

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 471 Town of Lake Clarke Shores, Palm Beach County

SPONSOR(S): Roth

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

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 471 passed the House on February 10, 2022, and subsequently passed the Senate on March 10, 2022.

A municipality may propose to annex any area of contiguous, compact, unincorporated territory by ordinance or may be petitioned for annexation by owner(s) of "contiguous... and reasonably compact" real property. An area may only be annexed by ordinance if the annexation is approved by the majority of electors within the affected area voting in a referendum, while an area may be annexed by petition only upon unanimous consent of the landowners.

An enclave is any unincorporated area that may only be accessed through a municipality. An enclave of 110 acres or less may be annexed subject to an interlocal agreement between the county and the municipality.

The bill provides a legal description of an area of approximately 33 acres that lies contiguous, adjacent, and almost completely surrounded by the present municipal boundary of the Town of Lake Clarke Shores and provides that the area is considered an enclave of the town for the purposes of municipal annexation.

The bill was approved by the Governor on May 16, 2022, ch. 2022-232, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Municipal Annexation

A municipality may propose to annex any area of contiguous, compact, unincorporated territory by ordinance or may be petitioned for annexation by owner(s) of “contiguous... and reasonably compact” real property.¹ An area is considered “contiguous” if a substantial part of its boundary is coterminous with a part of the boundary of the municipality.² An area is compact if it is concentrated in a single area and does not create enclaves, pockets, or finger areas.³ All lands to be annexed must be in the same county as the annexing municipality.⁴

The governing body of a municipality may only propose annexation of an area that is contiguous, reasonably compact, and is either:⁵

- Developed for “urban purposes,” which is defined as having a resident population or at least two persons per acre, having a resident population of at least one person per acre if the area is subdivided into lots where at least 60 percent of the total number of lots are 1 acre or less in size, or at least 60 percent of the total number of lots meet one of the preceding definitions and at least 60 percent of the total acreage not used for non-residential “urban purposes” is subdivided into lots of 5 acres or less;
- Lies between the municipal boundary and an area developed for “urban purposes”; or
- Adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and areas developed for “urban purposes.”

A municipality may begin the annexation process by adopting a non-emergency ordinance.⁶ The municipality is required to hold two advertised public meetings before the adoption of the ordinance, one held on a weekday at least seven days after the publication of the first advertisement and one held on a weekday at least five days after the publication of the second advertisement. At least 10 days prior to the first public meeting, the governing body of the municipality must provide written notice to all residents and property owners in the area proposed for annexation.⁷ The notice must contain the annexation proposal, the time and location of the public meeting, and locations where the proposed ordinance may be inspected by the public.

Before adopting an annexation ordinance, a municipality is required to prepare a report that contains:⁸

- Plans to provide urban services to the area to be annexed;
- A map or maps of the municipality and adjacent territory showing the present and proposed municipal boundaries, the present major trunk water mains and sewer interceptors and outfalls, the proposed extensions of such mains and outfalls, and the general land use pattern in the area to be annexed;
- A statement certifying the area meets the annexation criteria specified in s. 171.043, F.S.; and
- A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation.

¹ Ss. 171.0413(1) and 171.044(1), F.S.

² S. 171.031(11), F.S. An area may be contiguous to a municipality even if it is separated by a county-owned public park, a right-of-way, a body of water, or other minor geographic division, as long as those areas do not prevent the annexing municipality and the area being annexed from being a “unified whole with respect to municipal services.”

³ S. 171.031(12), F.S.

⁴ S. 171.045, F.S.

⁵ S. 171.043, F.S.

⁶ S. 171.0413(1), F.S. A non-emergency ordinance is adopted using standing procedures specified by s. 166.041, F.S.

⁷ S. 171.042(3), F.S.

⁸ S. 171.042(1), F.S.

The governing body of the municipality must file a copy of the report with the governing body of the county within 15 days of the commencement of annexation procedures.⁹ Failure to submit the report to the county in a timely manner may invalidate the annexation.

The municipality must submit the adopted annexation ordinance to a referendum in the area to be annexed.¹⁰ The municipality may also choose to submit the ordinance to the voters of the municipality for approval. If more than 70 percent of the area to be annexed is not owned by registered voters, the municipality must obtain the consent of landowners owning at least 50 percent of area to be annexed before conducting the referendum.¹¹ The referendum may be conducted during the next regularly scheduled election or at a special election.¹² The referendum must not be held until at least 30 days after the adoption of the ordinance and must be advertised in a newspaper of general circulation in the area to be annexed.¹³ If the referendum is approved by the voters, the annexation occurs on the effective date provided by the ordinance.¹⁴ If the voters reject annexation, the municipality may not propose annexation of the same area in the two years following the referendum.

Alternatively, the owner(s) of real property in a contiguous, reasonably compact, and unincorporated area of the county may petition a municipality for annexation.¹⁵ The municipality must determine that all land owners in the area to be annexed have signed the petition and publish notice of the annexation before passing an ordinance annexing the area. A copy of the ordinance, including a map and a metes-and-bounds legal description of the area, must be filed with the clerk of the circuit court, the chief administrative officer of the county, and the Department of State within seven days after adopting the annexation ordinance. An area may not be annexed using this process if the annexation would result in the creation of an enclave.¹⁶

Annexation of Enclaves

An enclave is any unincorporated improved or developed area that is either enclosed on all sides by a single municipality or by a single municipality and a natural or manmade obstacle that requires vehicular traffic to the area to pass through the municipality.¹⁷ The existence of enclaves creates problems for urban planning, growth management, and service delivery and therefore the Legislature established the elimination of enclaves as official state policy.¹⁸ Enclaves of 110 acres or less may be annexed by an interlocal agreement between the municipality and the county having jurisdiction over the enclave or, if the enclave has fewer than 25 registered voters, a referendum approved by at least 60 percent of those registered voters.¹⁹

Town of Lake Clarke Shores²⁰

The present location of the Town of Lake Clarke Shores was the site of a pineapple farm in the early 1900's owned by John Clarke. Mr. Clarke, an avid fisherman, named the lake after himself. The construction of the C-51 Canal from Lake Okeechobee to the Atlantic Ocean in 1917 reduced the water level of the lake dramatically, turning most of the area into marsh. Much of the land exposed by the reduction in the water level was sold by the state in the 1940s to a local attorney named William

⁹ S. 171.042(2), F.S.

¹⁰ S. 171.0413(2), F.S.

¹¹ S. 171.0413(5), F.S.

¹² S. 171.0413(2)(a), F.S.

¹³ S. 171.0413(2)(a)-(b), F.S.

¹⁴ S. 171.0413(2)(e), F.S.

¹⁵ S. 171.044, F.S.

¹⁶ S. 171.044(5), F.S.

¹⁷ S. 171.031(13), F.S.

¹⁸ S. 171.046(1), F.S.

¹⁹ S. 171.046(2), F.S.

²⁰ See generally *Lake Clarke Shores*, Palm Beach County Historical Society, <http://www.pbchistoryonline.org/page/lake-clarke-shores> (last accessed Jan. 14, 2022) and *Town History*, Town of Lake Clarke Shores, <https://www.townoflcs.com/community/page/town-history> (last accessed Jan. 14, 2022).

Travers. Mr. Travers dredged and reshaped the lake before beginning to sell lots in 1949. A bridge across the canal was constructed in 1953, sparking further development. Fearing potential annexation by West Palm Beach, the Town of Lake Clarke Shores was incorporated in 1957.²¹

The current municipal area of the Town of Lake Clarke Shores is bounded by Florida Mango Road, Carambola Road, and two canals, with the exception of a tract of land approximately 33 acres in area that is not within the municipal boundary, but is only accessible by Florida Mango Road or roads that run through the municipality.²²

Effects of the Bill

The bill provides a legal description of an area of approximately 33 acres that lies contiguous, adjacent, and almost completely surrounded by the present municipal boundary of the Town of Lake Clarke Shores, and provides that the area is considered an enclave of the town for the purposes of municipal annexation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 24, 2021.

WHERE? The *Palm Beach Post*, a daily newspaper of general circulation in Palm Beach County, Florida.

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

²¹ Ch. 57-1478, L.O.F.

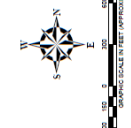
²² A map of the current boundaries of the municipality as well as the proposed area of annexation is attached as Appendix A.

APPENDIX A
Map of the Town of Lake Clarke Shores And Area to be Annexed (In Red)

TOWN OF LAKE CLARKE SHORES ZONING MAP (JUNE 2014)



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LEGEND

[White Box]	Town Limits
[Pink Box]	CHURCH (SPECIAL EXCEPTION)
[Orange Box]	GOVERNMENTAL
[Yellow Box]	LIMITED COMMERCIAL
[Light Green Box]	MULTIPLE FAMILY RESIDENTIAL
[White Box]	SINGLE FAMILY RESIDENTIAL