

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 639 City of Jacksonville/Government
SPONSOR(S): Mahon
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>9 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>18 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
3) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends the City of Jacksonville Charter to authorize prosecution of ordinance violations by the state attorney. The bill also provides for service of process upon the City General Counsel, and provides that service shall be effected in accordance with s. 48.021, F.S., or by registered or certified mail. The bill deletes language which provides term limits for the Clerk of the Court.

The Economic Impact Statement provides that the bill has no economic impact on government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The bill amends Chapter 92-341, Laws of Florida, the City of Jacksonville Charter, to authorize prosecution of City ordinance violations by the state attorney of the fourth judicial circuit.

This bill additionally requires that any process against the City, any official of the City in the officer's official capacity, or upon any independent agency of the City, be served on a member of the office of the General Counsel. The bill provides that this service of process shall be effected in accordance with s. 48.021, F.S., or by registered or certified mail.

The bill also eliminates term limits for the Clerk of Court.

Current Law

S. 27.34(1), F.S., provides that a municipality may appropriate or contribute funds to pay the salary of one assistant state attorney whose sole function shall be to prosecute violations of special laws or ordinances of the municipality. That subsection also provides that a municipality may contract with the state attorney of the judicial circuit in which such municipality is located for the prosecution of violation of municipal ordinances.

S. 48.111, F.S., provides that process against any municipal corporation or county which has a governing council be served on the mayor, and in his absence, on the vice mayor, or in the absence of both, on a member of the governing board.

A recent Florida Supreme Decision, Cook v. City of Jacksonville, 823 So.2d 86 (Fla. 2002), held that Section 12.11 of the Jacksonville Charter, providing a term limit for the clerk of the circuit court, was invalid, as that provision unconstitutionally attempted to impose an additional disqualification from election to office. (Note: Article VI, Section 4(a), Florida Constitution, provides the only disqualifications applicable to the county offices established by Article VIII, Section 1(d), Florida Constitution.)

Present Situation

The state attorney currently handles violations of ordinances for the City. However, some defense attorneys have been successful in filing motions to dismiss on the basis of alleging a lack of authority on the part of the state attorney to prosecute such matters.

C. SECTION DIRECTORY:

Section 1: The bill adds language to Section 12.07 of Chapter 92-341, Laws of Florida, which authorizes the office of the state attorney of the fourth judicial circuit in and for Duval County to prosecute all City of Jacksonville ordinance violations in county court.

The bill also amends Section 12.11 by deleting language which provides a two term limit for the Clerk of the Court, and adding language which provides that a copy of all process served on the City of Jacksonville, or any appointed or elected official or constitution officer in that officer or officer's official capacity, or upon any independent agency of the City, also shall be served upon the General Counsel, a Deputy General Counsel, or an employee of the General Counsel designated and authorized to accept service. The service is to be effected in accordance with s. 48.021, F.S., or by registered or certified mail.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 4, 2002

WHERE? *Financial News and Ledger*, a newspaper of general circulation in Duval County.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

A recent Florida Supreme Decision, Cook v. City of Jacksonville, 823 So.2d 86 (Fla. 2002), held that Section 12.11 of the Jacksonville Charter, providing a term limit for the clerk of the circuit court, was invalid, as that provision unconstitutionally attempted to impose an additional disqualification from election to office. (Note: Article VI, Section 4(a), Florida Constitution, provides the only disqualifications applicable to the county offices established by Article VIII, Section 1(d), Florida Constitution.)

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.