

**Leon County  
Citizens Charter Review Committee**

**FINAL REPORT**

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*prepared by*

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## **INTRODUCTION and OVERVIEW**

Section 4(B) of the Leon County Charter requires that a Citizens Charter Review Committee (the “Committee”) be appointed by the Board of County Commissioners every eight years. The charge to the Committee is to review the Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. The 2009-10 Committee is the first that has been established since the voters of Leon County adopted the charter in 2002.

Recommendations of the Committee are presented to the Board of County Commissioners for their consideration. The County Commission may accept or reject the recommendations. Recommendations that are approved by the County Commission by a majority vote are placed on the general election ballot for consideration by the voters of Leon County.

Leon County is one of 20 counties in Florida where the electorate has adopted a charter form of government. Over 80% of the population in Florida now lives in a charter county. Of the 20 charter counties, 18 have a mandatory process whereby there is a regularly-scheduled review of the charter by a committee composed of lay people.

Generally, adopting a charter form of government permits the public to exercise greater control in matters concerning governance in their county. Absent a charter, the structure and service delivery mechanisms of the county government are fixed by the State of Florida, no matter how complex the problems confronting a county may be to resolve. The local community in a non-charter county is (to a great extent) prohibited from making changes that can result in more efficient and effective governance.

With a charter form of government the public, through the exercise of their rights as provided in the Florida Constitution, are able to more fully realize the principles of Home Rule: Structure, service delivery mechanisms and intergovernmental relationships can be tailored to address local problems in the county.

However, the Leon County Charter is different than most of the other Florida county charters in that the recommendations of the reviewing entity (the Committee) are not directly placed in front of the voters for their consideration. The Leon and Osceola county charters have charter review *advisory committees* where their recommendations are transmitted to the Board of County Commissioners for their approval or rejection prior to placement on the ballot. All others, with the exception of the Lee County Charter, have independent, Charter Review *Commissions*, which forward proposed charter amendments directly to the voters for their consideration.

The review model implemented by the voters in the Lee County Charter is a “hybrid” between a completely independent review commission and an advisory review committee. The Lee County Charter Review Committee consists of 15 members. Recommendations for revisions or amendments to the charter that are adopted by at least nine votes (but less than 12) are presented to the County Commission, who may accept or reject the proposed amendments. However, recommendations adopted by 12 or more votes of the Review Committee are placed directly on the ballot for the consideration of the voters.

## COMMITTEE MEMBERSHIP AND STAFF

Members of the Leon County Charter Review Committee are listed herein. They served without compensation.

### *Christopher Holley, Chair*

Mr. Holley is the executive director of the Florida Association of Counties. Prior to the Florida Association of Counties, Mr. Holley was a county administrator for over a decade. He was appointed by Commissioner Bryan Desloge.

### *Marilyn Wills, Vice-Chair*

Ms. Wills is a retired math teacher of nearly 30 years. She is an active member of the Tallahassee League of Women Voters. Ms. Wills was appointed to the Committee by Commissioner Cliff Thaell.

### *Lester Abberger*

Mr. Abberger is an investment banker specializing in public finance. He serves on the boards of numerous local private, civic and charitable organizations. Mr. Abberger was appointed by Commissioner John Dailey.

### *Jon Ausman*

Mr. Ausman has been a resident of Leon County for over three decades. He is a past-president of the Town and Country Neighborhood Association and works at the Florida Department of Transportation. Mr. Ausman was appointed by Commissioner Bob Rackleff.

*Rick Bateman*

Mr. Bateman is an attorney specializing in real estate/development, commercial litigation, and federal civil trial jurisprudence. He also serves on the board of directors of the Tallahassee-Leon County Economic Development Council and the Greater Tallahassee Chamber of Commerce. Mr. Bateman was appointed by Commissioner Bill Proctor.

*Lance deHaven-Smith*

Dr. deHaven-Smith is a university professor at the Reubin O'D. Askew School of Public Administration and Policy at Florida State University. Dr. deHaven-Smith has authored several books on Florida government and politics. Dr. deHaven-Smith was appointed by Commissioner John Dailey.

*Sue Dick*

Ms. Dick is the president of the Greater Tallahassee Chamber of Commerce and the Tallahassee-Leon County Economic Development Council. She has served on the boards of numerous organizations related to the economic growth in Leon County and the Big Bend Region. Ms. Dick was appointed by Commissioner Bryan Desloge.

*Donna Harper*

Ms. Harper has been a resident of Leon County for over four decades. She is an educational administrator with the Leon County School District. Ms. Harper was appointed by Commissioner Akin Akinyemi.

*Chuck Hobbs*

Mr. Hobbs is an attorney specializing in civil litigation and criminal defense. He has served as an adjunct professor at Florida A&M University and currently serves on the Florida Attorney General's Gang Reduction Task Force. Mr. Hobbs was appointed by Commissioner Bill Proctor.

*David Jacobsen*

Mr. Jacobsen has lived in Leon County for over 20 years. He is a policy analyst with the Agency for Workforce Innovation and is an active member in the community serving in a leadership capacity with various local organizations. Mr. Jacobsen was appointed by Commissioner Cliff Thaell.

*Catherine Jones*

Ms. Jones is a commission aide for Leon County Commissioner Akin Akinyemi. Prior to joining the public sector, Ms. Jones served several years as the executive director of the Alzheimer's Project, Inc. She was appointed to the Committee by Commissioner Akin Akinyemi.

*Ralph Mason*

Mr. Mason is senior at Florida State University. He was raised in Leon County and currently serves as the Executive President of the FSU College Democrats. Mr. Mason was appointed to the Committee by the full Board as the college student representative.

*Tom Napier*

Mr. Napier is a retired public servant. He is active in the community serving on the Senior Citizens Outreach Committee, the 2010 Complete Count Committee and various other organizations. Mr. Napier was appointed by Commissioner Jane Sauls.

*Linda Nichol森*

Ms. Nichol森 is the executive director of the Leon County Research and Development Authority, which oversees Innovation Park. She serves on the board of directors of numerous organizations. Ms. Nichol森 was appointed by Commissioner Jane Sauls.

*Larry Simmons*

Mr. Simmons is a social worker with the Tallahassee Housing Authority. He is the current chairman of the Leon County Democratic Party. Mr. Simmons was appointed by Commissioner Bob Rackleff.

Kurt Spitzer of Kurt Spitzer and Associates, Inc., Tallahassee, provided consulting services to the Committee. Herb Thiele, County Attorney provided legal services; Parwez Alam, County Administrator, Vincent Long, Deputy County Administrator, and Shington Lamy, Special Projects Coordinator, served as liaisons to the County government. The Board Secretary, under the Clerk of Courts, recorded and maintained the minutes of the Committee's meetings.

## **SUBJECTS REVIEWED**

Prior to the establishment of the Committee, the Leon County Commission conducted two workshop meetings at which the charter review process was discussed. The Commission developed a list of potential issues that they felt merited consideration by the Committee as potential charter amendments, which were thereafter transmitted to the Committee.

During the early stages of their work, the Committee solicited additional input on issues to examine (and the charter in general) from individual County Commissioners, each of the County Constitutional Officers, Tallahassee Mayor John Marks and City Commissioner Debby Lightsey. Presentations were also made to the Committee by Kurt Spitzer, County staff, and the Tallahassee-Leon County Economic Development Council.

A tentative list of issues to be further examined was identified and a schedule of future meetings was adopted. Bylaws governing the operations of the Committee were also adopted, most notably requiring an affirmative vote of at least 10 members to pass an amendment on to the County Commission for their consideration. If a procedure or policy was not specified in the Committee's Bylaws, Robert's Rules of Order was used in their deliberations. The Committee conducted 14 public meetings, including three hearings on its recommendations.

The Committee considered the following issues during the course of its work:

*Utility Advisory Board* – The establishment of an advisory board to review rates and service delivery areas for utility services provided in Leon County.

*Consolidation of Growth Management Agencies* – The consolidation of the growth management departments of the City of Tallahassee and Leon County.

*Countywide Stormwater or Environmental Standards* – Whether the County Commission should be authorized to adopt environmental ordinances that are enforceable on a countywide basis.

*Tourist Development Council Structure* – Whether the current practice of the Executive Director of the Tourist Development Council reporting to the County Administrator should be codified in the Charter.

*Partisan/Nonpartisan Elections* – Whether the current practice of electing County Commissioners on a non-partisan basis should be repealed or, alternatively, expanded to other offices.

*Campaign Finance Reform* – Whether a further limitation (beyond that provided in state law) on campaign contributions from individuals and political committees for candidates for County Commissioner and Constitutional Officer should be adopted.

*Petition Thresholds* - The process and criteria by which the public can directly place and adopt amendments to the charter or propose county ordinances.

*Audit Policy* – The role and scope of the Clerk of the Court as it relates to auditing the records and departments of the Board of County Commissioners.

*Elected Countywide Chair* – A proposal to allow the voters to directly elect the Chair of the County Commission for a term of four years.

*Alternative Districting Systems* - The structure of and districting methodology for the Board of County Commissioners.

*Annexation Policy* – Whether the charter should be amended to specifically provide for a policy concerning voluntary annexations in Leon County.

*Protection of Water Supply* – Consideration of adopting a policy that would require direct public approval of measures to withdraw large quantities of water from within the Leon County boundaries for use by private business.

*Constitutional/Charter Officers* – Whether the status, duties and responsibilities, or the method of choosing the county constitutional officers, should be revised and how.

*Hire/Fire Procedure for Administrator* – Whether the charter should be amended to provide for an extraordinary vote of the County Commission to employ or terminate the County Administrator.

*Non-Interference Policy* – The inclusion of specific language prohibiting individual members of the County Commission from giving instructions or directives to employees of the County Administrator or County Attorney.

*Human Rights Policy* – Whether the Charter should be amended to direct the Board of County Commissioners to adopt an ordinance protecting rights of all citizens in Leon County.

*Future CRCs* - The membership and authority of the Citizens Charter Review Committee.

## ISSUES CONSIDERED for RECOMMENDATIONS

The Committee identified nine proposed amendments to the charter that were taken to the public hearing process. Three formal hearings were conducted on the following proposals:

1. *TDC Structure* – Whether the current practice of the Executive Director of the Tourist Development Council reporting to the County Administrator should be codified in the Charter.

2. *Countywide Environmental Standards* – Whether the County Commission should be authorized to adopt environmental ordinances that are applicable on a countywide basis. The original discussion focused on consideration of an amendment that would permit the Board of County Commissioners to adopt ordinances regulating stormwater runoff on a countywide basis, with the City of Tallahassee able to adopt more stringent standards. However, after discussion of the difficulty in adopting charter revisions to consolidate the growth management departments of the City and County, the Committee decided to propose an amendment that would broadly authorize the County Commission to adopt ordinances that would establish a uniform policy countywide that regulates the environment on a countywide basis, including within the incorporated area.

3. *Hire/Fire Procedure for Administrator* – Whether the charter should be amended to provide for an extraordinary vote of the County Commission to employ or terminate the County Administrator. The proposed amendment requires a minimum affirmative vote of five members of the Board of County Commissioners to employ a new County Administrator. To terminate the Administrator, a vote of five members is also required but this action may occur only after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Administrator was adopted by majority vote.

4. *Non-Interference Policy* – The inclusion of a “non-interference clause” in the charter. Such clauses are common in city and county charters throughout the country, and prohibit individual members of the County Commission from giving instructions or directives to employees of the County Administrator or County Attorney.

The proposed amendments that address the employment policy of the County Administrator and non-interference policy seek to strengthen the Commission-Administrator form of government, where there is a separation of responsibilities between the County Commission and County Administrator. The Commission is responsible for developing legislative policy, while the Administrator is responsible for implementing policy. For the Administrator to discharge his or her duties to the fullest extent possible, his or her employees must report to only one supervisor – the County Administrator.

5. *Petition Thresholds* – The Leon Charter authorizes a process by which the electorate may propose ordinances and charter amendments by a petition process. Signatures equal to 10% of the voters qualified to vote in the last proceeding general election must be obtained both on a countywide basis and within each of the five single-member districts to place an ordinance or charter amendment on the ballot for the consideration of the electorate. The proposed amendment reduces the number of required signatures to 7% countywide and at least 5% within each of the five single-member districts. The amendment also clarifies that the lists of prohibited subjects that an ordinance may not address also applies to proposed charter amendments.

6. *Future CRCs* - The proposed amendment requires that the Charter Review Committee is appointed at least fifteen (instead of 12) months before the general election every eight years. It also directs the County Commission to endeavor to include citizens from all segments of the Leon County community. Finally, the amendment provides that future amendments adopted by a three-fifths (3/5) vote of the entire membership of the Citizens Charter Review Committee would continue to be submitted to the County Commission for consideration to be placed on to the next general election ballot. However, proposed Charter amendments that receive a four-fifths (4/5) approval of the entire membership of the Committee will be placed directly on the next general election for the consideration of the voters.

7. *Audit Policy* – The proposed amendment authorizes the Clerk of the Court to conduct compliance audits of the books and records of the County Commission as long as such audits are within the adopted plan of work of the Audit Committee. Performance audits of the County Commission’s books, records and departments may be conducted by the Clerk of the Court at the request of the County Commission.

8. *Utility Advisory Board* – The proposal would establish an advisory board to review rates, service delivery areas and maintenance practices for utility services provided in Leon County. A seven-member, volunteer Board that serves staggered, four-year terms would be created. The City of Tallahassee and the Leon County Board of County Commissioners would each appoint three members; the Council of Neighborhood Associations would appoint one. Reports, studies, recommendations and findings would be made available to the County, City and all utility providers within Leon County.

9. *Campaign Finance Reform* – The proposed amendment places a limitation on campaign contributions of \$250 per person or political committee during each election cycle in contests for the County Commission or any of the County Constitutional Officers.

## RECOMMENDATIONS for AMENDMENTS to the CHARTER

Of the nine tentative recommendations that were identified for review and discussion during the public hearing process, the Committee adopted seven by the necessary 10 vote minimum to send the proposals to the Board of County Commissioners. The Board may place the amendments on the ballot by a simple majority vote. Significant revisions made the by Board of County Commissioner to recommendations received from the Charter Review Committee would require a majority-plus-one vote.

The seven proposed charter amendments (plus ballot titles and ballot summaries) include the following:

1. *Tourist Development Council Structure* – The proposed amendment codifies into the charter the current practice of the Executive Director of the Tourist Development Council reporting to the County Administrator as opposed to reporting to the Board of County Commissioners. If adopted, only the two appointed charter officers would report directly to the County Commission – the County Attorney and the County Administrator. The proposed amendment was adopted 15-0.

2. *Countywide Environmental Standards* – There was significant debate after the conclusion of the hearings as to whether the Charter should be amended to authorize the County Commission to adopt environmental ordinances that are applicable on a countywide basis and prohibiting the City of Tallahassee from adopting similar regulations that were either less stringent or more stringent.

However, after discussion and debate, the proposal was revised to provide that the County Commission is *required* to adopt ordinances setting *minimum* regulatory standards for the protection of the environment, including those concerning tree protection, landscaping, aquifer protection, stormwater and protection of conservation and preservation features.

Under the proposal, the City of Tallahassee may adopt more stringent or protective standards than those of the County but may not choose to “opt out” of a countywide policy by adopting less stringent standards. Thus, all residents of Leon County would enjoy the benefits of minimum environmental standards no matter where they lived. The proposed amendment was adopted 11-4.

*3. Hire/Fire Procedure for Administrator* – Leon County operates under a Commission-Administrator form of government, with responsibility for legislative policy making reserved to the Board of County Commissioners and responsibility for executing that policy reserved to the County Administrator. The charter specifically recognizes this separation of powers between the legislative and executive branches.

This amendment and the amendment on the “non-interference clause” (below) intends to further improve the operation of the Commission-Administrator form of government by requiring an extra-ordinary action of the Board of County Commissioners to employ or terminate the County Administrator. At least five votes of the Board are required to employ a new County Administrator. To terminate the Administrator, a vote of five members is also required but this may occur only after a separate meeting of the Board is held at which a motion expressing the intent to remove the County Administrator is adopted by simple majority vote.

Policies requiring an extra-ordinary vote to employ or terminate a manager are common in most city and county charters. The proposed amendment was adopted 13-2.

*4. Non-Interference Policy* – The amendment proposes to add a “non-interference clause” to the charter, which prohibits individual Commissioners from interfering with the role of the County Administrator or County Attorney and his or her employees by giving instructions or directives to their employees. Such clauses are common in charters; in fact, the Leon County charter may be the only county charter in Florida without such a clause.

Like the amendment concerning employment policy of the County Administrator, the proposal on the non-interference clause seeks to strengthen the Commission-Administrator form of government by more clearly separating responsibilities for legislative duties from those of the executive branch. The proposed amendment was adopted 15-0.

*5. Petition Thresholds* – Other than the Wakulla Charter, the Leon County Charter contains the most stringent requirement for the electorate to propose ordinances or charter amendments by petition in Florida. Signatures equal to 10% of the electors qualified to vote in the last proceeding general election must be obtained both on a countywide basis and within each of the five single-member districts to place an ordinance or charter amendment on the ballot for the consideration of the electorate.

The proposed amendment reduces the number of required signatures to a total of 7% on a countywide basis, including at least 5% within each of the five single-member districts.

The amendment also clarifies that the lists of prohibited subjects that an ordinance may not address also applies to proposed charter amendments. This policy currently exists in the charter but the amendment clearly states that it applies to proposed charter amendments as well as proposed ordinances. The proposed amendment was adopted 11-4.

*6. Future CRCs* – Of the 20 county charters in Florida, the Leon County Charter is one of two that provides for a review committee that is advisory in nature. The great majority of other charters contain provisions for the regular review of the charter by an independent entity; that is, recommendations adopted by a review committee or review commission are placed directly on the ballot for the consideration of the voters.

Charters operate like a “constitution” for the voters of the county and recommendations for its revision should be subject only to the approval of the voters.

However, instead of recommending that the Citizens Charter Review Committee be reconstituted so as to be made completely independent, the proposed amendment creates a “hybrid” system similar to that which was recently adopted in Lee County: Amendments adopted by a three-

fifths (3/5) vote of the entire membership of the Citizens Charter Review Committee would continue to be submitted to the County Commission for consideration to be placed on to the next general election ballot. However, proposed amendments that receive a four-fifths (4/5) approval of the entire membership of the Committee will be placed directly on the next general election for the consideration of the voters.

The amendment provides that the Committee is appointed at least fifteen (instead of 12) months before the general election every eight years. It contains policy on diversity which directs the County Commission to endeavor to include citizens from all segments of various communities in Leon County when making appointments to the Committee. The proposed amendment was adopted 15-0.

*7. Campaign Finance Reform* – The proposed amendment proposes to adopt a more stringent policy than that of state law on limitations on campaign contributions. Instead of the state policy of \$500, the proposed amendment places a limitation on campaign contributions of \$250 per person or per political committee during each election cycle in contests for the County Commission or one of the County Constitutional Officers. The policy does not apply to campaigns for any other offices. The proposed amendment was adopted 12-3.

*Audit Policy* – Measures to revise sections of the charter relating to the authority of the Clerk of the Court to conduct compliance and other audits of departments under the Board of County Commissioners did not receive the necessary 10 vote minimum to be adopted as a proposed amendment to the charter. The proposed amendment failed 9-6.

*Utility Advisory Board* – Measures to establish an advisory board to review rates, service delivery areas and maintenance practices for utility services provided in Leon County did not receive the necessary 10 vote minimum to be adopted as a proposed amendment to the charter. The proposed amendment failed 7-8.

**CURRENT LEON COUNTY CHARTER**

## **PROPOSED CHARTER AMENDMENTS**

## **MEETING DATES and AGENDAS**

## **MEETING MINUTES**