

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS  
FINAL BILL ANALYSIS**

**BILL #:** CS/HB 193 Charlotte County  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Grant, M.  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Rivera	Miller
2) State Affairs Committee	22 Y, 0 N	Rivera	Williamson
<b>FINAL HOUSE FLOOR ACTION:</b> 114 Y's 0 N's			
<b>GOVERNOR'S ACTION:</b> Approved			

**SUMMARY ANALYSIS**

CS/HB 193 passed the House on March 27, 2019, and subsequently passed the Senate on May 1, 2019.

Counties are political subdivisions that may operate under a charter or without a charter. Charter counties have all powers of self-government not inconsistent with general law or special law approved by vote of the electors. Non-charter counties have such powers as provided by general or special law.

In 1969, the Legislature repealed all special laws and general laws of local application enacted prior to July 1, 1969, relating to compensation for county officials. However, the Legislature did not repeal such laws related to payment of travel expenses or extra compensation. Absent a special or local law, county official travel expenses are governed by s. 112.061, F.S., which regulates per diem and travel expenses for public officials, employees, and authorized persons. Counties may deviate from the statutory rates, by ordinance, if the rate applies uniformly to all travel by the county and the rate is not less than the stated minimum.

Special law governs travel expenses for Charlotte County Commissioners and authorizes the county to pay travel, entertainment, and lodging expenses for visiting dignitaries and public officials at the discretion of the board of county commissioners.

The bill repeals the special laws authorizing the county to pay travel, entertainment, and lodging expenses for visiting dignitaries and public officials and all special laws regulating county commissioner travel expenses.

The bill was approved by the Governor on May 10, 2019, ch. 2019-171, L.O.F., and will become effective on July 1, 2019.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

Florida is divided into political subdivisions called counties, which may be created, abolished, or changed by law.<sup>1</sup> Counties can operate under a charter and exercise self-governing powers, or home rule authority, not inconsistent with general law or special law approved by vote of the electors.<sup>2</sup> Counties that do not operate under a charter have home rule authority as provided by general or special law.<sup>3</sup>

Charter counties have greater home rule authority than non-charter counties. Charter counties may enact local ordinances not inconsistent with general law or special law approved by the electors,<sup>4</sup> but non-charter counties may enact ordinances only as provided by general law or special law.<sup>5</sup> If provided in the county charter, county ordinances that conflict with municipal ordinances take precedence within the municipality.<sup>6</sup> Ordinances of a non-charter county are not effective within a municipality to the extent of a conflict with municipal ordinances.<sup>7</sup> Among other powers, charter counties may vary the number of county commission board members from the five or seven members mandated by the State Constitution<sup>8</sup> and establish county official salaries independent of the statutes setting compensation for county officials.<sup>9</sup>

Twenty of the 67 counties in Florida have adopted charters.<sup>10</sup>

#### Laws regulating County Official Payment of Travel, Lodging, and Entertainment Expenses

In 1969, the Legislature repealed all special laws and general laws of local application (local laws) enacted prior to July 1, 1969, relating to compensation for county officials.<sup>11</sup> However, the Legislature did not repeal such laws related to payment of travel expenses or extra compensation to the chairs of boards of county commission or district school boards.<sup>12</sup> Absent a special or local law, general law governs the payment of travel expenses.<sup>13</sup>

Section 112.061, F.S., regulates per diem and travel expenses for public officers, employees, and authorized persons. In part, an “authorized person” includes a person other than a public officer or employee, whether or not elected or commissioned, authorized by an agency head to incur travel

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

<sup>2</sup> Art. VIII, s. 1(g), Fla. Const. A county charter must be established pursuant to general or special law and must be adopted, amended, or repealed only upon vote of the electors of the county in a special election called for that purpose. Art. VIII, s. 1(c), Fla. Const.

<sup>3</sup> Art. VIII, s. 1(f), Fla. Const.

<sup>4</sup> Art. VIII, s.1 (g), Fla. Const.

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

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

<sup>7</sup> Art. VII, s. 1(f), Fla. Const.

<sup>8</sup> Art. VIII, s. (1)(e), Fla. Const.

<sup>9</sup> S. 145.012, F.S.

<sup>10</sup> See ch. 7, F.S., and Local, Federal & Veterans Affairs Subcommittee, *Local Government Formation Manual 2018-2020*, Appendices B and C, at

<http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General Publications&FileName=2018-2020 Local Government Formation Manual Final.pdf> (last visited Feb. 11, 2019).

<sup>11</sup> S. 145.131(1), F.S.

<sup>12</sup> S. 145.131(1), F.S.

<sup>13</sup> See s. 112.061(1)(b)2., F.S.

expenses in the performance of official duties.<sup>14</sup> Counties may deviate from the statutory rates, by ordinance, if the deviation is not lower than rates in effect during fiscal year 2005-2006 and if the deviation applies uniformly to all travel by the county.<sup>15</sup>

Covered expenses include mileage or monthly allowances when travelers use privately owned vehicles; per diem; lodging expenses; incidental expenses such as taxi fare, tolls, and storage and parking fees; and any expenses not specifically authorized by s. 112.061, F.S., if approved by the Department of Financial Services.<sup>16</sup> Entertainment expenses are not provided for in s. 112.061, F.S., but are addressed in other sections of law.<sup>17</sup>

### Charlotte County Charter

Charlotte County established a home rule charter in 1986.<sup>18</sup> The charter establishes an elected county commission and appointed county administrator form of government,<sup>19</sup> and sets the number of county commissioners at five.<sup>20</sup> The charter ties commissioner salaries and other compensation to the general law governing non-chartered county commissions,<sup>21</sup> but allows the county commission to set the salary for the county administrator.<sup>22</sup> The charter allows municipal ordinances to control over county ordinances within municipalities with certain exceptions.<sup>23</sup>

### Charlotte County Laws relating to Travel Expenses and Entertainment

Special law governs Charlotte County travel expenses. Charlotte County Commissioners may receive a \$200 monthly allowance for travel expenses incurred while performing their official duties within the county, in addition to other compensation, without the need to itemize or account for their expenses.<sup>24</sup> A 1949 special law also allows county commissioners to receive up to \$25 per month for travel and other expenses within the county while performing their official duties, and actual expenses for authorized travel outside of the county.<sup>25</sup> The county reported spending \$34,500 on travel and per diem for the commission office in fiscal year 2016-17 and adopted a budget expending \$40,100 for fiscal years 2017-18 and 2018-19.<sup>26</sup> The budget does not distinguish payment for in-county and out-of-county expenses.

Special law also authorizes Charlotte County to budget and expend funds, at its discretion, for the entertainment, travel, and lodging of visiting dignitaries or public officials under an authorized

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<sup>14</sup> S. 112.061(2)(e)1., F.S.

<sup>15</sup> S. 112.061(14)(a)1., F.S.

<sup>16</sup> S. 112.061(6)-(8), F.S. Lodging is paid at a single-occupancy rate. S. 112.061(6)(a)2., F.S. Any expense approved by the Department of Financial Services must be reported annually to the Auditor General. S. 112.061(8)(b), F.S.

<sup>17</sup> See e.g., s. 288.1253(2), F.S., allowing the Department of Economic Opportunity to reimburse travel and entertainment expenses to the Governor, Lt. Governor, and Commissioner of Film and Entertainment or staff performing statutory duties of the Office of Film and Entertainment. See also s. 331.3101(1), F.S., allowing Space Florida to advance or reimburse travel and entertainment expenses to business clients, guests, and authorized persons in connection with performing statutory duties and to state officials and employees while accompanying them or when authorized, or, in the case of entertainment expenses, when incurred in the individual's physical presence.

<sup>18</sup> Art. IV, s. 4.3, Charlotte County Charter, <https://www.charlottecountyfl.gov/dept/commissionoffice/Documents/charter.pdf> (last visited Feb. 11, 2019)(hereinafter Charlotte Cnty. Charter).

<sup>19</sup> Art. IV, s. 2.1, Charlotte Cnty. Charter (last visited Feb. 11, 2019).

<sup>20</sup> Art. IV, s. 2.2(A), Charlotte Cnty. Charter (last visited Feb. 11, 2019).

<sup>21</sup> Art. IV, s. 2.2(C), Charlotte Cnty. Charter (last visited Feb. 11, 2019).

<sup>22</sup> Art. IV, s. 2.3(A)3., Charlotte Cnty. Charter (last visited Feb. 11, 2019).

<sup>23</sup> Art. I, s. 1.3, Charlotte Cnty. Charter (last visited Feb. 11, 2019).

<sup>24</sup> Ch. 59-588, s. 1, Laws of Fla.; ch. 63-848, s. 1; Laws of Fla.; ch. 65-1214; Laws of Fla.; ch. 81-357, s. 1, Laws of Fla.

<sup>25</sup> Ch. 25231, s. 2, Laws of Fla. (1949).

<sup>26</sup> Charlotte County BCC, *Adopted Line Item Book 2*, [https://www.charlottecountyfl.gov/transparency/Documents/18-19\\_Adopted\\_Line\\_Item.pdf](https://www.charlottecountyfl.gov/transparency/Documents/18-19_Adopted_Line_Item.pdf) (last visited Feb. 11, 2019).

“entertainment” budget item.<sup>27</sup> The county has not budgeted an “entertainment” item for the past five fiscal years.<sup>28</sup>

### **Effect of the Proposed Changes**

The bill repeals chapters 25231 (1949), 59-588, 63-848, 65-1214, and 81-357, Laws of Fla., removing the authority for Charlotte County Commissioners to pay for county commissioner travel expenses outside of the statutory scheme set forth in s. 112.061, F.S. The bill also repeals chapter 63-1202, Laws of Fla., removing the authority of the board to budget and expend money for entertainment, travel expenses, and lodging of visiting dignitaries and public officials.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. ECONOMIC IMPACT STATEMENT FILED?    Yes    No**

### **D. NOTICE PUBLISHED?    Yes    No**

IF YES, WHEN? November 13, 2018

WHERE? *The Charlotte Sun*, Charlotte County, Sarasota County, and DeSoto County, Florida

### **E. REFERENDUM(S) REQUIRED?    Yes    No**

IF YES, WHEN?

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<sup>27</sup> Ch. 63-1202, Laws of Fla.

<sup>28</sup> See Charlotte County BCC, *Adopted Line Item Book* (FY 2016- FY2017 and FY2018- FY2019 Budgets), available at <https://www.charlottecountyfl.gov/transparency/Pages/default.aspx> (last visited Feb. 11, 2019).