

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1183 Broward County  
**SPONSOR(S):** Jacobs  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Miller	Miller
2) State Affairs Committee			

### SUMMARY ANALYSIS

The Florida Constitution creates five county constitutional offices: sheriff, tax collector, property appraiser, clerk of the circuit court, and supervisor of elections. The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds, unless those duties are transferred as allowed in the Constitution.

Prior to November 8, 2018, the Constitution permitted a county charter or special law approved by the county voters to change the manner in which county constitutional officers were chosen, abolish a county office and transfer its duties, or transfer the county government duties of the clerk of the circuit court. Exercising this authority, in 1975 Broward County adopted its county charter under which the county administrative duties of the clerk of the circuit were transferred to the county administrator and the clerk's county fiscal duties were transferred to the Broward County Department of Finance.

On November 6, 2018, the voters approved a proposed amendment that in part amended section 1(d) of article VIII of the Florida Constitution. The amendment authorized transfers of the county duties of the clerk of the circuit court only by a special law approved by the voters or as otherwise provided by section 16 of article V of the State Constitution. By its terms the amendment takes effect statewide on January 5, 2021, except in Broward and Miami-Dade Counties, where the amendment takes effect on January 7, 2025.

The bill creates a special act providing for the transfer of the duties of the clerk of the circuit court as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds to the Broward county administrator. The bill goes into effect only if approved by a majority of the qualified electors voting in a referendum to be placed on the ballot of the 2020 general election by the county commission. If the referendum is not approved, the bill authorizes the county commission to submit the question to the voters at a subsequent referendum.

The Economic Impact Statement filed in support of the bill projects potential significant costs beginning in FY 2024-2025 due to the potential return of duties to the clerk of the circuit court. These costs are projected in part because of the need to determine which functions presently performed by the county are necessary to support the return of the constitutional county duties to the clerk of the court, and which systems, equipment, and personnel are necessary for such functions.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Article VIII of the State Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties<sup>1</sup> and has the authority to choose to create municipalities.<sup>2</sup>

Pursuant either to general<sup>3</sup> or special law, a county government may be adopted by charter approved by the county voters. A county without a charter has such powers of self-government as provided by general<sup>4</sup> or special law.<sup>5</sup> A county with a charter has all powers of self-government *not inconsistent* with general law or special law approved by the county voters.<sup>6</sup> Article VIII, s. 6(e), of the Florida Constitution incorporates by reference sections of the 1885 Constitution, retaining in the 1968 Constitution unique authorization<sup>7</sup> for specific home rule charters including those of Duval<sup>8</sup> and Miami-Dade Counties.<sup>9</sup> Currently, twenty Florida counties have adopted charters.<sup>10</sup>

The State Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court. The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds.<sup>11</sup>

Before January 8, 2019, the State Constitution authorized changes to the manner in which the five county constitutional officers were selected and their respective scope of duties. A provision in county charter or special law approved by the county voters could change the manner in which a county constitutional officer was selected, abolish an office (provided the duties of that office were transferred to another office), or transfer the clerk of the circuit court's county duties to another office.<sup>12</sup>

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<sup>1</sup> Art. VIII, s. 1(a), Fla. Const.

<sup>2</sup> Art. VIII, s. 2(a), Fla. Const.

<sup>3</sup> S. 125.60, F.S.

<sup>4</sup> Ch. 125, Part I, F.S.

<sup>5</sup> Art. VIII, s. 1(f), Fla. Const.

<sup>6</sup> Art. VIII, s. 1(g), Fla. Const.

<sup>7</sup> Article VIII, s. 6(e), Fla. Const., states that specific provisions for Duval, Miami-Dade, Monroe, and Hillsborough Counties "shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article."

<sup>8</sup> The consolidated government of the City of Jacksonville was created by ch. 67-1320, Laws of Florida, adopted pursuant to Art. VIII, s. 9, Fla. Const. (1885).

<sup>9</sup> In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 State Constitution, now incorporated by reference in art. VIII, s. 6(e), Fla. Const. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami-Dade Charter can only be altered through constitutional amendment, general law, or County actions approved by referendum. *Chase v. Cowart*, 102 So. 2d 147, 149-50 (Fla. 1958).

<sup>10</sup> Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla Counties. See Local Government Formation Manual 2018-2020, Appendix B, at 104-109.

<sup>11</sup> Art. VIII, s. 1(d), Fla. Const. In a separate subsection, the Constitution requires counties to be governed by a board of county commissioners unless otherwise provided in their respective charters, if any. Art. VIII, s. 1(e), Fla. Const., which is not affected by the joint resolution.

<sup>12</sup> Art. VIII, s. 1(d), Fla. Const. (as in effect prior to 1/8/2019). See State of Florida, Official Florida Statutes 2018, vol. 6 (Tallahassee 2018).

In its charter adopted in 1975, Broward County transferred the county administrative duties of the clerk of the circuit court to the county administrator and the clerk's fiscal duties were transferred to the Department of Finance (now known as the Department of Finance and Administrative Services).<sup>13</sup>

On November 6, 2018, the voters approved a proposed amendment that in part amended section 1(d) of article VIII of the Florida Constitution.<sup>14</sup> The amendment removed the authority to change the manner of selecting a county constitutional officer or to abolish an office either in the county charter or by special act approved by the voters. The amendment also restricted the ability to transfer the county duties of the clerk of the circuit court either to a special law approved by the voters or as otherwise provided by section 16 of article V of the State Constitution.<sup>15</sup> By its terms the amendment takes effect statewide on January 5, 2021, except in Broward and Miami-Dade Counties, where the amendment takes effect on January 7, 2025.<sup>16</sup> The effect of the amendment is to reinstate the elected, autonomous county constitutional officers<sup>17</sup> in all counties with charters previously altering one or more of the constitutional offices, including transferring the county duties of the clerk of the circuit court.<sup>18</sup>

### Effect of Proposed Changes

The bill creates a special act providing for the transfer of the duties of the clerk of the circuit court as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds to the Broward County Administrator, subject to general law, the County Charter, special law, and County ordinances and regulations. The bill goes into effect only if approved by a majority of the qualified electors voting in a referendum to be placed on the ballot of the 2020 general election by the County Commission. If the referendum is not approved, the County Commission will be authorized to submit the question to the voters at a subsequent referendum.

#### B. SECTION DIRECTORY:

- Section 1: Provides findings; describes the transfer of certain county duties of the clerk of the circuit court; describes the impact on Broward County of the 2018 constitutional amendment.
- Section 2: Provides for the transfer of all county duties of the clerk of the circuit court to the County Administrator of Broward County, subject to approval by the electors of the county voting in a referendum; provides the section takes effect on January 7, 2025, if approved by those voting in the referendum.
- Section 3: Requires the Board of County Commissioners to submit the act to a referendum of the voters at the general election to be held in November, 2020; provides the Board may

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<sup>13</sup> BROWARD COUNTY FLORIDA, Code of Ordinances, Part I, Charter, ss. 3.03.G & 3.06.B, Feb. 20, 2019, *available at* [https://www.municode.com/library/fl/broward\\_county/codes/code\\_of\\_ordinances](https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances) (last accessed 3/4/2019).

<sup>14</sup> See results for "State and Local Government Structure and Operation," at <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=24> (last accessed 3/10/2019).

<sup>15</sup> Art. V, s. 16, Fla. Const., provides in pertinent part: "Notwithstanding any other provision of the constitution, the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."

<sup>16</sup> The amendment created a new art. VIII, s. 6(g), Fla. Const. (renumbering existing 6(g) as new 6(h)) providing for the delay in effect of the revisions to art. VIII, s. 1, Fla. Const. Under s. 6(g), the terms of the amendment apply to the elections conducted in 2020 except for Broward and Miami-Dade Counties, where the terms of the amendment apply to the elections in 2024. The revision to art. VIII, s. 6(g), Fla. Const., took effect on January 8, 2019. See art. XI, s. 5(e), Fla. Const.

<sup>17</sup> As originally adopted in 1968, Article VIII of the State Constitution clearly was intended to apply to all counties and compel compliance with the provisions of its new sections, including provision for broad home rule. This is shown by the creation of art. VIII, s. 6(e), incorporating by reference four sections from the 1885 Florida Constitution (art. VIII, ss. 9, 10, 11, 24, Fla. Const. (1885, as amended)) to "remain in full force and effect as to each county affected, *as if this article had not been adopted...*" (emphasis supplied).

<sup>18</sup> The charters of eight counties transferred the county duties of the clerk of the circuit court: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

resubmit the question to the voters at other elections if the question fails to gain a majority of the electors voting in the referendum.

Section 4: Provides an effective date of July 1, 2019, unless otherwise provided in the act.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 28, 2019

WHERE? Sun-Sentinel newspaper in Broward County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? November 3, 2020

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 neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

**HOUSE OF REPRESENTATIVES  
2019 - 2020 LOCAL BILL CERTIFICATION FORM**

**BILL #:** \_\_\_\_\_  
**SPONSOR(S):** Representative Kristin Jacobs  
**RELATING TO:** Broward County, Amendment 10  
[Indicate Area Affected (City, County, or Special District) and Subject]  
**NAME OF DELEGATION:** Broward Legislative Delegation  
**CONTACT PERSON:** Andrea Knowles  
**PHONE NO.:** (954) 325-2980 **E-Mail:** aknowles@broward.org

- I. *House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:*
- (1) *The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;*
  - (2) *The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s);*
  - (3) *The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting; and*
  - (4) *An Economic Impact Statement for local bills must be prepared at the local level and filed with the Clerk of the House. Under House policy, a local bill will not be considered by a committee or subcommittee without an Economic Impact Statement.*

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level:

Only the Legislature can amend the enabling legislation.

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: Tuesday, January 15, 2019

Location: Sunrise Civic Center, 10610 W Oakland Park Blvd, Sunrise FL. 33351

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO  UNANIMOUSLY APPROVED

(4) Was an Economic Impact Statement prepared at the local level and filed with the Clerk of the House?

YES  NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or*

*the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE 01/28/2019

Where? Sun-Sentinel County Broward County

Referendum in lieu of publication: YES  NO

Date of Referendum

III. Article VII, section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO

Please file this completed, original form with the Clerk of the House.

  
Delegation Chair (Original Signature)

Feb. 19, 2019  
Date

Richard Stark  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2018 ECONOMIC IMPACT STATEMENT FORM**

**\*Read all instructions carefully.\***

**House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.**

**BILL #:** To be determined  
**SPONSOR(S):** Rep. Jacobs  
**RELATING TO:** Broward County impacts from 2018 Amendment 10 constitutional change  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

		<small>First year would be FY24-25</small>
	<small>For first year, at least \$10M and could be twice as high depending on how duties are allocated-- County revenues decrease.</small>	<small>FY 18-19      FY 19-20</small>
Revenue decrease due to bill:	\$ _____	\$ <u>10M+</u>
Revenue increase due to bill:	\$ _____	\$ _____
	<small>None anticipated.</small>	

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

	<small>Possible one-time systems</small>	<small>First year new would be FY24-25</small>
<b>Expenditures for Implementation, Administration and Enforcement:</b>	<small>FY 18-19</small>	<small>FY 19-20</small>
<small>Certain costs would move to Clerk and may require significant one-time costs for system duplication and redundant processes to be developed. Moreover, the County would need to retain up to one-half of existing activities to ensure taxpayers are appropriately served in a timely manner. Up to \$3-4M estimated on-going costs and up to 10s of millions if new systems are developed.</small>	\$ <u>~10M+</u>	\$ <u>3-4M+</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Beginning in FY 24-25, certain activities currently undertaken by Broward County will transition to the Clerk of Court. It is very uncertain exactly which specific activities related to the functions stated in the constitution would be done through different means, in different locations, and with what personnel. For example, any or all of ex-officio clerk functions, audit activities, recorder duties, and custodian of funds could be undertaken using existing or new systems, in existing or new office space, by existing or newly recruited staff.

**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	Possible one-time new systems	First year would be FY24-25
	<u>FY 17-18</u>	<u>FY 18-19</u>
Unless state funding was provided to facilitate transition activities that are needed, local taxpayers would be expected to pay for significant one-time transition, system development and real estate costs, together with on-going costs of the Clerk and any residual County functions needed to ensure operations continue smoothly, efficiently and with appropriate internal controls.		
<b>Local:</b>	\$ _____	\$ _____
<b>State:</b>	\$ _____	\$ _____
<b>Federal:</b>	\$ _____	\$ _____

**IV. ECONOMIC IMPACT:**

**Potential Advantages:**

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Little advantage anticipated since existing services are likely to be split up physically, necessitating additional travel and multiple visits to accomplish service.

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2. Advantages to Businesses: Existing systems may be replaced or relocated and require businesses to access service or submit data differently or in less coordinated fashion.

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3. Advantages to Government: Few advantages as resources are used to develop redundant or duplicative systems, build interfaces and develop new processes to interchange data, information and dollars.

**Potential Disadvantages:**

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: Services will be more fragmented or dispersed.



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2. Disadvantages to Businesses: Less ability to interface with government using one method, as County and Clerks office may need similar information to be submitted as systems become less integrated.
  3. Disadvantages to Government: Development and maintenance of interfaces between separate systems is likely to be needed and information will be less integrated compared to status quo.

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

Services may be provided in a myriad of different ways compared to status quo, ranging from relatively little change if existing system, locations and staff are utilized; major restructuring, development of duplicative systems, and maintenance of redundant processes by separate government agencies is possible.

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**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.


Budget estimates from Broward County annual budgets for expenditures of possible activities that may be affected or realigned. Revenue estimates from budgeted revenues for relevant divisions of Broward County government.

Illustrative examples of major system cost estimates from recent system upgrades.

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**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:   
[Must be signed by Preparer]

Print preparer's name: C. Mary Cassini  
12-7-18  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

REPRESENTING: Broward County

PHONE: 954-357-7575

E-MAIL ADDRESS: mcassini@broward.org