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September 6, 2022

Morris Richardson, Esq.
County Attorney
Brevard County Attorney's Office
2725 Judge Fran Jamieson Way, Suite 308
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Re: Review of Proposed 2022 Charter Amendment – Salary for the Board of County Commissioners

Dear Mr. Richardson:

We have reviewed a charter amendment proposed on August 31, 2022 by the Brevard County Board of County Commissioners.

Our review was performed in accordance with the requirements of Subsection 1 of Section 7.4.1 of the Brevard County Charter regarding whether the proposed amendment and its ballot language embrace one subject only and is consistent with the Florida Constitution, general law and the Brevard County Charter.

This letter provides a summary of the review standards in the Brevard County Charter concerning embracing only “one subject” and the consistency of a charter amendment with the Florida Constitution, general law and the Brevard County Charter. It then provides an outline and analysis of the proposed charter amendment reviewed against such standards.

In sum, the proposed charter amendment to determine a County Commissioner's salary at 90 percent of that set forth in Chapter 145 of the Florida Statutes qualifies for placement on the ballot.

Review Standards for the Proposed Charter Amendment

1. **Requirement for the proposed charter amendment to embrace only one subject.** The Florida Supreme Court has explained that the essence of the one-subject requirement is whether the proposal “may be logically viewed as having a natural relation and connection as component parts or aspects of a single dominant plan or scheme.”¹ The single-subject rule prevents logrolling, where separate issues are rolled into a single initiative in order to

¹ *Fine v. Firestone*, 448 So. 2d 984 (Fla. 1984) (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318 (Fla. 1944)).

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aggregate votes and secure approval of an otherwise unpopular issue.² The “one subject only” requirement for a proposed charter amendment is a requirement that the Brevard County electors have chosen to apply to proposed charter amendments.³

2. **Requirement for the proposed charter amendment to be consistent with the Florida Constitution.** Subsection 1(g) of Article VIII of the Florida Constitution provides broad home rule powers to charter counties:

Counties 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. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances. [Emphasis added].

3. **Requirement for the proposed charter amendment to be consistent with general law.** Subsection 101.161(1) of the Florida Statutes requires a summary of the charter amendment to be printed on the ballot in clear and unambiguous language followed by the word “yes” and “no,” styled in such a manner that a “yes” vote will indicate approval of the proposal and a “no” vote will indicate rejection. The ballot summary must be embodied in the enabling resolution and shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure.

And, as stated above, Subsection 1(g) of Article VIII of the Florida Constitution requires the proposed amendment to be “not inconsistent with general law. . . .”

4. **Requirement for the proposed charter amendment to be consistent with the Brevard County Charter.** The language the proposed charter amendment must be reviewed and analyzed in light of the existing provisions in the Brevard County Charter.

Analysis of the Proposed Charter Amendment

Proposed Ballot Language:

BREVARD COUNTY CHARTER AMENDMENT, ARTICLE 2, SALARY

Effective January 1, 2025, shall Article 2, Section 2.6 of the Brevard County Charter be replaced in its entirety to provide that the salary of the Brevard County Board of County Commissioners be determined as 90 percent of that set forth in

² *In re Advisory Op. to Att’y Gen. -- Save Our Everglades*, 636 So. 2d 1336 (Fla. 1994); *Advisory Op. to Att’y Gen. re Limited Casinos*, 644 So. 2d 71 (Fla. 1994).

³ Generally county charter amendments proposed by a charter review commission are not subject to a statutory or constitutional single-subject requirement. *Charter Review Comm’n of Orange Cty. v. Scott*, 647 So. 2d 835 (Fla. 1994).

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Chapter 145, Florida Statutes for county commissioners, as amended from time to time, which provides a uniform method of compensation for county commissioners with similar duties across the state?

Analysis: Subsection 125.01(1) of the Florida Statutes provides that home rule powers of a county may be exercised “To the extent not inconsistent with general or special law” Sec. 1(g) of Article VIII of the Florida Constitution provides in part that a charter county has all powers of local self-government not inconsistent with general law” Sec. 5(c) of Article II of the Florida Constitution provides that “The powers, duties, compensation and method of payment of state and county officers shall be fixed by law.”

Unless the legislature has preempted a particular subject relating to county government by either general or special law, a county governing body has full authority to act through the exercise of its home rule power.⁴ The legislature has preempted the particular subject relating to salaries of county commissioners, *except with respect to charter counties*.⁵

The proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and the Brevard County Charter. The proposed charter amendment qualifies for placement on the ballot.

Sincerely,

GrayRobinson, P.A.

A handwritten signature in black ink, appearing to read "Heather Ramos", written in a cursive style.

Heather M. Ramos

HMR/jg

⁴ *Speer v. Olson*, 367 So. 2d 207 (Fla. 1978).

⁵ Secs. 145.012, 145.301(2), Fla. Stat.