



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 7, 2022

**AGENDA ITEM NUMBER:** Proposal 8 Amended 05-19-2022-Public Hearing 4

**SUBJECT:**

Section 2.7 Vacancies and Suspensions

**PETITIONER CONTACT:**

Robert Burns (407) 810-3200

email: [rwburns3rd@gmail.com](mailto:rwburns3rd@gmail.com)

**REQUESTED ACTION:**

Proposal to amend Section 2.7 effectively removing Governor appointments for vacancies and replacing with a special election regardless of time remaining of vacant term

**SUMMARY EXPLANATION & BACKGROUND:**

The timely resignation by Bryan Lober has brought attention to the rare occasion of having to fill a vacancy on the County Commission. Because there is less than a year remaining in the term, the Charter calls for the vacancy to be filled by the Governor. The language in the Charter is faulty in that it states "shall" be filled by appointment of the Governor. The Brevard County Charter does not have the power to dictate what actions the Governor "shall" do. As has been acknowledged, it is the Governor's discretion of whether or not to fill a vacancy or let it remain vacant until the next scheduled election for the position. This practice leaves the citizens of the effected district without elected representation, and no guarantee to have any representation under these guidelines. To quote the Mayor of Palm Bay, Rob Medina when a similar situation presented itself in Palm Bay, "This is un-American."

When Palm Bay had a vacancy occur last year with the sudden resignation of Councilman Jeff Bailey, the Palm Bay City Council moved to appoint a member to fill the vacancy. The Palm Bay City Charter allows for Council to determine how a vacancy is

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**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

### **SUMMARY EXPLANATION & BACKGROUND CONTINUED:**

filled by ordinance. When the majority of the remaining council voted to appoint a member, there was much backlash from hundreds of members in the county demanding a special election in-leu-of an appointment. Arguments were made by hundreds of individuals during public comment as well as by elected officials calling it voter supression, stripping away the constitutional right to vote, corrupt, etc. The lobbying by the community proved effective and the decision was reversed allowing for a special election to fill the seat. Those outcires are notably silent now.

Those strong arguments apply to the County as well. The arguments may even be stronger in that unlike Palm Bay, Commissioners are single member distrctits while Palm Bay Councilmen are at-large. The citizens of District 2 no longer have a Commissioner representing them that they had the right to vote for. As decisions directly impacting them are being voted on such as taxes, it can be argued they now have taxation without representation due to no fault of their own.

The citizens of each district should have the right to choose who represents them, otheriwise we no longer have a democratic process but a political one. The Governor not being a resident of Brevard must rely on the input of other elected officials and advisors in order to make an appointment to the office should he even chose to do so. This process severely lacks transparency, does not allow for citizens to take place in the process, and allows for the perception political favors, special treatments, or inpropriety, etc.

Our Nation was founded on the premise that the people choose who represent them, not dictated who will represent them.

I propose that Section 2.7 be amended to remove the Governor appointment clause and state that any vacancy will be filled by special election if there are at least 90 days remaining in the term to allow for an election to occur. If less than 90 days, then qualified individuals can apply to be appointed to the Commission by the remaining Commissioners in the same ranking system as a County Board. If an appointment must occur, then at least it will come from those who have expressed the interest to serve, and voted on by actual elected officials of the community.

## Section 2.7 Vacancies and Suspensions

A vacancy in the office of County Commissioner arising from the death, resignation or removal of such official shall, ~~if one year or less remains in the term of office, be filled by appointment of the Governor~~ unless otherwise required by the State Constitution or general law, be filled by a special election; provided, a vacancy created by recall shall be filled as provided in Section 5.2 of this Charter. ~~Unless otherwise required by the State Constitution or general law, if more than one year remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by a special election.~~ The Board of County Commissioners, after first consulting with the Supervisor of Elections, shall by resolution fix the time period for candidate qualifying, the date of the election, and the date of any runoff election. There shall be a minimum of thirty (30) days between the close of qualifying and the date of the election, and between the election and any runoff election. Such special elections shall otherwise be governed by the applicable provisions of general law. If less than one hundred twenty (120) days remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by appointment of the Board of County Commissioners.

Appointment process: The county commissioners shall advertise for interested applicants that qualify for the requirements of the vacant office. The applications must be submitted within 2 weeks of the advertisement of the vacancy. A Special Commission meeting shall be scheduled to occur 1 week following the application deadline. Applicants and members of the public shall be permitted to comment during the public comment portion of the appointment agenda item of the Special Meeting. Each commissioner will review the applicants and score them from one to ten. Staff will tabulate the ranking scores of the applicants and fill the vacancy with the applicant receiving the highest total number ranking. In the event of multiple applicants receiving the

highest ranking, the County Commissioners will vote as a board on the remaining applicants by simple majority. The effective date of office shall be immediately following the vote.



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 07, 2022

**AGENDA ITEM NUMBER:** Proposal 10 -Public Hearing 3

**SUBJECT:**

Amend the last sentence of Section 7.3.3 of the Brevard County Charter

**PETITIONER CONTACT:**

Marie Rogerson; Charter Review Commission Member - District 2

**REQUESTED ACTION:**

Proposal to amend the last sentence of Section 7.3.3 for clarity and to reflect the need for greater consensus before changing the County Charter.

**SUMMARY EXPLANATION & BACKGROUND:**

Section 7.3.3 - Sentence Amended as follows:

Passage of proposed amendments shall require ~~approval of a majority of electors voting said election.~~ approval by a vote of at least sixty percent of the electors voting on the measure. it shall be effective as an amendment to or revision of the Charter on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

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**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 7, 2022

**AGENDA ITEM NUMBER:** Proposal 17 Public Hearing 3

**SUBJECT:**

Amending Section 2.4 - Term Limits for County Commissioners

**PETITIONER CONTACT:**

Nicolas Tomboulides: 646-704-2466

NTomboulides@termlimits.com

**REQUESTED ACTION:**

Establishing a lifetime 2-term limit for county commissioners with no possibility of reentry. Amend the Brevard County Charter, Section 2.4, by striking the word "consecutive" from the final sentence of Section 2.4.

**SUMMARY EXPLANATION & BACKGROUND:**

Section 2.4 is amended as follows:

Section 2.4 Terms of Office

Each Commissioner shall be elected and serve for four (4) years, beginning on the second Tuesday after election, and continuing after such term until a successor is elected and qualified. The terms shall be staggered as presently provided by general law. No county commissioner shall serve more than two (2) ~~consecutive~~ terms. (Amd. 11-3-98; 11-7-00)

This amendment strengthens the current two-term limit for county commissioners by creating a limit on lifetime service as opposed to a limit on consecutive service. Under current law, formerly term-limited county commissioners may return to the commission after sitting out one term. This amendment would eliminate that loophole, creating a term limit much more consistent with citizens' intent to preclude political careerism.

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**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**SUMMARY EXPLANATION & BACKGROUND CONTINUED:**



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 7, 2022

**AGENDA ITEM NUMBER:** Proposal 18 - Public Hearing 3

**SUBJECT:**

Recall Section 5.2

**PETITIONER CONTACT:**

Victor Luebker, vluebker@gmail.com 321-292-9088

**REQUESTED ACTION:**

Amend section 5.2 of the county charter to read as following:

Sec. 5.2. - Recall.

**SUMMARY EXPLANATION & BACKGROUND:**

The County Commissioners shall be subject to recall as provided by general law. Any elected County officer named in Section 4.1.1 4.2 of this Charter may be recalled in the manner provided by general law for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner or elected County officer shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties.

Previously the charter called for the ability to recall members listed in section 4.1.1 of the charter and I'm suggesting this proposed changed to the reference in the charter corrects the error of that not being possible. It should be noted there is precedent for this proposal with the following counties also including the recall for county wide office holders. Those counties are Columbia, Duval and Sarasota.

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**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

### **SUMMARY EXPLANATION & BACKGROUND CONTINUED:**

Last, that this change must follow the procedures outlined in section 100.361 of state statute as to "How" a recall election is to be conducted IAW state law.

## SECOND AMENDED PROPOSAL 19

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes the following amendment to correct the scrivener's error in section 5.2 Recall and to add school board members to the list of county officers subject to recall and which replaces "general law" with "section 100.361 Florida Statutes." Additional numbers and words are underlined; deleted numbers and words are stricken-through.

### **Section 5.2. Recall**

The County Commissioners shall be subject to recall as provided by ~~general law~~ section 100.361 Florida Statutes. Any elected County officer named in Section ~~4.2~~ 4.1.1 of this Charter ~~and school board members~~ may be recalled in the manner provided by ~~general law~~ section 100.361 Florida Statutes for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner, ~~or elected County officer, or school board member~~, shall be elected in the manner provided by ~~general law~~ section 100.361 Florida Statutes for filling of vacancies in office after recall in charter counties.

### Reason for Change Made in Second Amended Proposal 19

At the request of a member of the Charter Review Commission (CRC) made at the June 23, 2022, meeting of the CRC, the words "general law" have been replaced with "section 100.361 Florida Statutes." Proponent submits that this change is beneficial because it will inform the public of the specific Florida statute which prescribes the manner in which recall petitions and elections are conducted. This specific citation to the statute will allow the public to research the details of the recall procedure so that the public will be informed of the seven lawful grounds for removal from office listed in the statute, which are: 1) malfeasance; 2) misfeasance; 3) neglect of duty; 4) drunkenness; 5) incompetence; 6) permanent inability to perform official duties; 7) conviction of a felony involving moral turpitude. Additionally, from reading the statute the public will be able to understand the difficulty presented by the recall statute which requires two separate petition drives requiring five percent of the electors sign the first- round petition and which requires that fifteen percent of the electors sign the second- round petition. By having the recall statute number cited in section 5.2 Recall, the public will be able to learn of the severe time limitations for the collection of signed petitions required by the statute. In sum, by citing the recall statute in section 5.2 Recall, the public will be able to become more knowledgeable to make an informed decision on whether to vote for or against the proposed amendment to section 5.2 Recall.

### Service of Proposal

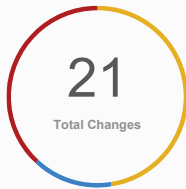
This proposal was sent by email on June 24, 2022, to: the members of the Brevard County Charter Review Commission; to Commission attorney Paul Gougelman; to Brevard County employees Jim Liesenfelt, Melissa Brandt.




## Summary

Summary of Comments on A95tywkc\_fpdmxp\_o0l4.tmp

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-  Shows Insertions
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## AMENDED PROPOSAL 19

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes the following amendment to correct the scrivener's error in section 5.2 Recall and to add school board members to the list of county officers subject to recall as provided by general law. Additional numbers and words are underlined; deleted numbers and words are stricken-through.

### Section 5.2. Recall

The County Commissioners shall be subject to recall as provided by general law. Any elected County officer named in Section 4.2 4.1.1, of this Charter and school board members may be recalled in the manner provided by general law for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner, ~~or~~ elected County officer, or school board member, shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties.

### REASON FOR PROPOSAL

As explained by Commission attorney Paul Gougelman in his April 24, 2022 memorandum Recall issue; Constitutional Officers, in 2010 there was a scrivener's error in which the reference in Section 5.2 to Section 4.2 was mistakenly not changed to Section 4.1.1. Attorney Gougelman wrote that, "Fixing this glitch is easy." Attorney Gougelman's example of how to correct the scrivener's error is the correction made changing 4.2 to 4.1.1.

As an aside, proponent's research reveals that the following eight charter counties provide for the recall of county constitutional officers: 1) Brevard, § 5.2; 2) City of Jacksonville (i.e. Duval County), which expressly includes recall of school board members in addition to any officer elected in any consolidated government, § 15.01; 3) Orange, § 604; 4) Hillsborough, § 9.08; 5) Clay, § 3.2; 6) Miami-Dade, § 8.02; 7) Columbia, § 6.2; 8) Sarasota, § 6.3.

The amended proposal adds school board members to all of the other county constitutional officers subject to recall election in the manner provided by general law for removal of a county commissioner; i.e., sheriff, tax collector, supervisor of elections, property appraiser, clerk of the circuit court.

Proponent emphasizes that Amended Proposal 19 (i.e. this proposal) is completely different from school board recall proposal 2 by proponent which was withdrawn from the Commission's consideration by 6-5 vote at the May 12, 2022 meeting of the Charter Review Commission. The defeated proposal 2 was six typed single-spaced pages in length and most importantly included only malfeasance as the statutory ground available for recall listed in § 100.361(2)(d) Fla. Stat. and included up to three votes on motions of school board members as grounds for recall. Contrarily, this Amended Proposal 19 merely consists of adding these three words to the 5.2 Recall section of the Brevard County Charter: "school board members".

Proponent submits that the best argument in support of Amended Proposal 19 is the following excerpts from Commission attorney Paul Gougelman's May 12, 2022 letter to the

Text Inserted

"SECOND"

Text Replaced

[Old]: "as provided by general law."

[New]: "and which replaces "general law" with "section 100.361 Florida Statutes.""

Text Replaced

[Old]: "law."

[New]: "law section 100.361 Florida Statutes."

Text Attributes Changed

Font-style changed.

Text Attributes Changed

Font-style changed.

Text Inserted

"section 100.361 Florida Statutes"

Text Attributes Changed

Font-style changed.

Text Inserted

"section 100.361 Florida Statutes"

Text Replaced

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"1"

Florida Attorney General seeking an Attorney General Opinion on whether the Brevard County Charter may be amended to add a provision permitting a recall of school board members:

Page: 3

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"Florida Attorney General seeking an Attorney General Opinion on whether the Brevard County Charter may be amended to add a provision permitting a recall of school board members:"

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ISSUE: May the Brevard County Charter be amended to add a provision permitting a recall of Brevard County School Board Members? Would such a provision be violative of Article VIII, Section 1(g) of the Florida Constitution which provides that, "[c]ounties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors"?

II

#### Recall in Florida - The Florida Recall Statute

As noted above, the only provision in Florida law for recall elections is Section 100.361, Florida Statutes. The statute specifies that it applies to the governing body of either a charter county or a municipality. §100.361(1), Fla.Stat.<sup>5</sup> Furthermore, the statute is intended to provide a uniform statewide process for recall,<sup>6</sup> and the statute automatically applies to all municipalities and charter counties whether or not they have adopted recall provisions in their charters or by ordinance.<sup>7</sup> In essence, the Legislature sought to deal with the problem existent at that time, namely providing a uniform process for the recall of city councilmembers (and charter county commissioners).

The process was intended to be difficult. Most importantly, recall is only permitted in one of seven circumstances: Malfeasance;<sup>8</sup> Misfeasance;<sup>9</sup> Neglect of duty; Drunkenness; Incompetence; Permanent inability to perform official duties; and Conviction of a felony involving moral turpitude.<sup>10</sup> §100.361(2)(d), Fla.Stat.<sup>11</sup>

III

#### Authority for Local Charters to Provide for Recall of Constitutional Officers such as School Board Members

A

The strongest legal basis to permit a local government, such as a charter county, to provide in their charter for the recall of School Board Members is the concept of home rule.

Home rule was granted to municipalities and to counties to deal with the explosion of local bills being submitted each session of the

Text Replaced

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[New]: "the specific Florida statute which prescribes the manner in which recall petitions and elections are conducted. This specific citation to the statute will allow the public to research the details of the recall procedure so that the public will be informed of the seven lawful grounds for removal from office listed in the statute, which are: 1) malfeasance; 2) misfeasance; 3) neglect of duty; 4) drunkenness; 5) incompetence; 6) permanent inability to perform official duties; 7) conviction of a felony involving moral turpitude. Additionally, from reading the statute the public will"

Legislature. For example, the year before the new Florida Constitution was adopted, 1967 Laws of Florida reveal that there were 1428 local laws adopted and 1068 general laws and laws of local application adopted. Something needed to be done to stop the explosion in local bills and to permit local governments to deal efficiently with local issues.

There is no express preemption of the subject of recall to the state, either by general act or the Florida Constitution.<sup>13</sup> In fact, the Florida Division of Elections in DE 94-14 (Aug. 1, 1994) answered the following question from the Brevard County Charter Commission: May a county charter lawfully provide a method for the recall of county officers?

The Division stated:

Your . . . question is answered in the affirmative. A county charter may provide a method for the recall of county officers. However, the provisions of Section 100.361, Florida Statutes, are applicable to all chartered counties and will prevail over any conflicting provisions in such charters to the extent of the conflict.

Thus, charter county home rule should be found to grant Brevard County the legal ability to allow the people of Brevard County to amend their Charter to permit the recall of Brevard County School Board Members, especially given that the delegation of home rule to Brevard County is extremely broad. (emphasis supplied by proponent).

#### B

Powers in the Brevard County Charter Must Be Construed to Be Very Wide and Liberal

Not only is the power of home rule for a charter county broad, but the Brevard County Charter reinforces the concept in Section 1.3. This section, entitled "Construction", provides that "[t]he powers granted by this Home Rule Charter shall be construed liberally in favor of charter government." This section 1.3 dictates that the proposals of the CRC to amend the Charter are to be construed liberally in favor of charter government, which would mean the enhancement of the powers of charter government. **This would include recall election of school board members.** (emphasis supplied by proponent)

#### Text Replaced

[Old]: "Legislature. For example, the year before the new Florida Constitution was adopted, 1967 Laws of Florida reveal that there were 1428 local laws adopted and 1068 general laws and laws of local application adopted. Something needed to be done to stop the explosion in local bills and to permit local governments to deal efficiently with local issues. .... There is no express preemption of the subject of recall to the state, either by general act or the Florida Constitution. 13 In fact, the Florida Division of Elections in DE 94-14 (Aug. 1, 1994) answered the following question from the Brevard County Charter Commission: May a county charter lawfully provide a method for the recall of county officers? The Division stated: Your . . . question is answered in the affirmative. A county charter may provide a method for the recall of county officers. However, the provisions of Section 100.361, Florida Statutes, are applicable to all chartered counties and will prevail over any conflicting provisions in such charters to the extent of the conflict. .... Thus, charter county home rule should be found to grant Brevard County the legal ability to allow the people of Brevard County to amend their Charter to permit the recall of Brevard County School Board Members, especially given that the delegation of home rule to Brevard County is extremely broad. (emphasis supplied by proponent). B Powers in the Brevard County Charter Must Be Construed to Be Very Wide and Liberal Not only is the power of home rule for a charter county broad, but the Brevard County Charter reinforces the concept in Section 1.3. This section, entitled "Construction", provides that "[t]he powers granted by this Home Rule Charter shall be construed liberally in favor of charter government." This section 1.3 dictates that the proposals of the CRC to amend the Charter are to be construed liberally in favor of charter government, which would mean the enhancement of the powers of charter government. This would include recall election of school board members. (emphasis supplied by proponent)" [New]: "be able to understand the difficulty presented by the recall statute which requires two separate petition drives requiring five percent of the electors sign the first-round petition and which requires that fifteen percent of the electors sign the second-round petition. By having the recall statute number cited in section 5.2 Recall, the public will be able to learn of the severe time limitations for the collection of signed petitions required by the statute. In sum, by citing the recall"

### C School Board Members Are County Officers

A county charter has control over so-called constitutional or county officers. For example, in Article VIII, Section 1(d) of the Florida Constitution, there are specific provisions relating to the election of the constitutional or county officers, including in each county a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court. No provision of the Constitution or state statute prohibits providing for the recall of the constitutional or county officers.

It should also be noted that school board members are county or constitutional officers. The Florida Supreme Court in *In re Advisory Opinion to the Governor*, 626 So. 2d 684 (Fla. 1993), answered a request from the Governor for an advisory opinion stating that a school board member is a county officer for purposes of the Governor's suspension authority under article IV, section 7(a) Florida Constitution. The Court reached this opinion even though the Constitution does not say that a school board member is a county officer.

The Court made it clear that the term "county officer" in the Constitution applies to not only the sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court but also to county commissioners and school board members. The Court, at 689, stated:

While an argument can be made that the suspension provision in article IV, section 7, should be construed narrowly and that school board members should be characterized as "district" rather than "county" officers, we find that a broader construction is appropriate. We reach this conclusion because it is apparent that the public looks at both school board members and county commissioners as "county" officials, who have equivalent power and authority, albeit in different local governmental spheres. We recognize that article VIII, section 1(d), defines certain "county officers." We note, however, that the county officers defined in section 1(d) could not have been intended to be the only "county" officers subject to the suspension provisions of article IV, section 7, because that provision does not include county commissioners within the definition of a

#### Text Replaced

[Old]: "C School Board Members Are County Officers A county charter has control over so-called constitutional or county officers. For example, in Article VIII, Section 1(d) of the Florida Constitution, there are specific provisions relating to the election of the constitutional or county officers, including in each county a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court. No provision of the Constitution or state statute prohibits providing for the recall of the constitutional or county officers. It should also be noted that school board members are county or constitutional officers. The Florida Supreme Court in *In re Advisory Opinion to the Governor*, 626 So. 2d 684 (Fla. 1993), answered a request from the Governor for an advisory opinion stating that a school board member is a county officer for purposes of the Governor's suspension authority under article IV, section 7(a) Florida Constitution. The Court reached this opinion even though the Constitution does not say that a school board member is a county officer. The Court made it clear that the term "county officer" in the Constitution applies to not only the sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court but also to county commissioners and school board members. The Court, at 689, stated: While an argument can be made that the suspension provision in article IV, section 7, should be construed narrowly and that school board members should be characterized as "district" rather than "county" officers, we find that a broader construction is appropriate. We reach this conclusion because it is apparent that the public looks at both school board members and county commissioners as "county" officials, who have equivalent power and authority, albeit in different local governmental spheres. We recognize that article VIII, section 1(d), defines certain "county officers." We note, however, that the county officers defined in section 1(d) could not have been intended to be the only "county" officers subject to the suspension provisions of article IV, section 7, because that provision does not include county commissioners within the definition of a"

[New]: "statute in section 5.2 Recall, the public will be able to become more knowledgeable to make an informed decision on whether to vote for or against the proposed amendment to section 5.2 Recall. Service of Proposal"

county official. The duties and governing authority of county commissioners are set forth in article VIII, section 1(e). School board members' duties and authority are found in article IX, sections 4(a) and 4(b), which provides that "each county shall constitute a school district" and that school board members shall "operate, control, and supervise" the schools within the county (emphasis added). . . .

D  
At Least One County has Adopted Provisions  
for Recall of School Board Members

A review of the 19 charter county charters indicates that least one other county, Duval, has adopted provisions for the recall of school board members.<sup>16</sup>

**SERVICE OF PROPOSAL**

This proposal was sent by e-mail on May 20, 2022, to: the members of the Brevard County Charter Review Commission; to Commission attorney Paul R. Gougelman; to Brevard County employees Jim Liesenfelt, Melissa Brandt.

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"county official. The duties and governing authority of county commissioners are set forth in article VIII, section 1(e). School board members' duties and authority are found in article IX, sections 4(a) and 4(b), which provides that "each county shall constitute a school district" and that school board members shall "operate, control, and supervise" the schools within the county (emphasis added). ... D At Least One County has Adopted Provisions for Recall of School Board Members A review of the 19 charter county charters indicates that least one other county, Duval, has adopted provisions for the recall of school board members. 16"
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"SERVICE OF PROPOSAL"
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[Old]: "e-mail on May 20,"  
[New]: "email on June 24,"
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**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 7, 2022

**AGENDA ITEM NUMBER:** Proposal 20 Amended 06-30-2022 Public Hearing 3

**SUBJECT:**

Proposed Charter Amendment: Addition of "subsection 3" to Article 7, sec. 7.4.1.  
(Procedural guidance in the event that the 3 person panel rejects the amendment or ballot language).

**PETITIONER CONTACT:**

Gabriel Jacobs-Kierstein (321-366-9686) GJacobs.attorney@outlook.com  
Post Office Box 410354, Melbourne, Florida 32941

**REQUESTED ACTION:**

Place the proposed charter amendment on the next Charter Review Commission agenda (hereinafter "CRC"), so that the 3 requisite public hearings can be properly noticed and held, prior to a vote. This proposal was submitted before the 5/2/2022 deadline.

**SUMMARY EXPLANATION & BACKGROUND:**

Article 7, section 7.4.1.(2) is silent on what occurs if a proposed amendment or ballot language is rejected by the 3 person panel appointed to review them. At the last CRC meeting on April 21st, 2022, counsel for the Commission, Mr. Gougelman, discussed the lack of procedural guidance on this issue. Additionally, the Chair, as well as other Commissioners, voiced a concern that this discrepancy could cause a host of other problems. Section 7.4.1.(2) currently sets forth the procedure and criteria for approval, but does not speak to the inverse. The proposed charter amendment serves to cement an equitable and efficient means of handling this. Furthermore, the amendment aids in fostering a more transparent and impartial process. Please see "subsection 3" below (a formal-underlined version has been attached in a separate document):

<b>Staff Contact:</b>	Melissa Brandt
<b>Telephone Number:</b>	(321) 301-4438
<b>Email Address:</b>	<a href="mailto:Melissa.Brandt@brevardfl.gov">Melissa.Brandt@brevardfl.gov</a>



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

### **SUMMARY EXPLANATION & BACKGROUND CONTINUED:**

3.

- a. Under section 7.4.1.1, when the proposed amendment(s) are sponsored by the Charter Review Commission, members of the three (3) person panel shall be selected by the Charter Review Commission. The three (3) person panel shall report directly, and maintain a fiduciary duty, to the Charter Review Commission during the active term.
- b. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days of receipt and shall include a comprehensive written report containing the panels conclusion(s) for each proposal. If two (2) members of the three (3) person panel reject the proposed amendment, the proposal shall be promptly returned to the Charter Review Commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering any charter amendment proposal rejected by the three (3) person panel.

## County Charter Provision Comparisons

Updated December 2020

LEGISLATIVE BODY										
County	Size	How Elected	Partisan Election -- Y/N	Length of Term	Term Limitation	Adjustments to Salary	Separates Legislative & Executive Functions	Specifies Non-Interference Clause	Administrative Code Required	Recall
Alachua	5	District (§2.2)	Silent	4	N	Statute	Y (§2.1)	N	Y (§2.2)	Y (§2.2)
Brevard	5	District (§2.1;2.3)	Silent	4 (§2.4)	2 (§2.4)	Ordinance (even-numbered years)(§2.6)	Y (§1.5)	Y (§3.4)	Y (§2.10.2)	Y (§5.2)
Broward	9	District (§2.01(A)1)	Y (§2.01(B))	4	3 (§2.02)	Statute (§2.01(D))	Y (§1.02(c))	Y (§2.07)	Y (§2.13)	Y (§1.04(M))
Charlotte	5	District/At Large (§2.2)	Silent	4	Silent	Statute	Y	Y	Y	Y
Clay	5	District	Silent	4	2	Charter (majority vote in general election)	Y	Y	Y	Y
Columbia	5	District (§2.1)	N (§2.3;5.3)	4	N	Statute (§2.5)	Y (§1.6)	Y (§3.4)	Y (§2.8(6))	Y
Duval	19	14 District/5 At Large (§5.02)	Silent	4 (§5.03)	2 (§5.041)	Charter (§5.04, 9.12)	Y (§4.01)	N	Y	Y (§15.01)
Hillsborough	7	4 District/3 At Large (§4.03)	Y	4		Ordinance (§4.07)	Y (§3.01)	N	Y (§7.01)	Y (§9.08)
Lee	5	District/At Large (§2.2(A))	Y (§ 2.2A)	4	3	Statute (§2.2(C))	Y (§2.1)	Y (§2.2(I))	Y (§2.2(E))	Y (§2.2(G))
Leon	7	5 District/2 At Large (§2.2(1))	N	4	Silent	Ordinance (§2.2(3))	Y (§§1.8, 2.1)	Y	Y (§2.2(6))	Y (§4.2)
Miami-Dade	13	13 District (§1.04)	N (§3.3)	4 (§3.01)	2 (§3.01(E))	Charter (§1.06)	Y (§1.01, §2.02)	Y (§4.04)	Y (§1.02(H))	Y (§8.02)
Orange	7	6 District/Mayor-At Large (§201)	N (§605)	4 (§204(A))	2 §(204(B))	Ordinance (§2.05)	Y (§108)	Y (§212)	Y (§211)	Y (§604)

## County Charter Provision Comparisons

Updated December 2020

LEGISLATIVE BODY										
County	Size	How Elected	Partisan Election -- Y/N	Length of Term	Term Limitation	Adjustments to Salary	Separates Legislative & Executive Functions	Specifies Non-Interference Clause	Administrative Code Required	Recall
Osceola	5	District/At Large (§2.2(A))	Silent	4	Silent	Statute (§2.2(C))	Y (§2.1)	Silent	Y (§2.2)(E))	Y (§2.2(G))
Palm Beach	7	District (§2.2)	Y-except non-partisan for property app, sheriff, sup. of elections (§4.1.a)	4	2	Statute	Y (§2.1)	Y (§2.5)	Y (§2.4)	Y (§5.2)
Pinellas	7	4 District/3 At Large (§3.01)	Silent	4	Silent	Statute (§3.01)	Y (§3.01, §4.01 (c))	N	Silent	Silent
Polk	5	District/At Large (§2.1)	Y (§5.2.1)	4 (§2.4)	12 (§2.3)	Charter (§2.5)	Y (§1.6)	Y (§3.4)	Y (§2.10)	Y (§6.2)
Sarasota	5	District/At Large (§2.1A)	Silent	4 (§2.1A)	2 (§2.1A)	Charter (§2.1B)	Silent	Y	Y	Y
Seminole	5	District/At Large (§2.2A)	Silent	4 (§2.2A)	Silent	Ordinance	Y (§2.1)	Y (§2.2(I))	Y (§2.2E)	Y (§2.2G)
Volusia	7	5 District/1 At Large/1 Chair At Large (elected) (§301)	N (§904)	4 (§303.1)	2 (§303.5)	Charter (§304)	Y (§203)	Y (§404)	Y (§308.1)	Silent
Wakulla	5	District/At Large (§2.1)	Silent	4 (§2.4)	N	Statute (§2.5)	Y (§1.6)	Y (§3.4)	Y (§§2.8, 2.9)	Y (§6.2)

EXECUTIVE BRANCH									
County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
<b>Alachua</b>	Appointed	Majority (§2.3(A)(2))	Majority vote, after hearing if requested by CM (§2.3(A)(2))	Silent	Ordinance	Charter/ Ordinance	Cty Mgr/BoCC majority vote confirmation (§2.3(B)(1))	Cty Manager (§2.3(B)(2))	Either
<b>Brevard</b>	Appointed	Silent	Silent	Silent	Contract	Charter (§3.3)	Mgr/BoCC Approval (§4.5.1)	Manager (§4.5.1)	Either (§4.5.1)
<b>Broward</b>	Appointed	6/9	Majority	Silent	Silent	Charter	Adm/BoCC Majority Approval	Administrator	Silent
<b>Charlotte</b>	Appointed (§2.3(A)(1))	4/5 (§2.3(A)(2))	4 outright or 3 out of 5 @ at 2 meetings 2 weeks apart (§2.3(A)(4))	Either (§2.3(A)(4))	Ordinance (§2.3(A)(2))	Charter (§2.3(A)(1))	Adm/BoCC Advice & Consent (§2.3(B)(1))	Administrator (§2.3(B)(2))	Either (§2.3(B)(2))
<b>Clay</b>	Appointed (§2.3(A)(1))	Majority (§2.3(A)(1))	Majority (§2.3(A)(1))	Either (§2.3(A)(1))	Silent	Charter (§2.3(A)(1))	Administrator (§2.3(B)(1))	Manager/ BCC appeal (§2.3(B)(2))	Either (§2.3(B)(2))

EXECUTIVE BRANCH									
County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Columbia	Appointed	Majority (§2.8(1))	Majority/at 2 meetings or super-majority at one meeting (§2.8(1))	Either	Contract (§3.2) subject to annual review by BoCC	Charter (§3.3)	Manager (§3.3(10))	Manager (§3.3(10);§4.2)	Either/BoCC approval; Dept Head can appeal to BoCC (§4.2)
Duval	Mayor Elected (§6.01)	4 years	Silent	Silent	Silent	Silent	Mayor/Council Confirmation	Silent	Silent
Hillsborough	Appointed (§5.01)	5/7 (§5.03(1))	5 or 4 @ 2 meetings (§5.03(1))	Either (§5.03(1))	Ordinance (§5.03(2))	Silent	Adm w/BoCC Consent (§5.01)	Administrator (§5.01)	Either (§5.01)
Lee	Appointed (§2.3(A)(1))		Majority (§2.3(A)(1))	Either (§2.3(A)(1))	Contract	Charter (§2.3(A)(1))	Manager (§2.3(B))	Manager (§2.3(B))	Either (§2.3(B))

EXECUTIVE BRANCH									
County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Leon	Appointed (§2.3(1))	Majority + 1	Majority +1	Silent	Contract	Charter (§2.3(1)(A))	Administrator does not include county attorney and TDC staff (§2.3(2))	Administrator (§2.3(2))	Either (§2.3(2))
Miami-Dade	Mayor Elected (§2.02)	Elected-2 time term limit				Charter	Mayor	Mayor	
Orange	Mayor Elected (§3.02)	Elected				Charter	Mayor	Mayor	
Osceola	Appointed (§2.3(A)(1))	Majority	Silent	Silent	Silent	Charter (§2.2(A)(1))	Adm w/BoCC Advice & Consent	Administrator (§2.2(B)(2))	Either (§2.2(B)(2))
Palm Beach	Appointed (§2.4)	Majority (§2.4)	Silent	Silent	Silent	Charter	Adm/w BoCC Advice & Consent (§4.2)	Silent	Silent

EXECUTIVE BRANCH									
County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Pinellas	Appointed	5/7 (§4.01(a))	4/5 at 2 meetings (§4.01(a))	Silent	Silent	Charter (§4.01(C))	Adm/BoCC Approval for unclassified positions (§4.01(C)(2))	Adm/BoCC Approval for unclassified positions (§4.01(C)(3))	With
Polk	Appointed	Majority of entire commission (§2.8(1))	Majority at 2 meetings (§2.8(1))	Silent	Contract (§3.2)	Charter	Adm/BoCC Approval (§4.2)	Administrator (§4.2)	Either (§4.2)
Sarasota	Appointed (§2.6A)	4/5 (§2.6B)	4 or 3/5 @ 2 meetings 3 weeks apart (§2.6B)	Silent	Silent	BCC and Charter (§2.6F)	Adm/BoCC Confirmation (§2.6F)	Adm/BoCC Confirmation (§2.6F)	Either (§2.6F)
Seminole	Appointed (§2.3(A)(1))	Majority	Majority	Either (§2.3(A)(1))	Silent	Charter (§2.3(A))	Adm/BoCC Confirmation (§2.3(B))	Administrator	Either
Volusia	Appointed (§401)	Silent	Silent	Silent	Silent	Charter (§403)	Adm/Council Approval (§602)	Silent	Silent



EXECUTIVE BRANCH									
County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Wakulla	Appointed (§3.1)	Silent	Silent	Silent	Contract (§3.2)	Charter (§3.3)	Silent	Silent	Silent

COUNTY ATTORNEY					
County	Method of Appointment	Method of Termination	With or Without Cause	Appointment of Assistant County Attorneys	Termination of Assistant County Attorneys
Alachua	BoCC (§2.3(C))	Silent	Either (§2.3(C))	Silent	Silent
Brevard	BoCC	Silent	Silent	Silent	Silent
Broward	BoCC (§2.10)	Silent (§2.10)	Silent (§2.10)	County Atty (§2.10(C))	Silent
Charlotte	BoCC (§2.3(D))	Silent	Silent	Silent	Silent
Clay	Majority (§2.3(C)(1))	Majority (§2.3(C)(1))	Either (§2.3(C)(1))	County Attorney (§2.3(C)(2))	County Attorney (§2.3(C)(2))
Columbia	Elected Non-Partisan	Not Applicable	Not Applicable	County Attorney	County Attorney
Duval	Mayor/Council Confirm (§7.03)	Mayor or Council (§7.06)	With/Council Confirm (§7.206)	General Counsel (§7.207)	Silent
Hillsborough	5 (§6.03(1))	5 or 4 @ 2 meetings (§6.03(1))	Either (§6.03(1))	County Attorney (§6.01)	County Attorney (§6.01)
Lee	Majority (§2.3(C)(1))	Majority (§2.3(C)(1))	Either (§2.(C)(1))	County Attorney (§2.(C)(5))	County Attorney (§2.3(C)(5))
Leon	BoCC (§2.4)	Silent (§2.3)	Either (§2.4.1)	Silent	Silent
Miami-Dade	BoCC subject to Mayor veto/override (§5.06)	Silent	Silent	County Attorney (§5.06)	Silent
Orange	Silent	Silent	Silent	Silent	Silent

COUNTY ATTORNEY					
County	Method of Appointment	Method of Termination	With or Without Cause	Appointment of Assistant County Attorneys	Termination of Assistant County Attorneys
Osceola	Majority (§2.3(C))	Silent	Silent	Co Atty subject to budget approval (§2.3(C))	Silent
Palm Beach	BoCC (§4.3)	Silent	Silent	County Attorney subject to budget approval (§4.3)	Silent
Pinellas	County Attorney Oversight Committee (§4.2(a))	Silent	Silent	Co Atty/BoCC App (§4.02(6))	Silent
Polk	BoCC (§4.3)	Majority (§4.3)	Silent	Silent	Silent
Sarasota	BoCC (§2.7)	Silent	Silent	Silent	Silent
Seminole	Majority (§2.4)	Majority (§2.4)	Either (§2.4)	County Attorney (§2.4)	County Attorney (§2.4)
Volusia	Council (§III.A.1)	Silent	Silent	Silent	Silent
Wakulla	BoCC (§4.1)	Silent	Silent	Silent	Silent

ELECTED CONSTITUTIONAL OFFICERS				
County	Affects Status of Elected Constitutional Officers	Describe Change	Does Charter Provide for Recall of Elected Officials	School Board
Alachua	N (§3.1)		Silent	
Brevard	Y (§4.1;4.2)	Makes them county officers (§7.23)	Y (§4.1.2; §5.2)	Elections procedures (§8.1)
Broward	Y (§3.06)	Abolished Tax Coll/Clerk Audit Functions Now Dept. of Financial Svcs & Adm	Silent	
Charlotte	N (§3.1)		Silent - residency requirements (§3.1)	
Clay	Y (§3.1)	Manager is Board Clerk and performs Clerk finance functions (§2.3 (4)(1)f); creates a Commission Auditor; constituional officers term limits (§2.3 (D))	Y (§3.2)	
Columbia	N (§5.1)		Silent	
Duval	Y	Mayor Elected; Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections - elected charter offices (2 term limits)	Y (§15.01)	Y (Article 13)
Hillsborough	N (§1.02)		Silent	
Lee	Y (§3.1)	SOE: Non-Partisan §§3.1;3.2 (A)	Silent	
Leon	Y (§3.1)	SOE: Non-Partisan §3.2 (A)	Silent	
Miami-Dade	Y (§9.01)	Sheriff abolished; Tax Collector and Clerk finance functions now Dept. of Financial Admininstration; transferred functions to Mayor; elected Property Appraiser	Y (§8.02)	

ELECTED CONSTITUTIONAL OFFICERS				
County	Affects Status of Elected Constitutional Officers	Describe Change	Does Charter Provide for Recall of Elected Officials	School Board
Orange	Y (§703)	Clerk of Court/Comptroller; removes charter status of Property App; Tax Collector; SOE; Sheriff and reinstates constitutional status (§703); Sheriff, Property Appraiser, SOE and Clerk of Court into nonpartisan, elected charter officers subject to term limits of 4 consecutive year terms, abolishing status as constitutional officers	Silent	
Osceola	Y (§3.1)	Clerk functions transferred to Manager	Silent	
Palm Beach	Y (§4.1.a)	Property Appraiser; Sheriff; Supervisor of Elections - nonpartisan	Silent	
Pinellas	N (§4.03)		Silent	
Polk	Y (§5.1; 5.2)	Non-partisan for Clerk, Property Appraiser, Supervisor or Elections, Sheriff, Tax Collector	Silent	
Sarasota	Y (§2.4)	4 Yr Term Limits for Constitutional Officers	Y	
Seminole	N (§3.1)		Silent	
Volusia	Y (§601.1)	Tax Coll/Clerk now Dept. of Finance & Adm; Sheriff, SOE, Property Appraiser Appointed as Department Directors	Silent	
Wakulla	N (§5.1)		Silent	

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Alachua	7% (§2.2(H))	180 days (§2.2(H)(2))	60 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Brevard	5% (§5.1)	9 mos. (§5.1.1)	60 days (§5.1.2)	General Election (§5.1.2)	Specified in charter (§5.1.3)	Silent
Broward	7%	180 days (§7.01)	90 days	General/Special election	Specified in charter (§7.01)	Y
Charlotte	10% (§2.2(G)(1))	6 mos (§2.2(G)(2))	60 days (§2.2(G)(3))	General Election (§2.2(G)(3))	Specified in charter (§2.2(g)(4))	Y (§2.2(G)(2))
Clay	10% (§2.2(I)(1))	180 days (§2.2(I)(2))	45 days (§2.2(I)(3))	General Election (§2.2(I)(3))	Specified in charter (§2.2(I)(5))	Y (§2.2(I)(2))
Columbia	7% (§6.1)	6 mos (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent
Duval	Silent	Silent	Silent	Silent	Silent	Silent
Hillsborough	Silent	Silent	Silent	Silent	Silent	Silent

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Lee	5% (§2.2(H)(1))	180 days (§2.2(H)(2))	45 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Leon	10% (§4.1(1))	1 year (§4.2(2))	60 days (§4.2(3))	General Election (§4.2(3))	Specified in charter (§4.2(4))	Y
Miami-Dade	4% (§8.01)	120 days	60 days after legal review report	Next Countywide Election or if 8% signatures, special election	Specified in charter	Y
Orange	7% (§601(B))		30 days (§602(B))	Next election, 45 days after Res by BoCC (§602(B))	Specified in charter (§603)	Y (§602)
Osceola	7% (§2.2(H)(1))	180 days (§2.2(H)(2))	60 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Palm Beach	7% (§5.1)	Silent	45 days subject to verification by SOE (§5.1)	General Election (§5.1)	Specified in charter (§5.1)	Silent
Pinellas	Silent	Silent	Silent			

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Polk	6% (§6.1)	1 year (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent
Sarasota	Silent					Silent
Seminole	5% (§2.2(H)(1))	6 mos (§2.2(H)(2))	60 (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Volusia	Silent				Silent	Silent
Wakulla	30% (§6.1)	6 mos (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent



METHODS TO AMEND CHARTER AMENDMENT BY PETITION						
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements	Other
Alachua		10% (§4.2(A)(1))	180 days (§4.2(A)(2))	General Election (§4.2(A)(1))	Majority (§4.2(A)(3))	
Brevard	Y (§7.3.2.1)	4% (§7.3.2)	9 mos (§7.3.2.4;§5.1.1)	Special Election (§7.3.3)	Majority (§7.3.3)	
Broward		7%	180 days	See charter (§7.01(G)(1)&(2))	Majority (§7.01(I))	
Charlotte		10% (4.2(B)(1))	90 days (4.2(B)(1))	General Election (§4.2(B)(1))	Majority (§4.2(B)(3))	
Clay		10%(§4.2(A)(1))	180 days (§4.2(A)(3))	General Election (§4.2(A)(2))	Majority (§4.2(A)(4))	
Columbia		10% (§8.3.2(2))	6 mos (§8.3.2)	General Election (§8.3.3)	Majority (§8.3.3)	
Duval		5% (§18.05(a))	180 days	Next Countywide General Election (§18.05(h))	Majority (§18.05)	
Hillsborough		8% (§8.03(1))	6 mos (§8.03(1))	General Election (§8.04)	Majority (§8.04)	
Lee		7% (§4.1(A)(1))	90 days (§4.1(A)(2))	General Election (§4.1(A)(4))	Majority (§4.1(A)(4))	
Leon		10% (§5.2(1)(A))	1 year (§5.2(1)(A))	General Election (§5.2(1)(B))	Majority (§5.2(1)(B))	
Miami-Dade	N	10% (§9.07(A))	Silent	General Election	Majority (§9.07(D))	
Orange	N	10% (§601(A))	180 days (§601(A))	Next General Election (§602(A))	Majority (§602(A))	Providing for single subject, legal review, comptroller prepared financial impact statement and public hearing requirements; ensuring equal percentage of signatures from all commission districts
Osceola	N	10% (§4.2(A)(1))	180 days (§4.2(A)(2))	Special Election (§4.2(A)(1))	Majority (§4.2(A)(3))	
Palm Beach	N	7% (§6.3)	Silent	General Election or presidential primary (§6.3)	Majority (§6.3)	
Pinellas	N	8%(§6.02(1))	240 days (§6.02(2))	General Election or special call referendum (§6.02(1))	Majority (§6.02(1))	Brief financial impact statement prepared by county auditor placed on ballot with proposed charter amendment
Polk	Y (§8.3.2)	7% (§8.3.2)	1 year (§8.3.2, §6.1.1)	General Election - cannot be held sooner than 60 days after amendment proposed or validated (§8.3.3)	60% (§8.3.3)	60% (§8.3.3)
Sarasota	N	10% (§7.1)	Silent	General Election (§7.1)	Majority (§7.1)	Majority (§7.1)

METHODS TO AMEND CHARTER AMENDMENT BY PETITION						
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements	Other
Seminole	N	7.5% residing in 3/5 (§4.2(A)(1))	6 mos (§4.2(A)(2))	General Election (§4.2(A)(1))	Majority (§4.2(A)(3))	Majority (§4.2(A)(3))
Volusia		5% (§1302.2)	Silent	General Election (§1302.3)	Majority (§1302.3)	Majority (§1302.3)
Wakulla	Y (§7.3.2)	30% (§7.3.2)	6 mos (§7.3.2, §6.1.1)	General Election (§7.3.3)	Majority (§7.3.3)	Majority (§7.3.3)

AMENDMENT BY CHARTER REVIEW COMMISSION						
County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
Alachua	Y (§4.2(B))	Every 10 years (§4.2(B)(1))	11-15 (§4.2(B)(1))	General Election (§4.2(B))	Majority (§4.2(B)(5))	Silent
Brevard	Y (§7.4)	Every 6 years (§7.4)	15 (§7.4)	Special Election (§7.4.1)	Majority (§7.4.1)	Silent
Broward	Y	Every 12 years	19	General Election	2/3 vote (§6.02)	Y (§11.07)
Charlotte	Y (§4.(C)(1))	Every 6 years (§4.2(C)(1))	15/ 3 alternate (§4.2(C)(1))	General Election (§4.2(C)(1))	Majority (§4.2(C)(5))	Silent
Clay	Y (§4.2(B)(1))	Every 4 years (§4.2(B)(1))	15/5 alternates (§4.2(B)(1))	General Election (§4.2(B)(5))	Majority (§4.2(B)(5))	
Columbia	Y (§8.4)	Every 8 years (§8.4)	Silent	General Election (§8.4(3))	Silent	Silent
Duval	N					
Hillsborough	Y	Every 5 years (§8.02)	14 (§8.02)	General Election (§8.04)	2/3 vote (§8.04)	Y

AMENDMENT BY CHARTER REVIEW COMMISSION						
County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
Lee	Y	Every 8 years (§4.1(B)(1))	15 (§4.1(B)(1))	General Election (§4.1(B)(4))	Majority (§4.1(B)(4))	N
Leon	Y	Every 8 years (§5.2(2)(A))	BoCC decides	General Election (§5.2(2)(A))	Silent	Silent
Miami-Dade	N					
Orange	Y (§7.02)	Every 4 years (§7.02(B))	11-15 (§7.02(A))	General Election (§7.02(B))	Silent	
Osceola	Y (§4.2(C)(1))	Every 4 years (§4.2(C)(1))	11 (§4.2(C)(2))	Silent	2/3 vote (§4.2(C)(8))	Silent
Palm Beach	N					
Pinellas	Y	Every 8 years (§6.03(a))	13 (§6.03(a))	General Election (§6.03(c))	Silent	Y (§6.06)

AMENDMENT BY CHARTER REVIEW COMMISSION						
County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
Polk	Y	Every 8 years (§8.04)	13 (§8.4)	General Election (§8.4)	Silent	Silent
Sarasota	Elected (§2.8A)	4 year terms (§2.8A)	10 (§2.8A)	Next Countywide Election (§7.1)	2/3 (§2.8B)	Silent
Seminole	Y (§4.2(B))	Every 6 years (§4.2(B)(1))	15 (§4.2(B)(1))	General Election (§4.2(B)(1))	Majority (§4.2(B)(4))	Silent
Volusia	Y (§1303)	Every 10 years (§1303)	According to general law (§1303)	General Election (§1303)	Silent	Silent
Wakulla	Y (§7.4)	Every 8 years (§7.4)	15 (§7.4)	General Election (§7.4)	Not less than 10 members (§7.4)	Silent

CHARTER AMENDMENT BY COUNTY COMMISSION			
County	Amendment Proposed by Ordinance Approved by	Referendum Will Be Scheduled	Voting Requirements
<b>Alachua</b>	Majority + 1 (§4.2(C)(1))	General Election (§4.2(C)(2))	Majority (§4.2(C)(2))
<b>Brevard</b>	Not less than 4 (§7.3.1)	Special/concurrent with countywide	Majority
<b>Broward</b>	Majority + 1 (§2.06)	General Election	Majority
<b>Charlotte</b>	Majority (§4.2(A))	General Election (§4.2(A))	Majority (§4.2(A))
<b>Clay</b>	Majority (§4.2(C)(1))	Next General or Special Election (§4.2(C)(1))	Majority (§4.2(C)(1))
<b>Columbia</b>	Majority + 1 (§8.3.1)	General Election (§8.3.3)	Majority (§8.3.3)
<b>Duval</b>	Silent	Silent	Silent
<b>Hillsborough</b>	5 (§8.01)	Special Election or Regular Election as directed by BoCC (§8.04)	Majority (§8.04)
<b>Lee</b>	Majority (§4.1(C)(1))	General Election (§4.1(C)(2))	Majority (§4.1(C)(2))
<b>Leon</b>	Majority + 1 (§5.2(3)(A))	General Election (§5.2(3)(A))	Majority (§5.2(3)(B))
<b>Miami-Dade</b>	Resolution of BoCC (§9.07(A))	General Election	Majority
<b>Orange</b>	Majority (§7.01)	Primary, General or Special Election (§7.01)	Silent

CHARTER AMENDMENT BY COUNTY COMMISSION			
County	Amendment Proposed by Ordinance Approved by	Referendum Will Be Scheduled	Voting Requirements
Osceola	Majority + 1 (§4.2(B)(1))	Special Election (§4.2(B)(1))	Majority (§4.2(B)(1))
Palm Beach	4 (§6.3)	Presidential Election Ballot (§6.3)	Majority (§6.3)
Pinellas	Majority + 1 (§6.01)	Next Countywide or Special Election (§6.01)	Majority (§6.01)
Polk	Majority + 1 (§8.3.1)	General Election (§8.3.3)	60% (§8.3.3)
Sarasota	Silent	Special Election (§7.1)	Majority (§7.1)
Seminole	Majority (§4.2(C)(1))	General Election (§4.2(C)(1))	Majority (§4.2(C)(1))
Volusia	2/3 vote of Council (§1302.1)	General Election (§1302.3)	Majority (§1302.3)
Wakulla	Majority + 1 (§7.3.1)	General Election (§7.3.3)	Majority (§7.3.3)

INTERGOVERNMENTAL RELATIONS	
County	"
Alachua	Municipal ordinances prevail in event of conflict. <b>Environmental</b> - Ordinances that establish different standards for the purpose of protecting the environment by prohibiting or regulating air or water pollution, the more stringent will apply inside a municipality. The less stringent standards still apply as well. (§1.4) <b>Land use planning</b> - Each municipality responsible for planning inside municipal boundaries; county for unincorporated area. County and a city may, by interlocal, agree to provide for joint planning under certain circumstances. (§1.5) <b>County Growth Management Area</b> - charter amended to establish a countywide "County Growth Management Area" and county's comp plan and land development regulations will govern land
Brevard	Municipal ordinances prevail except as otherwise provided by state or federal law. (§1.7)
Broward	Municipal ordinances prevail except when the county ordinance relates to (1) setting minimum standards protecting the <b>environment</b> through the prohibition or regulation of air/water pollution, or the destruction of resources in the county belonging to the general public; (2) <b>land use planning</b> ; (3) <b>regulates the conduct of elected officials, appointed officials, and public employees through an enacted Code of Ethics</b> ; (4) <b>handgun management</b> (§2.12)
Charlotte	Municipal ordinances prevail except for countywide ordinances relating to (1) <b>impact fees</b> to pay the cost of county facilities or (2) <b>countywide comp plan or countywide comp plan elements and countywide LDRs as defined by Ch. 163</b> , Part II, Fla. Stat., as amended by the Legislature.
Clay	Municipal ordinances prevail.
Columbia	Municipal ordinances prevail except the county may, by ordinance, adopt minimum countywide standards for (1) regulating <b>adult entertainment</b> ; (2) protecting the <b>environment</b> by regulating air or water pollution; (3) <b>outdoor burning</b> ; (4) hours of sales of <b>alcoholic beverages</b> ; (5) <b>animal control</b> ; (6) <b>firearms</b> and weapons and; (7) protection of <b>level of service standards for county maintained roads</b> . Municipal ordinances in these areas can be stricter than the county minimum and apply. (§1.8)
Duval	Consolidated government.
Hillsborough	Municipal ordinances prevail. (§4.09) <b>Planning</b> - Charter establishes a single planning agency for cities and county to be created by special act without a referendum; responsible for comp planning and related activities as are committed to it by general or special law. (§9.09) <b>Environmental protection</b> - Charter establishes a single local environmental protection commission to be created by special act without a referendum.(§9.10)
Lee	Municipal ordinances prevail (§1.4); <b>minimum environmental regulations</b> (§1.6)
Leon	Municipal ordinances prevail. (§1.6)
Miami-Dade	Charter has power to preempt all municipal powers. (§§6.01, 6.02)



INTERGOVERNMENTAL RELATIONS	
County	"
Orange	Municipal ordinances generally prevail. Exceptions: County ordinances prevail when the county sets minimum standards for (1) regulating <b>adult entertainment</b> ; (2) protecting the <b>environment</b> by prohibiting or regulating air/water pollution, and only to extent that minimum standards are stricter than municipal ones; and (3) prohibiting or regulating simulated gambling or gambling. (§704) <b>Voluntary annexation</b> -Charter preempts ability to annex certain "preservation districts" to the county. (§505)
Osceola	Municipal ordinances prevail to extent of conflict. In the absence of conflict, county ordinances shall be effective inside municipalities when such intent is expressed by county ordinance. (§1.4) Casino gambling reserved to the people. (§1.5)
Palm Beach	<ul style="list-style-type: none"> <li>•Municipal ordinances prevail to extent of conflict, except that <b>county ordinances shall prevail</b> over (1) matters relating to protection of <b>wells and well fields</b>; (2) matters relating to <b>schools, county-owned beaches, district parks and regional parks, solid waste disposal, county law enforcement, and impact fees for county roads and public buildings</b>; in matters related to <b>county fire-rescue impact fees</b> and <b>county library impact fees</b> in those municipalities whose properties are taxed by the county for library and/or fire-rescue services, respectively; (3) for adoption and amendment of <b>countywide land use element</b>; (4) matters related to <b>establishment of levels of service for collector and arterial roads</b> which are not the responsibility of any municipality; (5) <b>voluntary annexation</b> and (6) <b>ethics regulation</b>.</li> </ul>
	<p>the restriction of the issuance of development orders which would add traffic to such roads which have traffic exceeding the adopted level of service, provided that such ordinance is adopted and amended by a majority of the county commission; and (5) voluntary annexation. (§1.3) <b>Protection of Health, Safety and Welfare</b> of all residents of county. County may adopt appropriate ordinances to accomplish these purposes. (§3.3)</p> <ul style="list-style-type: none"> <li>•Both county and municipal approval of charter amendments when they affect municipal power or function.(§6.3)</li> </ul>
Pinellas	The county has all special and necessary power to furnish within the various municipalities the services and regulatory authority listed here: (1) development and operation of 911 emergency communication system; (2) development and operation of solid waste disposal facilities, exclusive of municipal collection systems; (3) development and operation of regional sewer treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal systems; (4) acquisition, development and control of county-owned parks, buildings, and other county owned parks; (5) public health or welfare services or facilities; (6) operation, development and control of St. Pete-Clearwater airport;(7) design, construction and maintenance of major drainage systems in both the incorporated and unincorporated area; (8) design, construction and maintenance of county roads; (9) implementation of consumer protection regulations and protections; (10) animal control; (11) civil preparedness; (12) fire protection for unincorporated areas; (13) motor vehicle inspections;

INTERGOVERNMENTAL RELATIONS	
County	"
	<p>(14) water distribution, exclusive of municipal systems and in accordance with interlocals; (15) charitable solicitations regulations; (16) provide municipal services in unincorporated areas; (17) all powers necessary to transfer functions and powers of other governmental agencies; (18) special one-rule tax to acquire beachfront and other property for recreational use; (19) countywide planning, as provided by special law; (20) voluntary annexation procedures, including lands available for annexation, to the extent provided by general law. (§2.04)</p> <p>Annexation - Nothing in the charter prevents a municipality from annexing an unincorporated area, except that all annexations shall be in accordance with the exclusive method and criteria for voluntary annexation, including delineation of areas eligible for annexations adopted by ordinance under the authority elsewhere in charter. (§2.07)</p> <p>County can furnish additional services to the municipalities when the municipality requests it and BoCC approves. (§2.05) Certain powers of county limited. (§2.06)</p>
Polk	Municipal ordinances prevail. (§1.8)
Sarasota	Generally, municipal ordinances prevail except with respect to comprehensive planning and future land use designations in areas outside the urban service area which are not designated in a municipality's comp plan. In those areas, absent agreement, county's, rather than city's, future land use map designation ordinances control. (§3.3)
Seminole	Generally, municipal ordinances prevail. (§1.4) Exceptions: Casino gambling reserved to the people (Art. V, §1.1) and county ordinances related to the Rural Boundary prevail over municipal ones in conflict with county ordinances related to it. (Art. V, §1.2)
Volusia	<p>Municipal ordinances prevail, except as otherwise provided by the charter. (§1305) <b>Growth Management Commission</b> - countywide power. (§202.3) <b>Environmental</b> minimum standards, including, but not limited to, tree protection, stormwater management, wastewater management, river and waterway protection, hazardous waste disposal, wetlands protection, beach and dune protection, air pollution. Standards shall apply in all areas of the county; county ordinances prevail in this area, municipalities may adopt stricter standards. (§202.4) <b>Unified Beach Code</b> - County has jurisdiction over coastal beaches and approaches (specifically including municipal areas) and exclusive authority to regulate the beaches and public beach access and use; county ordinance prevails in this area. (§205)</p>
Wakulla	Municipal ordinances prevail; if county ordinance in conflict in municipality ordinance not effective. (§1.8)

ETHICS, ELECTIONS AND OPEN GOVERNMENT					
County	Campaign Finance Regulation	County Ethics Commission	Local Code of Ethics	Local Elections Criteria/Procedures	Redistricting Board
Alachua	Y (§1.6)	N	Silent		
Brevard	N	N	N		
Broward	N	Y (§10.01)	Y		
Charlotte	N	N	N		
Clay	N	N	Y (§2.2(E))		
Columbia	N	N	Y		
Duval	N	Y (§1.202)	Y (§1.202)		
Hillsborough	N	N	Y (§9.03)		
Lee	N	N	N		
Leon	N	N	Y		
Miami-Dade	N	Y-Independent Inspector General	Y		
Orange	N	N	Y (§707)		
Osceola	N	N	N		
Palm Beach		Y	Y (§2-441 through 2-447)		
Pinellas	N	N	N		Y
Polk	N	N	N		
Sarasota	Y (§6.5A)	N	N		
Seminole	N	N	N		
Volusia	N	N	Y (§1201)		
Wakulla	N	N			

RECALL ELECTION HELD	
County	
Alachua	N
Brevard	N
Broward	N
Charlotte	N
Clay	N
Columbia	N
Duval	N
Hillsborough	
Lee	N
Leon	N
Miami-Dade	Y (1970s/ 2006)
Orange	N
Osceola	N
Palm Beach	N
Pinellas	N
Polk	N
Sarasota	N
Seminole	N
Volusia	
Wakulla	N

\*First Draft- submitted 4/29/22:

**Sec. 7.4.1. Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three (3) persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The person serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. in this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.
3. The three (3) person panel shall submit its findings for each proposed amendment to the Charter Review Commission within ten (10) calendar days of receipt and shall include a comprehensive written report regarding the conclusion(s) made. If the three (3) person panel rejects the proposed amendment or ballot language, it shall be sent back to the Charter Review Commission, during regular session, for a reasonable opportunity to cure any defect. The panels written report shall include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) should be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to remedy.

\*Revised/Final Draft- submitted 5/2/22:

**Sec. 7.4.1. Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. All members of the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a general election or special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. In this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.
3. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days of receipt by the review panel of the proposal and shall include a comprehensive written report containing the panels conclusion(s). If two (2) members of the three (3) person panel reject the proposed amendment or ballot language, the proposal shall be promptly returned to the Charter Review Commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, this opinion should be indicated and the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to cure it, allowing for one (1) opportunity to do so. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering the charter amendment proposal rejected by the three (3) person review panel.

**Sec. 7.4.1. Independent review of proposed charter amendments.**

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The person serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. In this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.

**3.**

- a. Under section 7.4.1.1, when the proposed amendment(s) are sponsored by the Charter Review Commission, members of the three (3) person panel shall be selected by the Charter Review Commission. The three (3) person panel shall report directly, and maintain a fiduciary duty, to the Charter Review Commission during the active term.
- b. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days of receipt and shall include a comprehensive written report containing the panels conclusion(s) for each proposal. If two (2) members of the three (3) person panel reject the proposed amendment, the proposal shall be promptly returned to the Charter Review Commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering any charter amendment proposal rejected by the three (3) person panel.





**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 7, 2022

**AGENDA ITEM NUMBER:** Proposal 22 Public Hearing 3

**SUBJECT:**

Amend the Home Rule Charter of Brevard County Citizens Advisory Process to allow for input by citizens twice per year (semiannually), instead of once per year (annually).

**PETITIONER CONTACT:**

Matt Nye, (321) 626-9791, [matt.nye@nyecorp.com](mailto:matt.nye@nyecorp.com)

**REQUESTED ACTION:**

Amend the Home Rule Charter of Brevard County Citizens Advisory Process to allow for input by citizens twice per year, instead of once per year.

**SUMMARY EXPLANATION & BACKGROUND:**

See attached Word doc for formatted language.

**Staff Contact:**

Melissa Brandt

**Telephone Number:**

(321) 301-4438

**Email Address:**

[Melissa.Brandt@brevardfl.gov](mailto:Melissa.Brandt@brevardfl.gov)



## **Amend Section 2.9.10 Citizens process for advising the County Commission to read:**

The Board of County Commissioners shall develop procedures that will provide a mechanism for an individual, or an organized group of individuals to submit a formal written recommendation for the enhancement of the effectiveness and efficiency of County government to the County Commission on ~~an annual~~ a semiannual basis. The County Commission's procedures shall include the following provisions:

- a. ~~An annual~~ Two semiannual filing dates;
- b. The written recommendations shall be reviewed by the County Commission, and following the review, the County Commission shall vote to either accept the recommendation, accept the recommendation with revisions, or reject the recommendation; and,
- c. The County Commission's final vote and consideration of the recommendation shall occur no later than 120 days after receipt of the written recommendation. (Newly adopted 11-2-10)



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

**MEETING DATE:** July 07, 2022

**AGENDA ITEM NUMBER:** Proposal 24 Public Hearing 3

**SUBJECT:**

ESTABLISHMENT OF A BREVARD COUNTY WORKFORCE HOUSING AND  
SUPPORTIVE HOUSING FOR VULNERABLE FAMILIES TRUST FUND

**PETITIONER CONTACT:**

Jordin Chandler  
chandlerjordin@yahoo.com

**REQUESTED ACTION:**

Jordin Chandler, a member of the 2021-2022 Charter Review Commission, proposes that a new section (Section 1.9), be added to Article 1: "Creation, Powers, and Ordinances of Home Rule Charter Government," of the Brevard County Charter.

**SUMMARY EXPLANATION & BACKGROUND:**

According to Florida Realtors' year-end report, at the end of 2021, the statewide median sales price for single-family existing homes was \$348,000. That's 20% more than the previous year. At the same time, rent has increased more than 20% since last year. While the cost of living has increased and will continue to increase, wages remain stagnant. This alarming inflationary trend has only proven that we can no longer turn a blind eye to one of our nation's most critical needs — affordable housing.

Affordable housing is sometimes referred to as "workforce housing." This is because affordable housing serves the needs of people employed in the jobs we rely upon to make every community viable. They are people such as teachers, teacher's aides, nursing assistants, medical technologists, retail workers, government employees, emergency services providers, and law enforcement. These are some of the low- and very low-income members of our community who play an essential role in our county's safety and security, development, and financial wellness.

<b>Staff Contact:</b>	Melissa Brandt
<b>Telephone Number:</b>	(321) 301-4438
<b>Email Address:</b>	<a href="mailto:Melissa.Brandt@brevardfl.gov">Melissa.Brandt@brevardfl.gov</a>



**2021-2022**

## **CHARTER REVIEW COMMISSION AGENDA REPORT**

### **SUMMARY EXPLANATION & BACKGROUND CONTINUED:**

In addition, after decades of implementation and research, supportive housing has expanded to serve other populations sometimes identified outside of the homelessness system. In recent years supportive housing has been designed to serve high-need families with children. Specifically, families face multiple, complex challenges, including homelessness, child welfare involvement, domestic violence, substance use, mental health issues, and histories of complex trauma. In order to serve families with children effectively, the housing and services should be designed to reflect the needs of at least two generations in need of support.

#### **Supply and Demand for Affordable Housing:**

Rental market studies by the Shimberg Center for Housing Studies at the University of Florida include data that shows supply versus demand for affordable housing by County. This data shows the gap between the number of rental households and the number of available, affordable rental units.

Shimberg's 2016 study showed that the gap between supply and demand for renters earning <\$40% AMI was 4,261 units, but in their 2019 study, that gap had risen to 11,380 units!

#### **Housing Vouchers:**

In Brevard, housing vouchers have traditionally been the principal way of subsidizing rental units so that the landlord receives the Fair Market Rent while the tenant pays a maximum of 30% of their income. However, the last few years of rising house prices and rental rates have led to a significant devaluation of the housing voucher. Regular 2022 studies of Brevard rental rates by the Brevard Homeless Coalition (BHC) have shown that the average gap between the Fair Market Rent and the rent actually being asked by the landlord is 30%. Reality says that even the most community-minded landlords will be reluctant to take a 30% drop in income to offer housing to a low-income applicant.

This proposal would establish a Workforce Housing and Housing for Vulnerable Families Trust Fund, which will be used to create and sustain affordable housing in Brevard County.

**PROPOSAL TO AMEND THE BREVARD COUNTY CHARTER TO ESTABLISH A TRUST FUND THAT WILL CREATE AND SUSTAIN WORKFORCE HOUSING AND SUPPORTIVE HOUSING FOR VULNERABLE FAMILIES.**

Jordin Chandler, a member of the 2021-2022 Brevard County Charter Review Commission, proposes that the following underlined words be added to a new section (section 1.9) under **Article 1** of the Brevard County Charter:

**Sec. 1.9. – Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund.**

- (A) *Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund established.* The Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund ("Trust Fund") is hereby established.
- (1) See Sec. 62-6301. - **Definitions.** Of the Brevard County Code of Ordinances pertaining to the definitions for Workforce and Affordable Housing.
- (2) *Supportive housing is a combination of affordable housing and supportive services designed to help stabilize people who face complex challenges. Supportive housing has historically been offered to chronically homeless individuals through the homeless system and is recognized as a cost-effective and empirically based solution for long-term homelessness. Supportive housing models can look as different as the communities in which they are located. However, all supportive housing includes affordable housing, individualized, tenant-centered services, and property and housing management.*
- (B) *Purposes of Trust Fund.* The purpose of the Trust Fund is to provide a continuing, non-lapsing fund for the Brevard County Commission to use to address the need for affordable housing within Brevard County. The Trust Fund will be used to create and sustain affordable housing throughout Brevard County for renters and homeowners, and to increase workforce housing opportunities. The section is intended to comply with F.S. ch. 163 generally and specifically F.S. § 163.3177(6)(f), F.S. ch. 420 generally and specifically F.S. § 420.907, and F.S. ch. 125 and specifically F.S. § 125.379.
- (C) *Revenue sources.* The Trust Fund established under this section shall be funded as directed by the County Commission, and may be comprised of the following sources:
- (1) Brevard County General Revenue appropriated to the Trust Fund by the County Commission as part of the annual budget;

- (2) Funds voluntarily contributed by municipalities that may elect to participate in the Trust Fund and programs funded by the Trust Fund;
- (3) Grants or donations of money, property, or any other thing of value made to the Trust Fund;
- (4) Mandatory or voluntary payments, including but not limited to fees from new commercial and residential development, made pursuant to the development policies established by ordinance; and,
- (5) Other sources as established by ordinance.

(D) *Continuing Nature of Trust Fund.* Unless otherwise provided by ordinance or required by applicable law, unspent portions of the Trust Fund established under this Section, repayments of principal and interest on loans provided from the Trust Fund, and interest earned from the deposit or investment of monies from the Trust Fund:

- (1) Shall remain in the Trust Fund, to be used exclusively for the purposes of the Trust Fund;
- (2) Do not revert to the general revenues of the County, and
- (3) Any appropriations do not lapse.

(E) *Administration and Oversight of Trust Fund.* The Trust Fund shall be administered, appropriated, and expended by the County Commission in a manner consistent with the purposes of the Trust Fund as set forth in this section. The Trust Fund shall be administered in a manner that allows the Trust Fund to leverage other sources of public funds and private investment. The Trust Fund shall be included in the annual audit.

- (1) *Dispersion of funds.* The board of county commissioners shall establish and adopt written policies and procedures within the housing and human services department for the dispersion of such trust funds and residential density equivalent units. The criteria shall include a priority-based ranking system, similar to the state housing finance corporation format, to determine priority for the awarding of funds or density equivalent units to applicants.

Example: Proposals having more than the minimum percentage of units serving lower-income residents shall receive a higher priority ranking.

- (2) *Application.* Any applicant seeking to secure such funds or residential density equivalent units shall submit an application to the housing and human services department.
- (3) *Trust fund and unit dispersion.* Dispersion of funds and, or, density equivalent units shall be limited by fund availability and shall be in accordance with the written policies and procedures established by the

board of county commissioners for the use of such funds. Dispersion of residential unit density, by the transfer of development rights, shall be consistent with the transfer of development rights for affordable units section of the code and the county comprehensive plan.

Developments seeking the use of housing trust funds or density equivalent units should be located in areas serviced by existing transportation and utilities infrastructure and located near other public facilities, services, employment centers, shopping, active mass transit corridors, daycare centers, schools, and health services. A location evaluation matrix and needs analysis form, authorized by the BOCC as a part of these regulations, shall be completed and submitted to determine consistency with the location criteria. Developments scoring at or above the minimum 66th percentile will be eligible to receive housing trust funds and density equivalents. A complete application will include a completed location evaluation matrix and needs analysis form that meets the minimum scoring requirement at or above the 66th percentile. A higher-ranking score may be used to determine the awarding of additional funds when available.

(4) *Trust fund affordability agreement.* The applicant shall enter into a land use and deed restriction affordability agreement with the county. The agreement shall provide the number and designation level of affordable units, and period of time as affordable, and any other requirements in order to receive housing trust fund monies or units consistent with the written policies and procedures established by the board of county commissioners. A land trust may be used as a mechanism to retain units as affordable and/or special needs units.

(5) *Trust fund discretionary allocation.* Allocation of these funds and units are discretionary and must compete with all other developments and are based on fund and unit availability. Priority shall be given to developments designed to facilitate pedestrian access to transit and neighborhood commercial nodes that score above the 66th percentile on the completed location evaluation matrix and needs analysis forms.

(F) *Implementation by Ordinance.* No later than July 1, 2023, the County Commission shall adopt one or more ordinances implementing the provisions of this section, and/or strictly enforce existing ordinances (such as those located at Chapter 62, Article XVII), which ordinances may be amended from time to time by the County Commission consistent with the provisions of this section.

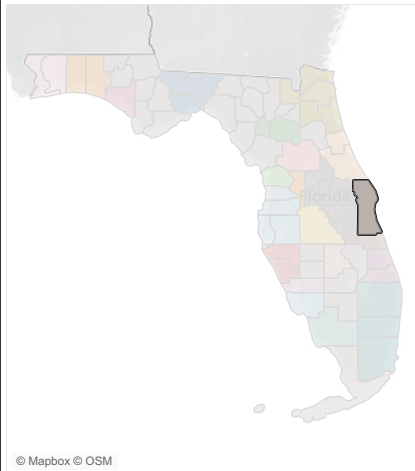
## Wages and Housing Costs by MSA

The following dashboard shows the median hourly wage necessary to afford housing in Florida overall as well as in each metropolitan statistical area (MSA).

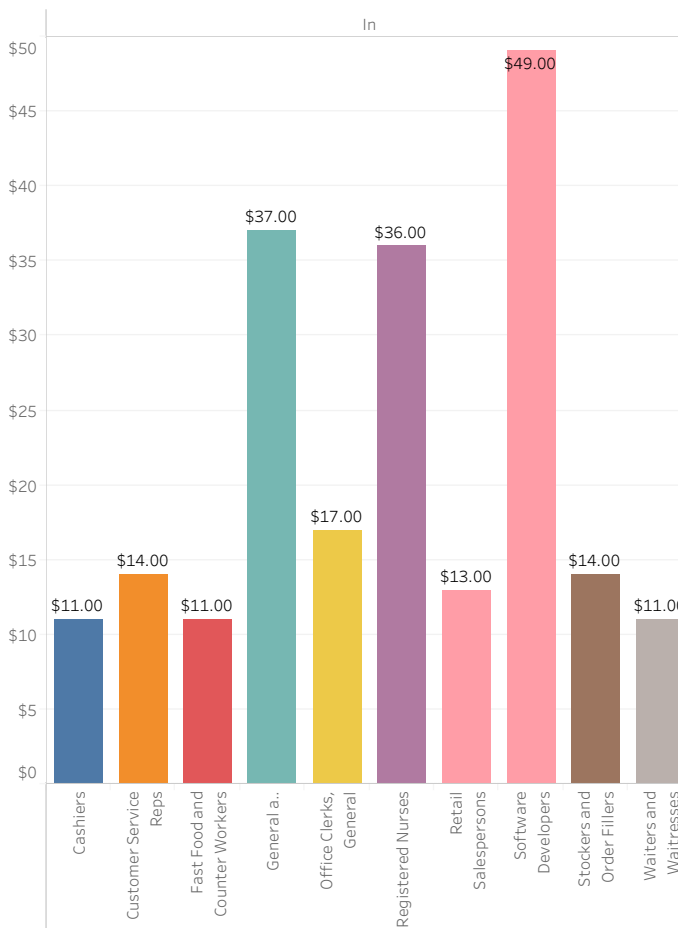
**Click an MSA on the map below** to see how the 10 most common jobs in the area stack up compared to the median rent (from the 2020 5-Year ACS) or median mortgage (Home Values from the Florida Realtors 2021 Year-End Report, assuming a 4.83% interest rate and 10% down).

Palm Bay-Melbourne-Titusville, FL

### MSAs in Florida with BLS Data



## Median Income of Top 10 Most Common Occupations in Florida



## Wage Needed to Afford Median Home

