in an unincorporated area of a county.⁹

Annexation by Ordinance

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 After the governing body adopts the ordinance, the ordinance is submitted to a referendum of electors in the area to be annexed.¹² The municipality may, but is not required to, submit the ordinance to its own electors for approval.¹³ If the electors approve the ordinance in the referendum, the ordinance takes effect 10 days after the referendum or on the date provided in the ordinance.¹⁴ However, the date provided in the ordinance may not be more than 1 year following the date of the referendum.¹⁵

Under current law, if more than 70 percent of the land in the area proposed to be annexed is owned by individuals, corporations, or legal entities that are not registered electors of the area, a municipality cannot annex the area without the approval of at least 50 percent of the owners of the area.¹⁶ Additionally, if an area does not have any registered voters on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.¹⁷

Voluntary Annexation

Alternatively, property owners of an unincorporated area may petition a municipality for voluntary annexation, unless a county charter provides for an exclusive method of municipal annexation.¹⁸ After the governing body of the municipality determines that the petition bears the

⁵ “Compactness” means concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Section 171.031(12), F.S.

⁶ Section 171.043(1), F.S.

⁷ An “area developed for urban purposes” is an area that has a total resident population of at least 2 persons per acre of land within its boundaries; has a total resident population of at least 1 person per acre of land and is subdivided into lots and tracts so that at least 60 percent of the lots and tracts are 1 acre or less; or uses 60 percent of the total number of lots and tracts in the area at the time of annexation for urban purposes, and it is subdivided so that at least 60 percent of the acreage, excluding acreage used for nonresidential urban purposes, consists of lots and tracts that are 5 acres or less. Section 171.042(2), F.S.

⁸ Section 171.0413, F.S.

⁹ Section 171.044, F.S.

¹⁰ Section 171.0413(1), F.S.

¹¹ *Id.*

¹² Section 171.0413(2), F.S.

¹³ *Id.*

¹⁴ Section 171.0413(1), F.S.

¹⁵ *Id.*

¹⁶ Section 171.0413(5), F.S.

¹⁷ Section 171.0413(6), F.S.

¹⁸ Section 171.044(4), F.S.

signatures of all owners of property in the area proposed to be annexed, the governing body may, at any regular meeting, adopt a nonemergency ordinance to annex the property and redefine the boundary lines of the municipality to include the property.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 171.0413, F.S., to revise the circumstances under which a municipality is required to take a vote of the electors of the area proposed to be annexed prior to annexation.

The bill provides that if the area proposed to be annexed does not have any registered electors on the date the ordinance is adopted, or has fewer than five registered electors and such electors do not own property in the area to be annexed on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.

Section 2 provides that the act takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

¹⁹ Section 171.044(2), F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 171.0413 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs Committee on April 4, 2017:

- Removes s. 171.0413(5), F.S., from the bill which prohibited an area from being annexed if 70 percent of the land in the area proposed to be annexed is owned by individuals, corporations, or legal entities, unless the owners of more than 50 percent of the land consent to the annexation; and
- Provides that if the area proposed to be annexed does not have any registered electors on the date the ordinance is adopted, or has fewer than five registered electors and such electors do not own property in the area to be annexed on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.

B. Amendments:

None.