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DATE: June 4, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-0322, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 915, 1ST ENG

RELATING TO: Ft. Lauderdale/Dania Beach (Broward County)

SPONSOR(S): Representative Ritter

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
 - (2) STATE ADMINISTRATION (SGC) YEAS 3 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill directs the Broward County Board of County Commissioners to schedule an election to allow voters in an area of unincorporated Broward County known as "Greater Riverland Road Area," to choose whether to annex into the cities of Dania Beach or Fort Lauderdale. The bill transfers jurisdiction over roads within the specified areas to the annexing municipality on the annexation's effective date.

Pursuant to House Rule 5.6(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 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.) However, this bill complies with chapter 96-542, Laws of Florida, which exempts Broward County from the general law provision in chapter 171, Florida Statutes.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. PRESENT SITUATION:

Annexation

Constitutional/Statutory Provisions

Section 2(c), article 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, Florida Statutes. Chapter 171, Florida Statutes, named the "Municipal Annexation or Contraction Act," 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, Florida Statutes, 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 5 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 2 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 section 171.0413, Florida Statutes. 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 section 171.046, Florida Statutes), the Legislature recognized that enclaves can create significant problems in planning, growth management, and service delivery. 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.

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

Subsection 171.044(4), Florida Statutes, 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 subsection 171.044(4), Florida Statutes, 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 section 171.062(2), Florida Statutes. 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 5 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 6 months prior to the annexation, may continue to provide services to the annexed

area for 5 years or the remainder 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.

The 1996 Florida Legislature adopted a special act (chapter 96-542, Laws of Florida, as amended by chapter 99-447, Laws of Florida), which exempts Broward County from the general law provision in chapter 171, Florida Statutes. This provision requires a referendum of the electors of an annexing municipality where the total area annexed by a municipality during a calendar year cumulatively exceeds more than 5 percent of the total land area of the municipality or cumulatively exceeds more than 5 percent of the municipal population.

In addition, the special act 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 fifteenth 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.

C. EFFECT OF PROPOSED CHANGES:

The bill directs the Broward County Board of County Commissioners to schedule an election on March 12, 2002, to allow voters in an area of unincorporated Broward County known as "Greater Riverland Road Area," to choose whether to annex into the cities of Dania Beach or Fort Lauderdale. The bill requires each of the interested municipalities to inform the Broward County Board of County Commissioners, by June 19, 2001, of its desire to appear on the ballot. The area shall be annexed into the municipality receiving a majority of the vote effective September 15, 2002.

The bill describes eligible voters and ballot information. The bill also prohibits the use of a mail ballot.

The bill transfers jurisdiction over roads within the specified areas to the annexing municipality on September 15, 2003.

The City of Dania Beach stated in the economic impact statement that it anticipated revenues of \$3,508,439, from state revenue sharing funds and local taxes, for each of the two fiscal years

following the annexation. Concurrently, the city would expend in the first fiscal year, \$3,175,000, and \$1,700,000 in the second fiscal year following the annexation.

The City of Fort Lauderdale stated in the economic impact statement that it anticipated revenues of \$2,515,304 and \$3,483,976, from state revenue sharing funds and local taxes, for the two fiscal years following the annexation. Concurrently, the city would expend in the first fiscal year, \$1,569,729, and \$2,370,772 in the second fiscal year following the annexation. Note: The anticipated revenue for the second fiscal year following the annexation appears to be \$2,673,112, rather than \$3,483,976.

Pursuant to House Rule 5.6(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 5.6(b) appear to apply to this bill. However, this bill complies with chapter 96-542, Laws of Florida, which exempts Broward County from the general law provision in chapter 171, Florida Statutes.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section states that the cities of Fort Lauderdale and Dania Beach have affirmed its interest in annexing the area in unincorporated Broward County, known as the "Greater Riverland Road Area."

Section 2: This section describes the area known as the "Greater Riverland Road Area."

Section 3: This section requires each of the interested municipalities, after considering the impact of such annexation, to inform the Broward County Board of County Commissioners, by June 19, 2001, of its desire to appear on the ballot providing for the annexation.

Section 4: This section directs the Broward County Board of County Commissioners to schedule an election on March 12, 2002, to allow voters in an area of unincorporated Broward County known as "Greater Riverland Road Area," to choose to annex into a city that has affirmed its desire to appear on the ballot. The ballot information is provided, as well as a prohibition on mail ballots.

Section 5: This section provides that the area, known as "Greater Riverland Road Area," shall be annexed, effective September 15, 2002, into the municipality receiving a majority of the vote on March 12, 2002.

Section 6: This section transfers jurisdiction over roads within the specified areas to the annexing municipality on September 15, 2003.

Section 7: This section prohibits any change in current land use designation or zoning by the annexing municipality within the annexed area, as long as the use is continued and not abandoned.

Section 8: This section provides that no change in land use designation or zoning within the annexed area between the effective date of this bill and the date of annexation is effective. In addition, this section prohibits the annexation of this area by any municipality during the specified period.

Section 9: This section provides that this act takes precedence over any other enacted law.

Section 10: This section provides that this bill is effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 28, 2001

WHERE?

Sun-Sentinel; Fort Lauderdale, Broward County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

March 12, 2002

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

It appears as though one of the dates provided for in this bill was not revised to conform to the amended annexation schedule. The bill currently transfers jurisdiction over roads within the specified areas to the annexing municipality on September 15, 2003, the bill's previous annexation effective date. It is unclear whether the intent was to keep this date or to amend it to 2002. The local legislative delegation was contacted and stated that the provision should have been amended to 2002. The date remains September 15, 2003.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs, at its April 5, 2001 meeting, adopted the following four amendments, offered by Representative Ritter:

Amendment #1 – This amendment changes the election date from November 5, 2002 to March 12, 2002.

Amendment #2 – This amendment changes the annexation effective date from September 15, 2003 to September 15, 2002.

Amendment #3 – This amendment is a conforming amendment.

Amendment #4 – This amendment inserts language that appears in all Broward County annexation local bills which prohibits any current land use change by the annexing city and prohibits any annexation of this area by another prior to the annexation in this bill taking effect.

The House adopted these amendments on May 2, 2001. A floor amendment offered by Representative Ritter (amendment 094637) was also adopted. This amendment revised the effective of this bill to upon becoming a law.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Laura Jacobs

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Lauren Cyran

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Laura Jacobs

Staff Director:

Joan Highsmith-Smith