

STORAGE NAME: h1139.ca
DATE: April 6, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1139
RELATING TO: Pinellas County
SPONSOR(S): Representative Farkas
COMPANION BILL(S): None

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

- (1) COMMUNITY AFFAIRS
 - (2) GOVERNMENTAL OPERATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill requires that any charter amendment proposed by the Pinellas County Commission, by citizens' initiative, or by a Charter Review Commission must be placed on the ballot for voter approval or rejection in accordance with the Charter and without prior reference to or approval by the Legislature. The bill requires a special referendum, provides a ballot question, and establishes an effective date.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

BACKGROUND ON THE PINELLAS COUNTY HOME RULE CHARTER:

On October 7, 1980, Pinellas County voters approved State legislation, Chapter 80-590, Laws of Florida, providing for a Home Rule Charter. Prior to the Home Rule Charter, the County government had been operating under laws passed by the State Legislature specifically spelling out what the County could do. Any situation not directly covered by the State laws had to be submitted to the Legislature for authorization to submit the issue to the electorate for approval.

The charter is essentially a carbon copy of the former County government. The major innovation is that County government may submit matters of local interest directly to the voters without first going to the Legislature for permission to do so.

- Section 2.06 - Limitation of Powers: Provides the following:
 - Prohibits the County from having the power, under any circumstances, to abolish any municipality.
 - Prohibits the County from having the power to change the status, duties, or responsibilities of the County Officers specified in section 1(d), Art. VIII of the State Constitution.
 - Requires the County to exercise its powers to ensure that property located within municipalities is not subject to taxation for services rendered by the County exclusively for the benefit of the property or residents in unincorporated areas.
 - Requires the County to exercise its powers to ensure that property located in unincorporated areas is not subject to taxation for services provided by the County exclusively for the property or residents within municipalities.
- Section 4.03 - County Officers: Specifies that the Charter does not change the status, duties, or responsibilities of the Clerk of the Circuit Court, Property Appraiser, Tax Collector, Sheriff, or Supervisor of Elections.

Section 101.161, Florida Statutes: Requires the substance of the amendment, in clear and unambiguous language, be followed by the word "yes" and the word "no" so that a "yes" vote indicates approval of the proposal and that a "no" vote will indicate rejection. Although this resolution does not contain the requisite "yes" and "no" boxes, the ballot language is styled in a manner consistent with placement of "yes" and "no" choices on the actual ballot. Additionally, the proposed ballot language appears to meet the requirement that the explanatory statement not exceed 75 words in length and the ballot title, by which the measure is commonly referred to, not exceed 15 words in length. According to Advisory Opinion to the Attorney General Re Casino Authorization, Taxation, and Regulation, 656 So. 2d 466 (Fla. 1995), section 101.161, Florida Statutes, "requires a title and summary that are 'accurate and informative,' and that '[t]he summary must give voters sufficient notice of what they are asked to decide to enable them to intelligently cast their ballots."

B. EFFECT OF PROPOSED CHANGES:

The bill requires that any charter amendment proposed by the Pinellas County Commission, by citizens' initiative, or by a Charter Review Commission must be placed on the ballot for voter approval or rejection in accordance with the Charter and without prior reference to or approval by the Legislature. The bill requires a special referendum, provides a ballot question, and establishes an effective date.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 80-590, Laws of Florida, as amended.

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?

Section 1: Requires charter amendments proposed by the Pinellas County Commission, by citizens' initiative, or by a Charter Review Commission to be placed on the ballot for approval or rejection.

Requires that amendments proposed by the Pinellas County Commission be approved by ordinance and passed by a majority plus one member.

Section 3: Requires the supervisor of elections of Pinellas County to hold a special referendum election before November 30, 1999.

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

No.

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 ANALYSIS:

Section 1: Adds section 6.04 to Article VI of the Home Rule Charter for Pinellas County, as created by chapter 80-590, Laws of Florida, as amended, as follows:

- Provides that charter amendments proposed by the Pinellas County amendments, by the citizens' initiative, or by a Charter Review Commission, must be placed on the ballot for approval or rejection by the voters.
- Provides that any such proposed amendments need to be referred to or approved by the Legislature prior to any placement on the ballot.
- Requires any charter amendment affecting any change in function, service, power, or regulatory authority of a county, municipality, or special district may be transferred to or performed by another county, municipality, or special district only after approval by the electors of each transferor and approval by vote of the electors of each transferee. All such amendments proposed by the Board of County Commissioners must be approved by ordinance passed by a majority plus one member.
- Prohibits citizen's initiative from amending, revising, or repealing the Charter by amendments relating to the county budget, debt obligations, capital improvement programs, salaries of county officers and employees, the levy or collection of taxes, or the rezoning of less than 5 percent of the total land area of the county.

Section 2: Requires the supervisor of elections of Pinellas County, in accordance with the requirements of section 101.161, Florida Statutes, and section 1 of this act, must place the title and substance of the referendum on the ballot as follows:

CERTAIN PROPOSED CHARTER AMENDMENTS TO GO ON THE
BALLOT WITHOUT REFERENCE TO THE STATE LEGISLATURE

Shall Article VI of the Pinellas County Charter be amended by adding section 6.04 to provide that charter amendments, except for amendments related to the status of constitutional officers, proposed by the Board of County Commissioners, by citizens' initiative (with limitations), or by a Charter Review Commission be placed directly on the ballot for presentation to the voters without necessity of prior referral to or approval by the Legislature?

_____ YES

_____ NO

STORAGE NAME: h1139.ca

DATE: April 6, 1999

PAGE 6

Section 3: Provides that this act will take effect only upon its approval by a majority vote of those qualified electors of Pinellas County voting in a special referendum election to be held before November 30, 1999.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [] No [x]

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes [x] No []

IF YES, WHEN? Before November 30, 1999

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

According to the Economic Impact Statement, a special county-wide election will cost \$500,000. However, pending the passage of another bill, HB 1577, this amount may not be necessary.

IV. COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Tonya Sue Chavis, Esq.

Joan Highsmith-Smith