

**CRC RESOLUTION NO. 2022-003**

**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 5.2 TO PROVIDE FOR RECALL OF CERTAIN COUNTY OFFICERS AND SCHOOL BOARD MEMBERS; 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**, 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 5.2 of the Brevard County Charter, which would correct an erroneous reference in Section 5.2 to Section 4.2 and provide for the recall of the Clerk of Court, Property Appraiser, Sheriff, Tax Collector, or the Supervisor of Elections and also provide for the recall of School Board Members. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 5.2. - Recall.**

The county commissioners ~~County Commissioners~~ shall be subject to recall as provided by section 100.361, Florida Statutes, as amended or superseded from time to time ~~general law~~. Any elected county ~~County~~ officer named in Section 4.1.1. 4.2 of this charter ~~Charter~~ and school board members may be recalled in the manner provided by section 100.361, Florida Statutes, as amended or superseded from time to time, general law for removal of a county commissioner ~~County Commissioner~~ of a charter county. A successor to the unexpired term of any recalled commissioner or elected county ~~County~~ officer, or school board member, shall be elected in the manner provided by section 100.361, Florida Statutes, as amended or superseded from time to time, general law for filling of vacancies in office after recall in charter counties.

**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. 3 – RECALL OF COUNTY OFFICERS  
AND SCHOOL BOARD MEMBERS**

The County Charter allows for the recall election and replacement of the Clerk of Court, Property Appraiser, Supervisor of Elections, Tax Collector, and Sheriff, in the manner provided for by state law for recall of County Commissioners. Shall the Charter be amended to add School Board Members to this list who may face recall election and replacement in the manner provided by state law for recall of County Commissioners?

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. 3 set forth in Section 3. of this Resolution.

Adopted this 4 day of April, 2022.



Mike Haridopolos, Chair

## SECOND AMENDED PROPOSAL 19

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes the following amendment to correct the scrivener's error in section 5.2 Recall and to add school board members to the list of county officers subject to recall and which replaces "general law" with "section 100.361 Florida Statutes." Additional numbers and words are underlined; deleted numbers and words are stricken-through.

### **Section 5.2. Recall**

The County Commissioners shall be subject to recall as provided by ~~general law~~ section 100.361 Florida Statutes. Any elected County officer named in Section 4.2 ~~4.1.1~~, of this Charter ~~and school board members~~ may be recalled in the manner provided by ~~general law~~ section 100.361 Florida Statutes for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner, ~~or elected County officer, or school board member~~, shall be elected in the manner provided by ~~general law~~ section 100.361 Florida Statutes for filling of vacancies in office after recall in charter counties.

### Reason for Change Made in Second Amended Proposal 19

At the request of a member of the Charter Review Commission (CRC) made at the June 23, 2022, meeting of the CRC, the words "general law" have been replaced with "section 100.361 Florida Statutes." Proponent submits that this change is beneficial because it will inform the public of the specific Florida statute which prescribes the manner in which recall petitions and elections are conducted. This specific citation to the statute will allow the public to research the details of the recall procedure so that the public will be informed of the seven lawful grounds for removal from office listed in the statute, which are: 1) malfeasance; 2) misfeasance; 3) neglect of duty; 4) drunkenness; 5) incompetence; 6) permanent inability to perform official duties; 7) conviction of a felony involving moral turpitude. Additionally, from reading the statute the public will be able to understand the difficulty presented by the recall statute which requires two separate petition drives requiring five percent of the electors sign the first- round petition and which requires that fifteen percent of the electors sign the second- round petition. By having the recall statute number cited in section 5.2 Recall, the public will be able to learn of the severe time limitations for the collection of signed petitions required by the statute. In sum, by citing the recall statute in section 5.2 Recall, the public will be able to become more knowledgeable to make an informed decision on whether to vote for or against the proposed amendment to section 5.2 Recall.

### Service of Proposal

This proposal was sent by email on June 24, 2022, to: the members of the Brevard County Charter Review Commission; to Commission attorney Paul Gougelman; to Brevard County employees Jim Liesenfelt, Melissa Brandt.

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

(CRC:2021-2022 – Proposal 19- Section 5.2 Recall)

Motion by: Completion of 3<sup>rd</sup> Public Hearing-Commission Decided 07-07-2022 to vote following approval of amendment.

All those in favor of Proposal 19- Yes/All opposed to proposal 19 say No


Chandler	District 5	Y	Newell	District 1	Absent
Fisher	District 1	Absent	Nye	District 3	Y
Haridopolos	District 2	Y	Oliver	District 4	Y
Jacobs-Kierstein	District 3	y	Rogerson	District 2	Y
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 19-

Motion to Approve Proposal 19 -Recall- Section 5.2 Motion Approved- Unanimous Vote 13-0

July 07, 2022

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

July 07, 2022