

**STORAGE NAME:** h0405.ca  
**DATE:** February 10, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
ANALYSIS**

**BILL #:** HB 405  
**RELATING TO:** County Government/Charter Commission  
**SPONSOR(S):** Representative Goode  
**COMPANION BILL(S):** SB 984 (i)

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

- (1) COMMUNITY AFFAIRS
  - (2) GOVERNMENTAL OPERATIONS
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

The bill amends the requirements relating to the number of members of a charter commission and the method of appointment of such members. The bill specifies additional persons who may not serve on a charter commission.

This bill does not appear to have a direct fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

**Part II, Chapter 125, Florida Statutes:** Part II of Chapter 125, Florida Statutes, contains the provisions of general law that are to be utilized by a noncharter county seeking to initiate and adopt a county home rule charter. Following the adoption of a resolution by the board of county commissioners or upon submission of a petition to the commission signed by at least 15 percent of the qualified electors of the county requesting the establishment of a charter commission, such a charter commission shall be appointed.

Members of the charter commission are appointed by the board of county commissioners or, if so directed in the initiative petition, by the legislative delegation. (No member of the Legislature or of the board of county commissioners may serve as a member of the commission.)

The charter commission is charged with the responsibility of conducting a comprehensive study of the operation of county government and of the ways in which the conduct of county government might be improved or reorganized. After holding public hearings, the commission is required to present the proposed charter to the board of county commissioners within 18 months of its initial meeting unless such time is extended by appropriate resolution of the county commission.

Upon the charter commission's submission of the charter, the board of county commissioners is required to call a special election to determine by referendum whether the proposed charter shall be adopted. Upon acceptance or rejection of the proposed charter by the electors, the charter commission is dissolved and all property of the charter commission becomes the property of the county.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that a county charter commission be composed of 15 members rather than 11-15 members, and that appointments to a commission be made by elected county constitutional officers in addition to the board of county commissioners.

The bill expands the prohibition against members of the Legislature or board of county commissioners serving on a commission to include any elected county constitutional officers and employees of any of those persons or entities.

The bill provides that in Miami-Dade County, the board of county commissioners appoints all members.

The bill also provides that if directed in the initiative process, the legislative delegation appoints all 15 members.

**The effect of this bill is to increase the representation of constitutional officers and reduce the representation of the county commission on the charter commission.**

C. 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?

N/A

- (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

D. STATUTE(S) AFFECTED:

Section 125.61, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends subsection 125.61(2), Florida Statutes, requiring the charter commission to consist of 15 members to be appointed as follows:

- The board of county commissioners must appoint 10 members, except that in Miami-Dade County, the board of county commissioners must appoint all members.
- If elected, the clerk of the circuit court, tax collector, property appraiser, supervisor of elections, and sheriff must appoint 1 member to the commission.
- If the above listed officers are appointed or if the office does not exist, the board of county commissioners must make the appointment that would otherwise be made by that officer. This requirement does not apply in Miami-Dade County.
- If directed in the initiative petition, in lieu of the appointments provided for above, all 15 members must be appointed by the legislative delegation.
- The following classes of persons are prohibited from serving as a member of the charter commission:
  - ▶ Member of the Legislature;
  - ▶ Employee of a member of the Legislature;
  - ▶ Employee of the legislative delegation;
  - ▶ Member of the board of county commissioners;
  - ▶ Employee of the board;
  - ▶ Elected County Constitutional Officer; and
  - ▶ Employee of any elected county constitutional officer.

**Section 2:** Provides that the bill becomes effective upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill is not anticipated to reduce the authority of municipalities or counties to raise total aggregate revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the total aggregate municipality/county percentage share of a state tax.

V. COMMENTS:

**Association of Counties:** The Florida Association of Counties has the following concerns about this bill:

Present law authorizes two separate processes for appointment to a charter commission. Both appointment processes rely on a governing body or policy making body, the legislature or the county commission, respectively. HB 405 preserves the legislative option, but appears to grant unprecedented authority to certain constitutional officers that traditionally serve more of an administrative function. Likewise, HB 405 appears to dilute or undermine the traditional policy making authority of the commission.

The present law provides for the greatest amount of flexibility when appointing a charter commission at the local level. HB 405 appears to eliminate much of the flexibility.

One of the primary applications of a charter commission is to review the "form and function" of local government agencies. The appointment structure proposed in HB 405 sets a precedent for various segments of the local government structure to establish "barriers" for change. The appointment process will establish immediate "turf lines" or territories before serious evaluation occurs.

Other interest groups like cities, neighborhood associations and the like will now look for state legislative action to automatically include themselves in the charter commission appointment process.

**The Florida Association of Property Appraisers:** The Florida Association of Property Appraisers supports this bill. The Association provided the following statement:

County Constitutional Officers should have the right to appoint members to County Charter Study Commissions and Charter Review Commissions. Currently, the statute gives all appointments to the County Commission.

County Constitutional Officers perform their duties pursuant to provisions within Florida Statutes. Since County Charters cannot conflict with general law, accordingly they should not contain provisions which would usurp or adversely affect the ability of the Constitutional Officers to do their State-mandated work. Charter Commissions, appointed by only the County Commission, often attempt to establish provisions which give the County Commission control over the elected Constitutional Officers. The inappropriateness of this is best typified by the Property Appraiser who establishes the assessed value of property tax for ad valorem tax purposes. Since the County Commission is a major tax levying authority within the County, it should not also have control over the entity which establishes the assessed value of property for tax purposes.

Local Constitutional Officers, in order to be adequately represented, should also be a part of the process whereby members of the Charter Commission are appointed. This will provide a check and balance on Charter Commissions and Charter Review Commissions which otherwise may be inclined to adopt proposals only favorable to the County Commissioners who appointed them.

**Florida Sheriffs Association:** The Florida Sheriffs Association supports this bill and feels that the inclusion of constitutional officers in this process is a step in the right direction toward making any charter considerations reflect the input of the potentially affected elected independent constitutional officers. It is appropriate that each constitutional officer's appointee should be a voting member of any charter formulation or review commission.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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