

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 421 Lee Co./City of Cape Coral  
**SPONSOR(S):** Kottkamp  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Local Affairs (Sub)</u>	<u>9 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	<u>18 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
3) <u>Judiciary</u>	<u></u>	<u>Billmeier</u>	<u>Havlicak</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

This bill authorizes the City of Cape Coral and Lee County to enter into an interlocal agreement for the municipal annexation of various Lee County-administered enclaves, subject to referendum approval. The bill provides for the transfer of authority for municipal service duties and infrastructure, subject to the interlocal agreement.

The Economic Impact Statement states that eliminating the enclaves may lessen the economic burden on both the City and the County resulting from inefficiencies inherent in service provision to isolated areas. The County may lose some ad valorem tax revenues. If municipal utilities are offered to the annexed areas, property owners will need to pay the utility assessments in accordance with the established city methodology.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0421c.ju.doc  
**DATE:** April 6, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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. EFFECT OF PROPOSED CHANGES:

##### Current Law

Article VIII, Section 2(c) of the State Constitution authorizes the Legislature:

- to annex unincorporated property into a municipality by special act; and
- 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."

##### **Annexation by Special Act**

Section 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.

##### Effect of Proposed Changes

This bill authorizes the City of Cape Coral and Lee County to enter into an interlocal agreement for the municipal annexation of various Lee County-administered enclaves, subject to referendum approval. The bill also provides that the city will assume all of the municipal service duties of Lee County pursuant to the terms and conditions of the interlocal agreement, and that the transfer from the county to the city of the county municipal service infrastructure located within the annexed areas will be pursuant to the interlocal agreement. The referendum is to be held by the city at any regular election following adoption of the interlocal agreement. If approved by the voters, the agreement becomes effective as may be provided in the agreement or not more than one year following the referendum.

#### C. SECTION DIRECTORY:

Section 1: The bill provides that the City of Cape Coral and Lee County are authorized to enter into an interlocal agreement subject to referendum for the annexation of various County-administered enclaves located within the City of Cape Coral. The bill provides the boundaries of the enclaves to be annexed:

- A. Two contiguous parcels of land located in Section 17, Township 44 South;
- B. Five contiguous parcels of land located in Section 10, Township 44 South;
- C. Two contiguous parcels of land located in Section 19, Township 43 South;
- D. A parcel of land located in Section 8, Township 44 South;
- E. A parcel of land located in Section 5, Township 44 South;

- F. A tract or parcel of land in Sections 20 and 29, Township 44 South; and
- G. Twenty-nine contiguous parcels located within Sections 20 and 21, Township 44 South.

Section 2: The bill provides that the interlocal agreement shall be filed with the clerk of the city and the clerk of the courts for the county, and that a duly advertised public hearing be held by the city and county respectively, prior to the adoption of the interlocal agreement.

Section 3: The bill provides that subsequent to the adoption of the interlocal agreement by the city and the county and prior to the implementation of the proposed annexation, a referendum shall be held by the city and within the proposed described enclave areas to be annexed for the ratification and approval of the interlocal agreements. The bill also provides that the interlocal agreement be presented in separate referendums to the registered voters residing within the city and the proposed annexed areas.

Upon a majority vote in favor of the agreement by the registered voters of the City and a majority vote of the combined registered voters residing in all county enclaves to be annexed, the agreement will be deemed to be ratified and approved, and will become effective as provided for in the agreement or not more than one year following the referendum.

The referendum may be conducted by the city at any regular election following the adoption of the agreement by the city and county.

Section 4: The bill provides for the transfer from the county to the city of county municipal service infrastructure located within the annexed areas pursuant to the approved interlocal agreement.

Section 5: The bill provides that any law or part of a law that is in conflict with this act is superseded to the extent of the conflict.

Section 6: Provides an effective date of upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? February 8, 2003

WHERE? *Cape Coral Daily Breeze*, a newspaper of general circulation located in Lee County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 5 of the bill provides that if this bill conflicts with any other law, the terms of the bill control. This provision is arguably unnecessary because if two laws of equal force irreconcilably conflict, the later in

time governs.<sup>1</sup> Further, in general, a law addressing specific issues, such as the provisions of this bill, generally control over a law addressing more general topics. Further, this provision could leave general law as expressed in the Florida Statutes subject to an exception “buried” in the Laws of Florida.

Other Comments:

The Economic Impact Statement provides that current County land use and zoning codes prevent commercial use for the properties to be annexed. The City would, upon annexation, revise the land use and zoning designation of such properties. This would likely have a positive impact upon competition and employment.

Eliminating the enclaves may lessen the economic burden on both the City and the County resulting from inefficiencies inherent in service provision to isolated areas. The City may have the opportunity to increase the provision of municipal utilities to newly annexed areas, greatly enhancing the development potential of the area. Property owners may experience higher property values.

The County may lose some ad valorem tax revenues. If municipal utilities are offered to annexed areas, property owners will need to pay the utility assessments in accordance with the established city methodology.

**IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES**

None.

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<sup>1</sup> See Askew v. Schuster, 331 So. 2d 297 (Fla. 1976); Sharer v. Hotel Corp. of America, 144 So. 2d 813 (Fla. 1962).