

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1339 City of Webster, Sumter County  
**SPONSOR(S):** Local Government Affairs Subcommittee, O'Toole  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 0 N, As CS	Monroe	Miller
2) Local & Federal Affairs Committee	14 Y, 0 N	Monroe	Kiner

### SUMMARY ANALYSIS

The City of Webster, located in Sumter County, is still operating under the charter that was passed by the Legislature in 1957, which is 115 pages long and contains numerous outdated provisions. Since this charter was adopted before the 1968 Florida Constitution it includes no provisions for home rule. By its terms the charter "may from time to time be amended by duly enacted acts of the legislature of the State of Florida." The Legislature has made no changes to this charter since it was enacted in 1957.

This bill repeals the 1957 charter and replaces it with a modern charter enabling the city to take advantage of the home rule authority provided by the Florida Constitution and statute.

This bill shall take effect upon becoming law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The City of Webster, located in Sumter County, still operates under the charter passed by the Legislature in 1957.<sup>1</sup> Since this charter was adopted before the 1968 Florida Constitution it includes no provisions for home rule. Furthermore, the charter states that it “may from time to time be amended by duly enacted acts of the legislature of the State of Florida.”<sup>2</sup> The Legislature has made no changes to this charter since it was enacted in 1957.

The Florida Constitution adopted in 1968 provides municipalities with the powers of home rule.<sup>3</sup> In addition, the Legislature adopted the “Municipal Home Rule Powers Act”<sup>4</sup> to further define and grant the powers of municipalities. As a result, modern municipal charters need not include exhaustive details listing everything the municipality is permitted to do and the Legislature is not routinely called upon to amend the charters of municipalities.

The City of Webster’s 1957 Charter is 115 pages long and includes numerous outdated provisions including exhaustive detail about the municipality’s power to do everything from improving sidewalks<sup>5</sup> to regulating street music<sup>6</sup>.

This bill repeals the 1957 Charter and replaces it with a modern charter enabling the city to take advantage of the home rule authority provided by the Florida Constitution and statute. The provisions of this modern charter are detailed in the Section Directory below.

#### B. SECTION DIRECTORY:

Section 1: States that ch. 57-19944, Laws of Fla., is “codified, reenacted, amended, and repealed as provide in this act.”

Section 2: Provides the new charter for the City of Webster, which contains 25 sections as described below:

- Section 1 provides for a short title.
- Section 2 provides the City of Webster shall continue as a body corporate and a municipal corporation, and that all existing codes, ordinances, policies, and action are ratified and affirmed if consistent with this act.
- Section 3 contains the legal description of the City’s boundaries.
- Section 4 addresses municipal powers, granting to the City of Webster, “as a body corporate and politic, all the powers of a municipality under the Florida Constitution and in Florida Statutes”.
- Section 5 establishes that the city council shall consist of four members plus the mayor who shall all be elected at large. This section also provides that a candidate for office must have resided in the city for 12 months and that neither the city manager or city attorney may run for office while employed by the city.
- Section 6 addresses city elections and allows the council to either use the County’s Supervisor of Elections or conduct the elections itself, including determining the qualifications of its members.
- Section 7 deals with terms of office and limits each council member to two consecutive four year terms.

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<sup>1</sup> Ch. 57-1944, Laws of Fla.

<sup>2</sup> Ch. 57-1944, s. 12.04 of s. 10 Laws of Fla.

<sup>3</sup> Art. VIII, s. 2, Fla. Const.

<sup>4</sup> Ch. 166, F.S.

<sup>5</sup> Ch. 57-1944, s. 12.05(25) of s. 10, Laws of Fla.

<sup>6</sup> Ch. 57-1944, s. 12.05(62) of s. 10, Laws of Fla.

- Section 8 outlines the powers and duties of the city council and provides that the City shall be a council-manager form of government with the council serving as the head of city government while the city manager serves as the chief administrative officer.
- Section 9 outlines the powers and duties of the mayor which include serving as a council member, presiding at council meetings, serving as the ceremonial head of government, executing contracts and other documents, and being recognized by the Governor for the purposes of military law.
- Section 10, addressing compensation and expenses, specifies that the mayor and city council shall keep their current salaries, that expenses shall be compensated, and that any ordinance increasing salaries shall not take effect until after the next regularly scheduled city election.
- Section 11 deals with vacancies, forfeiture of office, suspensions, recalls, and the filling of vacancies. This section includes a list of reasons why the council may rule that a member has forfeited his or her office. In addition, this section specifies how to fill vacancies.
- Section 12 addresses city council meetings, organizational meetings, quorum requirements, and includes the oath of office for council members.
- Section 13 covers the appointment, qualifications, and compensation of the city manager.
- Section 14 covers the qualifications, powers, and duties of the city attorney.
- Section 15 states the qualifications, powers, and duties of the city clerk, specifying the clerk “shall fulfill the role of a functioning administrative officer of the city serving under the direction and managerial control of the city manager.”
- Section 16 creates and establishes a police department and states that the chief of police shall be appointed by and serves under the city manager.
- Section 17 creates and establishes the department of public works and states that the director of public works shall be appointed by and serves under the city manager.
- Section 18 states that neither the mayor nor a council member shall be employed by the city and that they may not be employed by the city for one year after leaving office. In addition, it addresses conflicts of interest.
- Section 19 governs the city budget and the appropriations process.
- Section 20 pertains to public records.
- Section 21 provides that the city charter may be amended as provided in ch. 166, F.S., or as otherwise provided in general law.
- Section 22 establishes standards of conduct for elected officials, appointed officials, and city employees.
- Section 23 preserves all ordinances in effect at the time of the adoption of the charter.
- Section 24 addresses the rights of officers and employees at the time of the adoption of the charter.
- Section 25 addresses pending matters, stating that all pending matters pertaining to the City shall continue except as modified by this act and that all obligations, contracts, outstanding indebtedness and bonds of the City shall not be impaired or avoided by this act.

Section 3: Repeals Chapter 57-1944, Law of Fla.

Section 4: Provides the bill shall take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 1, 2015

WHERE? Daily Commercial, a daily newspaper published in Lake and Sumter Counties

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:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Rule 5.5(a) of the Rules of the Florida House of Representatives states that:

A committee or subcommittee may not report a local bill favorably if the substance of the local bill may be enacted into law by ordinance of a local governing body without the legal need for a referendum.

In this case, the 1957 charter only provides for amendment by special act of the Florida Legislature. Section 166.031, F.S., provides the alternative means of amending the charter by adopting an ordinance requiring a referendum be held. Accordingly, this bill is properly before the Legislature.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Local Government Affairs Subcommittee adopted a strike-all amendment which:

- Removed section 1 of the bill, which incorrectly referenced s. 189.429, F.S., a non-existent statute in a chapter pertaining to special districts, and referred to the City of Webster as “the district.”
- Amended section 2 of the bill, which contains the new charter for the City of Webster, to make the following changes:
  - Section 8(5) of the charter was amended to allow the city council to request information directly from city employees.
  - Section 10(1) concerning ordinances which adjust salaries was reworded to provide greater clarity.
  - Section 11(2) was amended to eliminate one of two differing provisions regarding excessive absences.
  - Section 11(5) was amended to provide for filling vacancies on the city council in the second or third year of a term.
  - Section 18(2) which contains the conflict of interest provisions was completely revised.

This analysis is written to the bill as amended.