



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - County Manager

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J.3.

8/16/2022

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### **Subject:**

Discussion Re: Proposed Charter Amendments to the Brevard County Home Rule Charter

### **Fiscal Impact:**

F.Y. 2022-23 Minimal cost of election related to adding ballot language to existing ballot  
Fiscal Impacts provided as attachment

### **Dept/Office:**

County Attorney's Office

### **Requested Action:**

Contingent upon approval by at least two members of three person review panel, recommend the Board adopt six resolutions authorizing the Supervisor of Election to hold a referendum on the Charter Review Commission's six proposed amendments with the next general election.

### **Summary Explanation and Background:**

Under Section 7.4, of the Charter the Board of County Commissioners shall appoint a Charter Review Commission every six years and the Charter Review Commission must meet and present its recommended amendments, to the Charter, within twelve months of their first meeting. The 2021-2022 Charter Review Commission held their first meeting on August 12, 2021 and elected Mike Haridopolos as it's Chair.

The Charter Review Commission held 11 meetings, including 6 public hearings. The Charter Review Commission considered 24 proposed amendments to the Charter from Commission members and the public. Under the adopted rules of procedure, any proposed amendment required the vote of at least ten members to pass. Of the 24 proposed Charter amendments, six (6) amendments met the ten-vote threshold to be presented to the voters.

Under the Charter, any amendment sponsored by the County Commission or the Charter Review Commission must be reviewed by an Independent Three Person Panel comprised of members with demonstrated experience in Florida Local Government Law that are either licensed to practice law in the State of Florida or have retired from a Florida Law Practice or the Florida Judiciary within the past five years. Amendments which have been approved by at least two members of the Three Person Panel must be placed on the ballot by the Board of County Commissioners by adopting a resolution calling a special election on the amendments. The Supervisor of Elections requires the approved ballot language by August 22, 2022.

The Charter Review Commission has proposed six amendments to the Brevard County Charter:

1. C.R.C. Resolution 2022-01: Attorney Review Panel passed 06/23/2022; proposed Ballot Summary Language approved 07/21/2022
2. C.R.C. Resolution 2022-02: Approval by 60% of Voters Voting on an Amendment passed 07/07/2022; proposed Ballot Summary Language approved 07/21/2022
3. C.R.C. Resolution 2022-03: Amend Section 5.2 Recall of County Officers and School Board Members passed 07/07/2022; proposed Ballot Summary Language approved 07/21/2022
4. C.R.C. Resolution 2022-04: Three Person Review Panel Process passed 07/07/2022; proposed Ballot Summary Language approved 08/04/2022
5. C.R.C. Resolution 2022-05: Filling a Vacancy in the Term of a County Commissioner passed 08/04/2022; proposed Ballot Summary Language approved 08/04/2022
6. C.R.C. Resolution 2022-06: Workforce and Supportive Housing passed 08/04/2022; proposed Ballot Summary Language approved 08/04/2022

Attached are the legal panel analyses of charter amendments proposed by the Brevard County Charter Review Commission. (C.R.C.)

### **Clerk to the Board Instructions:**



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

August 17, 2022

**MEMORANDUM**

TO: Christine Schverak, Interim County Attorney

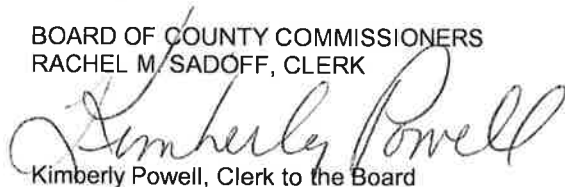
RE: Item J.3., Discussion of Proposed Charter Amendment to the Brevard County Home Rule Charter

The Board of County Commissioners, in regular session on August 16, 2022, discussed and authorized the Supervisor of Elections to hold a referendum on the Charter Review Commission's six proposed amendments with the next general election; adopted Resolution No. 22-088, calling for a special election on November 8, 2022, on the question of whether Brevard County should amend the Brevard County Home Rule Charter to provide for a charter amendment which amends Section 7.4.1 to clarify what happens to a proposal that is found by the Attorney Review Panel not to be consistent with the Florida Constitution, general law, or the Charter; adopted Resolution No. 22-089, calling a special election on November 8, 2022, on the question of whether Brevard County should amend the Brevard County Home Rule Charter to provide a charter amendment which amends Section 7.3.3 and Section 7.4.1.2 to require approval of any charter amendment by at least sixty percent of the electors voting; adopted Resolution No. 22-090, calling a special election on November 8, 2022, on the question of whether Brevard County should amend the Brevard County Home Rule Charter to provide a charter amendment which amends Section 5.2 to provide for recall of certain County Officers and School Board Members; adopted Resolution No. 22-091, calling a special election on November 8, 2022, on the question of whether Brevard County should amend Section 7.4.1 of the Brevard County Home Rule Charter to provide that to review Charter Review Commission proposed amendments before being placed on the ballot the three member Attorney Review Panel shall be selected by the Charter Review Commission, and to further provide that if the Panel rejects the Charter Review Commission proposed amendment, it shall be returned to the Charter Review Commission for further consideration; adopted Resolution No. 22-092, calling a special election on November 8, 2022, on the question of whether Brevard County should amend the Brevard County Home Rule Charter to provide a charter amendment which amends Section 2.7 providing for filling vacancies in the Office of County Commissioner; and adopted Resolution No. 22-093, calling a special election on November 8, 2022, on the question of whether Brevard County should create Section 1.9 of the Brevard County Home Rule Charter to provide a workforce and supportive housing program. Enclosed are fully-executed Resolutions of each.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/ns

Encls. (6)

cc: Each Commissioner  
County Manager  
County Attorney  
Supervisor of Elections

**RESOLUTION 2022-088**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD AMEND THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE FOR A CHARTER AMENDMENT WHICH AMENDS SECTION 7.4.1 TO CLARIFY WHAT HAPPENS TO A PROPOSAL THAT IS FOUND BY THE ATTORNEY REVIEW PANEL NOT TO BE CONSISTENT WITH THE FLORIDA CONSTITUTION, GENERAL LAW, OR THE CHARTER; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes, the Brevard County Home Rule Charter, Article VIII, section (1)(c), and Article X, Section 12(d), of the Florida Constitution and any other applicable provision of law.

**SECTION 2. FINDINGS.** It is hereby found and determined as follows:

A. A charter has been adopted for Brevard County entitled "Brevard County Home Rule Charter."

B. The Charter Review Commission has proposed an amendments to the Brevard County Charter.

C. The Legal Panel review of the amendment found amendment Proposal 1 (Amendment to Section 7.4.1 relating to the Attorney Review Panel) as set forth in CRC Resolution 2022-001 to be consistent with the Florida Constitution, genera law, and the Brevard County Charter and to contain a single subject.

D. The general election to be held on November 8, 2022, is an appropriate and desirable date for the conduct of a concurrent special election on the proposed CRC amendment.

**SECTION 3. SPECIAL ELECTION.** A special election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment to the Brevard County Home Rule Charter as recited in CRC Resolution 2022-001, as the proposed amendment is more particularly set forth in Section 7 below, shall be approved.



**SECTION 4. NOTICE OF SPECIAL ELECTION.** This Resolution shall be published once a week for four consecutive weeks in full as part of the Notice of Special Election, together with a notice in substantially the form attached hereto as Exhibit "A," in Florida Today, a newspaper of general circulation in the County with the first such publication occurring in the fifth week prior to the election provided that the first publication must be at least thirty days but no more than forty-five day prior to the date set for the election.

**SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS.** The polls will be open at the voting places on the date of such special election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such special election on the proposition provided below. The places of voting and the inspectors and clerk for the special election shall be those designated by the Supervisor of Elections of Brevard County.

**SECTION 6. OFFICIAL BALLOT. Proposal No. 1.** The ballots to be used in the special election shall contain a statement of the description of the proposed amendment to the County Charter, and, without waiving the County's right to challenge the amendment as misleading, that description shall conform to the ballot language submitted by the CRC and ordered to be placed on the ballot by the Court in substantially the following form:

**BALLOT**  
**Brevard County, Florida**

**BREVARD COUNTY CHARTER AMENDMENT**  
**PROPOSAL NO. 1 – ATTORNEY REVIEW PANEL**

The County Charter does not say what will be done when the Charter's attorney review panel determines that a proposed Charter amendment is inconsistent with the Florida Constitution, general law, and existing charter. Shall the Charter be amended to provide that proposals found to be inconsistent with the Florida Constitution, general law, or the existing Charter be returned to the County Commission or Charter Review Commission for further action if any is to be done?

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

**SECTION 7. CHARTER AMENDMENT. Proposal No. 1.** The full text of the proposed CRC amendment reads as follows:

A. Section 7.4.1 Brevard County Home Rule Charter is hereby amended to read as set forth below. In interpreting the proposed amendment, new language is

underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the county commission ~~County Commission~~ or the charter review commission ~~Charter Review Commission~~, the county commission ~~County Commission~~, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this charter ~~Charter~~. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this charter ~~Charter~~, the county commission ~~County Commission~~ shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this charter ~~Charter~~. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election. If at least two members of the panel find that the proposed amendment is not consistent with the Florida Constitution, general law, or this charter, then the proposal is considered rejected and is returned to the county commission or to the charter review commission for further action if any is to be done.

B. The above amendment to Article 7, shall become effective upon approval of the electors of Brevard County, and the amendment shall operate prospectively on any Charter amendment proposal submitted to the electors of Brevard County after November 8, 2022.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

**SECTION 9. VOTER REGISTRATION BOOKS.** The Supervisor of Elections for

Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such special election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass until and unless such amendment or ballot language is invalidated by a court with jurisdiction.

**SECTION 12. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 16 day of August, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

  
Rachel M. Sadoff, Clerk  
(SEAL)

  
Kristine Zonka, Chair

As approved by the Board on 8/16/2022

Reviewed for legal form and content:

\_\_\_\_\_  
County Attorney

**RESOLUTION 2022-089**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD AMEND THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE A CHARTER AMENDMENT WHICH AMENDS SECTION 7.3.3 AND SECTION 7.4.1.2 TO REQUIRE APPROVAL OF ANY CHARTER AMENDMENT BY AT LEAST SIXTY PERCENT OF THE ELECTORS VOTING; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes, the Brevard County Home Rule Charter, Article VIII, section (1)(c), and Article X, Section 12(d), of the Florida Constitution and any other applicable provision of law.

**SECTION 2. FINDINGS.** It is hereby found and determined as follows:

A. A charter has been adopted for Brevard County entitled "Brevard County Home Rule Charter."

B. The Charter Review Commission has proposed an amendment to the Brevard County Charter.

C. The Three Person Panel (also known as the "Attorney Review Panel") review of the amendment found amendment Proposal No. 2 (Amendment to Section 7.3.3 relating to the approval by sixty percent of the voters voting on a charter amendment proposal) as set forth in CRC Resolution 2022-002 to be consistent with the Florida Constitution, general law, and the Brevard County Charter and to contain a single subject.

D. The general election to be held on November 8, 2022, is an appropriate and desirable date to conduct a concurrent special election on the proposed CRC amendment.

**SECTION 3. SPECIAL ELECTION.** A special election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment to the Brevard County Home Rule Charter as recited in CRC Resolution 2022-002, as the proposed amendment is more particularly set forth in Section 7 below, shall be approved.

**SECTION 4. NOTICE OF SPECIAL ELECTION.** This Resolution shall be published once a week for four consecutive weeks in full as part of the Notice of Special Election, together with a notice in substantially the form attached hereto as Exhibit "A," in Florida Today, a newspaper of general circulation in the County with the first such publication occurring in the fifth week prior to the election provided that the first publication must be at least thirty days but no more than forty-five day prior to the date set for the election.

**SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS.** The polls will be open at the voting places on the date of such special election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such special election on the proposition provided below. The places of voting and the inspectors and clerk for the special election shall be those designated by the Supervisor of Elections of Brevard County.

**SECTION 6. OFFICIAL BALLOT. Proposal No. 2.** The ballots to be used in the special election shall contain a statement of the description of the proposed amendment to the County Charter, and shall be in substantially the following form:

**BALLOT**  
**Brevard County, Florida**

**BREVARD COUNTY CHARTER AMENDMENT**  
**PROPOSAL NO. 2 – APPROVAL BY 60% OF VOTERS**  
**VOTING ON AMENDMENT**

Shall the Charter be amended to require a vote of at least sixty percent of those voters voting on a proposed amendment be required to adopt the proposal? The Brevard County Charter currently requires amendments be approved by a simple majority.

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

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

**SECTION 7. CHARTER AMENDMENT. Proposal No. 2.** The full text of the proposed CRC amendment reads as follows:

A. Section 7.3.3 Brevard County Home Rule Charter is hereby amended to read as set forth below. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 7.3.3. - Amendment referendum.**

The ~~board of county commissioners~~ Board of County Commissioners will cause any ~~charter~~ Charter amendment proposed under section 7.3.1 or 7.3.2 to be submitted to the electors for their approval or rejection. Upon receipt of the official certification from the ~~supervisor of elections~~ Supervisor of Elections that the initiative requirements have been met, the ~~board~~ Board will, within 30 days, establish the referendum date. The proposed amendment will be placed on the ballot at a special election held concurrent with the next countywide election, or at any earlier special election called for that purpose. If the ~~board~~ Board refuses to comply with Section 7.3.2 or refuses to place the proposed amendment on the ballot as required by this section of the charter, the ~~board's~~ Board's action may be construed as interfering with the right of the people to petition and may be considered an act of malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

Notice of said referendum, together with the language of the proposed amendment, shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first publication being not more than forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval by a vote of at least sixty percent of the ~~a majority of electors voting on the measure in said election.~~

B. Section 7.4.1.2 of the Brevard County Home Rule Charter is hereby amended to read as set forth below. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State

of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.

2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter amendment shall require approval by a vote of at least sixty percent ~~a majority~~ of the registered electors voting on the measure in the special election.

D. The above amendment to Article 7, Section 7.3.3. and Section 7.4.1.2 shall become effective upon approval of the electors of Brevard County.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

**SECTION 9. VOTER REGISTRATION BOOKS.** The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such special election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass.

**SECTION 12. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

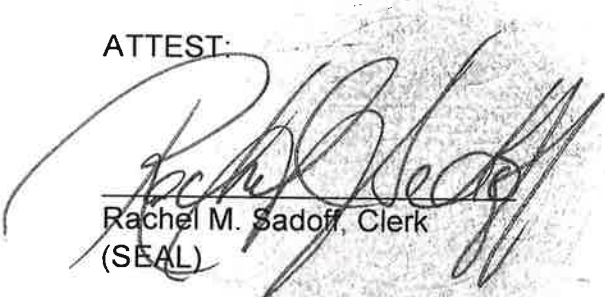
**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 16th day of August, 2022.

ATTEST:

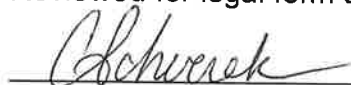
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

  
Rachel M. Sadoff, Clerk  
(SEAL)

  
Kristine Zonka, Chair

As approved by the Board on August 16, 2022

Reviewed for legal form and content:

  
County Attorney

**BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA**

I HEREBY CERTIFY that the foregoing is a true copy of the original filed in this office and may contain redactions as required by law.

**RACHEL M. SADOFF**, Clerk to the Board

Date 8/16/2022 By   
Deputy Clerk



**RESOLUTION 2022- 090**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD AMEND THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE A CHARTER AMENDMENT WHICH AMENDS SECTION 5.2 TO PROVIDE FOR RECALL OF CERTAIN COUNTY OFFICERS AND SCHOOL BOARD MEMBERS; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes, the Brevard County Home Rule Charter, Article VIII, section (1)(c), and Article X, Section 12(d), of the Florida Constitution and any other applicable provision of law.

**SECTION 2. FINDINGS.** It is hereby found and determined as follows:

A. A charter has been adopted for Brevard County entitled "Brevard County Home Rule Charter."

B. The Charter Review Commission has proposed an amendment to the Brevard County Charter.

C. The Legal Panel review of the amendment found amendment Proposal 3 (Amendment to Section 5.2 relating to the recall of certain county officers and school board members) as set forth in CRC Resolution 2022-003 to be consistent with the Florida Constitution, general law, and the Brevard County Charter and to contain a single subject.

D. The general election to be held on November 8, 2022, is an appropriate and desirable date for the conduct of a concurrent special election on the proposed CRC amendment.

**SECTION 3. SPECIAL ELECTION.** A special election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment to the Brevard County Home Rule Charter as recited in CRC Resolution 2022-003, as the proposed amendment is more particularly set forth in Section 7 below, shall be approved.

**SECTION 4. NOTICE OF SPECIAL ELECTION.** This Resolution shall be published once a week for four consecutive weeks in full as part of the Notice of Special Election, together with a notice in substantially the form attached hereto as Exhibit "A," in Florida Today, a newspaper of general circulation in the County with the first such publication occurring in the fifth week prior to the election provided that the first publication must be at least thirty days but no more than forty-five day prior to the date set for the election.

**SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS.** The polls will be open at the voting places on the date of such special election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such special election on the proposition provided below. The places of voting and the inspectors and clerk for the special election shall be those designated by the Supervisor of Elections of Brevard County.

**SECTION 6. OFFICIAL BALLOT. Proposal No. 3.** The ballots to be used in the special election shall contain a statement of the description of the proposed amendment to the County Charter, and, without waiving the County's right to challenge the amendment as misleading, that description shall conform to the ballot language submitted by the CRC and ordered to be placed on the ballot by the Court in substantially the following form:

**BALLOT**  
**Brevard County, Florida**

**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 7. CHARTER AMENDMENT. Proposal No. 3.** The full text of the proposed CRC amendment reads as follows:

A. Section 5.2 Brevard County Home Rule Charter is hereby amended to read as set forth below. 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.

B. The above amendment to Article 7, shall become effective upon approval of the electors of Brevard County.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

**SECTION 9. VOTER REGISTRATION BOOKS.** The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such special election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass until and unless such amendment or ballot language is invalidated by a court with jurisdiction.

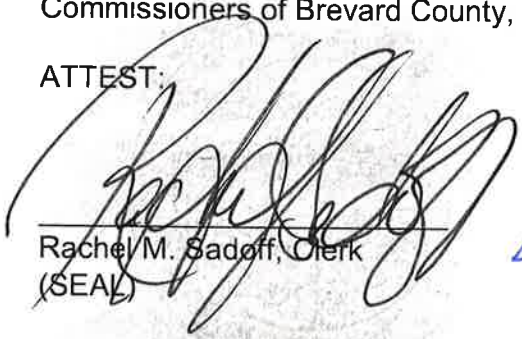
**SECTION 12. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 16 day of August, 2022.

ATTEST:

  
Rachel M. Sadoff, Clerk  
(SEAL)

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

  
Kristine Zonka, Chair

As approved by the Board on 8/16/2022

Reviewed for legal form and content:

\_\_\_\_\_  
County Attorney

**RESOLUTION 2022- 091**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD AMEND SECTION 7.4.1 OF THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE THAT TO REVIEW CHARTER REVIEW COMMISSION PROPOSED AMENDMENTS BEFORE BEING PLACED ON THE BALLOT THE THREE MEMBER ATTORNEY REVIEW PANEL SHALL BE SELECTED BY THE CHARTER REVIEW COMMISSION, AND TO FURTHER PROVIDE THAT IF THE PANEL REJECTS A CHARTER REVIEW COMMISSION PROPOSED AMENDMENT, IT SHALL BE RETURNED TO THE CHARTER REVIEW COMMISSION FOR FURTHER CONSIDERATION; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes, the Brevard County Home Rule Charter, Article VIII, section (1)(c), and Article X, Section 12(d), of the Florida Constitution and any other applicable provision of law.

**SECTION 2. FINDINGS.** It is hereby found and determined as follows:

A. A charter has been adopted for Brevard County entitled "Brevard County Home Rule Charter."

B. The Charter Review Commission has proposed an amendment to the Brevard County Charter.

C. The Legal Panel review of the amendment found amendment Proposal 4 (Amendment to Section 7.4.1 providing that to review charter review commission proposed amendments before being placed on the ballot, the three member attorney review panel shall be selected by the Charter Review Commission, and to further provide that if the panel rejects a Charter Review Commission proposed amendment, it shall be returned to the Charter Review Commission for further consideration), as set forth in CRC Resolution 2022-004 to be consistent with the Florida Constitution, general law, and the Brevard County Charter and to contain a single subject.

D. The general election to be held on November 8, 2022, is an appropriate and

desirable date for the conduct of a concurrent special election on the proposed CRC amendment.

**SECTION 3. SPECIAL ELECTION.** A special election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment to the Brevard County Home Rule Charter as recited in CRC Resolution 2022-004, as the proposed amendment is more particularly set forth in Section 7 below, shall be approved.

**SECTION 4. NOTICE OF SPECIAL ELECTION.** This Resolution shall be published once a week for four consecutive weeks in full as part of the Notice of Special Election, together with a notice in substantially the form attached hereto as Exhibit "A," in Florida Today, a newspaper of general circulation in the County with the first such publication occurring in the fifth week prior to the election provided that the first publication must be at least thirty days but no more than forty-five day prior to the date set for the election.

**SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS.** The polls will be open at the voting places on the date of such special election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such special election on the proposition provided below. The places of voting and the inspectors and clerk for the special election shall be those designated by the Supervisor of Elections of Brevard County.

**SECTION 6. OFFICIAL BALLOT. Proposal No. 4.** The ballots to be used in the special election shall contain a statement of the description of the proposed amendment to the County Charter, and, without waiving the County's right to challenge the amendment as misleading, that description shall conform to the ballot language submitted by the CRC and ordered to be placed on the ballot by the Court in substantially the following form:

**BALLOT**  
**Brevard County, Florida**

**BREVARD COUNTY CHARTER AMENDMENT**

**PROPOSAL NO. 4 – Charter Review Commission  
Proposed Amendments**

The Charter requires a panel of three attorneys to review proposed amendments for legality before placing the proposed amendment on the ballot. When the amendment is proposed by the Charter Review Commission, the panel shall be selected by the Charter Review Commission. If the panel finds a Charter Review Commission proposed

amendment inconsistent with the law, it shall be returned to the Charter Review Commission for further consideration.

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

**SECTION 7. CHARTER AMENDMENT. Proposal No. 4.** The full text of the proposed CRC amendment reads as follows:

A. Section 7.4.1 Brevard County Home Rule Charter is hereby amended to read as set forth below. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the county commission ~~County Commission~~ or the charter review commission ~~Charter Review Commission~~, the county commission ~~County Commission~~, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this charter ~~Charter~~. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this charter ~~Charter~~, the county commission ~~County Commission~~ shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this charter ~~Charter~~. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.
3. a. Under section 7.4.1. 1., when a proposed amendment is sponsored by the charter review commission, members of the three person panel shall be selected by the charter review commission. The three person panel shall report directly and maintain a fiduciary duty to the charter review commission.

b. The three person panel shall submit its findings for each proposed amendment to the board of county commissioners and the charter review commission within fifteen (15) days of receipt and shall include a comprehensive written report containing the panel's conclusion(s) for each proposal. If two members of the three person panel reject the proposed amendment, the proposal shall be promptly returned to the charter review commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. Notwithstanding section 7.4 of this charter, the term of the charter review commission shall be extended for the sole purpose of further considering any charter amendment proposal rejected by the three person panel.

B. The above amendment to Article 7, shall become effective upon approval of the electors of Brevard County.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

**SECTION 9. VOTER REGISTRATION BOOKS.** The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such special election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass until and unless such amendment or ballot language is invalidated by a court with jurisdiction.

**SECTION 12. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

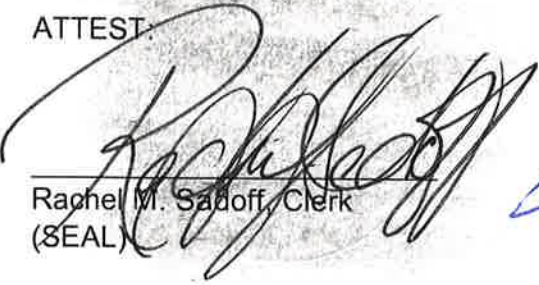


**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 16 day of August, 2022.

ATTEST:

  
Rachel M. Sadoff, Clerk  
(SEAL)

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

  
Kristine Zonka, Chair

As approved by the Board on 8/16/2022

Reviewed for legal form and content:

\_\_\_\_\_  
County Attorney

**RESOLUTION 2022-092**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD AMEND THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE A CHARTER AMENDMENT WHICH AMENDS SECTION 2.7 PROVIDING FOR FILLING VACANCIES IN THE OFFICE OF COUNTY COMMISSIONER; 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 appears 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 Florida Constitution and Florida law,

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes, the Brevard County Home Rule Charter, Article VIII, section (1)(c), and Article X, Section 12(d), of the Florida Constitution and any other applicable provision of law.

**SECTION 2. FINDINGS.** It is hereby found and determined as follows:

A. A charter has been adopted for Brevard County entitled "Brevard County Home Rule Charter."

B. The Charter Review Commission has proposed an amendment to the Brevard County Charter.

C. The Legal Panel review of the amendment found amendment Proposal 8 (Amendment to Section 2.7 relating to vacancies and suspension in the office of County Commissioner) as set forth in CRC Resolution 2022-005 to be consistent with the Florida Constitution, general law, and the Brevard County Charter and to contain a single subject.

D. The general election to be held on November 8, 2022, is an appropriate and desirable date for the conduct of a concurrent special election on the proposed CRC amendment.

**SECTION 3. SPECIAL ELECTION.** A special election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment to the Brevard County Home Rule Charter as recited in CRC Resolution 2022-005, as the proposed amendment is more particularly set forth in Section 7 below, shall be approved.

**SECTION 4. NOTICE OF SPECIAL ELECTION.** This Resolution shall be published once a week for four consecutive weeks in full as part of the Notice of Special Election, together with a notice in substantially the form attached hereto as Exhibit "A," in Florida Today, a newspaper of general circulation in the County with the first such publication occurring in the fifth week prior to the election provided that the first publication must be at least thirty days but no more than forty-five day prior to the date set for the election.

**SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS.** The polls will be open at the voting places on the date of such special election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such special election on the proposition provided below. The places of voting and the inspectors and clerk for the special election shall be those designated by the Supervisor of Elections of Brevard County.

**SECTION 6. OFFICIAL BALLOT. Proposal No. 5.** The ballots to be used in the special election shall contain a statement of the description of the proposed amendment to the County Charter, and, without waiving the County's right to challenge the amendment as misleading, that description shall conform to the ballot language submitted by the CRC and ordered to be placed on the ballot by the Court in substantially the following form:

**BALLOT**  
**Brevard County, Florida**

**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 7. CHARTER AMENDMENT. Proposal No. 5.** The full text of the proposed CRC amendment reads as follows:

A. Section 2.7 of the Brevard County Home Rule Charter is hereby amended to read as set forth below. 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 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.~~

B. The above amendment to Article 7, shall become effective upon approval of the electors of Brevard County after November 8, 2022.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

**SECTION 9. VOTER REGISTRATION BOOKS.** The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such special election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass until and unless such amendment or ballot language is invalidated by a court with jurisdiction.

**SECTION 12. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

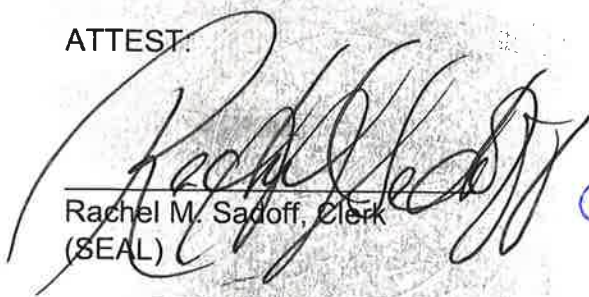
**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 16 day of August, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

  
Rachel M. Sadoff, Clerk  
(SEAL)

  
Kristine Zonka, Chair

As approved by the Board on 8/16/2022

Reviewed for legal form and content:

\_\_\_\_\_  
County Attorney

**RESOLUTION 2022- 093**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD CREATE SECTION 1.9 OF THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE A WORKFORCE AND SUPPORTIVE HOUSING PROGRAM; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes, the Brevard County Home Rule Charter, Article VIII, section (1)(c), and Article X, Section 12(d), of the Florida Constitution and any other applicable provision of law.

**SECTION 2. FINDINGS.** It is hereby found and determined as follows:

A. A charter has been adopted for Brevard County entitled "Brevard County Home Rule Charter."

B. The Charter Review Commission has proposed an amendment to the Brevard County Charter.

C. The Legal Panel review of the amendment found amendment Proposal 6 (Amendment Creating Section 1.9 providing a Workforce And Supportive Housing Program), as set forth in CRC Resolution 2022-006, to be consistent with the Florida Constitution, general law, and the Brevard County Charter and to contain a single subject.

D. The general election to be held on November 8, 2022, is an appropriate and desirable date for the conduct of a concurrent special election on the proposed CRC amendment.

**SECTION 3. SPECIAL ELECTION.** A special election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment to the Brevard County Home Rule Charter as recited in CRC Resolution 2022-006, as the proposed amendment is more particularly set forth in Section 7 below, shall be approved.

**SECTION 4. NOTICE OF SPECIAL ELECTION.** This Resolution shall be published once a week for four consecutive weeks in full as part of the Notice of Special Election, together with a notice in substantially the form attached hereto as Exhibit "A," in

Florida Today, a newspaper of general circulation in the County with the first such publication occurring in the fifth week prior to the election provided that the first publication must be at least thirty days but no more than forty-five day prior to the date set for the election.

**SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS.** The polls will be open at the voting places on the date of such special election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such special election on the proposition provided below. The places of voting and the inspectors and clerk for the special election shall be those designated by the Supervisor of Elections of Brevard County.

**SECTION 6. OFFICIAL BALLOT. Proposal No. 6.** The ballots to be used in the special election shall contain a statement of the description of the proposed amendment to the County Charter, and, without waiving the County's right to challenge the amendment as misleading, that description shall conform to the ballot language submitted by the CRC and ordered to be placed on the ballot by the Court in substantially the following form:

**BALLOT**  
**Brevard County, Florida**

**BREVARD COUNTY CHARTER AMENDMENT**

**PROPOSAL NO. 6 – WORKFORCE  
AND SUPPORTIVE HOUSING**

Creates Section 1.9 of the Charter. The amendment establishes an affordable housing trust fund to assist in establishing affordable housing for renters and homeowners to create and increase workforce housing opportunities throughout the county. The trust fund shall be funded as directed by the county commission.

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

**SECTION 7. CHARTER AMENDMENT. Proposal No. 6.** The full text of the proposed CRC amendment reads as follows:

A. Section 1.9 Brevard County Home Rule Charter is hereby created to read as set forth below. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 1.9. Brevard County Workforce and Supportive Housing Trust Fund.**



(a) The Brevard County Workforce and Supportive Housing Trust Fund is hereby established.

(b) Purpose of Trust Fund. The purpose of the trust fund is to provide a continuing, non-lapsing fund for Brevard County to use to address the need for affordable housing within Brevard County. The trust fund shall be used to create and sustain affordable housing throughout Brevard County for renters and homeowners and to increase workforce housing opportunities.

(c) Revenue sources. The trust fund shall be funded as directed from time to time by the county commission and may be comprised of the following sources:

(1) Funds from the sale of county surplus real property, the funds of which are not otherwise legally committed to other sources; and

(2) Other sources as established from time to time by ordinance.

(d) Continuing nature of trust fund. Unless otherwise provided by ordinance or resolution or required by applicable law, unspent portions of the trust fund, repayments of principal and interest on loans provided from the trust fund, and interest earned from the deposit or investment of monies from the trust fund:

(1) Shall remain in the trust fund to be used exclusively for the purposes of the trust fund;

(2) Shall not revert to the general revenues or other funds of the county;  
and

(3) Any appropriations shall not lapse.

(e) Implementation. Not later than July 1, 2023, the county commission shall adopt one or more ordinances implementing the provisions of this section, which ordinances may be amended from time to time.

B. The above amendment creating Article 1.9, shall become effective upon approval of the electors of Brevard County.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

**SECTION 9. VOTER REGISTRATION BOOKS.** The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such special election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held

and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass until and unless such amendment or ballot language is invalidated by a court with jurisdiction.

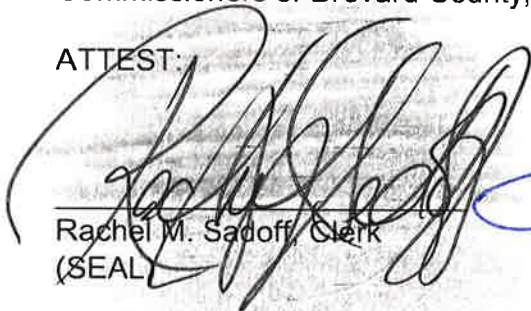
**SECTION 12. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 16 day of August, 2022.

ATTEST:



Rachel M. Sadoff, Clerk  
(SEAL)

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA



Kristine Zonka, Chair

As approved by the Board on 8/16/2022

Reviewed for legal form and content:

\_\_\_\_\_  
County Attorney

## **Fiscal Impact of Proposed Charter Amendments**

**The ballot language for Resolution 2022-001 approved by the Charter Review Commission is as follows:**

### **BREVARD COUNTY CHARTER AMENDMENT PROPOSAL NO. 1 – ATTORNEY REVIEW PANEL**

The County Charter does not say what will be done when the Charter's attorney review panel determines that a proposed Charter amendment is inconsistent with the Florida Constitution, general law, and existing charter. Shall the Charter be amended to provide that proposals found to be inconsistent with the Florida Constitution, general law, or the existing Charter be returned to the County Commission or Charter Review Commission for further action if any is to be done?

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

The actual changes to the Charter, Section 7.4.1. are:

#### **Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter

amendment shall require approval by a majority of the registered electors voting in the special election. If at least two members of the panel find that the proposed amendment is not consistent with the Florida Constitution, general law, or this Charter, then the proposal is considered rejected and is returned to the County Commission or to the Charter Review Commission for further action if any is to be done.

### **Fiscal Impact:**

Under Section 7.4.1. of the Charter, the Board of County Commissioners is required to fund the Charter Review Commission. Included in the total cost to operate the Charter Review Commission is the requirement to hire three attorneys for the three person panel. Under the current Charter if two of the three panel members reject a proposed amendment, there is no further action taken. This proposed amendment would allow a rejected proposal amendment to be return to the Board of County Commissioners or the Charter Review Commission.

A fiscal impact would only occur if a proposed amendment would be reworked and sent back to the three person panel for a second review. Using the total billable hours of the 2010 review, the last time the three panel was utilized, finds that the total hours billed for the four proposed amendments was \$27,718.15, an average of \$6,929.54 per amendment.

It could reasonably be assumed that a second review of a proposed amendment would require the same approximate billable hours. Using the 2010 three panel billing rate per hour, each second review of a proposed amendment would have an impact of approximately \$7,000.

**The ballot language for Resolution 2022-002 approved by the Charter Review Commission is as follows:**

**BREVARD COUNTY CHARTER AMENDMENT  
PROPOSAL NO. 2 – APPROVAL BY 60% OF VOTERS  
VOTING ON AMENDMENT**

The Brevard County Charter may currently be amended by a majority of electors voting on a proposed amendment. Shall the Charter be amended to require that at least sixty percent of the electors voting on a proposed amendment be required to adopt the proposal?

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

The actual changes to the Charter, Section 7.3.3. are:

**Sec. 7.3.3. - Amendment referendum.**

The Board of County Commissioners will cause any Charter amendment proposed under section 7.3.1 or 7.3.2 to be submitted to the electors for their approval or rejection. Upon receipt of the official certification from the Supervisor of Elections that the initiative requirements have been met, the Board will, within 30 days, establish the referendum date. The proposed amendment will be placed on the ballot at a special election held concurrent with the next countywide election, or at any earlier special election called for that purpose. If the Board refuses to comply with Section 7.3.2 or refuses to place the proposed amendment on the ballot as required by this section of the charter, the Board's action may be construed as interfering with the right of the people to petition and may be considered an act of malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

Notice of said referendum, together with the language of the proposed amendment, shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first publication being not more than forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval by a vote of at

least sixty percent of the ~~a majority of~~ electors voting on the  
measure ~~in said election.~~

**Fiscal Impact:**

Under Section 7.3.3. of the Charter, any proposed amendment must be approved by a majority of electors. This proposed amendment changes that requirement to at least 60% for an amendment to be approved by the electorate.

This proposed amendment does not impose any additional election costs. This proposed amendment could lead to fewer future amendments to pass the electorate, but the fiscal impact of fewer amendments can not be measured.

**The ballot language for Resolution 2022-003 approved by the Charter Review Commission is as follows:**

**BREVARD COUNTY CHARTER AMENDMENT**

**PROPOSAL NO. 3 – RECALL OF COUNTY OFFICERS  
AND SCHOOL BOARD MEMBERS**

The proposal permits the voters to recall and replace School Board Members, the Clerk of Court, Property Appraiser, Supervisor of Elections, Tax Collector, or Sheriff, in the manner provided for by state law for recall of county commissioners.

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

The actual changes to the Charter, Section 5.2. are:

**Sec. 5.2. - Recall.**

The 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 officer named in Section 4.1.1. ~~4.2~~ of this 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 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 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.

**Fiscal Impact:**

Section 5.2 of the Charter is the method under which County elected officers may be subject to recall by the electorate. This proposed amendment makes three changes to the recall section:

1. Corrects an error in the Charter language to properly identify County Elected Officers that may be recalled.
2. Adds language to the Section that recalls shall occur in a manner provided by Florida Statutes (F.S. 100.361).
3. Adds that School Board Members can be recalled in a manner provided by Florida Statutes (F.S. 100.361)

As the first two changes to Section 5.2 are textual changes, there is no fiscal impact to be measured. The third change could have an additional fiscal impact as it adds five additional County Elected Officers that can be recalled, School Board Members. The Charter Review Commission requested a possible cost of a recall election from the Supervisor of Elections while considering this proposed amendment. The Supervisor of Elections estimated the costs of a special election as follows:

Single District Special Election: \$383,325.41

Countywide Special Election: \$1,441,779.99

All costs are estimated and the backup for the Special Election costs are attached.





# Estimate

6/23/2022

P O Box 410819  
Melbourne Florida 32941-0819

To: Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Melbourne, FL 32940

Attn: Jim Lisenfelt, Assistant County Manager

Item#	Description	Amount
<u>Special Election -County Wide</u>		
1	Ballots, Mail Ballots, and Postage	\$ 479,642.15
2	Communications and Election Supplies	\$ 7,046.00
3	Election Office Staff Overtime	\$ 25,606.08
4	Election Support Temporary Staff	\$ 512,075.76
5	Election Poll Worker Pay	\$ 233,070.00
6	Legal Services, Legal Notices and Sample Ballots	\$ 169,939.00
7	Precinct Rental	\$ 3,640.00
8	Translation Services	\$ 75.00
9	Truck Rental	\$ 10,686.00
*Total Estimate		<b>\$ 1,441,779.99</b>

\*Does not include costs associated with a recount if required under state law.

**\*\*IMPORTANT\*\* - Due to significant supply chain issues and a national paper shortage (predicted to last through 2024), the lead time necessary to conduct an off-cycle election has dramatically increased and should be factored into all off-cycle election timelines.**

If you have any questions regarding this estimate, please contact :  
Supervisor of Elections Finance 321-633-2088



# Estimate

6/23/2022

P O Box 410819  
Melbourne Florida 32941-0819

To: Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Melbourne, FL 32940

Attn: Jim Lisenfelt, Assistant County Manager

Item#	Description	Amount
<u>Special Election - Single District</u>		
1	Ballots, Mail Ballots, and Postage	\$ 170,264.22
2	Communications and Election Supplies	\$ 1,826.00
3	Election Office Staff Overtime	\$ 18,751.19
4	Election Support Temporary Staff	\$ 99,749.00
5	Election Poll Worker Pay	\$ 50,325.00
6	Legal Services, Legal Notices and Sample Ballots	\$ 37,910.00
7	Precinct Rental	\$ 625.00
8	Translation Services	\$ 75.00
9	Truck Rental	\$ 2,800.00
*Total Estimate		<b>\$ 382,325.41</b>

*Estimate based on a single member district containing 98,500 registered voters*

\*Does not include costs associated with a recount if required under state law.

**\*\*IMPORTANT\*\* - Due to significant supply chain issues and a national paper shortage (predicted to last through 2024), the lead time necessary to conduct an off-cycle election has dramatically increased and should be factored into all off-cycle election timelines.**

If you have any questions regarding this estimate, please contact :  
Supervisor of Elections Finance 321-633-2088

**The ballot language for Resolution 2022-004 approved by the Charter Review Commission is as follows:**

**BREVARD COUNTY CHARTER AMENDMENT**

**PROPOSAL NO. 4 – Charter Review Commission  
Proposed Amendments**

The Charter requires a panel of three attorneys to review proposed amendments for legality before placing the proposed amendment on the ballot. When the amendment is proposed by the Charter Review Commission, the panel shall be selected by the Charter Review Commission. If the panel finds a Charter Review Commission proposed amendment inconsistent with the law, it shall be returned to the Charter Review Commission for further consideration.

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

The actual changes to the Charter, Section 7.4.1. are:

**Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the county commission ~~County Commission~~ or the charter review commission ~~Charter Review Commission~~, the county commission ~~County Commission~~, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this charter ~~Charter~~. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this charter ~~Charter~~, the county commission ~~County Commission~~ shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth

in the last paragraph of section 7.3.3. in this charter Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.

3.
  - a. Under section 7.4.1. 1., when a proposed amendment is sponsored by the charter review commission, members of the three person panel shall be selected by the charter review commission. The three person panel shall report directly and maintain a fiduciary duty to the charter review commission.
  - b. The three person panel shall submit its findings for each proposed amendment to the board of county commissioners and the charter review commission within fifteen (15) days of receipt and shall include a comprehensive written report containing the panel's conclusion(s) for each proposal. If two members of the three person panel reject the proposed amendment, the proposal shall be promptly returned to the charter review commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. Notwithstanding section 7.4 of this charter, the term of the charter review commission shall be extended for the sole purpose of further considering any charter amendment proposal rejected by the three person panel.

#### **Fiscal Impact:**

Under Section 7.4.1. of the Charter, the Board of County Commissioners is required to fund the Charter Review Commission. Included in the total cost to operate the Charter Review Commission is the requirement to hire three attorneys for the three person panel. Under the current Charter if two of the three panel members reject a proposed amendment, there is no further action taken.

This proposed amendment would make the follow changes:

1. Required that the three person panel be selected by and report directly to the Charter Review Commission.
2. Add requirements to the three person panel to explain the rationale if any of the panel rejects a proposed amendment and return the proposed amendment to the Charter Review Commission to cure any defect.
3. Extend the term of the Charter Review Commission for the sole purpose to consider any rejected proposal.

The first change would replace county staff as the selection committee for the procurement of the three person panel. As the procurement would still be required and funded through the Brevard County procurement system, the fiscal impact would be not change. The second change would entail a fiscal impact similar to the Proposal 1, if a proposed amendment is rejected, approximately \$7,000.

The third proposed change could extend the term of the Charter Review Commission. Under Section 7.4, the Charter Review Commission "shall, within one (1) year from the date of its first meeting, present to the Board of County Commissioners its recommendations for amendment of the Charter or its recommendation that no amendment is appropriate." As there is a specific date, set by the Supervisor of Elections, when ballot language must be approved and submitted, it is assumed that the Charter Review Commission would begin their meetings earlier in the previous calendar year. It is not known, whether this proposed amendment would add additional meetings to the schedule. If that was to occur, there would be additional staff time, Charter Review Commission Attorney costs to attend meetings, public notice costs and addition broadcast (Space Coast Government TV) costs. At this time, without the knowledge of the total amount of additional meetings, the total fiscal impact can not be calculated.

**The ballot language for Resolution 2022-005 approved by the Charter Review Commission is as follows:**

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

Revises 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

The actual changes for Section 2.7. are:

**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 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.~~

B. The above amendment to Article 7, shall become effective upon approval of the electors of Brevard County after November 8, 2022.

**Fiscal Impact:**

This proposed amendment does impose any fiscal impacts as it is a correction to the County Charter to align with current State Law regarding the vacancy or suspension of a County Commissioner.

**The ballot language for Resolution 2022-006 approved by the Charter Review Commission is as follows:**

**PROPOSAL NO. 6 – WORKFORCE  
AND SUPPORTIVE HOUSING**

The amendment establishes an affordable housing trust fund to assist in establishing affordable housing for renters and homeowners to create and increase workforce housing opportunities throughout the county. The trust fund shall be funded as directed by the county commission.

\_\_\_\_\_ Yes for approval

\_\_\_\_\_ No for rejection

The language for a new Section 1.9 of the Charter is:

**Sec. 1.9. Brevard County Workforce and Supportive Housing Trust Fund.**

(a) The Brevard County Workforce and Supportive Housing Trust Fund is hereby established.

(b) Purpose of Trust Fund. The purpose of the trust fund is to provide a continuing, non-lapsing fund for Brevard County to use to address the need for affordable housing within Brevard County. The trust fund shall be used to create and sustain affordable housing throughout Brevard County for renters and homeowners and to increase workforce housing opportunities.

(c) Revenue sources. The trust fund shall be funded as directed from time to time by the county commission and may be comprised of the following sources:

(1) Funds from the sale of county surplus real property, the funds of which are not otherwise legally committed to other sources; and

(2) Other sources as established from time to time by ordinance.

(d) Continuing nature of trust fund. Unless otherwise provided by ordinance or resolution or required by applicable law, unspent portions of the trust fund, repayments of principal and interest on loans provided from the trust fund, and interest earned from the deposit or investment of monies from the trust fund:

(1) Shall remain in the trust fund to be used exclusively for the purposes of the trust fund;

(2) Shall not revert to the general revenues or other funds of the county;

and

(3) Any appropriations shall not lapse.

(e) Implementation. Not later than July 1, 2023, the county commission shall adopt one or more ordinances implementing the provisions of this section, which ordinances may be amended from time to time.

**Fiscal Impact:**

This proposed amendment does not mandate that the Board of County Commissioners fund the Workforce and Supportive Housing Trust Fund and lists two possible sources: (1) Funds from the sale of county surplus real property, the funds which are not otherwise legally committed to other sources; and (2) other sources as established from time to time by ordinance.

The Charter Review Commission requested information on county surplus real property proceeds from the previous five years. The analysis showed that surplus real property proceeds not legally committed to other sources totaled \$277,850 an average of \$55,570 per year. The requested information is attached. Without the knowledge of the future funding action by the Board of County Commissioners, the total fiscal impact can not be calculated.





BOARD OF COUNTY COMMISSIONERS

County Manager's Office  
2725 Judge Fran Jamieson Way  
Building C, Room 301, MS# 88  
Viera, Florida 32940

## Inter-Office Memo

TO: Charter Review Commission  
FROM: James Liesenfelt, Assistant County Manager *RL*  
DATE: July 21, 2022  
SUBJECT: Land Sales Proceeds

At the July 7, 2022 Charter Review Commission meeting, the Commission requested information regarding the total land sales proceeds that the county had received.

Listed below are the land sales proceeds from the past five years:

- 5 parcels, escheated to the County; revenue of \$47,850; returned to 001 General Fund, less fees.
- 1 parcel, Natural Resources purchased for drainage purposes; revenue \$91,650 returned to Natural Resources fund 1112, less fees.
- 1 parcel, purchased for future Sheriff expansion on Gus Hipp Blvd; \$230,000 returned to 001 General Fund, less fees.
- 2 parcels, Public Works road widening on Grissom and Wendy Lee; revenue \$18,800; returned to fund 1160 Local Option Gas Tax, less fees.
- 2 court case special assessments owed; revenue \$14,655 returned to 0035 Affordable Housing, less fees.

Staff will be available at the meeting to answer any questions.

Thank you.



*James C. Dinkins, Esq.*  
*Board Certified in City, County, and Local Government Law*  
55 W. Church St. #2912  
Orlando, FL 32802  
(239) 810-2682

August 16, 2022

Christine M. Schverak, Esq.  
Interim County Attorney  
Brevard County Attorney's Office  
2725 Judge Fran Jamieson Way  
Suite 308  
Viera, FL 32940

**Re: Memoranda related to the proposals submitted by the Brevard County Charter Review Commission**

Dear Ms. Schverak and County Commissioners:

Thank you for the opportunity to review the six proposed County Charter amendments submitted by the Charter Review Commission this cycle. I have drafted a separate memorandum regarding each, detailing the reasons behind my views on the proposals' consistency with the Florida Constitution, general law, and the County Charter.

As is detailed in the memoranda, these views address only legal sufficiency—I do not express an opinion as to the substantive merits of the proposals themselves. I also do not express an opinion as to the proper way to address any of the defects found, though most do appear to be readily curable.

I remain available to assist the County with anything further regarding these proposals or any other matters. I appreciate your trust in including my firm in this process.

Best,

**CivForge Law, P.A.**  
James C. Dinkins  
Managing Shareholder



*James C. Dinkins, Esq.*  
*Board Certified in City, County, and Local Government Law*  
55 W. Church St.  
Orlando, FL 32801  
(239) 810-2682

To: Christine M. Schverak, Esq., Interim County Attorney  
From: Jamy Dinkins, CivForge Law, PA  
Date: August 15, 2022  
Re: Charter Review Commission Resolution 2022-001

The foregoing is a review of the Brevard County Charter Review Commission's ("CRC") Resolution number 2022-001, relating to recall elections. The Resolution was adopted by the CRC on August 4, 2022, and is being presented to the County Commission. This memorandum is designed to advise the County Commission on the legality of the proposal, but does not provide policy advice.

## **Overview**

Resolution 2022-001 modifies the independent review provisions of the Charter to accomplish, broadly, the following:

- Specify steps to be taken if two members of the independent review panel for proposed amendments to the county charter by the charter review commission determine the proposal is inconsistent with the Florida Constitution, general law, or the charter; and
- Make stylistic changes for consistency.

The proposed ballot summary references only the proposed requirement that a proposal found inconsistent with the constitution, charter, or general law be returned to the county commission or charter review commission for further action, which appears to be the primary motivation for the proposal.

## **Assumptions and limitations of review**

This memorandum does not pass on the validity of the adoption of the Resolution or subsequent actions of the Brevard County Board of County Commissioners, the Brevard County Supervisor of Elections, or the voters. We assume that all procedural actions taken by any of those bodies are proper, timely, and sufficient to adopt the proposal and incorporate it into the County Charter, and thus only pass on whether the proposal, from a substantive perspective, is consistent with applicable law, including the Florida and Federal Constitutions, applicable statutes, and the County Charter.

## **Procedural matters**

While this memorandum does not address procedural matters generally, it does consider certain formal requirements surrounding ballot questions generally. Pursuant to section

101.161, Florida Statutes, there are certain requirements for ballot language and proposal contents in referenda elections. One such requirement is that the ballot summary be fair and unambiguous, be limited in length, and phrase the question in a particular manner. In addition, there is a requirement that the amendment embrace a single subject.

### *Single subject requirement*

Florida law is replete with single-subject requirements for legislation and constitutional amendment, most prominently in the Constitution's limitation on the power of the legislature to adopt bills that "embrace but one subject and matter properly connected therewith," in article III, section 6, and the limitation on the initiative method to amend the constitution to proposals that "embrace but one subject and matter directly connected therewith." Art. IX, Sec. 3, Fla. Const. Though the difference in these provisions is minor (amounting to a single word), the Florida Supreme Court views the "directly connected" language as more narrow. *Fine v. Firestone*, 448 So. 2d 984, 988-89 (Fla. 1984).<sup>1</sup> Generally, a proposal embraces one subject if it has "a natural relation . . . as component parts or aspects of a single dominant plan or scheme." *Id.* at 990 (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318 (Fla. 1944)). Essentially, there must be a "oneness of purpose" in order for the proposal to meet the single-subject test, and affects a single function of the existing governmental structure. *Id.*

Resolution 2022-001 addresses a single subject, namely, what happens when an amendment proposed by the charter review commission is determined not to be consistent with the Florida Constitution, general law, or the charter by at least two members of the attorney review panel. The process of government affected is singular: namely, the process of amending the county charter. While the proposal also includes stylistic changes, those do not affect the oneness of purpose found in the proposed amendment.

### *Ballot language*

There are three basic, and one more complex, requirements for a ballot summary. First, the caption of the ballot summary must be fifteen words or fewer. § 101.161(1), Fla. Stat. Second, the body of the ballot summary must be 75 words or fewer. *Id.* Third, the question posed must be phrased such that a "yes" vote indicates approval of the proposal and a "no" vote indicates rejection of the proposal. These three requirements are unquestionably met.

The more complex requirement is that the language be a clear and unambiguous explanatory statement of the chief purpose of the measure. *Id.* While courts have interpreted this requirement using various rules and tests, they can be summarized as an overall requirement that the ballot language fairly advise the voter of the decision to be made sufficiently to enable the voter to intelligently cast their ballot. See *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982)(collecting cases). This includes a requirement that the function of government to be affected is fairly identified, *Fine*, 448 So. 2d at 989, and that

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<sup>1</sup> This analysis considers the more narrow view, as the "directly connected" language appears in the Brevard County Charter, albeit in a section not applicable to the CRC process.

the ballot language not be misleading, *Florida Department of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

Ballot language can be misleading if it omits material information in such a way that a voter relying on the summary would believe the measure accomplishes something different from what the amendatory language actually does. Thus, an omission was material in a proposed property tax exemption amendment when it would have caused voters to believe it extended eligibility for the exemption where it did not, *Roberts v. Doyle*, 43 So. 3d 654, 659-61 (Fla. 2010), or where the scope of laws to be repealed under a repealer clause was not disclosed, *In re Advisory Opinion to Attorney General*, 632 So. 2d 1018, 1021 (Fla. 1994).

The chief purpose of Resolution 2022-001 is to provide a process for charter review commission proposals that are rejected by the attorney review panel. The question posed in the ballot summary is “Shall the Charter be amended to provide that proposals found to be inconsistent with the Florida Constitution, general law, or the existing Charter be returned to the County Commission or Charter Review Commission for further action if any is to be done?” While the question identifies the chief purpose of the proposal, it may be phrased too broadly. The language of the proposal itself applies *only* to those proposals submitted by the charter review commission. However, there are multiple ways to amend the Brevard County Charter.

Amendment of the charter by petition *also* requires submission of the proposed amendment to an attorney review panel, but that process is not affected by the proposed amendment. In fact, the petition amendment process contains similar language regarding what to do if the attorney review panel determines the proposal to be consistent with the law, and similarly is silent as to the process if the proposal is rejected by the panel. A review of the summary would lead a voter to believe that the new process for rejected proposals applies to *all* charter amendment proposals submitted to the review panel, which is not what Resolution 2022-001 actually does.

While a court must afford deference to the decision of the voters,<sup>2</sup> the ballot summary here is analogous to that rejected by the court in *Roberts*. In *Roberts*, the court rejected a ballot summary where the summary did not include an exception to qualification for a tax exemption (specifically, that a person’s spouse’s status could render them ineligible), among other minor inconsistencies. 43 So. 3d at 660-61. This is similar to the exception omitted from the proposal in Resolution 2022-001, where the voter would not be informed that the new process for panel-rejected proposals applies only to one subset of proposed charter amendments. This is a material omission which may be found by a court to render the ballot summary defective.<sup>3</sup>

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<sup>2</sup> Generally, a ballot summary must be shown to be “clearly and conclusively defective” to warrant a court’s interference with placement on the ballot. *Adv. Op. re 1.35% Property Tax Cap*, 2 So. 3d 968, 971-72 (Fla. 2009).

<sup>3</sup> It is worth noting that the caption must be read together with the ballot summary when performing this analysis, and that the caption is currently short of the maximum word limit. Adding specificity to the caption could likely cure this omission and render the ballot summary sufficient.

### **Consistency with general law**

The referral of certain charter amendment proposals to an independent panel is well within the home-rule authority of a county. Art. VIII, Sec. 1(g), Fla. Const. Thus, it stands to reason that modification of the process associated with that referral is also within the authority of a county. Similarly, there is no limitation on the scope of the authority of the charter review commission to propose this type of amendment.

There is no general law that would operate to prohibit the county from specifying what is to be done with a proposal by a charter review commission that is rejected by an independent review panel. If anything, by allowing an opportunity to correct any errors, the charter expands the rights of the charter review commission.

### **Conclusion**

While Resolution 2022-001 contains a proposal that is consistent with the Florida Constitution, general law, and the Brevard County Charter, the proposed ballot summary is deficient in that it does not adequately inform voters that the proposed amendment applies only to those proposals submitted by the Charter Review Commission, not those submitted by petition.



*James C. Dinkins, Esq.*  
*Board Certified in City, County, and Local Government Law*  
*55 W. Church St.*  
*Orlando, FL 32801*  
*(239) 810-2682*

To: Christine M. Schverak, Esq., Interim County Attorney  
From: Jamy Dinkins, CivForge Law, PA  
Date: August 15, 2022  
Re: Charter Review Commission Resolution 2022-002

The foregoing is a review of the Brevard County Charter Review Commission's ("CRC") Resolution number 2022-002, relating to charter amendments. The Resolution was adopted by the CRC on August 4, 2022, and is being presented to the County Commission. This memorandum is designed to advise the County Commission on the legality of the proposal, but does not provide policy advice.

### **Overview**

Resolution 2022-002 modifies the amendment provisions of the Charter to accomplish, broadly, the following:

- Increase the number of votes necessary to amend the charter to 60% of the electors voting on the amendment for those amendments proposed by the County Commission and by petition; and
- Make stylistic changes for consistency.

The proposed ballot summary references only the proposed 60% threshold, which appears to be the primary motivation for the proposal.

### **Assumptions and limitations of review**

This memorandum does not pass on the validity of the adoption of the Resolution or subsequent actions of the Brevard County Board of County Commissioners, the Brevard County Supervisor of Elections, or the voters. We assume that all procedural actions taken by any of those bodies are proper, timely, and sufficient to adopt the proposal and incorporate it into the County Charter, and thus only pass on whether the proposal, from a substantive perspective, is consistent with applicable law, including the Florida and Federal Constitutions, applicable statutes, and the County Charter.

### **Procedural matters**

While this memorandum does not address procedural matters generally, it does consider certain formal requirements surrounding ballot questions generally. Pursuant to section 101.161, Florida Statutes, there are certain requirements for ballot language and proposal contents in referenda elections. One such requirement is that the ballot summary be fair

and unambiguous, be limited in length, and phrase the question in a particular manner. In addition, there is a requirement that the amendment embrace a single subject.

### *Single subject requirement*

Florida law is replete with single-subject requirements for legislation and constitutional amendment, most prominently in the Constitution's limitation on the power of the legislature to adopt bills that "embrace but one subject and matter properly connected therewith," in article III, section 6, and the limitation on the initiative method to amend the constitution to proposals that "embrace but one subject and matter directly connected therewith." Art. IX, Sec. 3, Fla. Const. Though the difference in these provisions is minor (amounting to a single word), the Florida Supreme Court views the "directly connected" language as more narrow. *Fine v. Firestone*, 448 So. 2d 984, 988-89 (Fla. 1984).<sup>1</sup> Generally, a proposal embraces one subject if it has "a natural relation . . . as component parts or aspects of a single dominant plan or scheme." *Id.* at 990 (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318 (Fla. 1944)). Essentially, there must be a "oneness of purpose" in order for the proposal to meet the single-subject test, and affects a single function of the existing governmental structure. *Id.*

Resolution 2022-002 addresses a single subject, namely, the number of votes required for adoption of certain charter amendments. The process of government affected is singular: namely, the process of amending the county charter. While the proposal also includes stylistic changes, those do not affect the oneness of purpose found in the proposed amendment.

### *Ballot language*

There are three basic, and one more complex, requirements for a ballot summary. First, the caption of the ballot summary must be fifteen words or fewer. § 101.161(1), Fla. Stat. Second, the body of the ballot summary must be 75 words or fewer. *Id.* Third, the question posed must be phrased such that a "yes" vote indicates approval of the proposal and a "no" vote indicates rejection of the proposal. These three requirements are unquestionably met.

The more complex requirement is that the language be a clear and unambiguous explanatory statement of the chief purpose of the measure. *Id.* While courts have interpreted this requirement using various rules and tests, they can be summarized as an overall requirement that the ballot language fairly advise the voter of the decision to be made sufficiently to enable the voter to intelligently cast their ballot. See *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982)(collecting cases). This includes a requirement that the function of government to be affected is fairly identified, *Fine*, 448 So. 2d at 989, and that the ballot language not be misleading, *Florida Department of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

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<sup>1</sup> This analysis considers the more narrow view, as the "directly connected" language appears in the Brevard County Charter, albeit in a section not applicable to the CRC process.



Ballot language can be misleading if it omits material information in such a way that a voter relying on the summary would believe the measure accomplishes something different from what the amendatory language actually does. Thus, an omission was material in a proposed property tax exemption amendment when it would have caused voters to believe it extended eligibility for the exemption where it did not, *Roberts v. Doyle*, 43 So. 3d 654, 659-61 (Fla. 2010), or where the scope of laws to be repealed under a repealer clause was not disclosed, *In re Advisory Opinion to Attorney General*, 632 So. 2d 1018, 1021 (Fla. 1994).

The chief purpose of Resolution 2022-002 is increase the number of votes required for adoption of a charter amendment proposed by the County Commission or by petition. The question posed in the ballot summary is "Shall the Charter be amended to require a vote of at least sixty percent of those voters voting on a proposed amendment be required to adopt the proposal?" The question contains a material omission in that a voter is not informed that the threshold is being changed only for County Commission-proposed or petition-proposed amendments, but not for CRC proposals. This actively misleads the voter into thinking that the charter would become harder to amend in all ways, not just the ways that are easier for the voter to access (petition and through the County Commission).

We would specifically note that the express language of the provision in the charter (independent of this amendment) identifies the voting threshold required only for those charter amendments proposed by the County Commission or by petition, not those proposed by the CRC. The authority for submission of CRC proposals to the voters lies in section 7.4 of the charter, while the proposed 7.3.3 language references only section 7.3.1 and 7.3.2. Section 7.4, which is not amended by this proposal, specifies that a majority is required for adoption of a CRC proposal. This is a material omission that renders the ballot summary defective.

### **Consistency with general law**

A county is free to set a threshold higher than a simple majority for approval of charter amendments. While city charters may be restricted from having a threshold other than a majority, see section 166.031(2), Florida Statutes, there is no similar restriction for counties. In fact, the statutes simply provide that the charter must "provide a method for submitting future charter revisions and amendments to the electors of the county." § 125.64, Fla. Stat. At least one county in Florida, Polk County, has a sixty percent threshold for charter amendments. There are a number of cases which, in dicta, allow for sixty-percent thresholds in certain circumstances. See, e.g., *Mullen v. Bal Harbor Village*, 241 So. 3d 949 (Fla. 3d DCA 2018)(rejecting ballot proposals to increase the threshold for voter approval of certain leases to 60% on other grounds). Similarly, for state constitutional amendments, there is a sixty percent threshold. Art. XI, Sec. 5(e), Fla. Const. Thus, a general sixty percent threshold for charter amendment would appear to be consistent with the Florida Constitution and general law.

It is worth examining, however, whether a higher threshold for citizen-proposed charter amendments than for CRC-proposed amendments is permissible. Polk County's charter is informative, as it similarly lists the charter review process separately from the petition and

County Commission processes for amendment, and the sixty percent threshold appears in the section describing voting procedure on the latter two. However, there is not a separate provision specifying a majority vote on CRC-proposed amendments in Polk County's charter, and a reasonable interpretation is that the general reference to "a referendum" would follow the same threshold as for other charter amendments. Sec. 8.4, Charter of Polk County, Fla.

An argument could be made that a differential threshold violates the equal protection clauses of the Federal and Florida Constitutions. Amend. XIV, Sec. 1, U.S. Const.; Art. I, Sec. 2, Fla. Const. An equal protection analysis typically uses a rational basis test, unless a suspect class or fundamental right is involved. *Estate of McCall v. U.S.*, 134 So. 3d 894, 901 (Fla. 2014). Citizens generally, as compared to appointed officials of the CRC, are not a suspect class. The right to amend a county charter is not a fundamental right, as not all counties have charters.<sup>2</sup> Thus, a distinction between CRC-proposed amendments and other amendments must simply have a rational basis, that is, it must not be arbitrary and capricious and must bear a rational and reasonable relationship to a legitimate state objective. *McCall*, 134 So. 3d at 901. Given the stated objective of reflecting "the need for greater consensus before changing the County Charter," Charter Review Commission Agenda Report on Proposal 10 – Public Hearing 3 (July 7, 2022), there is a legitimate state objective. Because the CRC includes a deliberative process more stringent than either the County Commission process or petition process for proposing charter amendments, there is a rational relationship between a lower threshold for CRC amendments and the objective of achieving greater consensus. The distinction would, therefore, meet the requirements of the equal protection clauses.

## Conclusion

While Resolution 2022-002 contains a proposal that is consistent with the Florida Constitution, general law, and the Brevard County Charter, the proposed ballot summary is deficient in that it misleads voters into believing that the changed threshold will apply to all proposed charter amendments, not just those proposed by petition or by the County Commission.

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<sup>2</sup> There are fundamental rights associated with county government, such as the right to run for county office. *Bd. of Comm'rs of Sarasota Cnty. v. Gustafson*, 616 So. 2d 1165 (Fla. 1993).



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To: Christine M. Schverak, Esq., Interim County Attorney

From: Jamy Dinkins, CivForge Law, PA

Date: August 15, 2022

Re: Charter Review Commission Resolution 2022-003

The foregoing is a review of the Brevard County Charter Review Commission's ("CRC") Resolution number 2022-003, relating to recall elections. The Resolution was adopted by the CRC on August 4, 2022, and is being presented to the County Commission. This memorandum is designed to advise the County Commission on the legality of the proposal, but does not provide policy advice.

## **Overview**

Resolution 2022-003 modifies the recall provisions of the Charter to accomplish, broadly, the following:

- Correct an erroneous internal reference to the officers subject to recall;
- Specify the "general law" referenced by statute;
- Add school board members to the scope of the recall provision; and
- Make stylistic changes for consistency.

The proposed ballot summary references only the addition of the school board members to the list of officers subject to recall, which appears to be the primary motivation for the proposal.

## **Assumptions and limitations of review**

This memorandum does not pass on the validity of the adoption of the Resolution or subsequent actions of the Brevard County Board of County Commissioners, the Brevard County Supervisor of Elections, or the voters. We assume that all procedural actions taken by any of those bodies are proper, timely, and sufficient to adopt the proposal and incorporate it into the County Charter, and thus only pass on whether the proposal, from a substantive perspective, is consistent with applicable law, including the Florida and Federal Constitutions, applicable statutes, and the County Charter.

## **Procedural matters**

While this memorandum does not address procedural matters generally, it does consider certain formal requirements surrounding ballot questions generally. Pursuant to section 101.161, Florida Statutes, there are certain requirements for ballot language and proposal contents in referenda elections. One such requirement is that the ballot summary be fair

and unambiguous, be limited in length, and phrase the question in a particular manner. In addition, there is a requirement that the amendment embrace a single subject.

### *Single subject requirement*

Florida law is replete with single-subject requirements for legislation and constitutional amendment, most prominently in the Constitution's limitation on the power of the legislature to adopt bills that "embrace but one subject and matter properly connected therewith," in article III, section 6, and the limitation on the initiative method to amend the constitution to proposals that "embrace but one subject and matter directly connected therewith." Art. IX, Sec. 3, Fla. Const. Though the difference in these provisions is minor (amounting to a single word), the Florida Supreme Court views the "directly connected" language as more narrow. *Fine v. Firestone*, 448 So. 2d 984, 988-89 (Fla. 1984).<sup>1</sup> Generally, a proposal embraces one subject if it has "a natural relation . . . as component parts or aspects of a single dominant plan or scheme." *Id.* at 990 (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318 (Fla. 1944)). Essentially, there must be a "oneness of purpose" in order for the proposal to meet the single-subject test, and affects a single function of the existing governmental structure. *Id.*

Resolution 2022-003 addresses a single subject, namely, which officers identified in the Brevard County Charter are subject to recall. While the process of recall affects multiple functions of government in that heads of various aspects of county government are affected, the actual process of government affected is singular: namely, the process of removing an elected or appointed government official, regardless of the office they hold. While the proposal also includes stylistic changes, those do not affect the oneness of purpose found in the proposed amendment.

### *Ballot language*

While the bulk of the analysis in this memorandum is complex, the ultimate proposal, and therefore the ballot summary, is not. In short, the proposed ballot summary is sufficient to meet procedural requirements. There are three basic, and one more complex, requirements for a ballot summary. First, the caption of the ballot summary must be fifteen words or fewer. § 101.161(1), Fla. Stat. Second, the body of the ballot summary must be 75 words or fewer. *Id.* Third, the question posed must be phrased such that a "yes" vote indicates approval of the proposal and a "no" vote indicates rejection of the proposal. These three requirements are unquestionably met.

The more complex requirement is that the language be a clear and unambiguous explanatory statement of the chief purpose of the measure. *Id.* While courts have interpreted this requirement using various rules and tests, they can be summarized as an overall requirement that the ballot language fairly advise the voter of the decision to be made sufficiently to enable the voter to intelligently cast their ballot. See *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982)(collecting cases). This includes a requirement that the

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<sup>1</sup> This analysis considers the more narrow view, as the "directly connected" language appears in the Brevard County Charter, albeit in a section not applicable to the CRC process.

function of government to be affected is fairly identified, *Fine*, 448 So. 2d at 989, and that the ballot language not be misleading, *Florida Department of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

Ballot language can be misleading if it omits material information in such a way that a voter relying on the summary would believe the measure accomplishes something different from what the amendatory language actually does. Thus, an omission was material in a proposed property tax exemption amendment when it would have caused voters to believe it extended eligibility for the exemption where it did not, *Roberts v. Doyle*, 43 So. 3d 654, 659-61 (Fla. 2010), or where the scope of laws to be repealed under a repealer clause was not disclosed, *In re Advisory Opinion to Attorney General*, 632 So. 2d 1018, 1021 (Fla. 1994).

The chief purpose of Resolution 2022-003 is to add school board members to the scope of the recall provision contained in the Brevard County Charter. The question posed in the ballot summary is “Shall the Charter be amended to add School Board Members to this list who may face recall election and replacement . . . ?” This question fairly encompasses the chief purpose of the proposal. It identifies the function of government to be addressed (the recall and replacement of officers) and the officers to which it applies (school board members). The question is also not misleading, as the summary correctly identifies the constitutional officers currently subject to recall and the source of the process for such recall.

The summary omits the fact that county commissioners are currently, and will remain, subject to recall. However, that portion of the recall provision is not being substantively changed by the proposed amendment, and a voter would not be misled into thinking that the proposal either establishes, eliminates, or modifies recall provisions as it relates to county commissioners. The omission is merely from the contextual explanation of the recall process. Accordingly, the omission is not material and is likely not misleading.

The proposed ballot caption and summary in Resolution 2022-003 is a clear, unambiguous, explanatory statement of the chief purpose of the measure and is not misleading. Given the deference a court must afford the decision of the voters,<sup>2</sup> the ballot summary proposed is likely to withstand legal challenge on the grounds that it is misleading or omits material information.

### **Consistency with general law**

The biggest question related to Resolution 2022-003 is whether a charter county may, through its charter, adjust certain defaults relating to composition of the county school board from general law defaults.<sup>3</sup>

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<sup>2</sup> Generally, a ballot summary must be shown to be “clearly and conclusively defective” to warrant a court’s interference with placement on the ballot. *Adv. Op. re 1.35% Property Tax Cap*, 2 So. 3d 968, 971-72 (Fla. 2009).

<sup>3</sup> We recognize that the Brevard County Charter already addresses some of these issues in Article 8. However, we were not asked to opine as to the validity of existing provisions of the county charter.

Analysis of county authority should always begin with an understanding of county home-rule authority as established by article VIII, section 1(g) of the Florida Constitution. Florida takes a broad view of the powers of the county, as recently recognized in this context in *Telli v. Broward County*, 94 So. 3d 504, 513 (Fla. 2012) (“Interpreting Florida’s Constitution to find implied restrictions on powers otherwise authorized is unsound in principle.”) Thus the County may, through its charter, take any action within the scope of its powers that does not conflict with general law.

The first question to answer is whether regulation of the school board is within the scope of authority granted to the County by the Florida Constitution and general law. While it is a close question, we conclude that regulation of the membership of a school board is not within the “powers of local self-government” granted by the Florida Constitution to the counties because it is expressly delegated elsewhere.

Section 125.01, Florida Statutes, generally sets forth the powers of counties. While paragraph (1)(w) of that statute grants the power to “Perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law,” there is no other reference in the county powers to education or schools, and subsection (1) itself specifies that the power granted by statute is to “carry on county government.” In Florida, governance of schools is not considered county government, but rather is dedicated to a “state system of schools” governed by a state Board of Education and with certain authority delegated to the county school boards. §1000.01(3), Fla. Stat. While each school board is associated with the territorial boundaries of a county,<sup>4</sup> it is not subject to the control of the County Commission but operates independently.

This distinction is made clear in various provisions of the Florida Statutes and Constitution. For example, a school board member is not a “county officer” as that term is defined in Article 8, Section 1(d) of the Florida Constitution.<sup>5</sup> Though that term is not always applied strictly, for example in the context of whether the Governor has the power to suspend a school board member or county commissioner, see *In re Advisory Opinion to the Governor*, 626 So. 2d 684, 689 (Fla. 1993), the nature of the use of the term and historical context is highly important. In its Advisory Opinion, the supreme court was clear that the term “county officer” in the governor’s suspension authority provision was broader than the same term used in other contexts, both because of the history of amendment of the constitution and because a narrower interpretation would leave no recourse to suspend an official who misbehaved. *Id.* These factors are not present when looking at a county’s authority to regulate membership on the school board through its charter.

There are various statutory provisions relating to school board membership that grant various specific powers to the board as opposed to other entities. For example, the legislation enabling the constitutional authority to expand a school board’s membership

<sup>4</sup> In theory, the electors of two or more contiguous counties can form a unified school district. Art. IX, Sec. 4, Fla. Const.

<sup>5</sup> School board members are also listed separately from county officers in the new ethics provisions which will become part of the constitution effective December 31 of this year in new Article II, section 8(f)(1).

beyond five members is found in section 1001.34(2), Florida Statutes. This statute provides for a Resolution of the school board followed by a vote of the electors in order to expand the membership. Similarly, the switch from elected to appointed superintendents is done by either school board Resolution or special act, followed by a vote of the electors.

In summary, all of the constitutional and statutory provisions related to school board membership point to the school board, and not the county charter, as the source of authority to modify a default position on electing members. It stands to reason that, if general law permits recall of school board members, the process for that must be established by the school board itself (subject to a vote of the electors), not by the county charter.

If the county could, by charter, provide for recall of school board members, we would also need to determine whether any general law prohibits the exercise of the authority in the way that has been proposed by Resolution 2022-003. This is, perhaps, a clearer question to answer. There is no express general law prohibition on allowing recall of school board members. However, it could be argued that the express statutory provisions relating to makeup and election of school board members discussed above may constitute field preemption.

Field preemption occurs when there is no explicit conflict between the enactments of a “senior” legislative body (here, the Florida legislature) and a “junior” legislative body (here, the voters amending the county charter), but the senior body’s scheme of regulation of the subject is pervasive and further action by the junior body would present the danger of conflict with the pervasive scheme. *Tribune Co. v. Cannella*, 458 So. 2d 1075, 1077 (Fla. 1984)(quoting *Tribune Co. v. Cannella*, 438 So. 2d 516 (Fla. 2d DCA 1983)(Lehan, J., dissenting)). While there are several laws relating to composition of school boards, it is a stretch to argue that the field of regulation is preempted by state statute because such laws do not create a pervasive scheme. At best, they give guidance as to which bodies have the authority to act in the field, but they are not comparable to other instances where field preemption has been acknowledged. A few scattered statutes are not comparable to a regulatory scheme like the Public Employees Relations Commission, as found in *Communications Workers of America v. Indian River County School Board*, 888 So. 2d 96 (Fla. 4th DCA 2004). Thus, if it is determined that the recall provision is within the authority of county government, as a concept it would not be in conflict with general law.

It should be noted, however, that at least one component of the proposed charter amendment is in direct conflict with general law, and likely would be unenforceable if challenged. Section 1001.38, Florida Statutes, provides that all school board vacancies must be filled by gubernatorial appointment. The proposed charter amendment specifies that the successor to the unexpired term would be filled through election as provided in section 100.361, Florida Statutes. The provisions conflict, and the general law requiring gubernatorial appointment would supersede the charter provision requiring election.

## Conclusion

While Resolution 2022-003 contains a procedurally appropriate proposed charter amendment, that amendment would likely be unenforceable if adopted. This is because, first, the exercise of county authority is outside of the scope of what a county charter may encompass, and second, because some specific provisions expressly conflict with state statute.

It should be noted that an example of another county including recall of school board members in its charter was brought to our attention. On further investigation, Duval County includes a school board recall provision, which was adopted by the Florida Legislature in a special act. Given the consolidated city-county government, and the special act, we are hesitant to use that example as a basis for analysis here.





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To: Christine M. Schverak, Esq., Interim County Attorney  
From: Jamy Dinkins, CivForge Law, PA  
Date: August 15, 2022  
Re: Charter Review Commission Resolution 2022-004

The foregoing is a review of the Brevard County Charter Review Commission's ("CRC") Resolution number 2022-004, relating to recall elections. The Resolution was adopted by the CRC on August 6, 2022, and is being presented to the County Commission. This memorandum is designed to advise the County Commission on the legality of the proposal, but does not provide policy advice.

## **Overview**

Resolution 2022-004 modifies the independent review provisions of the Charter to accomplish, broadly, the following:

- Clarify that the members of the attorney review panel are to be selected by, report directly to, and have a fiduciary duty to, the CRC;
- Require that the attorney review panel submit findings within fifteen days of receipt of a proposed amendment;
- Provide an opportunity for the CRC to cure any defect;
- Require that the attorney review panel provide specific reasons for rejection and suggestions for resolving the defect;
- Extend the term of the CRC to allow for cure of defects; and
- Make stylistic changes for consistency.

The proposed ballot summary references the proposed clarification of CRC selection of the attorneys and the return of any defective proposals to the CRC for further action. It does not pose a question to voters.

## **Assumptions and limitations of review**

This memorandum does not pass on the validity of the adoption of the Resolution or subsequent actions of the Brevard County Board of County Commissioners, the Brevard County Supervisor of Elections, or the voters. We assume that all procedural actions taken by any of those bodies are proper, timely, and sufficient to adopt the proposal and incorporate it into the County Charter, and thus only pass on whether the proposal, from a substantive perspective, is consistent with applicable law, including the Florida and Federal Constitutions, applicable statutes, and the County Charter.

## Procedural matters

While this memorandum does not address procedural matters generally, it does consider certain formal requirements surrounding ballot questions generally. Pursuant to section 101.161, Florida Statutes, there are certain requirements for ballot language and proposal contents in referenda elections. One such requirement is that the ballot summary be fair and unambiguous, be limited in length, and phrase the question in a particular manner. In addition, there is a requirement that the amendment embrace a single subject.

### *Single subject requirement*

Florida law is replete with single-subject requirements for legislation and constitutional amendment, most prominently in the Constitution's limitation on the power of the legislature to adopt bills that "embrace but one subject and matter properly connected therewith," in article III, section 6, and the limitation on the initiative method to amend the constitution to proposals that "embrace but one subject and matter directly connected therewith." Art. IX, Sec. 3, Fla. Const. Though the difference in these provisions is minor (amounting to a single word), the Florida Supreme Court views the "directly connected" language as more narrow. *Fine v. Firestone*, 448 So. 2d 984, 988-89 (Fla. 1984).<sup>1</sup> Generally, a proposal embraces one subject if it has "a natural relation . . . as component parts or aspects of a single dominant plan or scheme." *Id.* at 990 (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318 (Fla. 1944)). Essentially, there must be a "oneness of purpose" in order for the proposal to meet the single-subject test, and affects a single function of the existing governmental structure. *Id.*

Resolution 2022-004 addresses a single subject, namely, the operation of the attorney review panel for CRC charter amendment proposals. The process of government affected is singular: namely, the process of amending the county charter. While the proposal also includes stylistic changes, those do not affect the oneness of purpose found in the proposed amendment.

### *Ballot language*

There are three basic, and one more complex, requirements for a ballot summary. First, the caption of the ballot summary must be fifteen words or fewer. § 101.161(1), Fla. Stat. Second, the body of the ballot summary must be 75 words or fewer. *Id.* Third, the question posed must be phrased such that a "yes" vote indicates approval of the proposal and a "no" vote indicates rejection of the proposal. The word limitations are unquestionably met. However, the ballot question does not pose a question at all—there is no question mark, and no sentence is structured other than in a declarative format.

The language of the statute does not explicitly require a question. Rather, the requirement is that the "ballot summary of such amendment . . . shall be printed in clear and unambiguous language on the ballot . . . and shall be styled in such a manner that a 'yes'

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<sup>1</sup> This analysis considers the more narrow view, as the "directly connected" language appears in the Brevard County Charter, albeit in a section not applicable to the CRC process.

vote will indicate approval of the proposal and a 'no' vote will indicate rejection." *Id.* The Florida Supreme Court, in other contexts, has allowed ballot summaries not framed in the form of a question. See *Armstrong v. Harris*, 773 So. 2d 7, 16 (Fla. 2000)(rejecting language for other reasons). When not framed as a question, however, the language must clearly indicate what the changes will be, in order to satisfy the "clear and unambiguous" portion.

The more complex requirement is that the language be a clear and unambiguous explanatory statement of the chief purpose of the measure. *Id.* While courts have interpreted this requirement using various rules and tests, they can be summarized as an overall requirement that the ballot language fairly advise the voter of the decision to be made sufficiently to enable the voter to intelligently cast their ballot. See *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982)(collecting cases). This includes a requirement that the function of government to be affected is fairly identified, *Fine*, 448 So. 2d at 989, and that the ballot language not be misleading, *Florida Department of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

Ballot language can be misleading if it omits material information in such a way that a voter relying on the summary would believe the measure accomplishes something different from what the amendatory language actually does. Thus, an omission was material in a proposed property tax exemption amendment when it would have caused voters to believe it extended eligibility for the exemption where it did not, *Roberts v. Doyle*, 43 So. 3d 654, 659-61 (Fla. 2010), or where the scope of laws to be repealed under a repealer clause was not disclosed, *In re Advisory Opinion to Attorney General*, 632 So. 2d 1018, 1021 (Fla. 1994).

The chief purpose of Resolution 2022-004 is to clarify the attorney review panel procedure, vesting more authority in the CRC and specifying timeframes and alternatives for the panel's deliberation and conclusions. The ballot summary consists of three distinct sentences. First, "The Charter requires a panel of three attorneys to review proposed amendments for legality before placing the proposed amendment on the ballot." This is a statement of *current* fact. That is, it represents a statement as to what the current charter provides, rather than a statement of what the amendment would accomplish. By itself, the statement is not completely accurate—the three attorney panel is employed only for petition- and CRC-proposed amendments, not for County Commission-proposed amendments. However, the summary must be read *in pari materia* with the caption, which expressly refers to CRC-proposed amendments. Thus, read together, the statement is not inaccurate.

Second, the summary reads "When the amendment is proposed by the Charter Review Commission, the panel shall be selected by the Charter Review Commission." This is a statement of what the charter would provide if the provision is adopted. Similarly, the third sentence is "If the panel finds a Charter Review Commission proposed amendment inconsistent with the law, it shall be returned to the Charter Review Commission for further consideration." This, too, represents what the charter would provide if the amendment is adopted.

The combination of declarative sentences without a distinction between the current state (first sentence) and the proposed state (second and third sentences) is confusing. Without an understanding of the existing provisions of the charter, a voter would have no way to identify what change they are being asked to approve or reject. They may, reasonably, believe they are being asked to approve or reject all three sentences; they might also, reasonably, believe they are being asked to approve or reject any one or any two of the three sentences. The presence of the word “shall” in the second and third sentences does not cure this confusion, because it is also unclear whether “shall” refers to the proposed amendment to the charter or to the conditions stated in the first clauses of the second and third sentences.

By contrast, in cases where declaratory sentences, rather than questions, were tacitly approved by the courts, those sentences were entirely prescriptive, that is, contained no statements of the current situation and only described the changes/new rules. See, e.g., *Armstrong*, 773 So. 2d at 16 (“Proposing an amendment . . .”; “Requires construction . . .”; “Prohibits reduction . . .”). While the *Armstrong* court ultimately rejected the ballot language, it did so because it was unclear what was being changed, as opposed to simply being added—much like the ballot language proposed here.

Because a voter would not be sure what they are being asked to approve or reject, the ballot summary is misleading.

It may also be that the ballot summary does not capture the chief purpose of the amendment. The summary is silent as to the clarification that the attorney panel reports to, is directed by, and has fiduciary responsibility to the CRC rather than the County Commission. At least arguably, the chief purpose of the amendment is to shift the authority for control of the attorney review panel from the County Commission to the CRC. While the summary does indicate the CRC would select the panel, it does not clarify that the CRC would direct the panel or that the panel would have fiduciary responsibilities to the CRC. This omission is material and may be interpreted as misleading.

Ultimately, the ballot summary does not adequately capture the chief purpose of the proposed amendment and is phrased in such a way that a voter would be confused about the change they are being asked to approve.

### **Consistency with general law**

The referral of certain charter amendment proposals to an independent panel is well within the home-rule authority of a county. Art. VIII, Sec. 1(g), Fla. Const. Thus, it stands to reason that modification of the process associated with that referral is also within the authority of a county. Similarly, there is no limitation on the scope of the authority of the charter review commission to propose this type of amendment.

There is no general law specification of how a review process is to operate, what opportunities must be given for correction of defects, who selects review panelists, or how their reports must be delivered. There are general laws governing the responsibilities of lawyers to their clients, and while those laws and ethical rules would impact how each

panelist represents and advises the CRC (with particular attention paid to rules surrounding representation of a client paid for by a third party), they do not pose any challenge to the enforceability or practicability of the proposed amendment.

## **Conclusion**

While Resolution 2022-004 contains a proposal that is consistent with the Florida Constitution, general law, and the Brevard County Charter, the proposed ballot summary is deficient in that it does not provide the voter with a clear statement of what they are to decide, and because it omits a chief purpose of the proposed amendment.



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From: Jamy Dinkins, CivForge Law, PA  
Date: August 15, 2022  
Re: Charter Review Commission Resolution 2022-005

The foregoing is a review of the Brevard County Charter Review Commission's ("CRC") Resolution number 2022-005, relating to filling vacancies in the office of County Commissioner. The Resolution was adopted by the CRC on August 6, 2022, and is being presented to the County Commission. This memorandum is designed to advise the County Commission on the legality of the proposal, but does not provide policy advice.

### **Overview**

Resolution 2022-005 modifies the vacancy provisions of the Charter to accomplish, broadly, the following:

- Conform provisions for vacancy in the office of County Commissioner to state law;
- Clarify that the vacancy provisions apply to suspensions from office; and
- Make stylistic changes for consistency.

The proposed ballot summary references only the proposed conformation, which appears to be the primary motivation for the proposal.

### **Assumptions and limitations of review**

This memorandum does not pass on the validity of the adoption of the Resolution or subsequent actions of the Brevard County Board of County Commissioners, the Brevard County Supervisor of Elections, or the voters. We assume that all procedural actions taken by any of those bodies are proper, timely, and sufficient to adopt the proposal and incorporate it into the County Charter, and thus only pass on whether the proposal, from a substantive perspective, is consistent with applicable law, including the Florida and Federal Constitutions, applicable statutes, and the County Charter.

### **Procedural matters**

While this memorandum does not address procedural matters generally, it does consider certain formal requirements surrounding ballot questions generally. Pursuant to section 101.161, Florida Statutes, there are certain requirements for ballot language and proposal contents in referenda elections. One such requirement is that the ballot summary be fair and unambiguous, be limited in length, and phrase the question in a particular manner. In addition, there is a requirement that the amendment embrace a single subject.

*Single subject requirement*

Florida law is replete with single-subject requirements for legislation and constitutional amendment, most prominently in the Constitution's limitation on the power of the legislature to adopt bills that "embrace but one subject and matter properly connected therewith," in article III, section 6, and the limitation on the initiative method to amend the constitution to proposals that "embrace but one subject and matter directly connected therewith." Art. IX, Sec. 3, Fla. Const. Though the difference in these provisions is minor (amounting to a single word), the Florida Supreme Court views the "directly connected" language as more narrow. *Fine v. Firestone*, 448 So. 2d 984, 988-89 (Fla. 1984).<sup>1</sup> Generally, a proposal embraces one subject if it has "a natural relation . . . as component parts or aspects of a single dominant plan or scheme." *Id.* at 990 (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318 (Fla. 1944)). Essentially, there must be a "oneness of purpose" in order for the proposal to meet the single-subject test, and affects a single function of the existing governmental structure. *Id.*

Resolution 2022-005 addresses a single subject, namely, the process for filling vacancies in the office of County Commissioner. The process of government affected is singular: namely, what happens when a County Commissioner vacates an office. While the proposal also includes stylistic changes, those do not affect the oneness of purpose found in the proposed amendment. Similarly, the expansion of the provision to cover suspensions<sup>2</sup> does not affect the unifying purpose of the proposal.

*Ballot language*

There are three basic, and one more complex, requirements for a ballot summary. First, the caption of the ballot summary must be fifteen words or fewer. § 101.161(1), Fla. Stat. Second, the body of the ballot summary must be 75 words or fewer. *Id.* Third, the question posed must be phrased such that a "yes" vote indicates approval of the proposal and a "no" vote indicates rejection of the proposal. The word limitations are unquestionably met. While the ballot summary does not phrase the proposal in the form of a question, it is clear what the voter is intended to decide and a "yes" vote indicates approval, while a "no" vote indicates rejection.

The language of the statute does not explicitly require a question. Rather, the requirement is that the "ballot summary of such amendment . . . shall be printed in clear and unambiguous language on the ballot . . . and shall be styled in such a manner that a 'yes' vote will indicate approval of the proposal and a 'no' vote will indicate rejection." *Id.* The Florida Supreme Court, in other contexts, has allowed ballot summaries not framed in the form of a question. See *Armstrong v. Harris*, 773 So. 2d 7, 16 (Fla. 2000)(rejecting language

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<sup>1</sup> This analysis considers the more narrow view, as the "directly connected" language appears in the Brevard County Charter, albeit in a section not applicable to the CRC process.

<sup>2</sup> In Florida, suspension from office is a precursor to removal, which must be accomplished by the Florida Senate. If the Senate does not vote to remove the suspended official from office, that official is reinstated regardless of whether an interim appointment has been made. Art. IV, Sec. 7, Fla. Const.

for other reasons). When not framed as a question, however, the language must clearly indicate what the changes will be, in order to satisfy the “clear and unambiguous” portion.

The more complex requirement is that the language be a clear and unambiguous explanatory statement of the chief purpose of the measure. *Id.* While courts have interpreted this requirement using various rules and tests, they can be summarized as an overall requirement that the ballot language fairly advise the voter of the decision to be made sufficiently to enable the voter to intelligently cast their ballot. See *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982)(collecting cases). This includes a requirement that the function of government to be affected is fairly identified, *Fine*, 448 So. 2d at 989, and that the ballot language not be misleading, *Florida Department of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

Ballot language can be misleading if it omits material information in such a way that a voter relying on the summary would believe the measure accomplishes something different from what the amendatory language actually does. Thus, an omission was material in a proposed property tax exemption amendment when it would have caused voters to believe it extended eligibility for the exemption where it did not, *Roberts v. Doyle*, 43 So. 3d 654, 659-61 (Fla. 2010), or where the scope of laws to be repealed under a repealer clause was not disclosed, *In re Advisory Opinion to Attorney General*, 632 So. 2d 1018, 1021 (Fla. 1994).

The chief purpose of Resolution 2022-005 is to conform the vacancy provisions for County Commissioners in the charter to the requirements of general law. This purpose is adequately captured in the summary, which outlines not just the wording of the changes but also the impact these changes will have on which vacancies are subject to gubernatorial appointment, and which are subject to election.

Like in cases where declaratory sentences, rather than questions, were tacitly approved by the courts, the sentences are entirely prescriptive, that is, they contain no statements of the current situation and only describe the changes/new rules. See, e.g., *Armstrong*, 773 So. 2d at 16 (“Proposing an amendment . . .”; “Requires construction . . .”; “Prohibits reduction . . .”). The *Armstrong* court ultimately rejected the ballot language because it was unclear what was being changed, as opposed to simply being added. That defect is not present in the summary found in Resolution 2022-005.

The proposed amendment would also specify that an interim vacancy created by suspension would be filled in the same manner as a permanent vacancy, again consistent with general law. While this is omitted from the ballot summary, it is not a material omission. The common-sense approach to the term “vacancy” includes vacancies created by suspension pending removal, and the language simply conforms to general law that would be applied regardless of the charter language. The omission does not obfuscate what the proposed amendment would accomplish if adopted, and it does not mislead the voter in what the chief purpose of the amendment is.

Ultimately, the ballot summary is sufficient as a clear and unambiguous statement of the proposed amendment.



### **Consistency with general law**

Currently, the Brevard County Charter specifies a procedure for filling vacancies in the office of County Commission that are not consistent with general law. This proposal corrects that error and simply refers to general law as the authority for filling vacancies. Accordingly, there is no inconsistency with constitutional provisions, general law, or the Charter.

### **Conclusion**

Resolution 2022-005 is consistent with applicable law and is fairly and adequately summarized in the proposed ballot language.



*James C. Dinkins, Esq.*  
*Board Certified in City, County, and Local Government Law*  
*55 W. Church St.*  
*Orlando, FL 32801*  
*(239) 810-2682*

To: Christine M. Schverak, Esq., Interim County Attorney  
From: Jamy Dinkins, CivForge Law, PA  
Date: August 15, 2022  
Re: Charter Review Commission Resolution 2022-006

The foregoing is a review of the Brevard County Charter Review Commission's ("CRC") Resolution number 2022-006, relating to the establishment of a Workforce and Supportive Housing Trust Fund. The Resolution was adopted by the CRC on August 6, 2022, and is being presented to the County Commission. This memorandum is designed to advise the County Commission on the legality of the proposal, but does not provide policy advice.

## **Overview**

Resolution 2022-006 creates section 1.9 of the Charter to accomplish, broadly, the following:

- Create a trust fund for workforce and supportive housing;
- Establish revenue sources for the trust fund;
- Establish a purpose for the trust fund;
- Segregate trust fund monies from the general fund; and
- Delegate implementing ordinance authority and direction to the County Commission.

The proposed ballot summary describes the establishment and purpose of the trust fund and identifies that funding will be directed by the County Commission.

## **Assumptions and limitations of review**

This memorandum does not pass on the validity of the adoption of the Resolution or subsequent actions of the Brevard County Board of County Commissioners, the Brevard County Supervisor of Elections, or the voters. We assume that all procedural actions taken by any of those bodies are proper, timely, and sufficient to adopt the proposal and incorporate it into the County Charter, and thus only pass on whether the proposal, from a substantive perspective, is consistent with applicable law, including the Florida and Federal Constitutions, applicable statutes, and the County Charter.

## **Procedural matters**

While this memorandum does not address procedural matters generally, it does consider certain formal requirements surrounding ballot questions generally. Pursuant to section 101.161, Florida Statutes, there are certain requirements for ballot language and proposal

contents in referenda elections. One such requirement is that the ballot summary be fair and unambiguous, be limited in length, and phrase the question in a particular manner. In addition, there is a requirement that the amendment embrace a single subject.

### *Single subject requirement*

Florida law is replete with single-subject requirements for legislation and constitutional amendment, most prominently in the Constitution's limitation on the power of the legislature to adopt bills that "embrace but one subject and matter properly connected therewith," in article III, section 6, and the limitation on the initiative method to amend the constitution to proposals that "embrace but one subject and matter directly connected therewith." Art. IX, Sec. 3, Fla. Const. Though the difference in these provisions is minor (amounting to a single word), the Florida Supreme Court views the "directly connected" language as more narrow. *Fine v. Firestone*, 448 So. 2d 984, 988-89 (Fla. 1984).<sup>1</sup> Generally, a proposal embraces one subject if it has "a natural relation . . . as component parts or aspects of a single dominant plan or scheme." *Id.* at 990 (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318 (Fla. 1944)). Essentially, there must be a "oneness of purpose" in order for the proposal to meet the single-subject test, and affects a single function of the existing governmental structure. *Id.*

Resolution 2022-006 addresses a single subject, namely, the establishment of a workforce and supportive housing trust fund. The process of government affected is singular: namely, creation of a special-purpose fund separate from general county funds. While the proposal is necessarily detailed, all of the language is specifically related to a single trust fund, including its purpose, permissible sources of funding, and segregation from the county's general fund.

### *Ballot language*

There are three basic, and one more complex, requirements for a ballot summary. First, the caption of the ballot summary must be fifteen words or fewer. § 101.161(1), Fla. Stat. Second, the body of the ballot summary must be 75 words or fewer. *Id.* Third, the question posed must be phrased such that a "yes" vote indicates approval of the proposal and a "no" vote indicates rejection of the proposal. The word limitations are unquestionably met. While the ballot summary does not phrase the proposal in the form of a question, it is clear what the voter is intended to decide and a "yes" vote indicates approval, while a "no" vote indicates rejection.

The language of the statute does not explicitly require a question. Rather, the requirement is that the "ballot summary of such amendment . . . shall be printed in clear and unambiguous language on the ballot . . . and shall be styled in such a manner that a 'yes' vote will indicate approval of the proposal and a 'no' vote will indicate rejection." *Id.* The Florida Supreme Court, in other contexts, has allowed ballot summaries not framed in the form of a question. See *Armstrong v. Harris*, 773 So. 2d 7, 16 (Fla. 2000)(rejecting language

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<sup>1</sup> This analysis considers the more narrow view, as the "directly connected" language appears in the Brevard County Charter, albeit in a section not applicable to the CRC process.

for other reasons). When not framed as a question, however, the language must clearly indicate what the changes will be, in order to satisfy the “clear and unambiguous” portion.

The more complex requirement is that the language be a clear and unambiguous explanatory statement of the chief purpose of the measure. *Id.* While courts have interpreted this requirement using various rules and tests, they can be summarized as an overall requirement that the ballot language fairly advise the voter of the decision to be made sufficiently to enable the voter to intelligently cast their ballot. See *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982)(collecting cases). This includes a requirement that the function of government to be affected is fairly identified, *Fine*, 448 So. 2d at 989, and that the ballot language not be misleading, *Florida Department of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

Ballot language can be misleading if it omits material information in such a way that a voter relying on the summary would believe the measure accomplishes something different from what the amendatory language actually does. Thus, an omission was material in a proposed property tax exemption amendment when it would have caused voters to believe it extended eligibility for the exemption where it did not, *Roberts v. Doyle*, 43 So. 3d 654, 659-61 (Fla. 2010), or where the scope of laws to be repealed under a repealer clause was not disclosed, *In re Advisory Opinion to Attorney General*, 632 So. 2d 1018, 1021 (Fla. 1994).

The chief purpose of Resolution 2022-006 is to create a workforce and supportive housing trust fund. This purpose is adequately captured in the summary, which specifies the establishment, purpose, and funding of the proposed fund. While the language of the proposed amendment is necessarily lengthier than the ballot summary, the details are adequately captured in the summary and the voter will understand what they are being asked to decide. None of the simplifications or omissions are material in that they would change the meaning of what the voter is deciding if disclosed.

Like in cases where declaratory sentences, rather than questions, were tacitly approved by the courts, the sentences are entirely prescriptive, that is, they contain no statements of the current situation and only describe the changes/new rules. See, e.g., *Armstrong*, 773 So. 2d at 16 (“Proposing an amendment . . .”; “Requires construction . . .”; “Prohibits reduction . . .”). The *Armstrong* court ultimately rejected the ballot language because it was unclear what was being changed, as opposed to simply being added. That defect is not present in the summary found in Resolution 2022-006.

Ultimately, the ballot summary is sufficient as a clear and unambiguous statement of the proposed amendment.

### **Consistency with general law**

This is a proposed new section of the Brevard County Charter. Currently, while the charter includes limitations on borrowing and taxation, there is no provision that would operate to prevent the establishment of a fund for workforce housing alone. Because the proposal defers to the County Commission to establish sources of funding (providing mere suggestions that surplus land sales be used, in part), the borrowing and taxation provisions

are not implicated. The County Commission, of course, must keep these provisions in mind when allocating funds to the trust fund, should the amendment be adopted by the voters.

Generally, a county may segregate its monies into separate funds for accounting purposes, and may establish trust funds for specific purposes that isolate monies deposited therein for limited purposes. See *generally* § 125.01, Fla. Stat. This occurs regularly with, for example, monies used for redevelopment or as revenues to pay for debt service on a bond or other obligation. Prior to appropriating any money to the redevelopment trust fund, the County Commission should ensure that segregation of such monies does not violate other agreements or requirements (as with the use of pledged revenues for a debt obligation or an impact fee fund). However, those considerations are downstream of the simple establishment of the fund which is the subject matter of Resolution 2022-006.

Similarly, the County Commission should ensure that projects funded with monies of the proposed trust fund are for a valid public purpose, as with any other expenditure. When reviewing housing expenditures, care must be taken to ensure that there is no unconstitutional pledge of credit. Art. VII, Sec. 10, Fla. Const. Again, these expenditure decisions are far downstream of the question of whether it is lawful to establish the proposed fund.

In short, the proposal establishes a dry fund—there is no guaranteed or specified source of funding, and no guaranteed or specified expenditure. The segregation of funds in the manner described is well within the County's home-rule power, and does not conflict with any general or special law or the County Charter. While there may be legal considerations once sources of funding and expenditures are identified, those are not yet ripe for review.

## **Conclusion**

Resolution 2022-006 is consistent with applicable law and is fairly and adequately summarized in the proposed ballot language.

**CRC RESOLUTION NO. 2022-001**

**A RESOLUTION OF THE BREVARD COUNTY CHARTER REVIEW COMMISSION ADOPTING A PROPOSED AMENDMENT TO THE CHARTER OF BREVARD COUNTY, FLORIDA, TO PROVIDE FOR A CHARTER AMENDMENT WHICH AMENDS SECTION 7.4.1 TO CLARIFY WHAT HAPPENS TO A PROPOSAL THAT IS FOUND BY THE ATTORNEY REVIEW PANEL NOT TO BE CONSISTENT WITH THE FLORIDA CONSTITUTION, GENERAL LAW, OR THE CHARTER; 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 question of which is to provide for an amendment to Section 7.4.1 of the Brevard County Charter, which would clarify what happens to a proposal that is found by the attorney review panel not to be consistent with the Florida Constitution, general law, or the Charter. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the county commission ~~County Commission~~ or the charter review commission ~~Charter Review Commission~~, the county commission ~~County Commission~~, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this charter ~~Charter~~. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this charter ~~Charter~~, the county commission ~~County Commission~~ shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this charter ~~Charter~~. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election. If at least two members of the panel find that the proposed amendment is not consistent with the Florida Constitution, general law, or this charter, then the proposal is considered rejected and is returned to the county commission or to the charter review commission for further action if any is to be done.

**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. 1 – ATTORNEY REVIEW PANEL**

The County Charter does not say what will be done when the Charter's attorney review panel determines that a proposed Charter amendment is inconsistent with the Florida Constitution, general law, and existing charter. Shall the Charter be amended to provide that proposals found to be inconsistent with the Florida Constitution, general law, or the existing Charter be returned to the County Commission or Charter Review Commission for further action if any is to be done?

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

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


**SECTION 4:** That should a majority of electors voting on the above-referenced referendum election vote "YES," 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 electors of Ballot Proposal No. 1 set forth in Section 3. of this Resolution. The amendment shall operate prospectively on any Charter amendment proposal submitted to the electors of Brevard County after November 8, 2022.

Adopted this 4 day of August, 2022.

  
Mike Haridopolos, Chair



REVISED PROPOSAL 5 REGARDING RULE 7.4.1.  
INDEPENDENT REVIEW OF PROPOSED CHARTER AMENDMENTS

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes the following changes to section 7.4.1 Independent review of proposed charter amendments in which underlined words are added words.

**7.3.2 Amendment by petition**

Amendments to this Charter may be proposed by a petition signed by at least four percent (4%) of the electors from each County Commission District, provided that any such amendment shall embrace but one subject matter directly connected therewith in the manner set forth in subsections 7.3.2.1 through 7.3.2.4 below.<sup>3</sup>

**7.3.2.1**

Each amendment shall embrace but one subject and matter directly connected therewith. The amendment shall not extend to existing budgets, existing debt obligations, existing capital improvement obligations, salaries of non-elected County officers and employees, the collection of taxes or rezoning of less than five per cent (5%) of the total land area of the County.

**7.3.2.2**

The sponsor of the measure shall register as a political committee as required by general law and shall submit a petition setting forth the ballot title, substance and text of the proposed amendment to the Supervisor of Elections. The sponsor must then obtain the signatures on the petition of at least 1% of the electors from each County Commission district and then resubmit the signed petitions to the Supervisor of Elections for verification that the electors signing the petition are qualified voters. When the Supervisor of Elections has verified the signatures, the Supervisor shall report such verification to the Board of County Commissioners.

**7.3.2.3**

Once the signatures are verified, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.

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<sup>3</sup> The wording of section 7.3.2 presented here is a combination of the amendment wording set forth in County Commission Corrected Resolutions 2000-268 and 2000-269, both of which received referendum approval. The precise language of the two resolutions as approved by the voters has been combined in this form by the editors in an attempt to preserve the actual text as well as the intent and meaning of the text in both approved amendments.

#### **7.4.1 Independent Review of Proposed Charter Amendments**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.

2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election. If at least two members of the panel find that the proposed amendment is not consistent with the Florida Constitution, general law, or this Charter, then the proposal is considered rejected and is returned to the County Commission or to the Charter Review Commission for further action if any is to be done.

#### **7.4.2 Analysis of fiscal impact of proposed charter amendment**

The Charter Review Commission shall obtain an analysis of the fiscal impact of a proposed charter amendment prior to transmittal of the proposed charter amendment to the County Commission. (Newly adopted 11-2-10)

## MEMORANDUM

TO: Chairman and Members of the Brevard  
County Charter Review Commission

FROM: Paul Gougelman, General Counsel

SUBJECT: Transmittal Resolution for Proposal 5  
Amending Section 7.4.1 of the Charter

DATE: June 26, 2022

At the last Charter Review Commission ("CRC") meeting, the CRC unanimously approved Commissioner Trettis' amended version of Proposal 5. The transmittal resolution, which includes both the text of the amendment and the ballot summary, is attached for your review. Pursuant to Section 101.161(1), Florida Statutes,<sup>1</sup> the ballot question must include a title which does not exceed 15 words and a summary which does not exceed 75 words. The summary must set forth the chief purpose of the issue presented.

When the CRC approves transmittal of the proposal and ballot summary, to move things forward in the form approved by the CRC, I will also include a resolution to place the item on the ballot which must be approved by the County Commission.

PRG/mb

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<sup>1</sup> Pertinent portions of Section 101.161(1), Florida Statutes, provide with emphasis supplied:

**101.161 Referenda; ballots.—**

(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The ballot summary of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. The ballot summary of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. . . . The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. . . .

## 2021-2022 Brevard County Charter Review

### Record of Vote

(CRC:2021-2022 Amended Proposal 5 Three Attorney Review Panel)

Motion by: Completion of 3<sup>rd</sup> Public Hearing-Commission Decided 06-23-2022 to vote.

Second by:

All those in favor of Proposal 1- Yes/All opposed to proposal 1 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
Gabriel Jacobs-Kierstein	District 3	Y	Rogerson	District 2	y
Jenkins	District 4	Absent	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 Approve Proposal 5- Amendment to 7.4.1-Three Attorney Review Panel

**Passed Unanimous 14-0**

Motion to Strike Proposal

Brevard County Charter Review Commission

ATTEST:



Melissa Brandt, Secretary, Charter Review Commission 2021-2022

Charter Review Commission Meeting Date

**CRC RESOLUTION NO. 2022-002**

**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 7.3.3 TO REQUIRE APPROVAL OF ANY CHARTER AMENDMENT BY AT LEAST SIXTY PERCENT OF THE ELECTORS VOTING; 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 7.3.3 of the Brevard County Charter, which would require approval of any charter amendment by sixty percent (60%) of the electors voting on the proposal. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 7.3.3. - Amendment referendum.**

The board of county commissioners ~~Board of County Commissioners~~ will cause any charter ~~Charter~~ amendment proposed under section 7.3.1 or 7.3.2 to be submitted to the electors for their approval or rejection. Upon receipt of the official certification from the supervisor of elections ~~Supervisor of Elections~~ that the initiative requirements have been met, the board ~~Board~~ will, within 30 days, establish the referendum date. The proposed amendment will be placed on the ballot at a special election held concurrent with the next countywide election, or at any earlier special election called for that purpose. If the board ~~Board~~ refuses to comply with Section 7.3.2 or refuses to place the proposed amendment on the ballot as required by this section of the charter, the board's ~~Board's~~ action may be construed as interfering with the right of the people to petition and may be considered an act of malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

Notice of said referendum, together with the language of the proposed amendment, shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first publication being not more than forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval by a vote of at least sixty percent of ~~the a majority of~~ electors voting on the measure ~~in said election~~.

**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. 2 – APPROVAL BY 60% OF VOTERS  
VOTING ON AMENDMENT**

Shall the Charter be amended to require a vote of at least sixty percent of those voters voting on a proposed amendment be required to adopt the proposal? The Brevard County Charter currently requires amendments be approved by a simple majority.

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

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

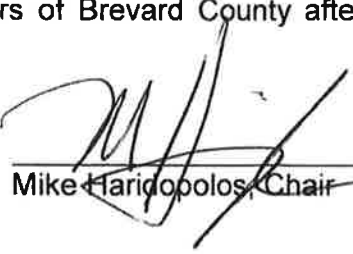
**SECTION 4:** That should a majority of electors voting on the above-referenced referendum election vote "YES FOR APPROVAL," thereby approving the above ballot issue set forth in Section 3. of this Resolution shall become a part of the Charter of Brevard County, Florida.

**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. 2 set forth in Section 3. of this Resolution. The amendment shall operate prospectively on any Charter amendment proposal submitted to the electors of Brevard County after November 8, 2022.

Adopted this 4 day of August, 2022.

  
\_\_\_\_\_  
Mike Haridopolos, Chair



**2021-2022**

**CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 07, 2022

**AGENDA ITEM NUMBER:** Proposal 10 -Public Hearing 3

**SUBJECT:**

Amend the last sentence of Section 7.3.3 of the Brevard County Charter

**PETITIONER CONTACT:**

Marie Rogerson; Charter Review Commission Member - District 2

**REQUESTED ACTION:**

Proposal to amend the last sentence of Section 7.3.3 for clarity and to reflect the need for greater consensus before changing the County Charter.

**SUMMARY EXPLANATION & BACKGROUND:**

Section 7.3.3 - Sentence Amended as follows:

Passage of proposed amendments shall require ~~approval of a majority of electors voting said election.~~ approval by a vote of at least sixty percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the Charter on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

**Staff Contact:**

Melissa Brandt

**Telephone Number:**

(321) 301-4438

**Email Address:**

[Melissa.Brandt@brevardfl.gov](mailto:Melissa.Brandt@brevardfl.gov)



# 2021-2022 Brevard County Charter Review

## Record of Vote

(CRC:2021-2022- Proposal 10- Supermajority 7.3.3)

Motion by: Completion of 3<sup>rd</sup> Public Hearing-Commission Decided 07-07-2022 to vote following Blaise Trettis motion to amend language and Commission Approving.

Second by:

All those in favor of Proposal 10- Yes/All opposed to proposal 10 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 10- Supermajority

Motion to Approve Proposal 10 -Supermajority- Motion Approved Unanimous 13-0

July 07, 2022

Brevard County Charter Review Cc

ATTEST:



Melissa Brandt, Secretary, Charter Review Commission 2021-2022

July 07, 2022

**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 \_\_\_\_\_

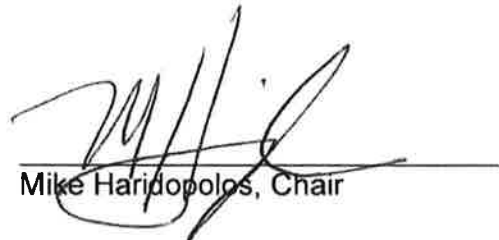
**SECTION 4:** That should a majority of electors voting on the above-referenced referendum election vote "YES FOR APPROVAL," thereby approving the above ballot issue set forth in Section 3. of this Resolution shall become a part of the Charter of Brevard County, Florida.

**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

**CRC RESOLUTION NO. 2022-004**

**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 7.4.1 TO PROVIDE THAT TO REVIEW CHARTER REVIEW COMMISSION PROPOSED AMENDMENTS BEFORE BEING PLACED ON THE BALLOT THE THREE MEMBER ATTORNEY REVIEW PANEL SHALL BE SELECTED BY THE CHARTER REVIEW COMMISSION, AND TO FURTHER PROVIDE THAT IF THE PANEL REJECTS A CHARTER REVIEW COMMISSION PROPOSED AMENDMENT, IT SHALL BE RETURNED TO THE CHARTER REVIEW COMMISSION FOR FURTHER CONSIDERATION; 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 7.4.1. of the Brevard County Charter, which would provide that for review of Charter Review Commission proposed Charter amendments the three member panel of attorneys shall be selected by the Charter Review Commission, and to further provide that if the panel rejects a Charter Review Commission proposed Charter amendment as inconsistent with the law, the proposed amendment shall be returned to the Charter Review Commission for further consideration. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the county commission ~~County Commission~~ or the charter review commission ~~Charter Review Commission~~, the county commission ~~County Commission~~, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this charter ~~Charter~~. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this charter ~~Charter~~, the county commission ~~County Commission~~ shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this charter ~~Charter~~. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.



3. a. Under section 7.4.1. 1., when a proposed amendment is sponsored by the charter review commission, members of the three person panel shall be selected by the charter review commission. The three person panel shall report directly and maintain a fiduciary duty to the charter review commission.
- b. The three person panel shall submit its findings for each proposed amendment to the board of county commissioners and the charter review commission within fifteen (15) days of receipt and shall include a comprehensive written report containing the panel's conclusion(s) for each proposal. If two members of the three person panel reject the proposed amendment, the proposal shall be promptly returned to the charter review commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. Notwithstanding section 7.4 of this charter, the term of the charter review commission shall be extended for the sole purpose of further considering any charter amendment proposal rejected by the three person panel.

**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. 4 – Charter Review Commission  
Proposed Amendments**

The Charter requires a panel of three attorneys to review proposed amendments for legality before placing the proposed amendment on the ballot. When the amendment is proposed by the Charter Review Commission, the panel shall be selected by the Charter Review Commission. If the panel finds a Charter Review Commission proposed amendment inconsistent with the law, it shall be returned to the Charter Review Commission for further consideration.

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

Adopted this 6 day of August, 2022.

  
Mike Harlan, Chair



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 7, 2022

**AGENDA ITEM NUMBER:** Proposal 20 Public Hearing 3 Amended 06-30-2022

**SUBJECT:**

Proposed Charter Amendment: Addition of "subsection 3" to Article 7, sec. 7.4.1. (Procedural guidance in the event that the 3 person panel rejects the amendment or ballot language).

**PETITIONER CONTACT:**

Gabriel Jacobs-Kierstein (321-366-9686) [GJacobs.attorney@outlook.com](mailto:GJacobs.attorney@outlook.com)  
Post Office Box 410354, Melbourne, Florida 32941

**REQUESTED ACTION:**

Place the proposed charter amendment on the next Charter Review Commission agenda (hereinafter "CRC"), so that the 3 requisite public hearings can be properly noticed and held, prior to a vote. This proposal was submitted before the 5/2/2022 deadline.

**SUMMARY EXPLANATION & BACKGROUND:**

Article 7, section 7.4.1.(2) is silent on what occurs if a proposed amendment or ballot language is rejected by the 3 person panel appointed to review them. At the last CRC meeting on April 21st, 2022, counsel for the Commission, Mr. Gougelman, discussed the lack of procedural guidance on this issue. Additionally, the Chair, as well as other Commissioners, voiced a concern that this discrepancy could cause a host of other problems. Section 7.4.1.(2) currently sets forth the procedure and criteria for approval, but does not speak to the inverse. The proposed charter amendment serves to cement an equitable and efficient means of handling this. Furthermore, the amendment aids in fostering a more transparent and impartial process. Please see "subsection 3" below (a formal-underlined version has been attached in a separate document):

<b>Staff Contact:</b>	Melissa Brandt
<b>Telephone Number:</b>	(321) 301-4438
<b>Email Address:</b>	<a href="mailto:Melissa.Brandt@brevardfl.gov">Melissa.Brandt@brevardfl.gov</a>



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

### **SUMMARY EXPLANATION & BACKGROUND CONTINUED:**

3.

- a. Under section 7.4.1.1, when the proposed amendment(s) are sponsored by the Charter Review Commission, members of the three (3) person panel shall be selected by the Charter Review Commission. The three (3) person panel shall report directly, and maintain a fiduciary duty, to the Charter Review Commission during the active term.
- b. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days of receipt and shall include a comprehensive written report containing the panels conclusion(s) for each proposal. If two (2) members of the three (3) person panel reject the proposed amendment, the proposal shall be promptly returned to the Charter Review Commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering any charter amendment proposal rejected by the three (3) person panel.

# County Charter Provision Comparisons

Updated December 2020

LEGISLATIVE BODY										
County	Size	How Elected	Partisan Election -- Y/N	Length of Term	Term Limitation	Adjustments to Salary	Separates Legislative & Executive Functions	Specific Non-Interference Clause	Administrative Code Required	Recall
Alachua	5	District (\$2.2)	Silent	4	N	Statute	Y (\$2.1)	N	Y (\$2.2)	Y (\$2.2)
Brevard	5	District (\$2.1;2.3)	Silent	4 (\$2.4)	2 (\$2.4)	Ordinance (even-numbered years)(\$2.6)	Y (\$1.5)	Y (\$3.4)	Y (\$2.10.2)	Y (\$5.2)
Broward	9	District (\$2.01(A)1)	Y (\$2.01(B))	4	3 (\$2.02)	Statute (\$2.01(D))	Y (\$1.02(c))	Y (\$2.07)	Y (\$2.13)	Y (\$1.04(M))
Charlotte	5	District/At Large (\$2.2)	Silent	4	Silent	Statute	Y	Y	Y	Y
Clay	5	District	Silent	4	2	Charter (majority vote in general election)	Y	Y	Y	Y
Columbia	5	District (\$2.1)	N (\$2.3;5.3)	4	N	Statute (\$2.5)	Y (\$1.6)	Y (\$3.4)	Y (\$2.8(6))	Y
Duval	19	14 District/5 At Large (\$5.02)	Silent	4 (\$5.03)	2 (\$5.041)	Charter (\$5.04, 9.12)	Y (\$4.01)	N	Y	Y (\$15.01)
Hillsborough	7	4 District/3 At Large (\$4.03)	Y	4		Ordinance (\$4.07)	Y (\$3.01)	N	Y (\$7.01)	Y (\$9.08)
Lee	5	District/At Large (\$2.2(A))	Y (\$2.2(A))	4	3	Statute (\$2.2(C))	Y (\$2.1)	Y (\$2.2(I))	Y (\$2.2(E))	Y (\$2.2(G))
Leon	7	5 District/2 At Large (\$2.2(1))	N	4	Silent	Ordinance (\$2.2(3))	Y (\$\$1.8, 2.1)	Y	Y (\$2.2(6))	Y (\$4.2)
Miami-Dade	13	13 District (\$1.04)	N (\$3.3)	4 (\$3.01)	2 (\$3.01(E))	Charter (\$1.06)	Y (\$1.01,\$2.02)	Y (\$4.04)	Y (\$1.02(H))	Y (\$8.02)
Orange	7	6 District/Mayor-At Large (\$201)	N (\$605)	4 (\$204(A))	2 (\$204(B))	Ordinance (\$2.05)	Y (\$108)	Y (\$212)	Y (\$211)	Y (\$604)

# County Charter Provision Comparisons

Updated December 2020

LEGISLATIVE BODY										
County	Size	How Elected	Partisan Election – Y/N	Length of Term	Term Limitation	Adjustments to Salary	Separates Legislative & Executive Functions	Specific Non-Interference Clause	Administrative Code Required	Recall
Osceola	5	District/At Large (\$2.2(A))	Silent	4	Silent	Statute (\$2.2(C))	Y (\$2.1)	Silent	Y (\$2.2)(E))	Y (\$2.2(G))
Palm Beach	7	District (\$2.2)	Y-except non-partisan for property app, sheriff, sup. of elections (\$4.1.a)	4	2	Statute	Y (\$2.1)	Y (\$2.5)	Y (\$2.4)	Y (\$5.2)
Pinellas	7	4 District/3 At Large (\$3.01)	Silent	4	Silent	Statute (\$3.01)	Y (\$3.01,\$4.01 (c))	N	Silent	Silent
Polk	5	District/At Large (\$2.1)	Y (\$5.2.1)	4 (\$2.4)	12 (\$2.3)	Charter (\$2.5)	Y (\$1.6)	Y (\$3.4)	Y (\$2.10)	Y (\$6.2)
Sarasota	5	District/At Large (\$2.1A)	Silent	4 (\$2.1A)	2 (\$2.1A)	Charter (\$2.1B)	Silent	Y	Y	Y
Seminole	5	District/At Large (\$2.2A)	Silent	4 (\$2.2A)	Silent	Ordinance	Y (\$2.1)	Y (\$2.2(I))	Y(\$2.2E)	Y(\$2.2G)
Volusia	7	5 District/1 At Large/1 Chair At Large (elected) (\$301)	N (\$904)	4 (\$303.1)	2 (\$303.5)	Charter (\$304)	Y (\$203)	Y (\$404)	Y (\$308.1)	Silent
Wakulla	5	District/At Large (\$2.1)	Silent	4 (\$2.4)	N	Statute (\$2.5)	Y (\$1.6)	Y (\$3.4)	Y (\$\$2.8,2.9)	Y (\$6.2)

EXECUTIVE BRANCH County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
<b>Alachua</b>	Appointed	Majority (\$2.3(A)(2))	Majority vote, after hearing if requested by CM (\$2.3(A)(2))	Silent	Ordinance	Charter/ Ordinance	Cty Mgr/BoCC majority vote confirmation (\$2.3(B)(1))	Cty Manager (\$2.3(B)(2))	Either
<b>Brevard</b>	Appointed	Silent	Silent	Silent	Contract	Charter (\$3.3)	Mgr/BoCC Approval (\$4.5.1)	Manager (\$4.5.1)	Either (\$4.5.1)
<b>Broward</b>	Appointed	6/9	Majority	Silent	Silent	Charter	Adm/BoCC Majority Approval	Administrator	Silent
<b>Charlotte</b>	Appointed (\$2.3(A)(1))	4/5 (\$2.3(A)(2))	4 outright or 3 out of 5 @ at 2 meetings 2 weeks apart (\$2.3(A)(4))	Either (\$2.3(A)(4))	Ordinance (\$2.3(A)(2))	Charter (\$2.3(A)(1))	Adm/BoCC Advice & Consent(\$2.3(B)(1))	Administrator (\$2.3(B)(2))	Either (\$2.3(B)(2))
<b>Clay</b>	Appointed (\$2.3(A)(1))	Majority (\$2.3(A)(1))	Majority (\$2.3(A)(1))	Either (\$2.3(A)(1))	Silent	Charter (\$2.3(A)(1))	Administrator (\$2.3(B)(1))	Manager/ BCC appeal (\$2.3(B)(2))	Either (\$2.3(B)(2))

<b>EXECUTIVE BRANCH</b>									
<b>County Executive</b>									
<b>County</b>	<b>Selection of County Executive</b>	<b>Method of Appointment</b>	<b>Method of Termination</b>	<b>With or Without Cause</b>	<b>Terms/ Conditions of Employment</b>	<b>Powers and Duties</b>	<b>Appointment of Dept. Heads</b>	<b>Termination of Department Heads</b>	<b>With or Without Cause</b>
<b>Columbia</b>	Appointed	Majority (\$2.8(1))	Majority/at 2 meetings or super-majority at one meeting (\$2.8(1))	Either	Contract (\$3.2) subject to annual review by BoCC	Charter (\$3.3)	Manager (\$3.3(10))	Manager (\$3.3(10);\$4.2)	Either/BoCC approval; Dept Head can appeal to BoCC (\$4.2)
<b>Duval</b>	Mayor Elected (\$6.01)	4 years	Silent	Silent	Silent	Silent	Mayor/Council Confirmation	Silent	Silent
<b>Hillsborough</b>	Appointed (\$5.01)	5/7 (\$5.03(1))	5 or 4 @ 2 meetings (\$5.03(1))	Either (\$5.03(1))	Ordinance (\$5.03(2))	Silent	Adm w/BoCC Consent (\$5.01)	Administrator (\$5.01)	Either (\$5.01)
<b>Lee</b>	Appointed (\$2.3(A)(1))		Majority (\$2.3(A)(1))	Either (\$2.3(A)(1))	Contract	Charter (\$2.3(A)(1))	Manager (\$2.3(B))	Manager (\$2.3(B))	Either (\$2.3(B))



EXECUTIVE BRANCH County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Leon	Appointed (\$2.3(1))	Majority + 1	Majority + 1	Silent	Contract	Charter (\$2.3(1)(A))	Administrator does not include county attorney and TDC staff (\$2.3(2))	Administrator (\$2.3(2))	Either (\$2.3(2))
Miami-Dade	Mayor Elected (\$2.02)	Elected-2 time term limit				Charter	Mayor	Mayor	
Orange	Mayor Elected (\$3.02)	Elected				Charter	Mayor	Mayor	
Osceola	Appointed (\$2.3(A)(1))	Majority	Silent	Silent	Silent	Charter (\$2.2(A)(1))	Adm w/BoCC Advice & Consent	Administrator (\$2.2(B)(2))	Either (\$2.2(B)(2))
Palm Beach	Appointed (\$2.4)	Majority (\$2.4)	Silent	Silent	Silent	Charter	Adm/w BoCC Advice & Consent (\$4.2)	Silent	Silent

EXECUTIVE BRANCH County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
<b>Pinellas</b>	Appointed	5/7(\$4.01(a))	4/5 at 2 meetings (\$4.01(a))	Silent	Silent	Charter (\$4.01(C))	Adm/BoCC Approval for unclassified positions (\$4.01(C)(2))	Adm/BoCC Approval for unclassified positions (\$4.01(C)(3))	With
<b>Polk</b>	Appointed	Majority of entire commission (\$2.8(1))	Majority at 2 meetings (\$2.8(1))	Silent	Contract (\$3.2)	Charter	Adm/BoCC Approval (\$4.2)	Administrator (\$4.2)	Either(\$4.2)
<b>Sarasota</b>	Appointed (\$2.6A)	4/5 (\$2.6B)	4 or 3/5 @ 2 meetings 3 weeks apart (\$2.6B)	Silent	Silent	BCC and Charter (\$2.6F)	Adm/BoCC Confirmation (\$2.6F)	Adm/BoCC Confirmation (\$2.6F)	Either (\$2.6F)
<b>Seminole</b>	Appointed (\$2.3(A)(1))	Majority	Majority	Either (\$2.3(A) (1))	Silent	Charter (\$2.3(A))	Adm/BoCC Confirmation (\$2.3(B))	Administrator	Either
<b>Volusia</b>	Appointed (\$401)	Silent	Silent	Silent	Silent	Charter (\$403)	Adm/Council Approval (\$602)	Silent	Silent

EXECUTIVE BRANCH County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
<b>Wakulla</b>	Appointed (§3.1)	Silent	Silent	Silent	Contract (§3.2)	Charter (§3.3)	Silent	Silent	Silent

COUNTY ATTORNEY						
County	Method of Appointment	Method of Termination	With or Without Cause	Appointment of Assistant County Attorneys	Termination of Assistant County Attorneys	
<b>Alachua</b>	BoCC (§2.3(C))	Silent	Either (§2.3(C))	Silent	Silent	
<b>Brevard</b>	BoCC	Silent	Silent	Silent	Silent	
<b>Broward</b>	BoCC (§2.10)	Silent (§2.10)	Silent (§2.10)	County Atty (§2.10(C))	Silent	
<b>Charlotte</b>	BoCC (§2.3(D))	Silent	Silent	Silent	Silent	
<b>Clay</b>	Majority (§2.3(C)(1))	Majority (§2.3(C)(1))	Either (§2.3(C)(1))	County Attorney (§2.3(C)(2))	County Attorney (§2.3(C)(2))	
<b>Columbia</b>	Elected Non-Partisan	Not Applicable	Not Applicable	County Attorney	County Attorney	
<b>Duval</b>	Mayor/Council Confirm (§7.03)	Mayor or Council (§7.06)	With/Council Confirm (§7.206)	General Counsel (§7.207)	Silent	
<b>Hillsborough</b>	5 (§6.03(1))	5 or 4 @ 2 meetings (§6.03(1))	Either (§6.03(1))	County Attorney (§6.01)	County Attorney (§6.01)	
<b>Lee</b>	Majority (§2.3(C)(1))	Majority (§2.3(C)(1))	Either (§2.3(C)(1))	County Attorney (§2.3(C)(5))	County Attorney (§2.3(C)(5))	
<b>Leon</b>	BoCC (§2.4)	Silent (§2.3)	Either (§2.4.1)	Silent	Silent	
<b>Miami-Dade</b>	BoCC subject to Mayor veto/override (§5.06)	Silent	Silent	County Attorney (§5.06)	Silent	
<b>Orange</b>	Silent	Silent	Silent	Silent	Silent	

COUNTY ATTORNEY						
County	Method of Appointment	Method of Termination	With or Without Cause	Appointment of Assistant County Attorneys	Termination of Assistant County Attorneys	
<b>Osceola</b>	Majority (§2.3(C))	Silent	Silent	Co Atty subject to budget approval (§2.3(C))	Silent	
<b>Palm Beach</b>	BoCC (§4.3)	Silent	Silent	County Attorney subject to budget approval (§4.3)	Silent	
<b>Pinellas</b>	County Attorney Oversight Committee (§4.2(a))	Silent	Silent	Co Atty/BoCC App (§4.02(6))	Silent	
<b>Polk</b>	BoCC (§4.3)	Majority (§4.3)	Silent	Silent	Silent	
<b>Sarasota</b>	BoCC (§2.7)	Silent	Silent	Silent	Silent	
<b>Seminole</b>	Majority (§2.4)	Majority (§2.4)	Either (§2.4)	County Attorney (§2.4)	County Attorney (§2.4)	
<b>Volusia</b>	Council (§IIA.1)	Silent	Silent	Silent	Silent	
<b>Wakulla</b>	BoCC (§4.1)	Silent	Silent	Silent	Silent	

ELECTED CONSTITUTIONAL OFFICERS				
County	Affects Status of Elected Constitutional Officers	Describe Change	Does Charter Provide for Recall of Elected Officials	School Board
<b>Alachua</b>	N (§3.1)		Silent	
<b>Brevard</b>	Y (§4.1;4.2)	Makes them county officers (§7.23)	Y (§4.1.2; §5.2)	Elections procedures (§8.1)
<b>Broward</b>	Y (§3.06)	Abolished Tax Coll/Clerk Audit Functions Now Dept. of Financial Svcs & Adm	Silent	
<b>Charlotte</b>	N (§3.1)		Silent - residency requirements (§3.1)	
<b>Clay</b>	Y (§3.1)	Manager is Board Clerk and performs Clerk finance functions (§2.3 (4)(1)); creates a Commission Auditor; constitutional officers term limits (§2.3 (D))	Y (§3.2)	
<b>Columbia</b>	N (§5.1)		Silent	
<b>Duval</b>	Y	Mayor Elected; Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections - elected charter offices (2 term limits)	Y (§15.01)	Y (Article 13)
<b>Hillsborough</b>	N (§1.02)		Silent	
<b>Lee</b>	Y (§3.1)	SOE: Non-Partisan §§3.1;3.2 (A)	Silent	
<b>Leon</b>	Y (§3.1)	SOE: Non-Partisan §3.2 (A)	Silent	
<b>Miami-Dade</b>	Y (§9.01)	Sheriff abolished; Tax Collector and Clerk finance functions now Dept. of Financial Administration; transferred functions to Mayor; elected Property Appraiser	Y (§8.02)	

ELECTED CONSTITUTIONAL OFFICERS				
County	Affects Status of Elected Constitutional Officers	Describe Change	Does Charter Provide for Recall of Elected Officials	School Board
<b>Orange</b>	Y (§703)	Clerk of Court/Comptroller; removes charter status of Property App; Tax Collector; SOE; Sheriff and reinstates constitutional status (§703); Sheriff, Property Appraiser, SOE and Clerk of Court into nonpartisan, elected charter officers subject to term limits of 4 consecutive year terms, abolishing status as constitutional officers	Silent	
<b>Osceola</b>	Y (§3.1)	Clerk functions transferred to Manager	Silent	
<b>Palm Beach</b>	Y (§4.1.a)	Property Appraiser; Sheriff; Supervisor of Elections - nonpartisan	Silent	
<b>Pinellas</b>	N (§4.03)		Silent	
<b>Polk</b>	Y (§5.1; 5.2)	Non-partisan for Clerk, Property Appraiser, Supervisor or Elections, Sheriff, Tax Collector	Silent	
<b>Sarasota</b>	Y (§2.4)	4 Yr Term Limits for Constitutional Officers	Y	
<b>Seminole</b>	N (§3.1)		Silent	
<b>Volusia</b>	Y (§601.1)	Tax Coll/Clerk now Dept. of Finance & Adm; Sheriff, SOE, Property Appraiser Appointed as Department Directors	Silent	
<b>Wakulla</b>	N (§5.1)		Silent	

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
<b>Alachua</b>	7% (§2.2(H))	180 days (§2.2(H)(2))	60 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
<b>Brevard</b>	5% (§5.1)	9 mos. (§5.1.1)	60 days (§5.1.2)	General Election (§5.1.2)	Specified in charter (§5.1.3)	Silent
<b>Broward</b>	7%	180 days (§7.01)	90 days	General/Special election	Specified in charter (§7.01)	Y
<b>Charlotte</b>	10% (§2.2(G)(1))	6 mos (§2.2(G)(2))	60 days (§2.2(G)(3))	General Election (§2.2(G)(3))	Specified in charter (§2.2(g)(4))	Y (§2.2(G)(2))
<b>Clay</b>	10% (§2.2(I)(1))	180 days (§2.2(I)(2))	45 days (§2.2(I)(3))	General Election (§2.2(I)(3))	Specified in charter (§2.2(I)(5))	Y (§2.2(I)(2))
<b>Columbia</b>	7% (§6.1)	6 mos (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent
<b>Duval</b>	Silent	Silent	Silent	Silent	Silent	Silent
<b>Hillsborough</b>	Silent	Silent	Silent	Silent	Silent	Silent



INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Lee	5% (§2.2(H)(1))	180 days (§2.2(H)(2))	45 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Leon	10% (§4.1(1))	1 year (§4.2(2))	60 days (§4.2(3))	General Election (§4.2(3))	Specified in charter (§4.2(4))	Y
Miami-Dade	4% (§8.01)	120 days	60 days after legal review report	Next Countywide Election or if 8% signatures, special election	Specified in charter	Y
Orange	7% (§601(B))		30 days (§602(B))	Next election, 45 days after Res by BoCC (§602(B))	Specified in charter (§603)	Y (§602)
Osceola	7% (§2.2(H)(1))	180 days (§2.2(H)(2))	60 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Palm Beach	7% (§5.1)	Silent	45 days subject to verification by SOE (§5.1)	General Election (§5.1)	Specified in charter (§5.1)	Silent
Pinellas	Silent	Silent	Silent			

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Polk	6% (§6.1)	1 year (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent
Sarasota	Silent					Silent
Seminole	5% (§2.2(H)(1))	6 mos (§2.2(H)(2))	60 (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Volusia	Silent				Silent	Silent
Wakulla	30% (§6.1)	6 mos (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent

METHODS TO AMEND CHARTER AMENDMENT BY PETITION						
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements	Other
Alachua		10% (\$4.2(A)(1))	180 days (\$4.2(A)(2))	General Election (\$4.2(A)(1))	Majority (\$4.2(A)(3))	
Brevard	Y (\$7.3.2.1)	4% (\$7.3.2)	9 mos (\$7.3.2.4-\$5.1.1)	Special Election (\$7.3.3)	Majority (\$7.3.3)	
Broward		7%	180 days	See charter (\$7.01(G)(1)&(2))	Majority (\$7.01(I))	
Charlotte		10% (4.2(B)(1))	90 days (4.2(B)(1))	General Election (\$4.2(B)(1))	Majority (\$4.2(B)(3))	
Clay		10%(\$4.2(A)(1))	180 days (\$4.2(A)(3))	General Election (\$4.2(A)(2))	Majority (\$4.2(A)(4))	
Columbia		10% (\$8.3.2(2))	6 mos (\$8.3.2)	General Election (\$8.3.3)	Majority (\$8.3.3)	
Duval		5% (\$18.05(a))	180 days	Next Countywide General Election (\$18.05(h))	Majority (\$18.05)	
Hillsborough		8% (\$8.03(1))	6 mos (\$8.03(1))	General Election (\$8.04)	Majority (\$8.04)	
Lee		7% (\$4.1(A)(1))	90 days (\$4.1(A)(2))	General Election (\$4.1(A)(4))	Majority (\$4.1(A)(4))	
Leon		10% (\$5.2(1)(A))	1 year (\$5.2(1)(A))	General Election (\$5.2(1)(B))	Majority (\$5.2(1)(B))	
Miami-Dade	N	10% (\$9.07(A))	Silent	General Election	Majority (\$9.07(D))	
Orange	N	10% (\$601(A))	180 days (\$601(A))	Next General Election (\$602(A))	Majority (\$602(A))	Providing for single subject, legal review, comptroller prepared financial impact statement and public hearing requirements; ensuring equal percentage of signatures from all commission districts
Osceola	N	10% (\$4.2(A)(1))	180 days (\$4.2(A)(2))	Special Election (\$4.2(A)(1))	Majority (\$4.2(A)(3))	
Palm Beach	N	7% (\$6.3)	Silent	General Election or presidential primary (\$6.3)	Majority (\$6.3)	
Pinellas	N	8%(\$6.02(1))	240 days (\$6.02(2))	General Election or special call referendum (\$6.02(1))	Majority (\$6.02(1))	Brief financial impact statement prepared by county auditor placed on ballot with proposed charter amendment
Polk	Y (\$8.3.2))	7% (\$8.3.2)	1 year (\$8.3.2. \$6.1.1)	General Election - cannot be held sooner than 60 days after amendment proposed or validated (\$8.3.3)	60% (\$8.3.3)	60% (\$8.3.3)
Sarasota	N	10% (\$7.1)	Silent	General Election (\$7.1)	Majority (\$7.1)	Majority (\$7.1)

METHODS TO AMEND CHARTER AMENDMENT BY PETITION						
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements	Other
Seminole	N	7.5% residing in 3/5 (§4.2(A)(1))	6 mos (§4.2(A)(2))	General Election (§4.2(A)(1))	Majority (§4.2(A)(3))	Majority (§4.2(A)(3))
Volusia		5% (§1302.2)	Silent	General Election (§1302.3)	Majority (§1302.3)	Majority (§1302.3)
Wakulla	Y (§7.3.2)	30% (§7.3.2)	6 mos (§7.3.2, §6.1.1)	General Election (§7.3.3)	Majority (§7.3.3)	Majority (§7.3.3)

AMENDMENT BY CHARTER REVIEW COMMISSION						
County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
<b>Alachua</b>	Y (\$4.2(B))	Every 10 years (\$4.2(B)(1))	11-15 (\$4.2(B)(1))	General Election (\$4.2(B))	Majority (\$4.2(B)(5))	Silent
<b>Brevard</b>	Y (\$7.4)	Every 6 years (\$7.4)	15 (\$7.4)	Special Election (\$7.4.1)	Majority (\$7.4.1)	Silent
<b>Broward</b>	Y	Every 12 years	19	General Election	2/3 vote (\$6.02)	Y (\$11.07)
<b>Charlotte</b>	Y (\$4.(C)(1))	Every 6 years (\$4.2(C)(1))	15/ 3 alternate (\$4.2(C)(1))	General Election (\$4.2(C)(1))	Majority (\$4.2(C)(5))	Silent
<b>Clay</b>	Y (\$4.2(B)(1))	Every 4 years (\$4.2(B)(1))	15/5 alternates (\$4.2(B)(1))	General Election (\$4.2(B)(5))	Majority (\$4.2(B)(5))	
<b>Columbia</b>	Y (\$8.4)	Every 8 years (\$8.4)	Silent	General Election (\$8.4(3))	Silent	Silent
<b>Duval</b>	N					
<b>Hillsborough</b>	Y	Every 5 years (\$8.02)	14 (\$8.02)	General Election (\$8.04)	2/3 vote (\$8.04)	Y

AMENDMENT BY CHARTER REVIEW COMMISSION						
County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
Lee	Y	Every 8 years (\$4.1(B)(1))	15 (\$4.1(B)(1))	General Election (\$4.1(B)(4))	Majority (\$4.1(B)(4))	N
Leon	Y	Every 8 years (\$5.2(2)(A))	BoCC decides	General Election (\$5.2(2)(A))	Silent	Silent
Miami-Dade	N					
Orange	Y (\$7.02)	Every 4 years (\$7.02(B))	11-15 (\$7.02(A))	General Election (\$7.02(B))	Silent	
Osceola	Y(\$4.2(C)(1))	Every 4 years (\$4.2(C)(1))	11 (\$4.2(C)(2))	Silent	2/3 vote (\$4.2(C)(8))	Silent
Palm Beach	N					
Pinellas	Y	Every 8 years (\$6.03(a))	13 (\$6.03(a))	General Election (\$6.03(c))	Silent	Y (\$6.06)

AMENDMENT BY CHARTER REVIEW COMMISSION						
County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
<b>Polk</b>	Y	Every 8 years (\$8.04)	13 (\$8.4)	General Election (\$8.4)	Silent	Silent
<b>Sarasota</b>	Elected (\$2.8A)	4 year terms (\$2.8A)	10 (\$2.8A)	Next Countywide Election (\$7.1)	2/3 (\$2.8B)	Silent
<b>Seminole</b>	Y (\$4.2(B))	Every 6 years (\$4.2(B)(1))	15 (\$4.2(B)(1))	General Election (\$4.2(B)(1))	Majority (\$4.2(B)(4))	Silent
<b>Volusia</b>	Y (\$1303)	Every 10 years (\$1303)	According to general law (\$1303)	General Election (\$1303)	Silent	Silent
<b>Wakulla</b>	Y (\$7.4)	Every 8 years (\$7.4)	15 (\$7.4)	General Election (\$7.4)	Not less than 10 members (\$7.4)	Silent

CHARTER AMENDMENT BY COUNTY COMMISSION			
County	Amendment Proposed by Ordinance Approved by	Referendum Will Be Scheduled	Voting Requirements
<b>Alachua</b>	Majority + 1 (§4.2(C)(1))	General Election (§4.2(C)(2))	Majority (§4.2(C)(2))
<b>Brevard</b>	Not less than 4 (§7.3.1)	Special/concurrent with countywide	Majority
<b>Broward</b>	Majority + 1 (§2.06)	General Election	Majority
<b>Charlotte</b>	Majority (§4.2(A))	General Election (§4.2(A))	Majority (§4.2(A))
<b>Clay</b>	Majority (§4.2(C)(1))	Next General or Special Election (§4.2(C)(1))	Majority (§4.2(C)(1))
<b>Columbia</b>	Majority + 1 (§8.3.1)	General Election (§8.3.3)	Majority (§8.3.3)
<b>Duval</b>	Silent	Silent	Silent
<b>Hillsborough</b>	5 (§8.01)	Special Election or Regular Election as directed by BoCC (§8.04)	Majority (§8.04)
<b>Lee</b>	Majority (§4.1(C)(1))	General Election (§4.1(C)(2))	Majority (§4.1(C)(2))
<b>Leon</b>	Majority + 1 (§5.2(3)(A))	General Election (§5.2(3)(A))	Majority (§5.2(3)(B))
<b>Miami-Dade</b>	Resolution of BoCC (§9.07(A))	General Election	Majority
<b>Orange</b>	Majority (§7.01)	Primary, General or Special Election (§7.01)	Silent



CHARTER AMENDMENT BY COUNTY COMMISSION			
County	Amendment Proposed by Ordinance Approved by	Referendum Will Be Scheduled	Voting Requirements
Osceola	Majority + 1 (§4.2(B)(1))	Special Election (§4.2(B)(1))	Majority (§4.2(B)(1))
Palm Beach	4 (§6.3)	Presidential Election Ballot (§6.3)	Majority (§6.3)
Pinellas	Majority + 1 (§6.01)	Next Countywide or Special Election (§6.01)	Majority (§6.01)
Polk	Majority + 1 (§8.3.1)	General Election (§8.3.3)	60% (§8.3.3)
Sarasota	Silent	Special Election (§7.1)	Majority (§7.1)
Seminole	Majority (§4.2(C)(1))	General Election (§4.2(C)(1))	Majority (§4.2(C)(1))
Volusia	2/3 vote of Council (§1302.1)	General Election (§1302.3)	Majority (§1302.3)
Wakulla	Majority + 1 (§7.3.1)	General Election (§7.3.3)	Majority (§7.3.3)

INTERGOVERNMENTAL RELATIONS	
County	"
<b>Alachua</b>	Municipal ordinances prevail in event of conflict. <i>Environmental</i> - Ordinances that establish different standards for the purpose of protecting the environment by prohibiting or regulating air or water pollution, the more stringent will apply inside a municipality. The less stringent standards still apply as well. (§1.4) <i>Land use planning</i> - Each municipality responsible for planning inside municipal boundaries; county for unincorporated area. County and a city may, by interlocal, agree to provide for joint planning under certain circumstances. (§1.5) <i>County Growth Management Area</i> - charter amended to establish a countywide "County Growth Management Area" and county's comp plan and land development regulations will govern land
<b>Brevard</b>	Municipal ordinances prevail except as otherwise provided by state or federal law. (§1.7)
<b>Broward</b>	Municipal ordinances prevail except when the county ordinance relates to (1) setting minimum standards protecting the <i>environment</i> through the prohibition or regulation of air/water pollution, or the destruction of resources in the county belonging to the general public; (2) <i>land use planning</i> ; (3) <i>regulates the conduct of elected officials, appointed officials, and public employees through an enacted Code of Ethics</i> ; (4) <i>handgun management</i> (§2.12)
<b>Charlotte</b>	Municipal ordinances prevail except for countywide ordinances relating to (1) <i>impact fees</i> to pay the cost of county facilities or (2) <i>countywide comp plan or countywide comp plan elements and countywide LDRs as defined by Ch. 163</i> , Part II, Fla. Stat., as amended by the Legislature.
<b>Clay</b>	Municipal ordinances prevail.
<b>Columbia</b>	Municipal ordinances prevail except the county may, by ordinance, adopt minimum countywide standards for (1) regulating <i>adult entertainment</i> ; (2) protecting the <i>environment</i> by regulating air or water pollution; (3) <i>outdoor burning</i> ; (4) hours of sales of <i>alcoholic beverages</i> ; (5) <i>animal control</i> ; (6) <i>firearms</i> and weapons and; (7) protection of <i>level of service standards for county maintained roads</i> . Municipal ordinances in these areas can be stricter than the county minimum and apply. (§1.8)
<b>Duval</b>	Consolidated government.
<b>Hillsborough</b>	Municipal ordinances prevail. (§4.09) <i>Planning</i> - Charter establishes a single planning agency for cities and county to be created by special act without a referendum; responsible for comp planning and related activities as are committed to it by general or special law. (§9.09) <i>Environmental protection</i> - Charter establishes a single local environmental protection commission to be created by special act without a referendum.(§9.10)
<b>Lee</b>	Municipal ordinances prevail (§1.4); <i>minimum environmental regulations</i> (§1.6)
<b>Leon</b>	Municipal ordinances prevail. (§1.6)
<b>Miami-Dade</b>	Charter has power to preempt all municipal powers. (§§6.01, 6.02)

INTERGOVERNMENTAL RELATIONS	
County	"
<b>Orange</b>	Municipal ordinances generally prevail. Exceptions: County ordinances prevail when the county sets minimum standards for (1) regulating <i>adult entertainment</i> ; (2) protecting the <i>environment</i> by prohibiting or regulating air/water pollution, and only to extent that minimum standards are stricter than municipal ones; and (3) prohibiting or regulating simulated gambling or gambling. (§704) <i>Voluntary annexation</i> -Charter preempts ability to annex certain "preservation districts" to the county. (§505)
<b>Osceola</b>	Municipal ordinances prevail to extent of conflict. In the absence of conflict, county ordinances shall be effective inside municipalities when such intent is expressed by county ordinance. (§1.4) Casino gambling reserved to the people. (§1.5)
<b>Palm Beach</b>	<ul style="list-style-type: none"> <li>•Municipal ordinances prevail to extent of conflict, except that <i>county ordinances shall prevail</i> over (1) matters relating to protection of <i>wells and well fields</i>; (2) matters relating to <i>schools, county-owned beaches, district parks and regional parks, solid waste disposal, county law enforcement, and impact fees for county roads and public buildings</i>; in matters related to <i>county fire-rescue impact fees</i> and <i>county library impact fees</i> in those municipalities whose properties are taxed by the county for library and/or fire-rescue services, respectively; (3) for adoption and amendment of <i>countywide land use element</i>; (4) matters related to <i>establishment of levels of service for collector and arterial roads</i> which are not the responsibility of any municipality; (5) <i>voluntary annexation</i> and (6) <i>ethics regulation</i>.</li> </ul> <p>the restriction of the issuance of development orders which would add traffic to such roads which have traffic exceeding the adopted level of service, provided that such ordinance is adopted and amended by a majority of the county commission; and (5) voluntary annexation. (§1.3) <i>Protection of Health, Safety and Welfare</i> of all residents of county. County may adopt appropriate ordinances to accomplish these purposes. (§3.3)</p> <ul style="list-style-type: none"> <li>•Both county and municipal approval of charter amendments when they affect municipal power or function.(§6.3)</li> </ul>
<b>Pinellas</b>	The county has all special and necessary power to furnish within the various municipalities the services and regulatory authority listed here: (1) development and operation of 911 emergency communication system; (2) development and operation of solid waste disposal facilities, exclusive of municipal collection systems; (3) development and operation of regional sewer treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal systems; (4) acquisition, development and control of county-owned parks, buildings, and other county owned parks; (5) public health or welfare services or facilities; (6) operation, development and control of St. Pete-Clearwater airport;(7) design, construction and maintenance of major drainage systems in both the incorporated and unincorporated area; (8) design, construction and maintenance of county roads; (9) implementation of consumer protection regulations and protections; (10) animal control; (11) civil preparedness; (12) fire protection for unincorporated areas; (13) motor vehicle inspections;

INTERGOVERNMENTAL RELATIONS	
County	
	(14) water distribution, exclusive of municipal systems and in accordance with interlocals; (15) charitable solicitations regulations; (16) provide municipal services in unincorporated areas; (17) all powers necessary to transfer functions and powers of other governmental agencies; (18) special one-rule tax to acquire beachfront and other property for recreational use; (19) countywide planning, as provided by special law; (20) voluntary annexation procedures, including lands available for annexation, to the extent provided by general law. (§2.04) Annexation - Nothing in the charter prevents a municipality from annexing an unincorporated area, except that all annexations shall be in accordance with the exclusive method and criteria for voluntary annexation, including delineation of areas eligible for annexations adopted by ordinance under the authority elsewhere in charter. (§2.07) County can furnish additional services to the municipalities when the municipality requests it and BoCC approves. (§2.05) Certain powers of county limited. (§2.06)
<b>Polk</b>	Municipal ordinances prevail. (§1.8)
<b>Sarasota</b>	Generally, municipal ordinances prevail except with respect to comprehensive planning and future land use designations in areas outside the urban service area which are not designated in a municipality's comp plan. In those areas, absent agreement, county's, rather than city's, future land use map designation ordinances control. (§3.3)
<b>Seminole</b>	Generally, municipal ordinances prevail. (§1.4) Exceptions: Casino gambling reserved to the people (Art. V, §1.1) and county ordinances related to the Rural Boundary prevail over municipal ones in conflict with county ordinances related to it. (Art. V, §1.2)
<b>Volusia</b>	Municipal ordinances prevail, except as otherwise provided by the charter. (§1305) <b>Growth Management Commission</b> - countywide power. (§202.3) <b>Environmental</b> minimum standards, including, but not limited to, tree protection, stormwater management, wastewater management, river and waterway protection, hazardous waste disposal, wetlands protection, beach and dune protection, air pollution. Standards shall apply in all areas of the county; county ordinances prevail in this area, municipalities may adopt stricter standards. (§202.4) <b>Unified Beach Code</b> - County has jurisdiction over coastal beaches and approaches (specifically including municipal areas) and exclusive authority to regulate the beaches and public beach access and use; county ordinance prevails in this area. (§205)
<b>Wakulla</b>	Municipal ordinances prevail; if county ordinance in conflict in municipality ordinance not effective. (§1.8)

ETHICS, ELECTIONS AND OPEN GOVERNMENT					
County	Campaign Finance Regulation	County Ethics Commission	Local Code of Ethics	Local Elections Criteria/Procedures	Redistricting Board
Alachua	Y (§1.6)	N	Silent		
Brevard	N	N	N		
Broward	N	Y (§10.01)	Y		
Charlotte	N	N	N		
Clay	N	N	Y (§2.2(E))		
Columbia	N	N	Y		
Duval	N	Y (§1.202)	Y (§1.202)		
Hillsborough	N	N	Y (§9.03)		
Lee	N	N	N		
Leon	N	N	Y		
Miami-Dade	N	Y-Independent Inspector General	Y		
Orange	N	N	Y (§707)		
Osceola	N	N	N		
Palm Beach		Y	Y (§2-441 through 2-447)		
Pinellas	N	N	N		Y
Polk	N	N	N		
Sarasota	Y (§6.5A)	N	N		
Seminole	N	N	N		
Volusia	N	N	Y (§1201)		
Wakulla	N	N			

RECALL ELECTION HELD	
County	
Alachua	N
Brevard	N
Broward	N
Charlotte	N
Clay	N
Columbia	N
Duval	N
Hillsborough	
Lee	N
Leon	N
Miami-Dade	Y (1970s/ 2006)
Orange	N
Osceola	N
Palm Beach	N
Pinellas	N
Polk	N
Sarasota	N
Seminole	N
Volusia	
Wakulla	N

\*First Draft- submitted 4/29/22:

**Sec. 7.4.1. Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three (3) persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The person serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. in this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.
3. The three (3) person panel shall submit its findings for each proposed amendment to the Charter Review Commission within ten (10) calendar days of receipt and shall include a comprehensive written report regarding the conclusion(s) made. If the three (3) person panel rejects the proposed amendment or ballot language, it shall be sent back to the Charter Review Commission, during regular session, for a reasonable opportunity to cure any defect. The panels written report shall include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) should be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to remedy.

**Sec. 7.4.1. Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. All members of the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a general election or special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. In this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.
3. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days of receipt by the review panel of the proposal and shall include a comprehensive written report containing the panels conclusion(s). If two (2) members of the three (3) person panel reject the proposed amendment or ballot language, the proposal shall be promptly returned to the Charter Review Commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, this opinion should be indicated and the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to cure it, allowing for one (1) opportunity to do so. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering the charter amendment proposal rejected by the three (3) person review panel.



**Sec. 7.4.1. Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The person serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. In this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.

3.

- a. Under section 7.4.1.1, when the proposed amendment(s) are sponsored by the Charter Review Commission, members of the three (3) person panel shall be selected by the Charter Review Commission. The three (3) person panel shall report directly, and maintain a fiduciary duty, to the Charter Review Commission during the active term.
- b. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days of receipt and shall include a comprehensive written report containing the panels conclusion(s) for each proposal. If two (2) members of the three (3) person panel reject the proposed amendment, the proposal shall be promptly returned to the Charter Review Commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering any charter amendment proposal rejected by the three (3) person panel.

# 2021-2022 Brevard County Charter Review

## Record of Vote

(CRC:2021-2022 – Proposal 20- Section 7.4.1 Add Subsection 3- Three Attorney Review Panel)

Motion by: Completion of 3<sup>rd</sup> Public Hearing-Commission Decided 07-07-2022 to vote. Commission had no objection to Mr. Kierstein changing 30 days to 15 days in the language.

Also following a proposed amendment from Mr. Jenkins to revise to say the County Commission had the final say after the Charter Review Commission selected the Three Attorney Panel- Voice Vote of Nay's have the vote. That proposed amendment failed.

All those in favor of Proposal 20- Yes/All opposed to proposal 20 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	N
Moore	District 1	Y	White	District 3	Y
Neuman	District 5	Y			

Motion to Strike Proposal 20-

Motion to Approve Proposal 20 -Section 7.4.1 Add Subsection 3-Three Attorney Review Panel

Motion Approved 12-1

July 07, 2022

Brevard County Charter Review Commission

ATTEST:

  
Melissa Brandt, Secretary, Charter Review Commission 2021-2022

July 07, 2022

**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 Handopoulos, 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

**CRC RESOLUTION NO. 2022-006**

**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 CREATES NEW SECTION 1.9 TO PROVIDE FOR A WORKFORCE AND SUPPORTIVE HOUSING TRUST FUND; PROVIDING REVENUE SOURCES; PROVIDING FOR IMPLEMENTATION; 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 creating Section 1.9 of the Brevard County Charter, which would provide for the creation of a workforce and supportive housing trust fund; provide revenue sources, and provide for implementation. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

**Sec. 1.9. Brevard County Workforce and Supportive Housing Trust Fund.**

(a) The Brevard County Workforce and Supportive Housing Trust Fund is hereby established.

(b) Purpose of Trust Fund. The purpose of the trust fund is to provide a continuing, non-lapsing fund for Brevard County to use to address the need for affordable housing within Brevard County. The trust fund shall be used to create and sustain affordable housing throughout Brevard County for renters and homeowners and to increase workforce housing opportunities.

(c) Revenue sources. The trust fund shall be funded as directed from time to time by the county commission and may be comprised of the following sources:

(1) Funds from the sale of county surplus real property, the funds of which are not otherwise legally committed to other sources; and

(2) Other sources as established from time to time by ordinance.

(d) Continuing nature of trust fund. Unless otherwise provided by ordinance or resolution or required by applicable law, unspent portions of the trust fund, repayments of principal and interest on loans provided from the trust fund, and interest earned from the deposit or investment of monies from the trust fund:

(1) Shall remain in the trust fund to be used exclusively for the purposes of the trust fund;

(2) Shall not revert to the general revenues or other funds of the county;  
and

(3) Any appropriations shall not lapse.

(e) Implementation. Not later than July 1, 2023, the county commission shall adopt one or more ordinances implementing the provisions of this section, which ordinances may be amended from time to time.

**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. 6 – WORKFORCE  
AND SUPPORTIVE HOUSING**

Creates Section 1.9 of the Charter. The amendment establishes an affordable housing trust fund to assist in establishing affordable housing for renters and homeowners to create and increase workforce housing opportunities throughout the county. The trust fund shall be funded as directed by the county commission.

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

Adopted this 6 day of August, 2022.

  
Mike Handenos, Chair

**PROPOSAL TO AMEND THE BREVARD COUNTY CHARTER TO ESTABLISH A TRUST FUND THAT WILL CREATE AND SUSTAIN WORKFORCE HOUSING AND SUPPORTIVE HOUSING FOR VULNERABLE FAMILIES.**

Jordin Chandler, a member of the 2021-2022 Brevard County Charter Review Commission, proposes that the following underlined words be added to a new section (section 1.9) under Article 1 of the Brevard County Charter:

**Sec. 1.9. – Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund.**

(A) *Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund established.* The Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund ("Trust Fund") is hereby established.

(1) ~~See Sec. 62-6301. **Definitions.** Of the Brevard County Code of Ordinances pertaining to the definitions for Workforce and Affordable Housing.~~

(2) ~~*Supportive housing is a combination of affordable housing and supportive services designed to help stabilize people who face complex challenges. Supportive housing has historically been offered to chronically homeless individuals through the homeless system and is recognized as a cost-effective and empirically based solution for long-term homelessness. Supportive housing models can look as different as the communities in which they are located. However, all supportive housing includes affordable housing, individualized, tenant-centered services, and property and housing management.*~~

(B) *Purposes of Trust Fund.* The purpose of the Trust Fund is to provide a continuing, non-lapsing fund for the Brevard County Commission to use to address the need for affordable housing within Brevard County. The Trust Fund will **shall** be used to create and sustain affordable housing throughout Brevard County for renters and homeowners, and to increase workforce housing opportunities. ~~The section is intended to comply with F.S. ch. 163 generally and specifically F.S. § 163.3177(6)(f), F.S. ch. 420 generally and specifically F.S. § 420.907, and F.S. ch. 125 and specifically F.S. § 125.379.~~

(C) *Revenue sources.* The Trust Fund established under this section shall be funded as directed by the County Commission, and may be comprised of the following sources:

(1) ~~Brevard County General Revenue appropriated to the Trust Fund by~~



- ~~the County Commission as part of the annual budget;~~
- ~~(2) Funds voluntarily contributed by municipalities that may elect to participate in the Trust Fund and programs funded by the Trust Fund;~~
  - ~~(3) Grants or donations of money, property, or any other thing of value made to the Trust Fund;~~
  - ~~(4) Mandatory or voluntary payments, including but not limited to fees from new commercial and residential development, made pursuant to the development policies established by ordinance; and,~~
  - (1) Funds from the sale of County surplus real property; and,
  - (2) Other sources as established by ordinance.

(D) Continuing Nature of Trust Fund. Unless otherwise provided by ordinance or required by applicable law, unspent portions of the Trust Fund established under this Section, repayments of principal and interest on loans provided from the Trust Fund, and interest earned from the deposit or investment of monies from the Trust Fund:

- (1) Shall remain in the Trust Fund, to be used exclusively for the purposes of the Trust Fund;
- (2) Do not revert to the general revenues of the County, and
- (3) Any appropriations do not lapse.

(E) Administration and Oversight of Trust Fund. The Trust Fund shall be administered, appropriated, and expended by the County Commission in a manner consistent with the purposes of the Trust Fund as set forth in this section. The Trust Fund shall be administered in a manner that allows the Trust Fund to leverage other sources of public funds and private investment. The Trust Fund shall be included in the annual audit.

(1) Dispersion of funds. The board of county commissioners shall establish and adopt written policies and procedures within the housing and human services department for the dispersion of such trust funds and residential density equivalent units. The criteria shall include a priority-based ranking system, similar to the state housing finance corporation format, to determine priority for the awarding of funds or density equivalent units to applicants.

Example: Proposals having more than the minimum percentage of units serving lower income residents shall receive a higher priority ranking.

(2) Application. Any applicant seeking to secure such funds or residential density equivalent units shall submit an application to the housing and human services department.

(3) Trust fund and unit dispersion. Dispersion of funds and, or, density

equivalent units shall be limited by fund availability and shall be in accordance with the written policies and procedures established by the board of county commissioners for the use of such funds. Dispersion of residential unit density, by the transfer of development rights, shall be consistent with the transfer of development rights for affordable units section of the code and the county comprehensive plan.

Developments seeking the use of housing trust funds or density equivalent units should be located in areas serviced by existing transportation and utilities infrastructure and located near other public facilities, services, employment centers, shopping, active mass transit corridors, daycare centers, schools, and health services. A location evaluation matrix and needs analysis form, authorized by the BOCC as a part of these regulations, shall be completed and submitted to determine consistency with the location criteria. Developments scoring at or above the minimum 66th percentile will be eligible to receive housing trust funds and density equivalents. A complete application will include a completed location evaluation matrix and needs analysis form that meets the minimum scoring requirement at or above the 66th percentile. A higher ranking score may be used to determine the awarding of additional funds when available.

(4) *Trust fund affordability agreement.* The applicant shall enter into a land use and deed restriction affordability agreement with the county. The agreement shall provide the number and designation level of affordable units, and period of time as affordable, and any other requirements in order to receive housing trust fund monies or units consistent with the written policies and procedures established by the board of county commissioners. A land trust may be used as a mechanism to retain units as affordable and/or special needs units.

(5) *Trust fund discretionary allocation.* Allocation of these funds and units are discretionary and must compete with all other developments and are based on fund and unit availability. Priority shall be given to developments designed to facilitate pedestrian access to transit and neighborhood commercial nodes that score above the 66th percentile on the completed location evaluation matrix and needs analysis forms.

(F) *Implementation by Ordinance.* No later than July 1, 2023, the County Commission shall adopt one or more ordinances implementing the provisions of this section, and/or strictly enforce existing ordinances (such as those located at in Chapter 62, Article XVII), which ordinances may be amended from time to time by the County Commission consistent with the provisions of this section.

# 2021-2022 Brevard County Charter Review

## Record of Vote

(CRC:2021-2022 – Proposal 24- Workforce Housing Trust Fund for Vulnerable Families)

Motion by: Completion of 5th Public Hearing-Commission Voted 08-04-2022 Proposal Passed 11-2

Second by:

All those in favor of Proposal 24- Yes/All opposed to proposal 24 say No

Chandler	District 5	Y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	N
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	N
Moore	District 1	Y	White	District 3	Y
Neuman	District 5	Y			

Motion to Strike Proposal 24

Motion to Approve Proposal 24 -Workforce Affordable Housing Trust Fund Pass- Vote 11-2

August 04,2022

Brevard County Charter Review Commission

ATTEST:

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

July 07, 2022



J13

**RESOLUTION 2022-\_\_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD AMEND THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE A CHARTER AMENDMENT WHICH AMENDS SECTION 7.3.3 AND SECTION 7.4.1.2 TO REQUIRE APPROVAL OF ANY CHARTER AMENDMENT BY AT LEAST SIXTY PERCENT OF THE ELECTORS VOTING; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes, the Brevard County Home Rule Charter, Article VIII, section (1)(c), and Article X, Section 12(d), of the Florida Constitution and any other applicable provision of law.

**SECTION 2. FINDINGS.** It is hereby found and determined as follows:

A. A charter has been adopted for Brevard County entitled "Brevard County Home Rule Charter."

B. The Charter Review Commission has proposed an amendment to the Brevard County Charter.

C. The Three Person Panel (also known as the "Attorney Review Panel") review of the amendment found amendment Proposal No. 2 (Amendment to Section 7.3.3 relating to the approval by sixty percent of the voters voting on a charter amendment proposal) as set forth in CRC Resolution 2022-002 to be consistent with the Florida Constitution, general law, and the Brevard County Charter and to contain a single subject.

D. The general election to be held on November 8, 2022, is an appropriate and desirable date to conduct a concurrent special election on the proposed CRC amendment.

**SECTION 3. SPECIAL ELECTION.** A special election is hereby called and ordered to be held concurrently with the general election to be held on November 8, 2022, to determine whether or not the amendment to the Brevard County Home Rule Charter as recited in CRC Resolution 2022-002, as the proposed amendment is more particularly set forth in Section 7 below, shall be approved.

**SECTION 4. NOTICE OF SPECIAL ELECTION.** This Resolution shall be published once a week for four consecutive weeks in full as part of the Notice of Special Election, together with a notice in substantially the form attached hereto as Exhibit "A," in Florida Today, a newspaper of general circulation in the County with the first such publication occurring in the fifth week prior to the election provided that the first publication must be at least thirty days but no more than forty-five day prior to the date set for the election.

**SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS.** The polls will be open at the voting places on the date of such special election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such special election on the proposition provided below. The places of voting and the inspectors and clerk for the special election shall be those designated by the Supervisor of Elections of Brevard County.

**SECTION 6. OFFICIAL BALLOT. Proposal No. 2.** The ballots to be used in the special election shall contain a statement of the description of the proposed amendment to the County Charter, and, without waiving the County's right to challenge the amendment as misleading, that description shall conform to the ballot language submitted by the CRC and ordered to be placed on the ballot by the Court in substantially the following form:

**BALLOT**  
**Brevard County, Florida**

**BREVARD COUNTY CHARTER AMENDMENT**  
**PROPOSAL NO. 2 – APPROVAL BY 60% OF VOTERS**  
**VOTING ON AMENDMENT**

Shall the Charter be amended to require a vote of at least sixty percent of those voters voting on a proposed amendment be required to adopt the proposal? The Brevard County Charter currently requires amendments be approved by a simple majority.

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

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

**SECTION 7. CHARTER AMENDMENT. Proposal No. 2.** The full text of the proposed CRC amendment reads as follows:

A. Section 7.3.3 of the Brevard County Home Rule Charter is hereby amended to read as set forth below. In interpreting the proposed amendment, new language is underlined and deleted language is ~~stricken through~~. The proposed amendment states as follows:

### **Sec. 7.3.3. - Amendment referendum.**

The Board of County Commissioners will cause any Charter amendment proposed under section 7.3.1 or 7.3.2 to be submitted to the electors for their approval or rejection. Upon receipt of the official certification from the Supervisor of Elections that the initiative requirements have been met, the Board will, within 30 days, establish the referendum date. The proposed amendment will be placed on the ballot at a special election held concurrent with the next countywide election, or at any earlier special election called for that purpose. If the Board refuses to comply with Section 7.3.2 or refuses to place the proposed amendment on the ballot as required by this section of the charter, the Board's action may be construed as interfering with the right of the people to petition and may be considered an act of malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

Notice of said referendum, together with the language of the proposed amendment, shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first publication being not more than forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval by a vote of at least sixty percent of the a majority of electors voting on the measure in said election.

~~B. — The above amendment to Article 7, shall become effective upon approval of the electors of Brevard County, and the amendment shall operate prospectively on any Charter amendment proposal submitted to the electors of Brevard County after November 8, 2022. Section 7.4.1.2 of the Brevard County Home Rule Charter is hereby amended to read as set forth below. In interpreting the proposed amendment, new language is underlined and deleted language is stricken through. The proposed amendment states as follows:~~

### **Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed

amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.

2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter amendment shall require approval by a vote of at least sixty percent a majority of the registered electors voting on the measure in the special election.

D. The above amendment to Article 7, Section 7.3.3. and Section 7.4.1 shall become effective upon approval of the electors of Brevard County.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

**SECTION 9. VOTER REGISTRATION BOOKS.** The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such special election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass.

**SECTION 12. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Rachel M. Sadoff, Clerk  
(SEAL)

\_\_\_\_\_  
Kristine Zonka, Chair

Reviewed for legal form and content:

As approved by the Board on \_\_\_\_\_

\_\_\_\_\_  
County Attorney

**RESOLUTION 2022-\_\_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL ELECTION ON NOVEMBER 8, 2022, ON THE QUESTION OF WHETHER BREVARD COUNTY SHOULD AMEND THE BREVARD COUNTY HOME RULE CHARTER TO PROVIDE A CHARTER AMENDMENT WHICH AMENDS SECTION 7.3.3 AND SECTION 7.4.1.2 TO REQUIRE APPROVAL OF ANY CHARTER AMENDMENT BY AT LEAST SIXTY PERCENT OF THE ELECTORS VOTING; PROVIDING FOR AN EFFECTIVE DATE.**

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- D. The general election to be held on November 8, 2022, is an appropriate and desirable date to conduct a concurrent special election on the proposed CRC amendment.

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### **Sec. 7.3.3. - Amendment referendum.**

The Board of County Commissioners will cause any Charter amendment proposed under section 7.3.1 or 7.3.2 to be submitted to the electors for their approval or rejection. Upon receipt of the official certification from the Supervisor of Elections that the initiative requirements have been met, the Board will, within 30 days, establish the referendum date. The proposed amendment will be placed on the ballot at a special election held concurrent with the next countywide election, or at any earlier special election called for that purpose. If the Board refuses to comply with Section 7.3.2 or refuses to place the proposed amendment on the ballot as required by this section of the charter, the Board's action may be construed as interfering with the right of the people to petition and may be considered an act of malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

Notice of said referendum, together with the language of the proposed amendment, shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first publication being not more than forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval by a vote of at least sixty percent of the a majority of electors voting on the measure in said election.

~~B. — The above amendment to Article 7, shall become effective upon approval of the electors of Brevard County, and the amendment shall operate prospectively on any Charter amendment proposal submitted to the electors of Brevard County after November 8, 2022. Section 7.4.1.2 of the Brevard County Home Rule Charter is hereby amended to read as set forth below. In interpreting the proposed amendment, new language is underlined and deleted language is stricken through. The proposed amendment states as follows:~~

### **Sec. 7.4.1. - Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed



amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.

2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter amendment shall require approval by a vote of at least sixty percent a majority of the registered electors voting on the measure in the special election.

D. The above amendment to Article 7, Section 7.3.3. and Section 7.4.1 shall become effective upon approval of the electors of Brevard County.

**SECTION 8. PAYMENT OF SPECIAL ELECTION EXPENSES.** The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the special election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

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**SECTION 10. ELECTION ADMINISTRATION.** The special election shall be held and conducted in the manner prescribed by law and shall be as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such special election and the number of votes cast respectively for and against approval of the amendments. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

**SECTION 11. ELECTION RESULTS.** If the majority of the votes cast at such a special election shall be "Yes For Approval," the amendments shall pass.

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**SECTION 13. REPEALING CLAUSE.** All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

**SECTION 14. EFFECTIVE DATE.** This resolution shall take effect upon adoption by the Board of County Commissioners.

**DONE, AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Rachel M. Sadoff, Clerk  
(SEAL)

\_\_\_\_\_  
Kristine Zonka, Chair

Reviewed for legal form and content:

As approved by the Board on \_\_\_\_\_

\_\_\_\_\_  
County Attorney