

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS  
FINAL BILL ANALYSIS**

**BILL #:** CS/HB 1063 City of Palm Bay, Brevard County  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Fine  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Darden	Miller
2) State Affairs Committee	23 Y, 0 N	Darden	Williamson
<b>FINAL HOUSE FLOOR ACTION:</b> 111 Y's 1 N's			
<b>GOVERNOR'S ACTION:</b> Approved			

**SUMMARY ANALYSIS**

CS/HB 1063 passed the House on April 11, 2019, and subsequently passed the Senate on May 1, 2019.

Municipalities may redraw their boundaries through the contraction process, often referred to as deannexation. The municipal governing body or the resident of an area may propose deannexation, which may be subject to a referendum in certain cases. An area may only be proposed for deannexation if it would not meet the criteria for annexation under current law.

The bill contracts an area from the City of Palm Bay and makes provision for the transition of the area back to the jurisdiction of the county. These provisions include the applicability of county ordinances, protection of contractual rights between the City of Palm Bay and other parties that may be impacted by the contraction, protection of the property rights of the owners in the area to be contracted, and the provision of utility services. The area contracted from the City of Palm Bay by the bill would not be eligible for deannexation by the municipal governing body.

The bill was approved by the Governor on May 10, 2019, ch. 2019-176, L.O.F., and became effective on that date.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### City of Palm Bay<sup>1</sup>

The area known today as the City of Palm Bay was first settled in 1887. The original settlement was called Tillman until 1925, when 200 residents petitioned for a name change to reflect more accurately the character of the area. The current city charter was approved in 1960. As of 2017, the city has approximately 111,000 residents.<sup>2</sup>

##### Municipal Contraction (Deannexation)

Municipalities may redraw their boundaries through the contraction process, also referred to as deannexation.<sup>3</sup> An area may be considered for exclusion upon the passage of an ordinance by the municipality proposing exclusion<sup>4</sup> or by the filing of a petition by 15 percent of the qualified voters of the area requesting exclusion.<sup>5</sup> For a contraction proposal initiated by petition, the governing body must conduct a study on the feasibility of the proposal and, within six months, decide to initiate contraction procedures or reject the petition and state the factual basis for such rejection.<sup>6</sup>

Once the contraction proposal is initiated, the governing body must publish notice of the proposed contraction ordinance at least once a week for two consecutive weeks in a newspaper of general circulation in the municipality.<sup>7</sup> This notice must:

- Include a description of the area to be excluded;
- Show the area fails to meet the general criteria for annexation;
- Set the time and place for the municipal governing body meeting at which the proposed ordinance will be considered; and
- Advise that all affected persons may be heard.

Voter approval of the contraction is required if the municipal governing body calls for a referendum election on the question in the area proposed for exclusion or residents of that area submit a petition at the public meeting signed by at least 15 percent of the area's qualified voters. The date for the referendum is determined by the method used to call for the referendum.<sup>8</sup> The municipal governing body is required to publish notice of the referendum election at least once a week for two consecutive weeks in a newspaper of general circulation in the municipality or in the area proposed to be excluded.<sup>9</sup>

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<sup>1</sup> See generally City of Palm Bay, *History*, <https://www.palmbayflorida.org/discover-us/about/history> (last visited Mar. 5, 2019).

<sup>2</sup> United States Census Bureau, *City and Town Population Totals: 2010-2017*, <https://www.census.gov/data/tables/2017/demo/popest/total-cities-and-towns.html> (last visited Mar. 5, 2019).

<sup>3</sup> S. 171.051, F.S.

<sup>4</sup> S. 171.051(1), F.S.

<sup>5</sup> S. 171.051(2), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> S. 171.051(3), F.S.

<sup>8</sup> S. 171.051(6), F.S. If a referendum is required due to the filing of a petition signed by at least 15 percent of the area's qualified voters, the referendum must occur at the next regularly scheduled election. If the referendum is called at the discretion of the municipal governing body, a special election is called no sooner than 30 days after the verification of the petition or the passage of the resolution or ordinance calling for a referendum.

<sup>9</sup> S. 171.051(7), F.S.

If a majority of electors voting in the referendum opposes deannexation, the municipality is prohibited from proposing the exclusion of the area in a contraction ordinance for a period of least two years.<sup>10</sup>

An area removed from a municipality must fail to meet the criteria for annexation. Under these criteria, an area to be annexed must be contiguous to the annexing municipality, must be reasonably compact, and must not be located within the boundaries of another municipality.<sup>11</sup> An area must also meet one of the following criteria:

- The area is developed for urban purposes;<sup>12</sup>
- The area links the municipality with areas developed for urban purposes;<sup>13</sup> or
- At least 60 percent of the boundary of the area is adjacent to the municipal boundary and lands developed for urban purposes.<sup>14</sup>

The results of the contraction must not separate any portion of the municipality from the rest of the municipality.<sup>15</sup>

The contracting ordinance must provide for apportionment of any prior existing debt and property.<sup>16</sup> The county and the municipal governing body must reach an agreement determining which debt or property will be transferred to the county, the fair value of the debt or property, and the manner of transfer and financing.<sup>17</sup>

An area that has been deannexed is no longer subject to municipal laws, ordinances, or regulations and becomes subject to any laws, ordinances, or regulations of the county as of the effective date of the deannexation.<sup>18</sup>

### **Effect of the Bill**

The bill contracts a portion of the City of Palm Bay, returning the area to unincorporated Brevard County. The laws, ordinances, and regulations of Brevard County will apply as of the effective date of the act.

The bill purports not to impact any contractual rights between the City of Palm Bay and another party. The bill does not impact any existing property rights, approvals, and entitlements of property in the deannexed area. The bill states that Brevard County may apply “equivalent” land use requirements to those applied to the properties by the City of Palm Bay.

The City of Palm Bay is required to provide the deannexed area with access to public water and sewer utility services at the same terms and rates applied to the owners of other land eligible for or receiving utility services from the City of Palm Bay. These rates and terms may include surcharges authorized by general law for municipal provision of utilities services outside of the municipal boundary.

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<sup>10</sup> S. 171.051(10), F.S.

<sup>11</sup> S. 171.043(1), F.S.

<sup>12</sup> S. 171.043(2), F.S. An area is considered “developed for urban purposes” if it has a population density of 2 persons per acre, a population density of 1 person per acre and at least 60 percent of the total lots and tracts in the area are less than or equal to 1 acre in size, or 60 percent of the total lots and tracts in the area would otherwise be considered used for urban purposes and at least 60 percent of the total acreage of the area, excluding areas used for nonresidential urban purposes, is lots and tracts less than or equal to 5 acres in size.

<sup>13</sup> S. 171.043(3)(a), F.S.

<sup>14</sup> S. 171.043(3)(b), F.S.

<sup>15</sup> S. 171.052(1), F.S.

<sup>16</sup> S. 171.052(2), F.S.

<sup>17</sup> S. 171.061(2), F.S.

<sup>18</sup> S. 171.062(3), F.S.

The bill states the City of Palm Bay may not require annexation of the area into the city as a condition of receiving utility services, unless the property owners freely choose voluntary annexation.

The Economic Impact Statement states the area does not meet a criterion for deannexation under s. 171.052, F.S. According to a map of the City, it appears that 60 percent of the area proposed for deannexation is adjacent to either municipal boundaries or land developed for urban purposes.

## 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:

The bill will reduce the revenues of the City of Palm Bay by the amount of ad valorem taxes and other taxes to which the deannexed parcels were subject. According the Economic Impact Statement, the value of these taxes in FY 2019-20 equalled approximately \$43,538.<sup>19</sup>

#### 2. Expenditures:

None.

### C. ECONOMIC IMPACT STATEMENT FILED?    Yes ☒    No ☐

### D. NOTICE PUBLISHED?    Yes ☒    No ☐

IF YES, WHEN?            January 25, 2019.

WHERE?                    *Florida Today*, a daily newspaper of general circulation in Brevard County, Florida.

### E. REFERENDUM(S) REQUIRED?    Yes ☐    No ☒

IF YES, WHEN?

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<sup>19</sup> See 2019 Economic Impact Statement, at <https://myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=EconomicImpactStatement.pdf&DocumentType=localbilloccuments&Session=2019&BillNumber=1063> (last visited May 6, 2019).