

**CRC RESOLUTION NO. 2022-005**

**A RESOLUTION OF THE BREVARD COUNTY CHARTER REVIEW COMMISSION ADOPTING A PROPOSED AMENDMENT TO THE CHARTER OF BREVARD COUNTY, FLORIDA, TO PROVIDE A CHARTER AMENDMENT WHICH AMENDS SECTION 2.7 PROVIDING FOR FILLING VACANCIES IN THE OFFICE OF COUNTY COMMISSIONER; PROVIDING FOR PRESENTATION TO THE ELECTORATE BY THE COUNTY COMMISSION AT A SPECIAL REFERENDUM ELECTION TO BE HELD IN CONJUNCTION WITH THE NOVEMBER 8, 2022, GENERAL ELECTION; PROVIDING THE BALLOT TITLE AND SUMMARY OF THE CHIEF PURPOSE OF THE PROPOSED AMENDMENT; PROVIDING FOR THE COUNTY ATTORNEY TO RENUMBER AND RELETTER ARTICLES AND SECTIONS IN ORDER TO CONFORM THE AMENDMENTS TO THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article IV, Section 1(f) of the Florida Constitution provides:

SECTION 1. Governor.—

\* \* \*

(f) When not otherwise provided for in this constitution, the governor shall fill by appointment any vacancy in state or county office for the remainder of the term of an appointive office, and for the remainder of the term of an elective office if less than twenty-eight months, otherwise until the first Tuesday after the first Monday following the next general election.

**WHEREAS**, Sections 100.111(1)(a) and 114.04, Florida Statutes, implement the foregoing constitutional provision and provide:

100.111 Filling vacancy.—

(1)(a) If any vacancy occurs in any office which is required to be filled pursuant to s. 1(f), Art. IV of the State Constitution and the remainder of the term of such office is 28 months or longer, then at the next general election a person shall be elected to fill the unexpired portion of such term, commencing on the first Tuesday after the first Monday following such general election.

114.04 Filling vacancies.—Except as otherwise provided in the State Constitution, the Governor shall fill by appointment any vacancy in a state, district, or county office, other than a member or officer of the Legislature, for the remainder of the term of an appointive officer and for the remainder of the term of an elective



office, if there is less than 28 months remaining in the term; otherwise, until the first Tuesday after the first Monday following the next general election.

**WHEREAS**, Section 2.7 of the County Charter speaks inconsistent with the foregoing constitutional and statutory provisions; and

**WHEREAS**, it is the desire of the Charter Review Commission to revise the County Charter to be consistent with the Constitution and Florida law; and

**WHEREAS**, after three (3) public hearings and by an affirmative vote of at least ten (10) of the fifteen (15) members, the Brevard County Charter Review Commission may submit a proposal to the Board of County Commissioners to amend the Brevard County Charter; and

**WHEREAS**, three (3) public hearings were held by the Charter Review Commission on the proposal engrossed within this Resolution, and the Proposal was adopted by an affirmative vote of at least ten (10) of the fifteen (15) members; and

**WHEREAS**, the Charter of Brevard County, Florida, mandates that the Charter Review Commission, within one year from the date of its first meeting, shall present to the County Commissioners its recommendations for amendments to the Charter; and

**WHEREAS**, the Charter of Brevard County, Florida, provides that all amendments and revisions proposed by the Charter Review Commission must be presented by the County Commission to the electorate at the next general election.

**NOW, THEREFORE, BE IT RESOLVED BY THE BREVARD COUNTY CHARTER REVIEW COMMISSION:**

**SECTION 1:** That each of the recitals (“WHEREAS” clauses) set forth above is hereby incorporated herein.

**SECTION 2:** That pursuant to Section 7.4. of the Charter of Brevard County; Florida, the County Commission is hereby directed to place on the ballot for presentation to the electorate, at a special referendum election to be held in conjunction with the November 8, 2022, General Election, a referendum issue, the subject and ballot question of which is to provide for an amendment to Section 2.7. of the Brevard County Charter, which provides for the method by which vacancies in the office of county commissioner are to be filled. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Section 2.7 Vacancies and Suspensions.**

A vacancy or suspension in the office of county commissioner ~~County Commissioner arising from the death, resignation or removal of such official shall, if one year or less~~  
CRC/Resolutions/Proposal 8.Res Trettis Version 8/4/2022



~~remains in the term of office, be filled by appointment of the Governor; provided, a shall be defined and filled as provided by law. A vacancy created by recall shall be filled as provided in section Section 5.2 of this Charter. Unless otherwise required by the State Constitution or general law, if more than one year remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by a special election. The Board of County Commissioners, after first consulting with the Supervisor of Elections, shall by resolution fix the time period for candidate qualifying, the date of the election, and the date of any runoff election. There shall be a minimum of thirty (30) days between the close of qualifying and the date of the election, and between the election and any runoff election. Such special elections shall otherwise be governed by the applicable provisions of general law.~~

**SECTION 3:** That the ballot title and summary for the proposed amendments/revisions as referred to above shall appear as follows:

### **BREVARD COUNTY CHARTER AMENDMENT**

#### **PROPOSAL NO. 5 – FILLING A VACANCY IN THE TERM OF A COUNTY COMMISSIONER**

Revises Section 2.7 of the Charter to be consistent with the Florida Constitution and to provide that vacancies resulting from death, resignation, or removal from office of a County Commissioner with less than twenty-eight months remaining in the term shall be filled by the Governor. Vacancies with twenty-eight months or more remaining in the term will be filled by election by the voters.

YES FOR APPROVAL \_\_\_\_\_

NO FOR REJECTION \_\_\_\_\_

**SECTION 4:** That should a majority of electors voting on the above-referenced referendum election vote "YES FOR APPROVAL," thereby approving the above ballot issue set forth in Section 3. of this Resolution shall become a part of the Charter of Brevard County, Florida.

**SECTION 5:** That the County Attorney is hereby directed to ensure that the appropriate numbers and/or letters are affixed to the Articles and Sections of the Charter in order to conform the Charter to the amendments if approved.

**SECTION 6:** That if any section, sentence, clause or phrase of this resolution is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

**SECTION 7:** That this Resolution shall become effective immediately upon its adoption. The proposed charter amendment set forth in Section 2. of this Resolution shall become effective upon adoption by the voters of Ballot Proposal No. 5 set forth in Section 3. of this Resolution.

Adopted this 6 day of August, 2022.



Mike Haridopoulos, Chair

## Section 2.7 Vacancies and Suspensions

A vacancy in the office of County Commissioner arising from the death, resignation or removal of such official shall, if one year or less remains in the term of office, be filled by appointment by of the Governor; provided, the majority of the Brevard County Commissioners. The effective date of office shall be immediately following the majority vote of the Commissioners.

Appointment process: The County Commissioners shall advertise for interested applicants that qualify for the requirements of the vacant office. The applications must be submitted within two (2) weeks of the advertisement of the vacancy. A special Commission meeting shall be scheduled one (1) week following the application deadline. Applicants and members of the public shall be permitted to comment during the public comment portion of the appointment agenda item of the special Commission meeting.

The applicant chosen by majority vote of the County Commissioners to fill the remainder of the term of the vacant County Commission seat is ineligible to qualify as a candidate for County Commission during the term of appointment as County Commissioner; the Supervisor of Elections shall not place on the ballot the appointed County Commissioner as a candidate for County Commissioner during the term of office (or, but for resignation would have served the term).

If the County Commissioners, because of a tie vote by the Commissioners, fails to appoint a person to serve the remaining term of a vacant County Commissioner seat, then the County Commission shall request that the Governor appoint a person to serve the remaining term of the vacant County Commissioner seat. The effective date of office shall be immediately upon the appointment by the Governor. A County Commissioner appointed by the Governor to fill a vacant County Commissioner seat is ineligible to qualify as a candidate for County Commissioner during the term of appointment as County Commissioner; the Supervisor of Elections shall not place on the ballot the appointed County Commissioner as a candidate for County Commissioner during the term of office (or, but for resignation would have served the term).

A vacancy created by recall shall be filled as provided in Section 5.2 of this Charter.

Unless otherwise required by the State Constitution or general law, if more than one year remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by a special election. The Board of County Commissioners, after first consulting with the Supervisor of Elections, shall by resolution fix the time period for candidate

qualifying, the date of the election, and the date of any runoff election. There shall be a minimum of thirty (30) days between the close of qualifying and the date of the election, and between the election and any runoff election. Such special elections shall otherwise be governed by the applicable provisions of general law.

**2021-2022 Brevard County Charter Review**  
**Record of Vote**

(CRC:2021-2022 – Proposal 8- Vacancies)

Motion by: Completion of 6th Public Hearing-Commission Voted 08-04-2022 to vote following voice vote to approve language amendment brought forth by Blaise Trettis.

Second by:

All those in favor of Proposal 8- Yes/All opposed to proposal 8 say No

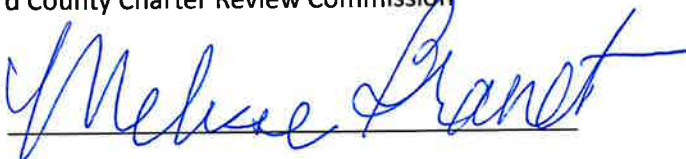
Chandler	District 5	Y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	Y
Haridopolos	District 2	Y	Oliver	District 4	Y
Jacobs-Kierstein	District 3	Absent	Rogerson	District 2	Absent
Jenkins	District 4	Y	Schmitt	District 4	Y
Luebker	District 5	Y	Trettis	District 2	Y
Moore	District 1	Y	White	District 3	Y
Neuman	District 5	Y			

Motion to Strike Proposal 8

Motion to Approve Proposal 8 -Vacancies and Suspensions Amended Language by Blaise Trettis  
 Unanimous 13-0

August 04,202

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

July 07, 2022