HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1543 Broward Co./Coral Springs/Margate
SPONSOR(S): Gottlieb
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Affairs (Sub)	7 Y, 0 N	Nelson	Highsmith-Smith
2) Local Government & Veterans' Affairs	15 Y, 0 N	Nelson	Highsmith-Smith
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends the corporate limits of the Cities of Coral Springs and Margate to include legally described areas. The bill provides an amendment to last year's legislation which inadvertently left out boundary delineation between Coral Springs and Margate in an area along Sample Road.

According to the Economic Impact Statement, this bill will not impact state or local government budgets.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[x]
2. Lower taxes?	Yes[]	No[]	N/A[x]
3. Expand individual freedom?	Yes[]	No[]	N/A[x]
4. Increase personal responsibility?	Yes[]	No[]	N/A[x]
5. Empower families?	Yes[]	No[]	N/A[x]

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

This bill amends the corporate limits of the Cities of Coral Springs and Margate to include legally described areas. The bill provides an amendment to last year's legislation which inadvertently left out a boundary delineation between Coral Springs and Margate in an area along Sample Road.

Current Law

Annexation

Constitutional/Statutory Provisions

S.2(c), art. VIII of the State Constitution authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property by local action.

The Legislature established local annexation procedures by general law in 1974, with the enactment of chapter 171, F. S., the "Municipal Annexation or Contraction Act. Chapter 171, F. S., describes the ways that property can be annexed or de-annexed by cities without passage of an act by the Legislature. There are two types of annexations in Florida, voluntary and involuntary. With voluntary annexations, all property owners in the area proposed for annexation formally seek the annexation by petition. For an involuntary annexation to occur, at least a majority of the electors in the area proposed for annexation must vote in favor of the annexation. In addition, for the annexation to be valid under chapter 171, F. S., the annexation must take place within the boundaries of a single county.

There is a twofold purpose of the Florida annexation laws: 1) to set forth local annexation/contraction procedures, and 2) to establish prerequisites for achieving the legislative goals of sound urban development, uniform legislative standards and efficient provision of urban services.

Statutory Requirements That Must Be Met Before Annexation May Occur

Before local annexation procedures may begin, the governing body of the annexing municipality must prepare a report containing the city's plans for providing urban services to the proposed area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, timetables and financing methodologies. It must certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements:

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality. This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. The specified exceptions are where the area is separated from the city's boundary by a publicly owned county park, right-of-way or body of water.

- The area to be annexed must be reasonably compact.

- No part of the area to be annexed may fall within the boundary of another municipality.

- The majority of the land to be annexed must be developed for urban purposes. Urban purposes are defined as:

    - Having a resident population of at least two persons per acre;

    - If 60 percent of the subdivided lots are one acre or less, having a density of one person (resident) per acre;

    - Having at least 60 percent of the subdivided lots used for urban purposes; or

    - Having at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.

Types of Annexations

Voluntary Annexation

If the property owners of a particular unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. The following procedures govern voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- Submission to the municipal governing body of a petition seeking annexation, signed by all property owners in the area proposed to be annexed.

- Adoption of an ordinance by the governing body of the annexing municipality to annex the property after publication of notice at least once a week for two consecutive weeks, setting forth the proposed ordinance in full.

In addition, the annexation must not create enclaves. An enclave is:

(a) Any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or

(b) Any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.

Upon publishing notice of the ordinance, the governing body of the municipality must provide a copy to the board of county commissioners of the county where the municipality is located.

Involuntary Annexations

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is called involuntary annexation. In general, the requirements for an involuntary annexation are:

- The adoption of an annexation ordinance of a "reasonably compact" area by the annexing municipality's governing body.

- Prior to the adoption of an annexation ordinance, the governing body of the municipality must hold at least two advertised public hearings, with the first meeting being held on a weekday at least seven days after the first advertisement and the second meeting being held on a weekday at least five days after the first advertisement. (This new requirement was passed by the 1999 Legislature.)

- Submission of the ordinance to a vote of the registered electors of the area proposed to be annexed once the governing body has adopted the ordinance. The registered electors of the annexing municipality may vote on the annexation if the governing body chooses to submit it to a vote. However, this vote is not required.

In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality. There is no requirement that the electors in the municipality approve an annexation ordinance regardless of the cumulative effect of such annexation.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes a part of the city. If there is no majority vote, that area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

Annexation of Enclaves

With the passage of chapter 93-206, Laws of Florida, (now found in s.171.046, F. S.), the Legislature recognized that enclaves can create significant problems in planning, growth management, and service delivery.

In 1993, the Legislature recognized that enclaves can create significant problems in planning, growth management, and service delivery. The intent of the legislation was to make it easier to eliminate enclaves of small land areas. A separate process for annexing enclaves of 10 acres or less was created. Using this process, a municipality may annex an enclave by interlocal agreement

with the county having jurisdiction of the enclave. It may also annex an enclave with fewer than 25 registered voters by municipal ordinance, when the annexation is approved in a referendum by at least 60 percent of the voters in the enclave. These procedures do not apply to undeveloped or unimproved real property.

Annexation by Special Act

S.171.044 (4), F. S., provides that the procedures for voluntary annexation shall be "supplemental to any other procedure provided by general law or special law." There are a number of special annexation laws that exist in Florida, and hence special laws should always be checked prior to beginning annexation procedures. The Legislature may allow municipalities to annex property by passage of a special act and are empowered to waive any and all statutory requirements.

Annexation by Charter

Also provided in s. 171.044(4), F. S., voluntary annexation procedures do not apply to municipalities and counties with charters that provide for an exclusive method of municipal annexation.

Effect of Annexation on an Area

Immediately upon being annexed, an area becomes subject to all laws, ordinances, and regulations applicable to other city residents. An exception is that applicable county land use and zoning regulations continue in effect until the annexing municipality adopts a comprehensive plan amendment and rezones the area, pursuant to s. 171.062(2), F. S. Also, the county land use plan, and zoning or subdivision regulations of the unincorporated area remain in effect (after the annexation has been approved) until the annexing municipality adopts a local comprehensive plan amendment to include the new area. In contractions, excluded territory is immediately subject to laws, ordinances, and regulations in effect in the county.

Affected persons who believe they will suffer material injury because of the failure of the city to comply with annexation or contraction laws as they apply to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If the appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.

Finally, any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.

Solid Waste Collection

Florida law provides for continuing any exclusive franchised solid waste collection services that have been in effect for six months or longer. They are to continue to the newly annexed area for either five years or for the remainder of the franchise term, whichever is shorter. The municipality may allow the franchisee to continue servicing the area under the present franchise agreements, or the city may terminate the agreements if the franchisee does not agree to comply with certain statutory provisions relating to the quality of services or the costs of providing such services. In 2000, the Legislature adopted a provision which provides that a solid waste collection contract in effect at least six months prior to the annexation, may continue to provide services to the annexed area for five years or the reminder of the contract, whichever is shorter. The solid waste collection provider must provide written evidence of the contract duration, excluding any automatic renewals or "ever-green" provisions, within a reasonable time of a written request. This does not apply to single-family residential properties in specified enclaves.

Broward County Annexations

Broward County is located on Florida's South Atlantic coast and consists of nearly 1,200 square miles and a population of approximately 1.3 million residents. Broward County currently contains 31 municipalities, the majority of which achieved their current corporate boundaries through a multitude of annexations.

In 1996, in cooperation with the Broward County Commission, the Broward County Legislative Delegation created the Ad Hoc Committee on Annexation Policy. The delegation charged the committee with the responsibility of developing and recommending policy to the Broward Legislative Delegation regarding the terms under which it would consider future annexations. The committee recommended that annexation of all the remaining unincorporated areas of Broward County should be encouraged to occur by the year 2010 and unincorporated areas remaining after 2010 will be subject to required annexation by the Florida Legislature. (As of 2001, this goal was changed to year 2005.)

The 1996 Florida Legislature adopted a special act (chapter 96-542, Laws of Florida, as amended by chapter 99-447, Laws of Florida), which requires that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to general law first must be considered at a public hearing conducted by the Broward County Legislative Delegation, pursuant to its adopted rules. The annexation is not effective until the 15th day of September following adjournment sine die of the next regular legislative session following the accomplishment of all procedures necessary for annexation.

Annexations may also occur by special act of the Legislature. The Broward County Legislative Delegation sponsors several local bills each year to accomplish some annexations.

2001 Broward County Legislative Delegation's Ad Hoc Committee on Annexation

House Bill 907 (2001 Session), introduced by Representative Stacy Ritter, died in the House Committee on State Administration, and Senate Bill 2338 (2001 Session), introduced by Senator M. Mandy Dawson, died in the Senate Committee on Rules and Calendar. These bills required the City of Pembroke Park, located in Broward County with a population of approximately 5,000 people, to annex unincorporated areas in South Central Broward County, including the areas of Carver Ranches, Miami Gardens, Utopia and Lake Forest. These areas have a population of approximately 15,000 people and if added to Pembroke Park, would have quadrupled the city's population.

As a result of the opposition of the citizens of Pembroke Park to these annexation bills and the eventual disposition of the bills, the Broward County Legislative Delegation initiated a review of the remaining Broward annexations by establishing the 2001 Ad Hoc Committee on Annexation.

Their stated mission was:

"…to facilitate the fair and comprehensive continuation of the 1995 Annexation Policy with Broward County with special consideration being given to each neighborhood and the responsibilities assumed by the annexing municipality with the cooperation of Broward County."

The Committee met six times during the summer of 2001.

The Committee agreed to the following 18 guidelines:

1. The annexation of all unincorporated areas in Broward County should take place by October 1, 2005. Any areas left unincorporated after that date would be subject to required annexation by the State Legislature.

2. All annexation bills for Broward County should be combined into one comprehensive or omnibus bill in order to streamline the process.
3. An official unincorporated partnership committee shall be established to identify community projects or issues of interest that can be collaboratively achieved. These projects or issues shall become the part of any interlocal agreement prior to annexation. This committee would be responsible for communications between the annexing city and the unincorporated area.
4. The geographic integrity, character, and unique lifestyle of the different neighborhoods should be preserved.
5. Residents of areas being proposed for annexation should be informed of any new taxes or fees which would be imposed b the annexing municipality.
6. Cities should be creative in providing incentives to unincorporated areas to encourage them to be annexed
7. Unincorporated area residents should be given the right whenever possible and reasonable to choose which municipality to join and the right to vote on annexation by referendum.
8. Discontinues the practice of dual referenda
9. Existing regional County facilities should remain unincorporated, unless the County and municipality in question agree to annexation.
10. A transition plan will be established to assist those County employees displaced by reason of annexation.
11. Infrastructure projects should be completed by the County as scheduled in the County's Five Year Capital Improvement Program.
12. The County and prospecting annexing municipalities will execute interlocal agreements in regards to incomplete County infrastructure projects.
13. The practice of "cherry-picking" will be ended. Cherry-picking is the act of cities only selecting areas that are to produce a positive tax cash flow to the city.
14. Commercial properties should not be stripped from neighborhoods from which they would logically or geographically belong.
15. Nothing should preclude the use of deannexation, consolidation, or incorporation as a means to ameliorate past actions.
16. All future legislative bills may include phase in dates for both infrastructure improvements as well as the communities to be annexed.
17. Whenever possible, annexation should achieve revenue neutrality for the annexing municipality.
18. With respect to municipal protocol, all correspondence regarding annexation must be directed to the mayor, elected officials and city managers

The Broward County Legislative Delegation approved these recommendations / guidelines at their final public hearing held on August 23, 2001, at the Broward Government Center. As a result, the delegation came to the 2002 Legislature with a request to consider either an omnibus bill, (HB 1027 by Rep. Ritter), or individual "stand-alone" bills addressing each individual annexation separately.

C. SECTION DIRECTORY:

Section 1: Amends the present corporate limits of the City of Coral Springs, Broward County to include legally described lands.

Section 2: Amends the present corporate limits of the City of Margate, Broward County, to include legally described lands.

Section 3: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? January 29, 2003

WHERE? The *Sun-Sentinel*, a daily newspaper of general circulation in Broward County.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Comments

The Coral Springs City Attorney[1] states that the Cities of Coral Springs, Coconut Creek and Margate entered into an interlocal agreement in October 2001, regarding the clarification of the boundaries of their respective municipalities along Sample Road and State Road 7. Last year the delegation approved a local bill addressing the boundaries between Coconut Creek, Margate and Coral Springs along State Road 7. The bill failed to delineate the boundary between Coral Springs and Margate along Sample Road just east of Riverside Drive east to Rock Island Road. The proposed bill clarifies the boundary along Sample Road. The property affected by this bill is the right-of-way for Sample Road in Broward County between Riverside Drive and Rock Island Road. Passage of this bill will enable the respective municipalities to clarify responsibility for police, fire and emergency services among the three municipalities.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.

[1] Samuel S. Goren, City Attorney for the City of Coral Springs, Florida (October 3, 2002).