HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 759 Hillsborough County
SPONSOR(S): Reagan and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 759 provides a city charter for the City of Ruskin in Hillsborough County. This charter provides for:

- the creation and establishment of the city;
- the form of government and territorial boundaries of the city;
- the powers of the city, and an administrative code;
- election and terms of office of a city council, including the mayor and vice mayor, and their qualifications, powers and duties;
- circumstances which create vacancies in office, filling of vacancies, and forfeiture of office and recall;
- a procedure for establishing compensation and expense reimbursement for the mayor and city council;
- a city manager, city clerk and city attorney, and the powers and duties of each;
- city boards and committees, and their powers and duties;
- election requirements and guidelines;
- charter amendments and a charter review committee;
- standards of conduct, bonding of certain employees, and assumption of debt in certain circumstances;
- transitional provisions, including an initial election and terms of office, interim adoption of codes, ordinances and resolutions, taxes and fees, first-year expenses, services and compensation, shared revenues, and powers and duties of the city manager and city clerk; and
- severability of provisions.

The bill provides that the act takes effect only upon its approval by a majority vote of qualified electors residing within the corporate limits of the proposed city.

According to the Economic Impact Statement, a tax increase of approximately 3 mills would be required in the fifth year of the municipality's existence to retain the current level of services. The Economic Impact Statement also states that the impact of the incorporation on each individual taxpayer is unknown at this time and cannot be determined until the new city is established.

Pursuant to House Rule 5.5(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 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

If incorporation of the proposed municipality is approved, it will create an additional local government entity.

Ensure Lower Taxes

According to the Economic Impact Statement, a tax increase of approximately 3 mils would be required in the fifth year of the municipality's existence to retain the current level of services.

B. EFFECT OF PROPOSED CHANGES:

Background/Municipal Incorporation

Constitutional Provisions

Section 2, Art. VII of the State Constitution provides that municipalities[1] may be established or abolished and their charters amended pursuant to general or special law. Municipalities are constitutionally granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The only specific constitutional requirement concerning municipal government is that its legislative body be elected.

Statutory Provisions

Florida law governing the formation and dissolution of municipal governments is found in ch. 165, F.S., the "Formation of Municipalities Act." The stated purpose of the Act is to provide standards, direction and procedures for the incorporation, merger and dissolution of municipalities so as to:

- allow orderly patterns of urban growth and land use;
- assure adequate quality and quantity of local public services;
- ensure financial integrity of municipalities;
- eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
- promote equity in the financing of municipal services.

Under ch.165, F.S., there is only one way to establish a city government where no such government exists: the Legislature must pass a special act creating the city's charter, upon determination that the standards provided in that chapter have been met. [2]

[1] A municipality is a local government entity, located within a county that is created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. The term "municipality" can be used interchangeably with the terms "city," "town" and "village."

[2] An exception to this rule exists in Miami-Dade County where the county has been granted the exclusive power to create cities through the State Constitution and its home rule powers. See, s. 165.022, F.S., and s. 6(e), Art. VIII of the State Constitution. Adopted in 1957, the Miami-Dade Home Rule Charter provides for the creation of new municipalities at section 5.05.

Requirements and Standards for Municipal Incorporation

Submittal of a feasibility study and a local bill that proposes the local government charter is required for consideration of incorporation. In addition, the new municipality must meet the following conditions in the area proposed for incorporation pursuant to s. 165.061(1), F.S.:

1. It must be compact, contiguous and amenable to separate municipal government.
2. It must have a total population, as determined in the latest official state census, special census or estimate of population, of at least 1,500 persons in counties with a population of less than 75,000, and of at least 5,000 persons in counties with a population of more than 75,000.
3. It 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.
4. It must be a minimum distance of at least two miles from the boundaries of an existing municipality within the county or have an extraordinary natural boundary that requires separate municipal government.
5. It must have a proposed municipal charter that clearly prescribes and defines the form of government and its functions and does not prohibit or restrict the levy of authorized tax.
6. In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation.

Feasibility Study

The feasibility study is a survey of the proposed area to be incorporated. The purpose of the study is to enable the Legislature to determine whether or not the area: 1) meets the statutory requirements for incorporation, and 2) is financially feasible. The feasibility study must be completed and submitted to the Legislature at least 90[3] days prior to the first day of the regular legislative session during which the municipal charter would be enacted.

In 1999, the Legislature revised s.165.041, F.S., by adding new, detailed requirements for the preparation of the required feasibility study for any area requesting incorporation. Specifically, the study must include:

1. The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.
2. The major reasons for proposing the boundary change.
3. The following characteristics of the area:
   - a list of the current land use designations applied to the subject area in the county comprehensive plan;
   - a list of the current county zoning designations applied to the subject area;
   - a general statement of present land use characteristics of the area;
   - a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
4. A list of all public agencies, such as local governments, school districts and special districts, whose current boundaries fall within the boundary of the territory proposed for the change or reorganization.
5. A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each service.

[3] Section 165.041(1)(b), F.S.

6. A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such services.
7. The names and addresses of three officers or persons submitting the proposal.
8. Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:
   - existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and
   - a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance and budgets.
9. Data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations and an explanation concerning methodologies used for such analysis.
10. Evaluation of the alternatives available to the area to address its policy concerns.
11. Evidence that the proposed municipality meets the standards for incorporation of s.165.061, F.S.

Section 165,081, F.S., provides that any special law enacted pursuant to ch. 165, F.S., is reviewable by certiori if the appeal is brought before the effective date of the incorporation.

Formation Activity In Florida

Municipal Incorporations and Mergers

From 1972 to the present, 25 municipalities have been incorporated, with 17 municipalities created by special act (Bonita Springs, DeBary, Deltona, Destin, Ft. Myers Beach, Islamorada, Jacob City, Lake Mary, Marathon, Marco Island, Midway, Palm Coast, Sanibel, Southwest Ranches, Wellington, West Park and Weston). During this time, one municipality was recreated by special act after previous incorporation under authority of general law in effect prior to 1974 (Seminole). The cities of Key Biscayne, Pinecrest, Aventura, Sunny Isles Beach, Miami Lakes, Palmetto Bay, Doral and Cutler Bay were created under the charter provisions of Miami-Dade County's Charter. The following table indicates recent municipal incorporations by year, county and enabling law.

YEAR	MUNICIPALITY	COUNTY	ENABLING LAW
1973	LAKE MARY	Seminole County	ch. 73-522, L.0.F.
1974	SANIBEL	Lee County	ch. 74-606, L.O.F.
1983	JACOB CITY	Jackson County	ch. 83-434, L.O.F. ch. 84-456, L.O.F.
1984	DESTIN	Okaloosa County	ch. 84-422, L.O.F. ch. 85-471, L.O.F.
1986	MIDWAY	Gadsden County	ch. 86-471, L.O.F.
1991	KEY BISCAYNE	Miami-Dade County	by authority of the Miami-Dade County Charter
1993	DEBARY	Volusia County	ch. 93-351, L.O.F. ch. 93-363, L.O.F.
1995	AVENTURA	Miami-Dade County	by authority of the Miami-Dade County Charter

1995	PINECREST	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	FT. MYERS BEACH	Lee County	ch. 95-494, L.O.F.
1995	DELTONA	Volusia County	ch. 95-498, L.O.F.
1995	WELLINGTON	Palm Beach County	ch. 95-496, L.O.F.
1996	WESTON	Broward County	ch. 96-472, L.O.F.
1997	ISLAMORADA	Monroe County	ch. 97-348, L.O.F.
1997	MARCO ISLAND	Collier County	ch. 97-367, L.O.F.
1997	SUNNY ISLES BEACH	Miami-Dade County	by authority of the Miami-Dade County Charter
1999	BONITA SPRINGS	Lee County	ch. 99-428, L.O.F.
1999	MARATHON	Monroe County	ch. 99-427, L.O.F.
1999	PALM COAST	Flagler County	ch. 99-448, L.O.F.
2000	SOUTHWEST RANCHES	Broward County	ch. 2000-475, L.O.F.
2000	MIAMI LAKES	Miami-Dade County	by authority of the Miami-Dade County Charter
2002	PALMETTO BAY	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	DORAL	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	MIAMI GARDENS	Miami-Dade County	by authority of the Miami-Dade County Charter
2004	WEST PARK	Broward	ch. 2004-454, L.O.F.
2005	CUTLER BAY	Miami-Dade County	by authority of the Miami-Dade County Charter

Failed Attempts at Municipal Incorporation

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

- A city in the Halifax area of Volusia County (1985)
  (ch. 85-504, L.O.F.)

- The City of Fort Myers Beach (1982/1986)
  (chs. 82-295 and 86-413, L.O.F.)

- The City of Spring Hill (1986)
  (ch. 86-463, L.O.F.)

- The City of Deltona Lakes (1987)
  (ch. 87-449, L.O.F.)

- The City of Deltona (1990)
  (ch. 90-410, L.O.F.)

- The City of Marco Island (1980/1982/1986/1990/1993)
  (chs. 80-541, 82-330, 86-434, 90-457 and 93-384, L.0.F.)

- The City of Port LaBelle (1994)
  (ch. 94-480, L.O.F.)

- The City of Destin (1995)
  (by authority of the Miami-Dade County Charter)

- The City of Ponte Vedra (1998)
  (ch. 98-534, L.O.F.)

- The Village of Key Largo (1999)
  (ch. 99-430, L.O.F.)

- The City of Southport (1999)
  (ch. 99-444, L.O.F.)

- The Village of the Lower Keys (2000)
  (ch. 2000-383, L.O.F.)

- The Village of Paradise Islands (2000)
  (ch. 2000-382, L.O.F.)

Municipal Mergers

A few previously existing cities have been incorporated through mergers with other cities. Examples include:

- In Brevard County, the merger of Eau Gallie with Melbourne (chs. 67-1156, 69-879 and 70-807, L.O.F.) and the merger of the Town of Whispering Hills Golf Estates with the City of Titusville (chs. 59-1991 and 63-2001, L.O.F.).
- In Pinellas County, the merger of Pass-A-Grille Beach with the City of St. Petersburg Beach (ch. 57-1814, L.O.F.).
- In Bay County, the merger of Longbeach Resort and Edgewater Gulf Beach with the City of Panama City Beach (chs.67-2174 and 70-874, L.O.F.).

Municipal Dissolutions

During the last several decades, numerous cities have been dissolved:

- Bithlo in Orange County by authority of the Secretary of State in January 1977;
- Bayview in Bay County by ch. 77-501, L.O.F.;
- Munson Island in Monroe County by ch. 81-438, L.O.F.;
- Painters Hill in Flagler County by ch. 81-453, L.O.F.;

- Hacienda Village in Broward County by ch. 84-420, L.O.F.;
- Pennsuco in Miami-Dade County under authority of the Miami-Dade County Charter;
- Golfview in Palm Beach County by ch. 97-329, L.O.F.; and
- North Key Largo by ch. 2003-318, L.O.F.

City of Ruskin

In 1910, Dr. George Miller founded Ruskin College in what would later become the community of Ruskin in Hillsborough County. The college—which closed during World War I—was based on the philosophy of Victorian Englishman John Ruskin, and followed the principle of combining intellectual endeavors with manual labor.

Over the years, vegetable farming became an important industry in Ruskin. Ruskin is famous as the home of the "Ruskin Tomato," and the Ruskin Tomato and Heritage Festival (which dates back to the 1930's Florida Tomato Festival). Ruskin also is known for boating and fishing. Hillsborough County figures indicate that the area is approximately 20.4 square miles. The population of Ruskin as of the 2000 census was 9,565. According to Hillsborough County estimates, the population had increased to 12,473 in 2005.

A feasibility study on the creation of the city, as required by ch. 165, F.S., was submitted to the Florida House of Representatives on October 26, 2005. This study and the proposed charter for the city were reviewed by the Legislative Committee on Intergovernmental Relations, Office of Economic & Demographic Research, Department of Revenue, and Department of Community Affairs.[4] According to the study, community leaders in Ruskin are exploring the viability of incorporation to control future land use, preserve community environment and quality of life, and return a greater share of county tax dollars to the Ruskin community.

Effect of Proposed Changes

Proposed Charter

HB 759 provides a proposed charter for the City of Ruskin as follows:

Section 1: Short title; creation and establishment of city. Provides that the act may be known as the "Charter of the City of Ruskin," and creates and establishes the city effective April 1, 2007.

Section 2: Corporate existence; form of government; boundary and powers.
(1) CORPORATE EXISTENCE: Provides that the City of Ruskin is created pursuant to the State Constitution and laws of the state in order to preserve, protect and enhance the quality of life and residential character of Ruskin.
(2) FORM OF GOVERNMENT: Provides that the city shall operate as a council-manager form of government; provides that the general duties of the council shall be to set policy as the legislative branch, and the general duties of the manager shall be to carry out these policies as the executive branch.
(3) CORPORATE BOUNDARY: Provides for corporate boundaries.
(4) POWERS: Provides that the city is a body corporate and politic and has all the powers of a municipality under the State Constitution and the laws of the state.
(5) CONSTRUCTION: Provides that the charter and the powers of the city shall be construed liberally in favor of the city.

Section 3: Council; mayor; vice mayor.
(1) CITY COUNCIL: Provides that there shall be a city council vested with all legislative powers of the city, consisting of four members and the mayor; provides that council members shall occupy seats numbered one through four; provides that unless otherwise stated within the charter, all charter powers

[4] These reviews are on file with the Local Government Council.

and the powers granted by general law to municipalities shall be exercised by the council; provides that the council shall adopt by resolution the policies and procedures by which it is guided in its internal management; provides that no elected city officer shall hold any appointive city office or city employment while in office; provides that no former elected city officer shall hold any compensated appointive city office or city employment until one year after the expiration of his or her term.
(2) MAYOR: Provides that the mayor shall preside at meetings of the council and is a voting member; provides that the mayor is recognized as the head of city government for all ceremonial purposes, for purposes of military law, and for service of process and execution of duly authorized contracts, deeds and other documents and as the city official designated to represent the city when dealing with other governmental entities; provides that if a vacancy occurs in the mayor's office or if the mayor is otherwise suspended from office, the vice mayor shall become acting mayor; provides that if the vacancy is permanent or if the suspension is sustained, and if the remaining term of the mayor is greater than one year, that a special election will be called.
(3) VICE MAYOR: Provides that the vice mayor shall act as mayor in the absence of the mayor; provides that the vice mayor shall be elected from among council members for a period of two years by a majority of the council at the first meeting of the council after each election.
(4) MAYOR PRO TEMPORE: Provides that in the absence of the mayor and vice mayor, the remaining council members shall select a council member to serve as mayor pro tempore; provides that the mayor pro tempore has the same powers and duties as the mayor.
(5) ELECTION AND TERMS OF OFFICE: Provides that each council member and the mayor shall be elected at large for four-year terms by the electors of the city except as otherwise provided in the act; provides that each council member and the mayor shall remain in office until his or her successor is elected and assumes the duties of the position; provides that no council member or mayor shall serve for more than two consecutive four-year terms except that the persons elected to seats one and two and the mayor elected during the initial special election held in March 2007 may serve two consecutive four-year terms plus the limited term from the March 2007 special election until the September 2008 election if subsequently reelected, and the persons elected to seats three and four during the initial special election held in March 2007 may serve a two-year term and a consecutive four-year term plus the limited term from the March 2007 special election until the September 2008 election if subsequently reelected; provides that if a person is initially elected to seat three or four in September 2008, he or she may serve a total of 10 years if subsequently reelected; provides that if a person fills a vacancy on the council, that person may serve two consecutive four-year terms plus the limited term of the vacancy filled if subsequently reelected; provides that if a vacancy occurs for mayor, the vice mayor becomes mayor as provided by the act and may serve two consecutive four-year terms plus the limited term of the vacancy filled if subsequently reelected; provides that any service as acting mayor prior to the permanent filling of a vacancy is excluded from the calculation of term limitations; provides that after one year out of office, a former mayor or council member may qualify and run for mayor or any council seat.
(6) QUALIFICATIONS: Provides that each candidate for office be a qualified elector of the city and qualify in the same manner as provided by general law for nonpartisan elections except as further provided for initial elections; provides that a person may not be a candidate for more than one office in the same election; provides that only electors of the city who have resided continuously in the city for at least one year preceding the date of such filing shall be eligible to hold the office of council member.
(7) VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES: Provides that vacancies, forfeiture of office, and the filling of vacancies shall be provided for by ordinance unless otherwise provided for in the charter; provides that in the event that all the members of the council are removed by death, disability, recall, forfeiture of office, resignation, or any combination thereof, the Governor shall appoint interim council members who shall call a special election within not fewer than 30 calendar days or more than 60 calendar days after such appointment; provides that such election shall be held in the same manner as the initial elections under the charter; provides that if there are fewer than 180 calendar days remaining in the unexpired terms, the interim council appointed by the Governor shall serve the remainder of the unexpired terms; provides that appointees must meet all requirements for candidates provided for in this section.
(8) COMPENSATION; REIMBURSEMENT FOR EXPENSES: Provides that compensation of the mayor and council members shall be established by ordinance; however, any such ordinance increasing compensation shall not take effect until the date of commencement of the terms of the

council members elected at the next regular election following the adoption of the ordinance; provides that the mayor and council members may be reimbursed for travel and per diem in accordance with general law or as may be otherwise provided by ordinance.
(9) CITY BOARDS AND COMMITTEES: Provides that except as otherwise provided by law, the council may establish or terminate boards that have oversight or control of certain matters or discharge certain functions of a magisterial, representative or fiduciary character, and advisory committees to which the consideration, determination or management of any municipal matter may be committed or referred and for which a written response or recommendation must be made; provides that the members of any such board or committee shall be appointed by the council, and that the parameters of the purpose of each board and committee shall be declared by resolution.

Section 4: City manager; city clerk; city attorney; administrative code: Provides that the executive responsibilities and powers of local self-government of the city not inconsistent with the charter are assigned to and vested in the city manager; provides that all functions of the executive branch may be allotted to not more than 10 departments, and each department shall be administered by a director, who shall be appointed; provides that one or more assistant city administrators and department directors and a city clerk may be appointed by the city manager with the advice and consent of the council and shall serve at the pleasure of the city manager in accordance with the administrative code.
(1) CITY MANAGER: Provides that there shall be a city manager, who shall be the chief administrative officer of the city; provides that the council shall appoint an individual as manager based on accepted competencies and practices of local public management for an indefinite term by an affirmative vote of a super majority of council members; provides that the council may remove the manager at any time by an affirmative vote of a super majority of council members; provides that for voting purposes, the mayor shall be considered as a council member; provides that the manager may be retained full-time, part-time, or as an independent contractor, and that the compensation and benefits of the manager shall be fixed by the council; provides that at the time of appointment, any full-time city manager need not be a resident of the city or state but shall, within 180 calendar days after appointment, become a resident of the city unless otherwise provided by the administrative code; provides that any consideration of the removal of the manager must be an agenda item for which public notice must be given; provides that the city manager is the administrative director of the city, shall execute the laws and administer the government of the city, and is the chief executive officer and head of the administrative branch of city government; provides that the manager is responsible to the city and has the rights, powers and duties as provided by the administrative code and as otherwise provided by the act; provides that vacancies shall be provided for and filled in accordance with the administrative code.
(2) CITY CLERK: Provides that the council may establish the office of city clerk to be appointed by the manager with the confirmation of the council; provides that the clerk shall be responsible to the council for the proper administration of all legislative affairs of the city, has the powers and duties prescribed by the administrative code, and may be required to post bond as provided by the administrative code; provides that if the office of city clerk is not created, the manager shall perform the duties required in this subsection.
(3) CITY ATTORNEY: Provides that the legal affairs of the city are assigned to and vested in the office of the city attorney; provides that the city attorney shall be the director of the office, together with such chief assistants and other assistant city attorneys and legal support personnel as may be required, subject only to budget determinations by the council; provides that all attorneys and employees of the office shall serve at the pleasure of the city attorney; provides that the city may contract for a city attorney on a part-time basis in lieu of establishing the office; provides that the manager shall appoint or contract for, with the advice and consent of the council, a qualified individual who is a member in good standing of The Florida Bar to serve as the city attorney for an indefinite term; provides that the city attorney shall be a resident of the state but is not required to live in the city; provides that the city attorney shall be responsible for representing, and is authorized to represent, the council as its attorney; provides that the city attorney shall provide legal services, including management and participation in all litigation and other such legal services required to protect the interest of the city, and render legal advice and perform other legal and administrative responsibilities; provides that special attorneys may be contracted with by the council upon the recommendation of the city attorney; provides

that bond and disclosure counsel shall be selected by the council from a list of not fewer than three qualified respondents to publicly noticed solicitations for bond and disclosure counsel and upon the recommendation of the county manager and the city attorney; provides that nothing contained in the charter or within the administrative code shall be construed as requiring the city attorney to render legal services in any particular circumstance where, in the professional discretion and judgment of the attorney, the rendering of such legal services would violate the provisions of the code of professional responsibility of The Florida Bar or create a direct conflict of interest between the city and the attorney; provides that the compensation of the city attorney shall be fixed by the city council at a level commensurate with the requirements of the position, and termination shall be as provided in the administrative code.
(4) ADMINISTRATIVE CODE: Provides that the council shall enact and amend by ordinance an administrative code organizing the administration of the city government into departments and setting forth the duties, responsibilities and powers of the city manager, any assistant city managers, and departments of the city government not in conflict with the provisions of the charter; provides that it is the responsibility of the city manager to compile, publish and disseminate the administrative code and to recommend revisions thereof in a continuing program to provide greater efficiency and economy in the operations of government; provides that within 90 calendar days after the first organizational meeting of the council, the city manager shall submit a proposed administrative code to the council; provides that the council shall adopt the proposed code, as submitted or amended, within 90 calendar days after the date submitted; provides that, if not adopted within 90 calendar days, the code, as proposed by the manager, shall govern the operations of the county administrator and departments until such time as one may be adopted formally by the council.

Section 5: Elections.
(1) QUALIFIED ELECTORS: Provides that a "qualified elector" means any person at least 18 years of age who is a citizen of the United States, is a legal resident of Florida and of the city, and has registered to vote with the Supervisor of Elections in Hillsborough County.
(2) NONPARTISAN ELECTIONS: Provides that all elections for the offices of council member and mayor shall be nonpartisan; provides that candidates for mayor and city council shall qualify for election in accordance with general law.
(3) ELECTION IN 2008: Provides for an election to be held in conjunction with the primary election in September 2008 to elect council members and the mayor.
(4) GENERAL ELECTION: Provides that the ballot for the general election shall contain the names of all qualified candidates for mayor, if applicable, and for the two council seats which are to be filled at that election, except as otherwise provided by the act; provides that qualified electors shall cast one vote for mayor, if applicable, and one vote for each council seat, with a maximum of one vote per candidate; provides that the candidate for mayor receiving the most votes shall be the duly elected mayor; provides that the two council candidates receiving the most votes shall be the duly elected council members.
(5) SPECIAL ELECTIONS: Provides that special elections, when required, shall be scheduled by the council at such times and in such manner as is consistent with the charter and state election law.
(6) COMMENCEMENT OF TERMS: Provides that the term of office of any elected official shall commence at the first regularly scheduled council meeting after the election, except as otherwise provided for by the act for initial elections.
(7) OATH: Provides that all elected officials, before entering upon their duties, shall take and subscribe to an oath of office.
(8) RECALL: Provides that the qualified electors of the city shall have the power to recall and to remove from office any elected official of the city as provided by general law.

Section 6: Charter amendments; charter review committee.
(1) CHARTER AMENDMENTS: Provides that the charter may be amended in accordance with general law.
(2) APPOINTMENT OF CHARTER REVIEW COMMITTEE: Provides that by April 1, 2009, and every four years thereafter, the council shall appoint by resolution a charter review committee, which shall contain at least five qualified electors who are residents of the city who shall serve for a term of one year without compensation.

Section 7: General provisions.
(1) CONFLICTS OF INTEREST; ETHICAL STANDARDS: Provides that all council members and employees of the city are subject to the standards of conduct for public employees set by federal, state, county or other applicable law; provides that the council may adopt, by ordinance, more restrictive standards.
(2) BOND: Provides that the city manager and the city clerk, assistant city managers, department directors, and any other employee designated by the administrative code shall furnish a surety bond to be approved by the council and in such amount as the council may fix; provides that the premium of the bond shall be paid by the city.
(3) INDEBTEDNESS: Provides that the city may assume all outstanding indebtedness related to any facility or real property it may acquire from another unit of government.

Section 8: Transition provisions.
(1) INITIAL ELECTION OF COUNCIL MEMBERS; DATES; QUALIFYING PERIOD: Provides that following the adoption of the charter, the board of county commissioners shall call a special election on March 6, 2007, for the mayor and city council: provides that any required runoff election be held on March 27, 2007; provides that any individual wishing to run for mayor or one of the four council seats who is a qualified elector of the city and has resided continuously within the corporate boundaries of the city for one year shall qualify as a candidate with the Hillsborough County Supervisor of Elections between January 15 and January 19, 2007; provides that the county canvassing board shall certify the results of the initial election, and the four candidates for council member receiving the highest number of votes shall be elected; provides that the candidate receiving the highest number of votes shall occupy seat one, the candidate receiving the second highest number shall occupy seat two, the candidate receiving the third highest number shall occupy seat three, and the candidate receiving the fourth highest number shall occupy seat four; provides that at such initial election and each subsequent election, the incumbents shall serve until their successors are elected and assume the duties of the office; provides that at all subsequent elections, council members shall be elected for four-year terms; provides that the mayoral candidate receiving the highest number of votes shall be elected; provides that at the initial election and each subsequent election, the mayor shall be elected to serve until his or her successor is elected and assumes the duties of the office; provides that at all subsequent elections, the mayor shall be elected for a four-year term.
(2) INDUCTION INTO OFFICE: Provides that those candidates who are elected on March 6, 2007, shall take office at the initial council meeting on April 3, 2007, which shall be held at a time and place to be designated by the mayor; provides that if a runoff election is required, the initial council meeting shall be scheduled after certification thereof at a time and place to be designated by the mayor.
(3) TEMPORARY NATURE OF SUBSECTIONS (4)-(10): Provides that these subsections are inserted solely for the purpose of effecting the incorporation of the city and the transition to a new municipal government, and shall automatically, and without further vote or act of the electors of the city, become ineffective and no longer a part of the charter at such time as the implementation of each subsection has been accomplished.
(4) INTERIM ADOPTION OF CODES AND ORDINANCES: Provides that until otherwise modified or replaced by the charter or the council, all codes, ordinances and resolutions of Hillsborough County in effect on April 1, 2007, shall, to the extent applicable to the city, remain in force and effect as municipal codes, ordinances and resolutions of the city; provides that until otherwise determined by the council, such codes, ordinances and resolutions shall be applied, interpreted and implemented by the city in a manner consistent with established policies of Hillsborough County on April 1, 2007.
(5) TAXES AND FEES: Provides that until otherwise modified by the council, all municipal taxes and fees imposed within the city boundaries by the county as the municipal government for unincorporated Hillsborough County, which taxes and fees are in effect on the date of adoption of the charter, shall continue at the same rate and on the same conditions as if those taxes and fees had been adopted and assessed by the city.
(6) FIRST-YEAR EXPENSES: Provides that the council, in order to provide moneys for the expenses and support of the city, has the power to borrow money necessary for the operation of city government until such time as a budget is adopted and revenues are raised; provides that the county shall, by April

5, 2007, provide the city with the share of the unincorporated municipal services taxing unit taxes allocable to the city for the current year prorated from the effective date of the charter.
(7) TRANSITIONAL ORDINANCES AND RESOLUTIONS: Provides that the council shall adopt ordinances and resolutions required to effect the transition; provides that ordinances adopted within 60 calendar days after the first council meeting may be passed as emergency ordinances; provides that these transitional ordinances shall be effective for no longer than 90 calendar days after adoption and thereafter may be readopted, renewed or otherwise continued only in the manner normally prescribed for ordinances.
(8) TRANSITIONAL SERVICES AND COMPENSATION: Provides that the Hillsborough County Board of County Commissioners shall provide and be compensated for the provision of services to the city as budgeted for in the fiscal year 2006-2007 Hillsborough County budget during the 60-day transition period set forth in subsection (7) or until such earlier time as the city makes other arrangements for the services; provides that the level of services to be provided shall be consistent with the level upon which the fiscal year 2005-2006 expense budget was predicated and in accordance with adopted revenues; provides that the council shall adopt ordinances, resolutions, agreements and other documents as required to ensure the continued collection of budgeted revenues with which to fund services beginning on the date of the initial meeting of the city council following the March 6, 2007, special election; provides that any revenues adopted or received by the city upon which delivery of services was not predicated within the Hillsborough County Commission's fiscal year 2006-2007 adopted budget shall accrue to the city.
(9) STATE-SHARED REVENUES: Provides that the city is entitled to participate in all shared revenue programs of the state, effective April 1, 2007; provides that the provisions of s. 218.23, F.S., shall be waived for the purpose of eligibility to receive revenue sharing from the date of incorporation through the end of state fiscal year 2008-2009; provides that the provisions of s. 218.26(3), F.S., shall be waived through the end of state fiscal year 2008-2009, and the apportionment factors for the municipalities and counties shall be recalculated pursuant to s. 218.245, F.S.; provides that the initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research as of April 1, 2007; provides that should the bureau be unable to provide an appropriate population estimate, the initial population for calculating eligibility for shared revenues shall be established at the level of 8,320.
(10) SHARED REVENUES: Provides that Hillsborough County shall distribute to the city funds from taxes, franchise fees, ad valorem taxes and any other revenues collected within the municipal boundaries of the city, except that the city shall remain within the countywide library service tax system and shall derive no revenues from this tax; provides that the population for the initial distribution is 8,320, which may be adjusted from time to time in accordance with other prescribed procedures; provides that the communication services tax imposed under s. 202.19, F.S., by Hillsborough County will continue within the city boundaries during the period commencing with the date of incorporation through December 31, 2007; provides that revenues from the tax shall be shared by Hillsborough County with the city in proportion to the projected city population of 8,320 compared with the unincorporated population of Hillsborough County before the incorporation.
(11) POWERS AND DUTIES OF THE CITY MANAGER: Provides that until the administrative code is otherwise adopted in accordance with the provisions of the charter, the city manager is empowered to:

- administer and carry out the policies of the council and enforce all ordinances, resolutions and motions of the council, the provisions of the charter, and applicable general laws to ensure their faithful execution;
- supervise, direct and control all city administrative departments;
- prepare and submit in accordance with general law to the council for its consideration and adoption an annual operating budget, a capital budget and a capital program; establish the schedules and procedures to be followed by all city departments, offices and agencies in connection therewith; and supervise and administer all phases of the budget process;
- supervise the care and custody of all city property, institutions and agencies;
- supervise the collection of revenues and the expenditure of city funds;
- on or before May 1 of each year, review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies and report and recommend thereon to the board;

- develop and install, within one year after adoption of the administrative code, and maintain written centralized budgeting, personnel, legal and purchasing procedures as well as procedures for each department to be presented to the council for information and discussion;
- negotiate contracts, bonds or other instruments for the city, subject to council approval; make recommendations concerning the nature and location of city improvements; and execute services in keeping with established policies of the council;
- ensure that all terms and conditions imposed in favor of the city or its inhabitants in any statute, franchise or other contract are faithfully kept and performed;
- order, at the manager's discretion, any department under the manager's jurisdiction as specified in the code to undertake any task for any other department on a temporary basis if it is necessary for the proper and efficient administration of the city government to do so and delegate administrative duties and responsibilities to assistant city administrators and department directors;
- appoint and remove, with the advice and consent of the council, a city attorney, and appoint, with the advice and consent of the board, one or more assistant city administrators and all department directors;
- exercise the exclusive power to appoint and employ persons to fill authorized positions and perform official functions in the city except those excluded under the terms of the charter, such persons to serve at the pleasure of the administrator;
- issue and enforce such administrative orders, rules or guidelines as the manager deems necessary to give appropriate effect to the charter and maintain a complete compilation of all such administrative orders, rules and regulations; and
- designate in writing to each member of the board who shall function as the administrator during the temporary absence of the administrator.

(12) POWERS AND DUTIES OF THE CITY CLERK: Provides that until the administrative code is otherwise adopted in accordance with the provisions of the charter, the city clerk is responsible to the city council for the proper administration of all legislative affairs of the city and to that end shall have the following powers and duties:

- appointment of a deputy city clerk who shall be exempt from any city employee merit system;
- maintenance of the journal of all city council meetings and work sessions and of such other board and committee meetings as shall be required by the city council;
- authentication of all ordinances in a codified manner, resolutions and transcripts of legislative functions;
- publication of all public notices required by the city council or by law;
- service as the legal custodian of all city records, including contracts, deed, title insurance, and other official documents;
- filing of all liens, satisfactions and releases as authorized by the manager;
- service as a notary public on behalf of the city; and
- performance of such other duties as may be required by the city council.

Section 9: Severability. Provides that If any section or part of any section of the charter is held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of the charter or the context in which such section or part of a section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding directly applies.

Section 10: Provides that the act shall take effect as provided herein only upon its approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed City of Ruskin voting in a referendum election to be called by the Hillsborough County Commission, to be held on November 3, 2006, and to be held in accordance with provisions of general law relating to elections currently in force, except that this section takes effect upon becoming law.

Charter Review

As noted in the following comments, certain proposed charter provisions may conflict with general law or raise a constitutional issue while other provisions may simply require clarification:[5]

- Section 1(2): This subsection provides for the form of government and specifies that no person belonging to one branch (council or administration) may exercise any powers appertaining to another unless expressly provided for in the charter. It is unclear whether this subsection is clearly defining the responsibilities for legislative and executive functions or is authorizing the sharing or blurring of responsibilities.

- Section 3(1): Subsection (b) authorizes the council to adopt policies and procedures to guide its "internal management." This term is vague and should be defined or otherwise clarified.

- Section 3: This section should provide for regularly scheduled council meetings, special meetings and emergency meetings of the council. It also should include public noticing requirements and advance noticing provisions for council members regarding special and emergency meetings in accordance with general law.

- Sections 3(5) and 5(4): These subsections provide for a four-member council to be elected at-large. An at-large election scheme may be vulnerable to legal challenge under the 1965 U.S. Voting Rights Act,[6] depending upon the area's demographics.

- Section 4: This section provides for the appointment of the city manager and identifies the position's powers and duties. The manager is authorized to appoint certain department heads, assistants, the city clerk and the city attorney with the "advise and consent" of the council. This creates a potentially dysfunctional administrative system and blurs the separation of responsibilities between the city manager and the city council. It may be appropriate to remove the "advise and consent" provision. Alternatively, it is common for the city attorney position, as a charter officer, to be appointed by the council and to report to the council.

- Section 4(3): The language "the code of professional responsibility of The Florida Bar" should be changed to the "Rules of Professional Conduct regulating The Florida Bar."

- Section 4(4): The term "county administrator" should be changed to read "city manager."

- Sections 4 and 8(11): The powers, duties and responsibilities of the city manager identified in Section 4 and the transitional provisions for the city manager provided in subsection 8(11) appear to overlap with the administrative responsibilities of the mayor provided in subsection 3(2) and should be clarified.

- Section 5: This section provides for elections. It should be revised to provide for referendum and initiative. It may be appropriate to specify the governmental entities which have funding and administrative responsibilities for city elections.

- Section 6(1): Subsection (1) provides for the appointment of a charter review committee by April 9, 2009, and every four years thereafter. It may be appropriate to extend the length of time between reviews to 10 years, which is a more common time frame for municipal charter reviews. In addition, it may be appropriate to specify that current council members are ineligible to serve on the charter review committee.

[5] Selected comments are based on the analysis provided by the Legislative Committee on Intergovernmental Relations.
[6] A summary of the Act is provided at the end of this analysis.

- Section 8(6): This subsection directs Hillsborough County government to provide the city with a prorated share of unincorporated MSTU tax revenues. It may be appropriate to clarify that the city is terminating the operation of this MSTU within the boundaries of the city.

- Section 8(7): This subsection provides for emergency ordinances. It may be appropriate to clarify, pursuant to s. 166.041(3)(b), F.S., that emergency ordinances require a two-thirds vote by the commission, and that zoning ordinances cannot be enacted as emergency ordinances.

- Section 8(9): This subsection authorizes Ruskin to participate in SSR programs and waives the eligibility requirements in s. 218.23(1), F.S., through FY 2008-09. This provision should clarify that Ruskin may participate in all SSR programs applicable to municipal governments. The requested waiver should be limited to the requirements regarding financial reports and audits which the Legislature has temporarily waived in the past until such reports are available. Also, given that it can take up to three years for the required financial reports and audits to become available, it may be appropriate to extend the waiver through FY 2009-10.

- Section 9(10): This subsection directs Hillsborough County government to distribute certain revenues from taxes, franchise fees and ad valorem taxes collected within the municipal boundaries to the city. This provision is vague, inconsistent with the Florida Constitution and general law and should be revised. Hillsborough County reports that it does not collect franchise fees. The Florida Constitution and general law authorize the county to levy and collect ad valorem taxes.

- Section 9(11): This subsection provides for transitional powers and duties of the city manager and city clerk. Subsections (k),(l) and (m) reference a "board" and "administrator." It appears these terms refer to the city council and city manager and should be revised for consistency.

- Section 9(12): This subsection provides for an appointment of a city clerk who is responsible to the council. This subsection appears inconsistent with the powers and responsibilities of the city manager identified in Section 4.

- Section 9(12)(b): The subsection provides for the position of deputy city clerk who is exempt from any city employee merit system. It may be inappropriate to exempt this position.

Feasibility Study Review

With regard to the requirements and standards for municipal incorporation provided by s. 165.061(1), F.S., the reviewers[7] concluded that:

- **The areas proposed for the City of Ruskin are contiguous and compact.** However, it should be noted that the area proposed for incorporation appears to create two enclaves; one on the northwestern boundary adjacent to Tampa Bay and the second on the southwestern boundary adjacent to the Little Manatee River. While standards for incorporation of a new municipality do not prohibit the creation of enclaves, municipal boundary changes that create such enclaves, either through municipal dissolution (s. 165.061, F.S.), or annexation (s. 171.031, F.S.), are prohibited.

- **The proposed City of Ruskin meets the minimum population requirement for incorporation (5,000 persons).** To meet the population requirement for the incorporation of a new municipality in a county with a population of 75,000 or less, the municipality must have at least 1,500 persons and in larger counties, the municipality must have at least 5,000 persons. The latest official population estimate for Hillsborough County placed its

[7]These responses are based on the review of Ruskin feasibility study reviews by the Office of Economic and Demographic Research and the Legislative Committee on Intergovernmental Relations.

population at 1,131,546 (official 4/1/2005 estimate from Bureau of Economic and Business Research, University of Florida) so a new municipality would be required to have a minimum population of 5,000. The Office of Economic and Demographic Research analysis of census data for the blocks contained within the proposed boundaries of the City of Ruskin indicated a 2000 population of over 9,000.[8]

- **The proposed City of Ruskin does not meet the required density of 1.5 persons per acre.** A population density requirement of 1.5 persons per acre also is specified in statute. According to the feasibility study, the area being proposed for incorporation contains 11,292.08 acres. Using this acreage and a 2005 population estimate based on growth in the unincorporated part of Hillsborough County since 2000 would indicate that the 2005 density was approximately .97 persons per acre. Alternatively, the statutes provide that the area have extraordinary conditions requiring the establishment of a municipal incorporation with less existing density. The Study (page 2) suggests that Ruskin is a "suburbanizing" community and that future residential development will increase the population sufficiently to meet the 1.5 density requirement.

- **The proposed City of Ruskin meets the minimum distance requirement.** Based on information in the Study (page 2), the area to be incorporated meets the requirement that the area proposed for incorporation must be at least two miles from the boundaries of an existing municipality in the county or have an extraordinary natural boundary which requires separate municipal government.

With regard to whether the Feasibility Study itself contained the required elements of such a study, it was noted that some requirements were either not clearly identifiable or not addressed:

- **The Study does not appear to meet the requirement to describe proposed development.** However, the Ruskin community has recently completed a comprehensive two-year community planning process, conducted by the Hillsborough County government, that generated detailed zoning and future land use plans for the Ruskin area.

- **The Study appears to identify all current public service providers for the services identified in s. 165.041(1)(b)5., F.S, but does not provide cost estimates for each of those services.** The Study meets the requirement that it identify proposed services (pages 11-12). The Study (pages 1-12, 14) notes that it will contract certain municipal services including: police protection, fire protection, emergency medical services, surface water management services, street and road maintenance and repair, stormwater, maintenance of right-of-ways, environmental services, animal control, library, human services, recreation, planning and zoning, code enforcement, and certain general administration services from Hillsborough's county government. However, there are no memoranda of understanding or letters of agreement that indicate that Hillsborough County government will provide the services for the amount identified in the Study. To the contrary, preliminary estimates provided by representatives of Hillsborough County Sheriff's Office suggest costs for law enforcement services to the Ruskin community would be approximately three times the amount included in the Study budget. Hillsborough County officials report that other county programs funded annually in excess of $1 million are not included in the Study's proposed budget.

[8] The feasibility study states that the current permanent population of Ruskin is estimated at 8,321 and total population (with seasonal residents) is estimated to approach 11,000. The growth in population is projected to increase to 12,815 in FY 2011, with a peak population of 13,200. The population growth is based on the projected growth of developments already approved in the study area. The study states that this projection is consistent with previous growth patterns and other unspecified studies of Ruskin. It is noted that these population figures differ from those received from Hillsborough County (see, page 7 of this analysis).

- **The Study does not meet the requirement that it include the name and address of three persons submitting the proposal.**

- **The Study appears to meet some, but not all, elements of the requirement that it provide evidence of the fiscal capacity for the area proposed for incorporation.** The Study addresses the majority of tax bases and revenue sources available to the municipality and provides revenue estimates for some of them. The amount of revenues that can be generated by certain revenue sources appear overstated; other revenue sources would not be available to the City of Ruskin. These and other revenue sources included in the Study require clarification. It is noted that the SSR estimates provided in the Study (pages 22-23) are consistent with those estimates calculated by the Office of Research and Analysis, Florida Department of Revenue: $222,300 in Municipal Revenue Sharing Program distributions and $779,474 in Local Half-Cent Sales Tax distributions.

- Although the Charter includes numerous provisions for council member elections, neither the Charter nor the Study specify how such elections will be administered or funded. **Given this concern, the Study may not adequately address the requirement for the five-year operational plan and budget.**

Review of the Financial Elements of the Proposed Incorporation

- **Revenue Sharing:** Since the charter provides that the City of Ruskin will be incorporated on April 1, 2007, the city will not have completed a full local fiscal year by the end of the 2007-2008 state fiscal year, ending June 30, 2008. Thus, the City of Ruskin could not possibly satisfy the revenue sharing criteria contained in s. 218.23(1), F.S., requiring the completion of a full local fiscal year, until after the end of the 2008-2009 state fiscal year, ending June 30, 2009. The charter correctly anticipates this circumstance and provides in Section 8(9) for a waiver of s. 218.23(1), F.S., through the end of the state fiscal year 2008-2009.[9]

- **Gas Tax Revenues:** The charter does not specify a date for the beginning of distribution of gas tax. There is no need to specify this date because s. 336.025(4) (b), F.S., provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation, which in the case of Ruskin will be 10/1/07. Section 336.025(4)(b), F.S., requires that gas tax distributions to newly incorporated municipalities are to be in accord with the default lane-mile formula unless provided otherwise by the local law providing for the incorporation. Section 336.025(3)(a)1, F.S., requires that interlocal agreements regarding local option gas tax distributions must be executed prior to June 1 of a year and s. 336.025(5)(a), F.S., requires that a certified copy of that interlocal agreement must be provided to the Department by July 1 of the same year, to become effective at the beginning of the next local fiscal year in October 1 of that year. Unless that interlocal agreement is entered into by Hillsborough County and the other municipalities constituting a majority of the municipal population by 6/1/07, the distribution to Ruskin shall be in accordance with the default lane-mile formula specified in s. 336.025(4)(b), F.S.

- **Local Communications Services Tax:** Pursuant to s. 202.21 F.S., local communications services taxes imposed under s. 202.19, F.S., are effective with respect to taxable services dated on or after January 1. A municipality adopting, changing or repealing this tax must notify the Department of Revenue by September 1, prior to the January 1 effective date. Thus, if Ruskin meets the September 1, 2007, notification date, then it could impose its own communications services tax commencing January 1, 2008. Section 8(10)(b) of the charter

[9]The LCIR has noted that in order to be eligible to participate in State Shared Revenue programs, a municipality is required to meet certain criteria. These requirements include, among others, certain financial and audit reports and a minimum local taxing effort equal to the amount that would be generated by three mills of ad valorem property taxes. The Study (page 17) presents the 2005 taxable value of property within Ruskin at $549,984,818. Based on this projected taxable value, the three-mill equivalency for Ruskin is equal to approximately $1,379,954. The Study's budget projects ad valorem tax revenues at $2,543,144, which is sufficient to meet the three-mill requirement.

provides that the communications services tax imposed by Hillsborough County within the boundaries of Ruskin, beginning with the date of incorporation, April 1, 2007, through December 31, 2007, shall be shared with Ruskin in a ratio equal to the projected population of Ruskin, 8,320, compared to the unincorporated population of Hillsborough County before the incorporation of Ruskin.[10]

- **Discretionary Sales Surtax:** Currently, Hillsborough County imposes a .5 percent Indigent Care Surtax, which by statute cannot be shared with municipalities and a .5 percent Infrastructure Surtax, which is shared with municipalities according to an interlocal agreement entered into by municipalities with more than 50 percent of the incorporated population or if there is no interlocal agreement, according to the formula provided in s. 218.62, F.S. Thus, Ruskin's share of the distribution of the .5 percent infrastructure surtax will be controlled by the interlocal agreement currently in effect unless Hillsborough County and the municipalities with more than 50 percent of the incorporated population enter into a new interlocal agreement.

- **Ad Valorem Revenue Estimates:** The Study (page 35) reports that ad valorem revenue estimates derive from the current millage rate of the Hillsborough County unincorporated municipal service taxing unit (MSTU) at 5.06210 mills and the Hillsborough County Park Bonds-Unincorporated ad valorem tax (0.04550 mills). If the City of Ruskin intends to contract with the county for services currently provided by the county MSTU in the amount currently levied by the MSTU, it is unclear why the Ruskin community would not want the MSTU to continue providing such services. As noted above, it is unclear whether the Hillsborough County government is willing to provide current MSTU services for the amount levied by the MSTU. The feasibility study includes a projected millage rate of 5.1962 for the five year period of 2007-2011 to replace the Hillsborough County ad valorem taxes. If, as is suggested by the Economic Impact Statement for the bill, a tax increase of approximately 3 mills would be required in the fifth year of the city's existence to retain the current level of services, residents could be subjected to a millage rate in excess of 8 mills.

- **Franchise Fees:** The Study (pages 18, 32 and 38) identifies franchise fees as a source of revenues currently collected by the Hillsborough County government which would be transferred to Ruskin upon incorporation in the amount of $364,720. Franchise fees are typically levied through a franchise agreement negotiated between the local government and the utility provider. Representatives of Hillsborough County report that the county does not collect franchise fees on utility services. The City of Ruskin could levy franchise fees, however, it is difficult to estimate the amount of revenue it would generate.

- **County Occupational License Tax:** The Study (pages 23 and 36) suggests that a proportional amount of the County Occupational License Tax will be shared annually from FYs 2007-2011 with the City of Ruskin based on population ($51,500). Revenues from the County Occupational License Tax are used by the Hillsborough County government and are not shared with municipalities within the county. Municipalities are authorized to levy their own Occupational License Tax.

- **Impact Fees:** It is unclear whether Ruskin intends to impose an impact fee to offset costs associated with new infrastructure that will be needed to service proposed new developments.

[10] The LCIR has noted that the Study (pages 17-18) identifies the Communication Service Tax (referred to as the Public Service Tax) as a potential revenue option which may be levied at 7.0 percent. Pursuant to s. 202.19(1), F.S., a county or municipality may, by ordinance, levy a local communications services tax. The definition of communications services encompasses voice, data, audio, video, or any other information or signals, including cable services that are transmitted by any medium. For municipalities that have chosen to levy permit fees, the tax may be levied at a rate up to 4.98 percent; those municipalities without permit fees may levy the tax at a rate up to 5.1 percent. In accordance with s. 202.19(2)(c), F.S., municipalities may levy an additional rate of up to 0.12 percent if they elect not to require and collect permit fees for right-of-way for utilities authorized pursuant to s. 337.401, F.S. As such, the maximum rate that Ruskin could levy this tax is 5.22 percent, rather than the 7.0 percent suggested in the Study.

- **Investment Income:** The Study estimates investment income in the amount of $50,000 annually from FYs 2007-2011. It is unknown whether such revenues may accrue to Ruskin given the uncertainties of the proposed revenues and expenditures.

- **Five-Year Operational Plan and Budget:** The Study includes a five-year operational plan and budget. However, the revenue totals include funds projected from sources for which the proposed municipality may not be eligible to receive. Furthermore, as noted above, the Study includes provisions for other entities to continue providing services or provide under contract or through interlocal agreement without providing evidence that these entities are willing to provide such services for the amount identified in the budget.

- **Bridge Loan:** The Study (pages 32 and 38) includes provisions for a bridge loan. It is unclear whether the loan would be in the amount of $2 million (page 32) or $3 million (page 38). As noted in the five-year budget, the loan is for $3 million and represents approximately 40 percent of total revenues Ruskin would receive in FY 2007. Without this loan, Ruskin's FY 2007 estimated revenues fall short of projected expenditures by $753,000. The accumulative five-year budget shortfall would be approximately $3.7 million. The Study does not identify the loan source, nor does the five-year budget appear to provide for interest payments on the loan. However, it does provide for a lump sum repayment of $3 million in FY 2011 and notes a budget deficit of $3.1 million.

- **Comparison with "Similarly Sized" Municipalities:** The Legislative Committee on Intergovernmental Relations compared the revenue and expenditure estimates for the proposed municipality of Ruskin with "similarly sized" municipalities in Florida. Ten comparison municipalities similar to Ruskin's population of 8,321 residents are presented below. All comparison municipalities reported FY 2002-03 total expenditures greater than those projected for Ruskin. The estimated expenditures projected for Ruskin ($5,188,889) are approximately one-half of the "average" reported expenditures for the 10 comparison municipalities ($11,868,881). Two additional issues should be noted in this comparison. First, the projected expenditures for Ruskin do not include expenditures associated with costs for services that Hillsborough County may continue to provide to the residents of Ruskin under the current county tax structure. If included, such costs would increase the proposed expenditures and somewhat reduce the expenditure differential between Ruskin and the comparison municipalities. The second issue regarding the proposed expenditures is that the fiscal data for the 10 comparison municipalities reflects total reported revenues and expenditures for FY 2002-03, while the fiscal estimates for Ruskin are those projected for FY 2007-08. It can be assumed that total expenditures and revenues for these 10 municipalities will have increased during this time period, and as a result, increase the gap between their "average" reported expenditures and those projected for Ruskin.

Comparison of Total Revenues and Expenditures for 10 Municipalities with Populations Similar to the Population Estimate for the Proposed Municipality of Ruskin[11]

Municipality	2003 Pop. Est.[12]	Revenues	Expenditures
Ruskin with bridge loan	8,321	$7,436,098	$5,188,889
Ruskin without loan	8,321	$4,436,098	$5,188,889
Orange City	7,102	$7,441,268	$5,789,752
Minneola	7,124	$4,691,224	$6,529,499
Treasure Island	7,508	$12,353,132	$12,673,460
Longboat Key	7,668	$23,486,080	$23,023,481
Panama City Beach	7,920	$44,489,419	$24,226,002
Florida City	8,466	$13,921,773	$12,497,150
Indian Harbor Beach	8,535	$5,311,894	$4,737,388
Avon Park	8,596	$8,963,498	$10,677,178
Springfield	8,879	$6,812,403	$7,169,661
Orange Park	9,119	$12,604,705	$11,365,242
AVERAGE	**8,092**	**$14,007,540**	**$11,868,881**

- **Distribution of State Shared Revenues and Impacts on Existing Local Governments:** The Legislative Committee on Intergovernmental Relations also analyzed the amount of SSR monies that Ruskin would have received in FY 2005-06 and the impact on SSR distributions to Hillsborough County government and municipalities. While the statutory requirements for a feasibility study do not include identifying fiscal impacts to neighboring units of local government, such information is useful for a local government as it plans for the next budget cycle.[13] A newly created municipality will impact the amount of funds that existing municipalities receive in the two major SSR programs: Local Government Half-Cent Sales Tax and the Municipal Revenue Sharing (MRS) program. The county government within which the new municipality is formed will realize fiscal impacts in two SSR programs: Local Government Half-Cent Sales Tax and County Revenue Sharing. If Ruskin had incorporated in 2005, Hillsborough County government would have realized a reduction in 2005-06 SSR distributions totaling an estimated $736,851. The extent to which revenue reductions are offset by reductions in

[11] FY 2002-2003 reported revenues and expenditures by the 10 comparison municipalities and projected 2007 revenue and expenditure estimate for Ruskin contained within the Ruskin Incorporation Feasibility Study.

[12] 2003 population counts for comparison municipalities reported by the Bureau of Economic and Business Research, University of Florida. Population estimates for Ruskin for calendar year 2005 contained within the Ruskin Incorporation Feasibility Study.
Sources: Florida LCIR, using fiscal data submitted by municipalities to the Department of Financial Services; Florida Estimates of Population 2003, Bureau of Economic and Business Research, University of Florida, 2004; information contained within the Ruskin Incorporation Feasibility Study.

[13] A summary of general fiscal impacts on units of local government caused by the formation of the new municipality for major SSR programs and local option taxes is on file with the Local Government Council.

services is not known. Municipalities within the county would have realized estimated SSR reductions ranging from a low of $8,938 (Temple Terrace) to a high of $130,872 (Tampa).

C. SECTION DIRECTORY:

Section 1: Provides a short title; provides for the creation and establishment of the City of Ruskin.

Section 2: Provides for the city's corporate existence; form of government; and boundary and powers.

Section 3: Provides for the city council; mayor; and vice mayor.

Section 4: Provides for the city manager; city clerk; city attorney; and administrative code.

Section 5: Provides for elections.

Section 6: Provides for charter amendments; and a charter review committee.

Section 7: Provides for conflicts of interest; ethical standards; bonds; and indebtedness.

Section 8: Provides transition provisions.

Section 9: Provides for severability.
.
Section 10: Provides for referendum and an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN?

WHERE?

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

IF YES, WHEN? November 3, 2006.

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

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

According to the Economic Impact Statement, a tax increase of approximately 3 mills would be required in the fifth year of the municipality's existence to retain the current level of services. The Economic Impact Statement also states that the impact of the incorporation on each individual taxpayer is unknown at this time and cannot be determined until the new city is established.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

See, comments under **"Effect of Proposed Changes,"** Charter Review.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Department of Community Affairs

Section 8(4) should be revised to state "Upon the City's incorporation, the City shall use Hillsborough County's comprehensive plan and land development regulations. However, after the City's incorporation, any amendment to the County's comprehensive plan and land development regulations shall not apply to the City unless approved by the City Commission."

Other Comments

Department of Community Affairs

Pursuant to s.163.3167 (4), F.S., a new comprehensive plan must be adopted within three years of incorporation. Approximate cost of a new comprehensive plan for a City of this size is $50,000.

The number of citizen challenges to small scale amendments appears to be increasing, which would indicate that the proposed legislation could generate litigation. Additionally, specific to growth management, creating a new municipality will give that municipality the right to litigate on its own behalf as a party to protect its rights. The lack of provision in the bill for comprehensive planning, land development regulations, and other applicable growth management considerations for the new municipality is of concern.

Legislative Committee on Intergovernmental Relations

Pursuant to s. 165.061(1)(f), F.S., the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for a period of five years or the remainder of the contract term, whichever is less. Neither the Study nor the Charter addresses this issue.

Hillsborough County

On December 7, 2005, the Hillsborough County Board of County Commissioners voted to oppose the proposed incorporation of Ruskin. Hillsborough County has indicated that it continues to work to improve the quality of life for the residents of Ruskin. The county argues that Ruskin is primarily a rural area, and may not possess the economic and commercial base necessary to build and maintain essential municipal services.

Exemptions to General Law

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

This bill may create exemptions to the following general laws:

1) Section 165.061(1)(c), F.S., which requires a minimum density of 1.5 persons per acre.
2) Section 218.23(1), F.S., relating to revenue sharing.

Summary of the Voting Rights Act of 1965

The Voting Rights Act of 1965 protects every American against racial discrimination in voting. This law also protects the voting rights of many people who have limited English skills. It stands for the principle that everyone's vote is equal, and that neither race nor language should shut anyone out of the political process. The Voting Rights Act is located in the United States Code at 42 U.S.C. 1973 to 1973aa-6.

The Voting Rights Act is not limited to discrimination that excludes minority voters from the polls. Section 2 of the Act (42 U.S.C. 1973) makes it illegal for any state or local government to use election processes that are not equally open to minority voters, or that give minority voters less opportunity than other voters to participate in the political process and elect representatives of their choice to public office. In particular, Section 2 makes it illegal for state and local governments to "dilute" the votes of racial minority groups, that is, to have an election system that makes minority voters' votes less effective than those of other voters. One of many forms of minority vote dilution is the drawing of district lines that divide minority communities in such a way as to prevent them from putting enough votes together to elect representatives of their choice to public office. **Depending on the circumstances, dilution also can result from at-large voting for governmental bodies**. When coupled with a long-standing pattern of racial discrimination in the community, these and other election schemes can deny minority voters a fair chance to elect their preferred candidates.

Additionally, Section 5 of the Voting Rights Act (42 U.S.C. 1973c) requires state and local governments in certain parts of the country to get federal approval (known as "preclearance") before implementing any changes they want to make in their voting procedures; anything from moving a polling place to changing district lines in the county. Under Section 5, a covered state, county or local government entity must demonstrate to federal authorities that the voting change in question (1) does not have a racially discriminatory purpose; and (2) will not make minority voters worse off than they were prior to the change (i.e., the change will not be "retrogressive"). Section 5 applies to all or parts of the following states: Alabama, Alaska, Arizona, California, **Florida,** Georgia, Louisiana, Michigan, Mississippi, New Hampshire, New York, North Carolina, South Carolina, South Dakota, Texas, and Virginia.

Anyone aggrieved by minority vote dilution can bring a federal lawsuit. If the court decides that the effect of an election system, in combination with all the local circumstances, is to make minority votes less effective than white votes, it can order a change in the election system. For example, courts have ordered states and localities to adopt districting plans to replace at-large voting, or to redraw their election district lines in a way that gives minority voters the same opportunity as other voters to elect representatives of their choice.

This information was obtained from the U.S. Department of Justice's website at http://www.usdoj.gov/crt/voting/misc/faq.htm#faq02. (03/24/06).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.