

STORAGE NAME: hb3647.ca

DATE: March 4, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 3647

RELATING TO: The City of Jacksonville

SPONSOR(S): Representative Fuller and others.

COMPANION BILL(S): SB 1518 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) COMMUNITY AFFAIRS

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill amends the Charter of the City of Jacksonville, providing that the mayor's veto power shall not apply to zoning variances and quasi-judicial decisions by the city council.

According to the Economic Impact Statement, this bill has no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 92-341:

The 1992 Legislature enacted chapter 92-341, Laws of Florida, which readopted the entire Charter of the City of Jacksonville, as amended locally and by special acts. The Charter has been amended subsequently in 1993, 1994, 1995 and 1996.

Section 6.05 of ch. 92-341, Laws of Florida, which codified the City of Jacksonville's Charter, grants the Mayor general veto power over any ordinances or resolutions adopted by the council, with certain exceptions. The exceptions include the following:

- Consolidation of the urban service districts;
- Appointments to the zoning board and the building codes adjustment board;
- Zoning exceptions;
- Internal affairs of the council; and
- Investigations by the council or any committee appointed by the council.

Case Law:

Board of County Commissioners of Brevard County v. Snyder, 627 So.2d. 469 (Fla. 1993): In this case, the Court held that "comprehensive rezonings affecting a large portion of the public are legislative in nature," while rezoning actions that impact a limited number of persons or property owners are "quasi-judicial." According to the Court, "It is the character of the hearing that determines whether or not board action is legislative or quasi-judicial." *Id.*

By classifying certain land use decisions or determinations as quasi-judicial, the Court required that, on appeal, they be subjected to a strict scrutiny review rather than the deferential "fairly debatable" review that is given to legislative determinations. In zoning cases, strict scrutiny review is a different standard than the strict scrutiny standard applicable in cases affecting fundamental rights. *Id.* at 475. Quasi-judicial decisions may be reviewed by certiorari in the circuit court and, unlike legislative determinations, there has to be competent, substantial evidence in the record to support a quasi-judicial determination. *Id.*

B. EFFECT OF PROPOSED CHANGES:

The effect of the proposed change is to clarify the City's Charter that the Mayor's veto power does not extend to variances of the Zoning Code. This will bring the Charter into compliance with case law.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 92-341, Laws of Florida, as amended by chs. 94-468; 95-518; 95-530; 96-504; 96-528; 97-337; and 97-339, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends section 6.04 of ch. 92-341, Laws of Florida, as amended, clarifying that the Mayor's veto power does not extend to ordinances or resolutions by the council relating to variances and other quasi-judicial decisions made by the council.

Section 2: Provides an effective date upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 5, 1997

WHERE? Financial News & Daily Record

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

The 1992 Legislature enacted chapter 92-341, Laws of Florida, which readopted the entire Charter of the City of Jacksonville, as amended locally and by special acts. The Charter has been amended subsequently in 1993, 1994, 1995, 1996, and 1997.

The Charter contains the following directions to the Jacksonville City Council:

The City Council of the City of Jacksonville is directed to advise the Legislature of any home rule or referendum amendments or revisions to the Charter of the City of Jacksonville which are made and become effective subsequent to the effective date of this act. Such advice shall be in the form of a reviser's bill for such further legislative revision of the Legislature after such local charter amendments or revisions have occurred.

A policy adopted by the Florida House of Representatives requires certification from the local legislative delegation that the purposes of the bill cannot be accomplished at the local level. This bill contains the requisite certification, but the Charter for the City of Jacksonville provides for local amendment of the Charter without an act of the Legislature. The Charter also provides that it may be amended only by ordinance or by petition signed by qualified Duval County voters followed by public referendum.

House Rule 92(a), provides that "if a committee determines that a local bill may be enacted into law under the authority of a local governing body, that committee shall not report the bill to the Clerk." The purposes of this local bill could be accomplished by authority of the Charter for the City of Jacksonville which provides for local amendment of the Charter without an act of the Legislature. The Charter also provides that it may be amended only by ordinance or by petition signed by qualified Duval County voters followed by public referendum.

STORAGE NAME: hb3647.ca

DATE: March 4, 1998

PAGE 7

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Tonya S. Chavis, Esq.

Joan Highsmith-Smith