

STORAGE NAME: h1103a.go

DATE: April 21, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1103

RELATING TO: Flagler County/City of Palm Coast

SPONSOR(S): Representative Wiles

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS (PRC) YEAS 5 NAYS 0
 - (3) FINANCE AND TAXATION (FRC)
 - (4)
 - (5)
-

I. SUMMARY:

This bill authorizes a referendum for the creation of the City of Palm Coast, and provides the elements of its charter.

This bill provides for the dissolution of the existing Palm Coast Area Municipal Service District.

According to the Department of Revenue, there is a projected loss of revenue to Flagler County of \$1,064,881 annually. The other cities in Flagler County will also experience a combined loss of \$116,328 in annual revenue because of the redistribution of state revenue sharing funds.

This bill provides a proposed effective date of December 31, 1999, subject to a referendum.

Three technical amendments were adopted by the Committee on Community Affairs on March 30, 1999. (See amendment section)

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 165, Florida Statutes

Florida law governing the formation and dissolution of municipal governments, the "Formation of Municipalities Act", is found in chapter 165, Florida Statutes. The stated purpose of the "Formation of Municipalities Act" is to provide standards, direction, and procedures for the incorporation of municipalities, and to achieve the following goals:

- Orderly patterns of growth and land use;
- Adequate public services;
- Financial integrity in government;
- Equity in fiscal capacity; and
- Fair cost distribution for municipal services.

Under Florida law, there is only one way to establish a city government where no such government existed before: the Legislature must pass a special act enacting the city's charter. The special act must include a proposed municipal charter that prescribes the form of government and clearly defines the legislative and executive functions of city government, and cannot prohibit tax levies authorized by law.

The 1996 Legislature revised s. 165.041, F.S., to require completion of a feasibility study for any area requesting incorporation. The purpose of the study is to enable the Legislature to determine whether or not: 1) the area meets the statutory requirements for incorporation, and 2) the incorporation is financially feasible. Specifically, the study must include:

- Data and analysis to support the conclusions that incorporation is necessary and financially feasible.
- Population projections and population density calculations and an explanation concerning methodologies used for such analysis.
- Evaluation of the alternatives available to the area to address its policy concerns.
- Evidence that the proposed municipality meets the standards for incorporation found in s. 165.061, F.S.

These standards are:

The area to be incorporated must be compact and contiguous, and amenable to a separate municipal government.

The area must have a total population of at least 1,500 persons in counties with a population of less than 50,000, as determined in the latest official state census, special census, or estimate of population in the area proposed to be incorporated, and of at least 5,000 population in counties with a population of more than 50,000.

The area must have an average population density of at least 1.5 persons per acre, or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.

Every part of the area proposed for incorporation must be at least 2 miles from the boundaries of an existing municipality within the county, or have an extraordinary natural boundary which necessitates a separate municipal government.

Recent Municipal Incorporations

From 1972 to the present, at least 14 municipalities were either created by special act, including Lake Mary, Sanibel, Destin, Jacob City, Midway, DeBary, Ft. Myers Beach, Deltona, Wellington, Weston, Islamorada, Marco Island, and Suntree, or recreated by special act after previous incorporation under authority of general law in effect prior to 1974 (Seminole). The cities of Key Biscayne, Aventura and Pinecrest were created under the charter provisions of Dade County's Charter. The following table indicates recent municipal incorporations by year, city, county, enabling law, and any other applicable chapter of the Laws of Florida:

Recent Municipal Incorporations

1970	SEMINOLE	Pinellas County	general law
1972	SEMINOLE	Pinellas County	ch. 72-693
1973	LAKE MARY	Seminole County	ch. 73-522
1974	SANIBEL	Lee County	ch. 74-606
1983	JACOB CITY	Jackson County	ch. 83-434 ch. 84-456
1984	DESTIN	Okaloosa County	ch. 84-422 ch. 85-471
1986	MIDWAY	Gadsden County	ch. 86-471
1991	KEY BISCAYNE	Dade County	by authority of the Dade Charter
1993	DEBARY	Volusia County	ch. 93-351 ch. 93-363
1995	AVENTURA	Dade County	by authority of the Dade Charter
1995	PINECREST	Dade County	by authority of the Dade Charter
1995	FT. MYERS BEACH	Lee County	ch. 95-494
1995	DELTONA	Volusia County	ch. 95-498
1995	WELLINGTON	Palm Beach County	ch. 95-496
1996	WESTON	Broward County	ch. 96-472
1997	ISLAMORADA	Monroe County	ch. 97-348
1997	MARCO ISLAND	Collier County	ch. 97-367
1997	SUNTREE	Brevard County	ch. 97-352

Recently Failed Incorporations

Over the years, a number of incorporation attempts have failed. Since 1980, some Floridians have rejected municipal government by voting down the incorporation efforts of:

The City of Deltona (1987/1990)

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(chapter 87-449, and chapter 90-410, Laws of Florida)

The City of Fort Myers Beach (1982/1986)
(chapters 82-295, and 86-413, Laws of Florida)

A city in the Halifax area of Volusia County (1985)
(chapter 85-504, Laws of Florida)

The City of Marco Island (1980/1982/1986/1990/1993)
(chapters 80-541, 82-330, 86-434, 90-457, and 93-384, Laws of Florida)

The City of Spring Hill (1986)
(chapter 86-463, Laws of Florida)

The City of Port LaBelle (1994)
(chapter 94-480, Laws of Florida)

The City of Destiny (1995)
(by authority of the Dade County Charter)

The City of Ponte Vedra (1998)
(chapter, 98-534, Laws of Florida)

Municipal Dissolutions

During the last decade or so, several cities have been dissolved:

- Bayview in Bay County by chapter 77-501, Laws of Florida;
- Munson Island in Monroe County by chapter 81-438, Laws of Florida;
- Painters Hill in Flagler County by chapter 81-453, Laws of Florida;
- Hacienda Village in Broward County by chapter 84-420, Laws of Florida; and
- Pennsuco in Dade County under authority of the Dade County Charter.

Proposed City of Palm Coast

The community known as Palm Coast is located on the East Coast of Florida in Flagler County. Beginning in 1969, Palm Coast was developed in Flagler County by the International Telephone and Telegraph Company (ITT). Since then it has grown to be a diverse community with an estimated resident population of approximately 32,000. The current Flagler County population is 40,400, of which approximately 70% live within Palm Coast.

In 1982, Palm Coast was designated as the Palm Coast Service District (PCSD) by the Flagler County Commission. The PCSD operates under an appointed advisory board, in its own community office, with an annual budget based on a separate ad valorem tax rate.

There have been several incorporation efforts since the mid-80's, all of which failed. Most recently, the Palm Coast Home Rule Coalition was formed in 1998 to spearhead the latest effort for incorporation. Working in concert with the Flagler County Commission, a feasibility study and charter were prepared for presentation to the Legislature during the 1999 Legislative Session.

During the summer of 1998, wildfires ravaged the community of Palm Coast, destroying numerous homes. The Flagler County Commission ordered the mandatory evacuation of the entire county, but their emergency management plan proved incapable of adequately responding to the wildfire crisis.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes a referendum for the creation of the City of Palm Coast and provides for the elements of its charter.

According to the Department of Revenue, there is a projected loss of revenue to Flagler County of \$1,064,881 annually. The other cities in Flagler County will also experience a combined loss of \$116,328 in annual revenue because of the redistribution of state revenue sharing funds.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

This bill creates a new special act.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Subject to referendum, the bill creates a new municipality which will have all the rights and responsibilities granted to municipalities in ch. 125, F.S., and in the Florida Constitution.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

Not applicable.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

Subject to referendum, the bill grants the newly incorporated City of Palm Coast the authority to levy any and all taxes provided for in general law and the State of Florida Constitution for municipalities.

b. Does the bill require or authorize an increase in any fees?

Subject to referendum, the bill grants the newly incorporated City of Palm Coast the authority to levy any and all fees provided for in general law and the State of Florida Constitution for municipalities.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

Not applicable.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides the short title of "City of Palm Coast Charter".

Section 2: Provides Legislative intent language.

Section 3: Provides for the creation of the City of Palm Coast in Flagler County and that the city is a council-manager form of government.

Section 4: Provides for municipal powers.

Section 5: Provides for the Council composition; qualifications for office; terms of office; powers and duties of the council; power and duties of the mayor; provides for the election and duties of the vice mayor; compensation of councilors; vacancies; provides reasons for forfeiture of office; filling of vacancies; council meetings; record-keeping; limitation of employment of Council Members; and no interference by City Council Members.

Section 6: Provides the charter officers are the city manager and the city attorney; the powers and duties of the city manager; and the powers and duties of the city attorney.

Section 7: Provides that the council shall adopt a budget and budget amendments.

Section 8: Provides qualifications for electors; nonpartisan elections; how candidates qualify for office; an election schedule; special elections; determination for election to office; city canvassing board.

Section 9: Provides for boundaries of the City of Palm Coast.

Section 10: Provides for the dissolution of the Palm Coast Area Municipal Service District on December 31, 1999, notwithstanding the incorporation of the City of Palm Coast.

Section 11: Provides for general provisions.

Section 12: Provides for severability of any section of the charter.

Section 13: Provides a transition schedule; a referendum; initial election of council members; transition of services and compensation; first year expenses; transitional ordinances and resolutions; transitional comprehensive plan and land development regulations; a waiver from requirements to receive state shared revenues; provides for receipt of gas tax revenues.

Section 14: Provides a reference to December 31, 1999 as the effective date, subject to referendum.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 23 and 26, 1998

WHERE? Flagler/Palm Coast News-Tribune

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Second Tuesday in September, 1999

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

The House Committee on Community Affairs coordinated a review of the feasibility study required by section 165.041, F.S., and the proposed charter with various other legislative committees and appropriate state agencies. Attached are review comments from the Department of Revenue, The Legislative Committee on Intergovernmental Relations and the Office of Economic and Demographic Research.

The reviews of the feasibility study and charter similarly conclude that the community of Palm Coast does not meet one of the statutory requirements for becoming a municipality. The area is compact and contiguous and meets the minimum population requirement of 5,000 persons. However it does not meet the minimum density requirement of 1.5 persons per acre, Nor does the area meet the minimum 2 mile limit within the proximity of an existing municipality. Any unmet standards are automatically waived by virtue of the approval of this special act by the Legislature.

Furthermore, while the available tax base of the community suggests that the proposed City of Palm Coast is financially feasible, the expectations for expenditures by the proposed city appears to be significantly underestimated. In a review of 12 other municipalities of a similar size all 12 had expenditures significantly higher than those projected by Palm Coast.

The reports also provide insight into some of the flaws of the feasibility study and suggestions for amendments to make necessary changes to the charter. (See amendment section) The reports and study are available in the committee office for persons desiring to inspect them.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs approved the bill at its meeting on March 30, 1999 with three technical amendments. The amendments provide the following:

- Deleted unnecessary language.

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- Added a note which provides that general law prohibits the adoption of zoning ordinances as emergency ordinances.
- Changes the fiscal year from 1999-2000 to 2001-2002 for which the city receives a waiver for requirements related to state-shared revenues.

At its meeting on April 21, 1999, the Committee on Governmental Operations adopted one amendment. The amendment provides that the City of Palm Coast shall be entitled to receive local option gas tax revenues beginning October 1, 2000, in accord with interlocal agreement (if executed by June 1, 2000). Barring such interlocal agreement, the distributions shall be in accord with the lane-mile formula contained in s. 336.025(4)(b)1, F.S.

The amendment is traveling with the bill, as favorably reported.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Lisa C. Cervenka

Staff Director:

Joan Highsmith-Smith

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