

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 423 Town of Ocean Breeze, Martin County

SPONSOR(S): Local Administration Subcommittee, Overdorf

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N, As CS	Moehrle	Miller
2) State Affairs Committee	23 Y, 0 N	Moehrle	Williamson

SUMMARY ANALYSIS

Generally, a local government must hold its public meetings within the jurisdictional boundaries of the local government, unless specifically authorized to hold such meetings elsewhere. When a municipality with a population under 500 people does not have the proper facilities available within its boundary to serve as a location where the local government may hold public meetings, an exception to general law allows such a municipality to hold its public meetings outside its jurisdictional boundary. Public meetings under this exception must be held within five miles of the exterior municipal boundaries. As of April 1, 2019, there were 45 municipalities with populations under 500.

The Town of Ocean Breeze in Martin County was incorporated in 1960. The Town does not own any meeting facilities within its jurisdictional limits. As of April 1, 2019, Ocean Breeze had an estimated population of 303 people. Residential development in the Town has increased in recent years and the population is projected to exceed 500 people within the next six months.

The bill provides the Town of Ocean Breeze an exemption from general law, authorizing the Town to hold public meetings within 2.5 miles of its exterior jurisdictional boundary as long as its population does not exceed 1,500 people.

The bill does not appear to have a fiscal impact on the state, but according to the Economic Impact Statement, it will cost the Town of Ocean Breeze \$2,000 annually to rent meeting space.

According 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) appears to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Meetings

Article I, s. 24(b) of the Florida Constitution sets forth the state's public policy regarding access to government meetings. The section requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Extra-Territorial Public Meetings of Small Municipalities

In 2008, the Legislature authorized the City of Belleair Beach governing board to hold its meetings outside the municipality's boundaries at such time and place as prescribed by ordinance, resolution, or interlocal agreement.⁵ The city council was encouraged to hold its meetings in close proximity to the people it serves.⁶ Due to the number of situations in which small municipalities did not have the proper facilities available to hold public meetings, the Legislature, in 2011, authorized municipalities with populations under 500 people to hold public meetings within five miles of their exterior jurisdictional boundaries.⁷ Prior to the passage of this statute, several Attorney General Opinions⁸ indicated that municipalities lacked statutory authorization to hold public meetings outside of their jurisdiction and, without statutory authorization, acts and proceedings at meetings held outside the municipal jurisdiction were void.⁹

As of April 1, 2019, there were 45 municipalities with populations under 500 people.¹⁰

Town of Ocean Breeze

The Town of Ocean Breeze (formally known as Ocean Breeze Park) in Martin County was established in 1960 after 162 property owners voted to incorporate.¹¹ At the time of its incorporation as a

¹ S. 286.011(1), F.S.

² *Id.*

³ S. 286.011(6), F.S.

⁴ S. 286.011(2), F.S.

⁵ Ch. 2008-286, Laws of Fla.

⁶ *Id.*

⁷ Ch. 2011-147, Laws of Fla., codified as s. 166.0213, F.S.

⁸ 08-01 Op. Att'y Gen. 1 (2008); 03-03 Op. Att'y Gen. 1 (2003); 75-139 Op. Att'y Gen. 1 (1975).

⁹ 08-01 Op. Att'y Gen. Fla. 1 (2008).

¹⁰ Bureau of Economic and Business Research, *Estimates of Population by County and City in Florida: April 1, 2019*, <http://www.bebr.ufl.edu/population> (last visited Jan. 24, 2020).

¹¹ Town of Ocean Breeze, *History of Ocean Breeze*, <https://townofoceanbreeze.com/history/> (last visited Jan. 24, 2020).

municipality, the 65-acre trailer park was the largest privately owned trailer park in the United States.¹² The Town consists of the Ocean Breeze Resort, the Seawalk single-family subdivision, and a commercial development named Ocean Breeze Plaza. The mobile home park was owned and operated by the Hoke family until 2007, when they decided to sell the 45-acre park to 134 residents for \$26 million in an owner-financed transaction.¹³ In August 2012, the Ocean Breeze Park Homeowners' Association filed for Chapter 11 bankruptcy protection. In 2013, an Arizona-based company, Carefree Communities Inc., purchased the mobile home park for \$16.5 million.¹⁴ As of 2019, the Town has an estimated population of 303 people.¹⁵ The mobile home park, Ocean Breeze Resort, is a community for persons 55 years of age or older.¹⁶

The Town has seen increased residential development in recent years following the purchase of the Ocean Breeze Resort in 2016 by Michigan-based Sun Communities, Inc.¹⁷ and the development of a new 143-unit single-family subdivision, called Seawalk.¹⁸ Construction in both the Resort and Seawalk is expected to be completed by either late 2023 or early 2024, with a combined total of 500 modular and single-family homes estimated to be built within the two developments.¹⁹ From 2010 to 2018, the Town experienced a population decline from 355 to 163.²⁰ As of April 1, 2019, the estimated population increased to 303²¹ and is expected to continue increasing, possibly doubling by 2021.²²

The Town currently holds its public meetings at a facility owned by the Ocean Breeze Resort within the municipal boundaries and plans to continue this arrangement for the next two years.²³ The Town does not own any meeting facilities within its jurisdictional limits. Although the Town currently conducts its meetings within the boundaries of the Town, the Town may not be able to find a suitable location for such meetings long-term. When the population exceeds 500, the Town will not be able to meet outside the jurisdictional boundaries of the Town under the small municipality exception.

Effect of Proposed Changes

The bill provides the Town of Ocean Breeze an exemption from s. 166.0213(1), F.S., authorizing the Town to conduct public meetings within 2.5 miles of its exterior jurisdictional boundary provided the resident population does not exceed 1,500 people. According to the town clerk, Ocean Breeze plans to

¹² *Id.*

¹³ Eve Samples, *What will become of Ocean Breeze Park after bankruptcy*, Stuart News (Sept. 20, 2012), archive.tcpalm.com/news/columnists/eve-samples-what-will-become-of-ocean-breeze-park-after-bankruptcy-ep-381969088-342990372.html/ (last visited Jan. 24, 2020).

¹⁴ Gil Smart, *Ocean Breeze residents fear they're being priced out*, Stuart News (May 13, 2016), archive.tcpalm.com/opinion/columnists/gil-smart-ocean-breeze-residents-fear-theyre-being-priced-out-327fe5e9-3760-5766-e053-0100007f58fe-379420081.html (last visited Jan. 24, 2020).

¹⁵ Bureau of Economic and Business Research, *Population Studies Program City Estimates*, <https://www.bibr.ufl.edu/population> (last visited Jan. 24, 2020).

¹⁶ Sun Communities, *Ocean Breeze Resort*, <https://www.suncommunities.com/community/ocean-breeze-rv-resort/> (last visited Jan. 27, 2020).

¹⁷ Lidia Dinkova, *Ocean Breeze Town Council gets new faces after Tuesday's election*, Stuart News (Dec. 20, 2016), <https://www.tcpalm.com/story/news/politics/election/elections/2016/12/20/ocean-breeze-town-council-gets-new-faces-after-tuesday-election/95610670/> (last visited Jan. 24, 2020). (There are 489 modular home units and 45 RV sites).

¹⁸ Melissa E. Holsman, *Most Martin County Property values are up, but increases fall short of last year's*, Stuart News (June 5, 2019), <https://www.tcpalm.com/story/news/local/shaping-our-future/growth/2019/06/05/martin-county-property-values-up-but-fall-short-last-years/1345558001/> (last visited Jan. 24, 2020).

¹⁹ Joshua Solomon, *Ocean Breeze to vote on three Town Council seats in Martin County's only 2019 election*, Stuart News (Aug. 23, 2019), <https://www.tcpalm.com/story/news/local/shaping-our-future/growth/2019/08/23/ocean-breeze-town-council-election-set-lone-race-martin-county/2095475001/> (last visited Jan. 24, 2020).

²⁰ Bureau of Economic and Business Research, *Florida Estimates of Population 2018*, <https://www.bibr.ufl.edu/population/data> (last visited Jan. 24, 2020).

²¹ Bureau of Economic and Business Research, *Florida Estimates of Population 2019* (Table 1 only), <https://www.bibr.ufl.edu/population/data> (last visited Jan. 30, 2020).

²² Joshua Solomon, *Ocean Breeze, marked by future growth, could see changes on horizon*, Stuart News (Nov. 6, 2019), <https://www.tcpalm.com/story/news/local/shaping-our-future/growth/2019/11/06/ocean-breeze-elections> (last visited Jan. 24, 2020);

²³ Questions Regarding Town of Ocean Breeze's Proposed Local Law Regarding Town Meeting Locations, on file with the Local Administration Subcommittee.

hold its public meetings at either the Jensen Beach Community Center (owned by Martin County), the Jensen Beach Baptist Church, or the Jensen Beach Chamber of Commerce.²⁴

B. SECTION DIRECTORY:

Section 1: Provides legislative intent and an exemption to general law for the Town of Ocean Breeze to hold public meetings no further than 2.5 miles outside of its jurisdictional boundary.

Section 2: Provides the act is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 21, 2019

WHERE? The *Stuart News*, a daily newspaper of general circulation published in Martin County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exceptions to General Law

The bill provides the Town of Ocean Breeze an exemption from s. 166.0213(1), F.S., authorizing the Town to conduct public meetings within 2.5 miles of its exterior jurisdictional boundary provided the resident population does not exceed 1,500 people.

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.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2020, the Local Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute corrects a scrivener's error.

This analysis is drafted to the committee substitute as approved by the Local Administration Subcommittee.

²⁴ *Id.*