



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

Staff Contact:

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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 as provided by general law. 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. 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 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 for filling of vacancies in office after recall in charter counties.

REASON FOR PROPOSAL

As explained by Commission attorney Paul Gougelman in his April 24, 2022 memorandum Recall issue; Constitutional Officers, in 2010 there was a scrivener's error in which the reference in Section 5.2 to Section 4.2 was mistakenly not changed to Section 4.1.1. Attorney Gougelman wrote that, "Fixing this glitch is easy." Attorney Gougelman's example of how to correct the scrivener's error is the correction made changing 4.2 to 4.1.1.

As an aside, proponent's research reveals that the following eight charter counties provide for the recall of county constitutional officers: 1) Brevard, § 5.2; 2) City of Jacksonville (i.e. Duval County), which expressly includes recall of school board members in addition to any officer elected in any consolidated government, § 15.01; 3) Orange, § 604; 4) Hillsborough, § 9.08; 5) Clay, § 3.2; 6) Miami-Dade, § 8.02; 7) Columbia, § 6.2; 8) Sarasota, § 6.3.

The amended proposal adds school board members to all of the other county constitutional officers subject to recall election in the manner provided by general law for removal of a county commissioner; i.e., sheriff, tax collector, supervisor of elections, property appraiser, clerk of the circuit court.

Proponent emphasizes that Amended Proposal 19 (i.e. this proposal) is completely different from school board recall proposal 2 by proponent which was withdrawn from the Commission's consideration by 6-5 vote at the May 12, 2022 meeting of the Charter Review Commission. The defeated proposal 2 was six typed single-spaced pages in length and most importantly included only malfeasance as the statutory ground available for recall listed in § 100.361(2)(d) Fla. Stat. and included up to three votes on motions of school board members as grounds for recall. Contrarily, this Amended Proposal 19 merely consists of adding these three words to the 5.2 Recall section of the Brevard County Charter: "school board members".

Proponent submits that the best argument in support of Amended Proposal 19 is the following excerpts from Commission attorney Paul Gougelman's May 12, 2022 letter to the

Florida Attorney General seeking an Attorney General Opinion on whether the Brevard County Charter may be amended to add a provision permitting a recall of school board members:

ISSUE: May the Brevard County Charter be amended to add a provision permitting a recall of Brevard County School Board Members? Would such a provision be violative of Article VIII, Section 1(g) of the Florida Constitution which provides that, “[c]ounties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors”?

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II

Recall in Florida - The Florida Recall Statute

As noted above, the only provision in Florida law for recall elections is Section 100.361, Florida Statutes. The statute specifies that it applies to the governing body of either a charter county or a municipality. §100.361(1), Fla.Stat.⁵ Furthermore, the statute is intended to provide a uniform statewide process for recall,⁶ and the statute automatically applies to all municipalities and charter counties whether or not they have adopted recall provisions in their charters or by ordinance.⁷ In essence, the Legislature sought to deal with the problem existent at that time, namely providing a uniform process for the recall of city councilmembers (and charter county commissioners).

The process was intended to be difficult. Most importantly, recall is only permitted in one of seven circumstances: Malfeasance;⁸ Misfeasance;⁹ Neglect of duty; Drunkenness; Incompetence; Permanent inability to perform official duties; and Conviction of a felony involving moral turpitude.¹⁰ §100.361(2)(d), Fla.Stat.¹¹

III

Authority for Local Charters to Provide for
Recall of Constitutional Officers such as
School Board Members

A

The strongest legal basis to permit a local government, such as a charter county, to provide in their charter for the recall of School Board Members is the concept of home rule.

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Home rule was granted to municipalities and to counties to deal with the explosion of local bills being submitted each session of the

Legislature. For example, the year before the new Florida Constitution was adopted, 1967 Laws of Florida reveal that there were 1428 local laws adopted and 1068 general laws and laws of local application adopted. Something needed to be done to stop the explosion in local bills and to permit local governments to deal efficiently with local issues.

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There is no express preemption of the subject of recall to the state, either by general act or the Florida Constitution.¹³ In fact, the Florida Division of Elections in DE 94-14 (Aug. 1, 1994) answered the following question from the Brevard County Charter Commission: May a county charter lawfully provide a method for the recall of county officers?

The Division stated:

Your . . . question is answered in the affirmative. A county charter may provide a method for the recall of county officers. However, the provisions of Section 100.361, Florida Statutes, are applicable to all chartered counties and will prevail over any conflicting provisions in such charters to the extent of the conflict.

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Thus, charter county home rule should be found to grant Brevard County the legal ability to allow the people of Brevard County to amend their Charter to permit the recall of Brevard County School Board Members, especially given that the delegation of home rule to Brevard County is extremely broad. (emphasis supplied by proponent).

B

Powers in the Brevard County Charter Must Be
Construed to Be Very Wide and Liberal

Not only is the power of home rule for a charter county broad, but the Brevard County Charter reinforces the concept in Section 1.3. This section, entitled “Construction”, provides that “[t]he powers granted by this Home Rule Charter shall be construed liberally in favor of charter government.” This section 1.3 dictates that the proposals of the CRC to amend the Charter are to be construed liberally in favor of charter government, which would mean the enhancement of the powers of charter government. **This would include recall election of school board members.** (emphasis supplied by proponent)

C

School Board Members Are County Officers

A county charter has control over so-called constitutional or county officers. For example, in Article VIII, Section 1(d) of the Florida Constitution, there are specific provisions relating to the election of the constitutional or county officers, including in each county a [sheriff](#), a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court. No provision of the Constitution or state statute prohibits providing for the recall of the constitutional or county officers.

It should also be noted that school board members are county or constitutional officers. The Florida Supreme Court in In re Advisory Opinion to the Governor, 626 So. 2d 684 (Fla. 1993), answered a request from the Governor for an advisory opinion stating that a school board member is a county officer for purposes of the Governor's suspension authority under article IV, section 7(a) Florida Constitution. The Court reached this opinion even though the Constitution does not say that a school board member is a county officer.

The Court made it clear that the term "county officer" in the Constitution applies to not only the [sheriff](#), a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court but also to county commissioners and school board members. The Court, at 689, stated:

While an argument can be made that the suspension provision in article IV, section 7, should be construed narrowly and that school board members should be characterized as "district" rather than "county" officers, we find that a broader construction is appropriate. We reach this conclusion because it is apparent that the public looks at both school board members and county commissioners as "county" officials, who have equivalent power and authority, albeit in different local governmental spheres. We recognize that article VIII, section 1(d), defines certain "county officers." We note, however, that the county officers defined in section 1(d) could not have been intended to be the only "county" officers subject to the suspension provisions of article IV, section 7, because that provision does not include county commissioners within the definition of a

county official. The duties and governing authority of county commissioners are set forth in article VIII, section 1(e). School board members' duties and authority are found in article IX, sections 4(a) and 4(b), which provides that "each county shall constitute a school district" and that school board members shall "operate, control, and supervise" the schools within the county (emphasis added). . . .

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At Least One County has Adopted Provisions
for Recall of School Board Members

A review of the 19 charter county charters indicates that least one other county, Duval, has adopted provisions for the recall of school board members.¹⁶

SERVICE OF PROPOSAL

This proposal was sent by e-mail on May 20, 2022, to: the members of the Brevard County Charter Review Commission; to Commission attorney Paul R. Gougelman; to Brevard County employees Jim Liesenfelt, Melissa Brandt.

Compare Results

Old File:

Proposal to correct scrivners error in section 5.2 recall.pdf

1 page (108 KB)
4/29/2022 11:33:05 AM

versus

New File:

amended proposal to correct scrivners error in section 5.2 recall.pdf

5 pages (138 KB)
5/20/2022 1:01:46 PM

Total Changes

21

Content

6 Replacements
14 Insertions
0 Deletions

Styling and Annotations

1 Styling
0 Annotations

[Go to First Change \(page 1\)](#)

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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 as provided by general law. Additional numbers and words are underlined; deleted numbers and words are stricken-through.

Section 5.2. Recall

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BREVARD COUNTY

HOME RULE CHARTER

Adopted by Voters November 8, 1994

Effective Date January 1, 1995

Amended March 12, 1996

Amended November 3, 1998

Amended November 7, 2000

Amended November 5, 2002

Amended November 7, 2004

Amended November 4, 2008

Amended November 2, 2010



shall have the right to initiate County legislation that is not in conflict with the Charter, and to amend or repeal ordinances or repeal are not in conflict with law, upon petition signed by a number of electors qualified to vote in the last election that the number shall contain at least one elector in each of at least three

ive shall, prior to obtaining any signatures, proposed ordinance or Charter amendment to forms, with the proposed ballot summary and signatures will be affixed and obtain a dated available period for obtaining signatures on the petition not later than nine (9) months after the initiation by the Supervisor of Elections. The sponsor shall submit signed and dated forms to the Supervisor and upon submission shall pay all fees. The Supervisor of Elections shall within ten days collect signatures thereon, or specify a reason for rejected signature if the petition is rejected for insufficient number of valid signatures. If the petition is rejected for insufficient number of signatures, the sponsor shall submit a new petition within thirty (30) days within which to submit the petition for verification. The Supervisor of Elections shall verify the additional signatures. In the event the signatures are still not acquired, the petition initiative shall be void and none of the signatures may be used in any subsequent identical or similar petition.

of County Commissioners.

After the requisite number of names has been obtained, the Supervisor of Elections and reported to the Board of County Commissioners shall

give notice and hold a public hearing on the proposed ordinance according to law and vote on it. If the Board fails to enact the proposed ordinance, it shall by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered voters voting on the question, the proposed ordinance shall be declared by resolution of the Board of County Commissioners to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative, without the approval of a majority of the electors voting at a referendum called for that purpose.

5.1.3. Limitation on ordinances by initiative.

The power to enact, amend or repeal an ordinance or amend this Charter by initiative shall not include ordinances or provisions relating to the existing County budget, existing debt obligations, existing capital improvement programs, salaries of non-elected County officers and employees, the collection of taxes, or the rezoning of less than five percent (5%) of the total land area of the County.

SECTION 5.2. RECALL

The County Commissioners shall be subject to recall as provided by general law. Any elected County officer named in Section 4.2 of this Charter may be recalled in the manner provided by general law for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner or elected County officer shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties.

SECTION 5.3. LIMITATION ON DEBT OR ITS EQUIVALENT

PART A
CHARTER LAWS
CHARTER OF THE CITY OF JACKSONVILLE, FLORIDA

The Charter of the City of Jacksonville is set out herein as readopted by Chapter 92-341, Laws of Florida. Formerly, the Charter of the City of Jacksonville was derived from Chapter 67-1320, Laws of Florida, adopted by the Legislature of the State of Florida at its regular session in 1967, as amended. The first legal step to consolidated city-county government for Jacksonville occurred in 1934 when the Florida Constitution was amended to permit merger of Duval County and all of its cities. That government matured only after a legislative-directed study commission drafted a Charter with widespread public approval which was adopted as the Charter in 1967. The government was not the metropolitan form of Miami-Dade County, which had retained the county government, nor was it the chartered-county form later permitted by the Florida Constitution when it was revised in 1968. It essentially eliminated two governments (city and county) and replaced it with one.

Smaller communities in Duval County—the three beaches cities and the town of Baldwin—were reconstituted as urban services districts: they were permitted elements of local control but they henceforth would look to the new City of Jacksonville for the former functions of county government, and could draw on essential urban services such as police and fire from the central government. Through judicial and legislative action, these communities were restored to their municipal status: today the City of Jacksonville stands in the relationship of a county government to them, and they continue to function as municipal governments.

To conform to the traditional organization of Florida state government, Jacksonville retained the offices of Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections and Clerk of the Circuit Court. But these officers are now considered not only as county officers but as officers of the Consolidated Government, and as such play an important role in its operation. Certain special functions were allotted to independent agencies appointed by the Mayor or Governor, while a measure of centralized control was held by the City through approval of their budgets and by requiring their use of the central services of the City. Consistent with the Charter's home rule objectives, the Council was permitted to modify this requirement for use of central services.

Through the years, legislation by both the Legislature and the Council have added to and subtracted from the Charter, in an attempt to achieve both aims of the Consolidated Government: government by the broadest representation of its citizens (exercising their home rule powers under the Florida Constitution) and the efficient response to urban problems.

History notes following a particular section indicate the complete history of amendatory legislation enacted subsequent to Chapter 67-1320, Laws of Florida. The indexes appearing at the beginning of each article, notes appearing at the end of various sections or at the beginning of an article or chapter and section and subsection headings enclosed in brackets are added editorially.

- (2) Within that part of the general services district not included within the second, third, fourth, and fifth urban services districts, at such millage rate as is authorized by the Constitution and general law for municipalities to levy.

(b) The second, third, fourth, and fifth urban services districts are each authorized to levy taxes upon all of the real and personal property within their respective districts assessed for taxes, annually, for the payment of debt service requirements of ad valorem bonds as authorized and required by law, and for all other purposes of the governments of each of said urban services districts, at such millage rate as is authorized by the Constitution and general law for municipalities to levy.

(Laws of Fla., Ch. 78-536, § 14; Ord. 84-1307-754, § 21; Laws of Fla., Ch. 92-341, § 1)

Section 14.08. Increases and decreases in millage limitations.

No increase shall be allowed in any of the millage limitations provided in section 14.07 unless first approved by a majority vote of those qualified electors voting in a special referendum in the district to be affected by any such proposed increase in such millage limitations. No such increase shall be effective for a period longer than 2 years. On the written petition or petitions of qualified electors representing not less than 20 percent in number of such electors voting in the last such special referendum in the general services district or 20 percent of such electors voting in the last such special referendum in an urban services district, a special referendum shall be held to consider a reduction in any millage limitation which has been previously increased under the provisions of this section. Not more than one such special referendum shall be held in any calendar year.

(Laws of Fla., Ch. 71-695; Ord. 84-1307-754, § 21; Laws of Fla., Ch. 92-341, § 1)

Section 14.09. Limitation on ad valorem taxes.

The Council shall not adopt any millage rate which would result in more than a three (3) percent increase in total ad valorem taxes levied on the preliminary taxable value (adjusted to exclude ad valorem taxes generated from new construction added in the current year) over the previous year's ad valorem tax levy. The Council shall not fail to reduce the millage rate should such action be necessary to ensure that this limitation on the ad valorem tax levy takes effect.

(Ord. 92-1073-753, § 1 (Referendum of November 3, 1992))

ARTICLE 15. REMOVAL OF OFFICERS

Sec. 15.01. Recall by voters.

Sec. 15.02. General and special elections.

Section 15.01. Recall by voters.

Any officer elected in any consolidated government or school board election may be removed from office in the following manner:

- (a) A petition demanding an election of a successor of the elected official sought to be removed shall be filled with the supervisor of elections.
- (b) In the petition for recall of a person elected in the city at large, there shall be included the signatures of qualified voters equal to 10 percent of the number of voters registered in that district at the time of the election of the person sought to be removed.

- (c) In the petition for recall of a person elected in a district election, there shall be included the signatures of voters qualified to vote in that district equal to 10 percent of the number of voters registered in that district at the time of the election of the person sought to be removed.

The petition shall contain a general statement of the grounds for which the removal is sought. Copies of petitions may be executed, but one of the signers of each copy shall affirm under oath before an officer competent to administer oaths that he believes that each signature to the copy is the genuine signature of the person whose name it purports to be. Within 15 normal working days from the date of filing such petition, the supervisor of elections shall examine the petition and ascertain whether the petition is signed by the required number of persons and whether such persons are qualified voters as shown by the registration books. He shall attach to the petition his certificate showing the result of such examination. If the supervisor of elections determines that the petition is insufficient, it may be amended within 15 days from the date of said certificate. The supervisor of elections shall, within 15 days after such amendment, make like examination of the amended petition. If he again determines that the petition is insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the supervisor of elections shall determine that any petition is duly executed and in proper form, he shall at once order and fix a date for holding a recall election not less than 30 days or more than 60 days from the date on which he determines the petition to be sufficient. The supervisor of elections shall make or cause to be made publication of notice of such recall election. A majority of the votes cast in such election shall be required to remove the officer. Upon such removal, a vacancy shall exist in the office.

(Laws of Fla., Ch. 69-1173; Laws of Fla., Ch. 72-572; Ord. 84-1307-754, § 13; Laws of Fla., Ch. 92-341, § 1)

Section 15.02. General and special elections.

(a) The city shall conduct elections for the offices of Council Member, Mayor, Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections and Civil Service Board Member pursuant to the procedures set forth herein. Elections shall be by majority vote.

(b) The names of all persons who qualify as candidates for election to an office referred to in subsection (a) shall be placed on the general election ballot. If one candidate in such election receives a majority of the votes for an office, that candidate shall be elected. If no candidate in such election receives a majority of the votes for an office, the names of the two (2) candidates receiving the highest number of votes for such office shall be placed on a run off election ballot. The Council by ordinance shall provide for procedures in the event of a tie. The party affiliation, if any, of each candidate shall be noted on the election ballot for each election. Special elections shall follow the procedures set forth in this section.

(Ord. 91-178-146, § 1 (Referendum of November 3, 1992))

ARTICLE 16. RETIREMENT AND PENSION BENEFITS

Sec. 16.01. Retirement and pension system authorized.

Sec. 16.02. Existing plans continued.

Sec. 16.03. Amendment of prior plans in certain respects.

Sec. 16.04. Election of membership by certain employees and membership of handicapped employees.

Sec. 16.05. Police and correctional officers; special provisions relative to disability.

Sec. 16.06. Funding and enhanced pension benefits for correctional officers.

Section 16.01. Retirement and pension system authorized.

verified by the supervisor of elections and reported to the board, the board shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1 of the succeeding year.

- B. *Ordinance.* Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall notice and hold a public hearing on the proposed petition according to law and vote on it. If the board fails to adopt the proposed petition, it shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be declared by resolution of the board to be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1, of the succeeding year. The board shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance.
- C. The initiative power shall not be restricted, except as provided by general law and this Charter.

(Adopted November 1988)

Sec. 603. Limitation.

The power to enact, amend or repeal an ordinance by initiative shall not include ordinances relating to administrative or judicial functions of

county government, including but not limited to, county budget, debt obligations, capital improvement programs, salaries of county officers and employees and the levy and collection of taxes. (Renumbered pursuant to amendments adopted November 1988)

Sec. 604. Power of recall.

The electors of the county shall have the power to recall any elected Charter officer in accordance with the laws of the State of Florida. (Renumbered pursuant to amendments adopted November 1988)

State law reference—Recall, F.S. § 100.361.

Sec. 605. Nonpartisan elections.

Elections for all Charter offices shall be nonpartisan. No candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All candidates' names shall be placed on the ballot without reference to political party affiliation.

In the event that more than two (2) candidates have qualified for any single office under the chartered government, an election shall be held at the time of the first primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.

(Created November 1992)

ARTICLE VII. GENERAL PROVISIONS

Sec. 701. Charter amendment by board.

The board, by a majority vote of all members, shall have the authority to propose amendments to this Charter subject to referendum of the general electorate, at any primary, general or special election.

(Amended November 1988)

Sec. 702. Charter review commission.

A. A Charter review commission shall be appointed by the board. The Charter review commission shall consist of not less than eleven (11) members and not more than fifteen (15) members.

It is the intent of the electorate in adopting this Charter that if any section, subsection, sentence, clause, term or word of this Charter is held invalid, the remainder of the Charter shall not be affected.

Section 9.06. Vacancies.

Vacancies in commission districts shall be deemed to exist and be filled in accordance with the Constitution and Laws of Florida.

Section 9.07. Public Meetings.

Meetings of the board of county commissioners and other boards shall be held and conducted as provided by general law and rules of the board not inconsistent therewith.

Section 9.08. Recall.

The people shall have the power to recall elected officials by recall election initiated, called, held and conducted as provided by general law for chartered counties.

Section 9.09. Planning.

There shall be for Hillsborough County and its municipalities a single local planning agency created by such special law or laws which need not be approved by a referendum. It shall have responsibility for comprehensive planning and related activities as are committed to it by general law or applicable special laws.

Section 9.10. Environmental Protection.

There shall be for Hillsborough County and its municipalities a single local environmental protection commission created by such special law or laws which need not be approved by referendum.

Section 9.11 Discrimination Prohibited.

To be consistent with federal and state constitutions, laws, rules, and regulations, the county government shall not deprive any person of any right because of race, sex, age, national origin, religion, physical handicap, or political affiliation. The administrative code shall provide adequate means for protecting these rights, including equal opportunity assurances.

Section 9.12. Lowering of Salaries.

The salaries of commissioners and the county administrator may be lowered to the extent allowed by general law.

X. Transition And Schedule**Section 10.01. Offices and Officers of Former Government.**

Unless otherwise provided by this Charter, all offices, officials, boards, commissions, and agencies of the former government shall continue to perform their respective duties and functions until such minimum time allowed for the adoption of an administrative code pursuant to Section 7.02. At said time, said duties and functions shall be performed in accordance with the administrative code.

Section 10.02. Interim County-Wide Districts.

CLAY COUNTY HOME RULE CHARTER

2009 Interim Edition



(b) Shall have free and unrestricted access to all of the employees, officials, records, and reports of the components and programs of County government directly under the Board of County Commissioners, and, where appropriate, may require all branches, departments, and officials of the components and programs of County government directly under the Board of County Commissioners to provide oral and written reports and to produce documents, files and other records.

(4) Assistant Commission Auditors shall be appointed by and be responsible to the Commission Auditor. The appointment of any Assistant Commission Auditor shall be subject to the appropriation of funds therefor by the Board of County Commissioners. The Commission Auditor shall have the sole authority to suspend or terminate any Assistant Commission Auditor with or without cause.

History.—Paragraph B(1) amended effective January 1, 1995, on proposal by 1993-94 Ch.Rev.Comm.; subparagraph A(1)(f) added effective October 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.; subsection D added effective October 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.

⁶ **Note.**—Effective October 1, 1999.

⁷ **Note.**—See Historical Notes for version in effect through December 31, 1994.

⁸ **Note.**—Effective October 1, 1999.

ARTICLE III

ELECTED COUNTY CONSTITUTIONAL OFFICES

Section 3.1: Elected County Constitutional Offices.

⁹ The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as elected constitutional offices and the powers, duties and functions shall not be altered by this Home Rule Charter, except that the powers, duties and functions of the Clerk of the Circuit Court shall be limited to those of clerk of the circuit court and recorder as described in Article VIII, §1(d), Constitution of the State of Florida. The Constitutional officers shall perform their executive and administrative functions as specified by law, except that the Clerk of the Circuit Court shall perform only the executive and administrative functions as specified by law with respect to those powers, duties and functions of the Clerk of the Circuit Court described in Article VIII, §1(d), Constitution of the State of Florida, as clerk of the circuit court and recorder.

History.—Amended effective October 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.

⁹ **Note.**—See Historical Notes for version in effect through September 30, 1999.

Section 3.2: Recall.

Each of the constitutional offices described in Section 3.1 of this Article shall be subject to recall in the same manner, under the same procedures, and for the same grounds as are provided by general law for the members of the Board of County Commissioners.

History.—Added effective January 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.



THE
HOME RULE
AMENDMENT
AND
CHARTER

(AS AMENDED THROUGH
NOVEMBER 4, 2008)

MIAMI-DADE COUNTY, FLORIDA

4. The Board may within 30 days after the date a sufficient petition is presented adopt the ordinance as submitted in an initiatory petition or repeal the ordinance referred to by a referendary petition. If the Board does not adopt or repeal the ordinance as provided above, then the proposal shall be placed on the ballot without further action of the Board.
5. If the proposal is submitted to the electors, the election shall be held either:
 - (a) In the next scheduled county-wide election, or
 - (b) If the petition contains the valid signatures in the county in numbers at least equal to eight percent of the registered voters in the county, the election shall take place on the first Tuesday after 120 days from certification of the petition. The result shall be determined by a majority vote of the electors voting on the proposal.
6. An ordinance proposed by initiatory petition or the repeal of an ordinance by referendary petition shall be effective on the day after the election, except that:
 - (a) Any reduction or elimination of existing revenue or any increase in expenditures not provided for by the current budget or by existing bond issues shall not take effect until the beginning of the next succeeding fiscal year; and
 - (b) Rights accumulated under an ordinance between the time a certified referendary petition against the ordinance is presented to the Board and the repeal of the ordinance by the voters, shall not be enforced against the county; and
 - (c) Should two or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest number of votes shall prevail as to those provisions.
7. An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Board for a period of one year after the election at which it was adopted, but thereafter it may be amended or repealed like any other ordinance.

SECTION 8.02. RECALL.

Any member of the Board of County Commissioners, the Mayor, the Property Appraiser, the Sheriff or Constable may be removed from office by the electors of the county, district,

or municipality by which he was chosen. The procedure on a recall petition shall be identical with that for an initiatory or referendary petition, except that:

1. The Clerk of the Circuit Court shall approve the form of the petition.
2. The person or persons circulating the petition must obtain signatures of electors of the county, district, or municipality concerned in numbers at least equal to four percent of the registered voters in the county district or municipality on the day on which the petition is approved, according to the official records of the County Supervisor of Elections.
3. The signed petition shall be filed with and canvassed and certified by the Clerk of the Circuit Court.
4. The Board of County Commissioners must provide for a recall election not less than 45 nor more than 90 days after the certification of the petition.
5. The question of recall shall be placed on the ballot in a manner that will give the elector a clear choice for or against the recall. The result shall be determined by a majority vote of the electors voting on the question.
6. If the majority is against recall the officer shall continue in office under the terms of his previous election. If the majority is for recall he shall, regardless of any defect in the recall petition, be deemed removed from office immediately.
7. No recall petition against such an officer shall be certified within one year after he takes office nor within one year after a recall petition against him is defeated.

ARTICLE - 9

GENERAL PROVISIONS

SECTION 9.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS.

A. On May 1, 1958, the following offices are hereby abolished and the powers and functions of such offices are hereby transferred to the Mayor, who shall assume all the duties and functions of these offices required under the Constitution and general laws of this state: County Tax Collector, County Surveyor, County Purchasing Agent, and County Supervisor of Registration. The Mayor may delegate to a suitable person or persons the powers and functions of such offices.

HOME RULE CHARTER FOR COLUMBIA COUNTY, FLORIDA

PREAMBLE

THE PEOPLE OF COLUMBIA COUNTY, FLORIDA, by the grace of God free and independent, in order to attain greater self-determination, to exercise more control over our own destiny, to create a more responsible and effective government, and to guarantee constitutional rights to all equally, do hereby ordain and establish this Home Rule Charter as our form of government for Columbia County.

ARTICLE 1

CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT

1.1 Creation and general powers of home rule charter government

Columbia County shall be a home rule charter county, and, except as may be limited by this Home Rule Charter, shall have all powers of self-government granted now or hereafter by the Constitution and laws of the State of Florida.

1.2 Body corporate, name and boundaries

Columbia County shall be a body corporate and politic. The corporate name shall be Columbia County. The county seat and boundaries shall be those designated by law on the effective date of this Charter.

1.3 Construction

The powers granted by this Home Rule Charter shall be construed broadly in favor of the charter government. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific power of the government, as stated in this article. It is the intent of this article to grant to the charter government full power and authority to exercise all governmental powers necessary for the effective operation and conduct of the affairs of the charter government.

1.4 Special powers and duties of county

1.4.1 County purposes. The county, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.

1.4.2 Municipal purposes. The county shall have all necessary powers to accomplish municipal purposes within special districts. Property situated within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents not within municipal boundaries, nor shall property situated in the county be subject to taxation for services provided by the county exclusively for the benefit of the property or residents within municipal boundaries. To this

be completed not later than six months after initial receipt of the petition by the Supervisor of Elections. The sponsor shall comply with all requirements of general law for political committees, and shall file quarterly reports with the Supervisor of Elections stating, to the best of the sponsor's information and belief, the number of signatures procured. The time and form of such reports may be prescribed by ordinance. When a sufficient number of signatures is obtained, the sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections and upon submission shall pay all fees required by general law. The Supervisor of Elections shall, within sixty (60) days after submission, verify the signatures thereon, or specify a reason for the invalidity of each rejected signature if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days verify the additional signatures. In the event sufficient signatures are still not acquired, the petition initiative shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition.

6.1.2 Consideration by Board of County Commissioners. *Within sixty (60) days after the requisite number of names has been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall give notice and hold a public hearing on the proposed ordinance according to law and vote on it. If the board fails to enact the proposed ordinance, it shall, by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered electors voting on the question, the proposed ordinance shall be declared by resolution of the Board of County Commissioners to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative prior to the next succeeding general election, without the approval of a majority of the electors voting at a referendum called for that purpose.*

6.1.3 Limitation on ordinances by initiative *The power to enact, amend or repeal an ordinance or amend this Charter by initiative shall not include ordinances or provisions relating to administrative or judicial functions; the county budget; debt obligations, capital improvement programs, salaries of county officers and employees, the assessment or collection of taxes; or matters inconsistent with the Charter, the general laws of Florida, or the Florida Constitution.*

6.2 Recall

The County Commissioners shall be subject to recall as provided by general law. Any elected constitutional county officer may be recalled in the manner provided by general law for recall of a county commissioner of a charter county. A successor to the unexpired term of office of any recalled commissioner or elected constitutional county officer shall be selected in the manner provided by the Constitution or general laws of Florida for filling of vacancies in office after recall in charter counties.



SARASOTA COUNTY
CHARTER

CERTIFIED AS TRUE AND ACCURATE BY
KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT AND COUNTY COMPTROLLER
SARASOTA, FLORIDA

JUNE 2008

precincts and of all Absentee, Provisional, and Military and Overseas (UOCAVA) ballots. Such comprehensive manual audit shall be completed within five days after the election, with the exception of comprehensive audits of Military and Overseas ballots, which shall be completed within five days after a primary election, and within 10 days after a general election. Audits shall be completed by a reputable independent and nonpartisan auditing firm as in (2) above. A copy of these audits shall be retained for public view and copying at the Supervisor of Elections Office in addition to being given to the County Commissioners. These audits shall be considered Florida public records pursuant to Florida Statute 119.

(Added 11/7/2006.)

Section 6.3 Recall. The procedures for the recall of a County Commissioner shall be as set forth in general law. The procedures for the recall of other elected County officers, including, but not limited to, the Sheriff, Supervisor of Elections, Tax Collector, Property Appraiser, and Clerk of the Circuit Court shall be the same as those for the recall of a County Commissioner. *(Amended 3/14/2000 and 11/7/2000.)*

Section 6.4 Method. Ordinances shall prescribe the method of calling special elections and referenda.

Section 6.5 Elections for County Office. As identified herein, County office for which compensation is paid shall be defined to include membership on the Board of County Commissioners, Clerk of the Circuit Court, Property Appraiser, Tax Collector, Supervisor of Elections, and Sheriff. County office for which compensation is not paid is membership on the Charter Review Board. *(Added 11/6/1990; Amended 11/5/1996 and 11/7/2000.)*

6.5A No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$200. *(Amended 11/7/2000.)*

Section 6.6 Enforcement. Within sixty (60) days of the adoption of this Article, the Board of County Commissioners shall adopt by ordinance provisions for the enforcement of this Article, including reasonable penalties for any willful violation. *(Amended and Renumbered 3/14/2000.)*

Section 6.7 Qualification. Anyone who wishes to qualify for an elected position in Sarasota County that requires residency within a specific district must have resided within that district for six (6) months immediately prior to qualification. Anyone who wishes to qualify for a