

Leon County Board of County Commissioners
301 S. Monroe Street
Tallahassee, FL 32301

Dear Commissioners,

On behalf of the Leon County 2017-18 Citizens Charter Review Committee, please find enclosed the Committee's final report, which includes the Committee's proposed amendments to the Leon County Charter. On February 8, 2018, the Committee approved two charter amendments for your consideration. The Committee's final report reflects our efforts to identify relevant and substantive amendments to be considered for placement on the general election ballot.

Since November 9, 2017, the Committee has convened nine meetings including three public hearings. To ensure the broadest public outreach, all meetings were publically advertised and broadcast live on the County's television channel, website, and social media platforms. All Committee materials and meeting recordings were made available to the public on the County's website; in addition, each meeting allotted time for public comment.

The Committee received presentations and testimony from citizens as well as the Tallahassee Community Redevelopment Agency, individual County Commissioners, County staff, and Constitutional Officers. As the Committee was not limited in its purview and had full discretion to review any and all relevant issues, public input was vital throughout the Committee's consideration of various topics.

The comprehensive analysis provided by both County Administration and County Attorney staff provided an invaluable resource during the Committee's deliberation. It has been a pleasure working with such a knowledgeable and professional staff over the last four months.

On behalf of the Committee, thank you for granting us this opportunity to serve our community.

Sincerely,



Lee Hinkle, Chairman
Leon County 2017-18 Citizens Charter Review Committee

cc: Citizen Charter Review Committee
Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney
Alan Rosenzweig, Deputy County Administrator
LaShawn Riggins, Deputy County Attorney
Heather Peebles, Special Projects Coordinator

**2017-2018 Leon County Citizens
Charter Review Committee**

FINAL REPORT

February 2018

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INTRODUCTION and OVERVIEW

As part of the 1968 Florida Constitutional Revision, the state's voters approved an amendment which constitutionally-vested all 67 Florida counties with home rule and provided citizens with the ability to adopt a county charter. Prior to the 1968 Constitutional Revision, Florida counties only had those powers expressly granted to them by the state.

Charters are formal documents which confer certain powers, duties, and privileges to the county. Charters resemble state constitutions in that they must be approved by the voters within the county. Charter governments recognize that a "one-size-fits-all" approach does not work for all counties, reflect community preferences, provide flexibility in fulfilling state-mandated functions, and provide an increased ability to address local concerns. Through a charter, counties have the power of self-government and the authority to tailor structures, service delivery mechanisms, and intergovernmental relationships to address local issues.

On November 5, 2002, the citizens of Leon County voted to adopt a home rule charter making Leon County the 19th charter county in Florida. Currently, there are 20 charter counties in the state, which represent over 75% of the state's population. All county charters have a process by which charter revisions and amendments are submitted to the local electorate; however, only 18 counties including Leon County require a regularly-scheduled review of the charter by a citizen committee. The purpose of a charter review process is to ensure that the county government continues to reflect the preferences of its citizens.

According to the Leon County Charter, a Citizen Charter Review Committee must be convened every eight years and charged with reviewing the County Charter and proposing any amendments or revisions for consideration by the Board of County Commissioners which may be advisable for placement on the general election ballot. The first Citizen Charter Review Committee was convened in 2009.

Eight years later, on October 10, 2017, the Board of County Commissioners appointed 14 citizens to the 2017-2018 Leon County Citizens Charter Review Committee (the "Committee"). All members were appointed to a term of 120 days (four months), after which a final report was to be presented to the Board of County Commissioners.

The Board charged the Committee with the broad purview to recommend any proposed charter amendments they deemed advisable and to seek public input in their deliberations.

COMMITTEE MEMBERSHIP AND STAFF

As established by the Leon County Board of County Commissioners, the 2017-2018 Leon County Charter Review Committee consists of 14 Leon County residents with two appointments per Commissioner. Members of the Committee are listed herein. They served without compensation.

Citizens Charter Review Committee Members:	Commissioner:
Lee Hinkle, Chair	Kristin Dozier
Kim Williams, Vice Chair	Nick Maddox
Reginald Ellis	Bill Proctor
Michael Eurich	Mary Ann Lindley
Neil Fleckenstein	Kristin Dozier
William Graham	Bryan Desloge
Kenneth Hart	Mary Ann Lindley
Shane Hopkins	Jimbo Jackson
Catherine Jones	Bill Proctor
Casey Perkins	Bryan Desloge
Anice Prosser	Jimbo Jackson
Jay Revell	John Dailey
Gordon Thames	Nick Maddox
Ted Thomas	John Dailey

Vincent S. Long, County Administrator, Alan Rosenzweig, Deputy County Administrator, Heather Peeples, Special Projects Coordinator, Nicki Paden, Management Analyst and Sara Pratt, Management Intern provided staff support and analysis to the committee. Herbert W. A. Thiele, County Attorney and LaShawn Riggans, Deputy County Attorney provided legal support and analysis. The Board Secretary, Rebecca Vause, under the Clerk of Courts, recorded and maintained the minutes of the Committee's meetings.

COMMITTEE PROCESS

The Committee was provided with by-laws to assist in guiding the charter review process; however, the Board of County Commissioners did not wish to limit the scope of the review and granted the Committee full discretion to review any and all relevant issues.

Pursuant to the Leon County Charter Review Committee By-Laws, the Committee conducted six meetings and three public hearings between November 9, 2017 and February 8, 2018. All meetings were publicly noticed and the opportunity for citizen testimony was provided at every meeting. The meetings were divided among three phases in which charter amendment proposals were subject to increasingly higher voting thresholds in order to proceed through the committee's process (Attachment #1). During the first phase, the Committee identified charter amendment proposals for additional analysis and deliberation. Following Committee discussion and approval, the proposal could proceed to the second phase for Committee consideration, a review of proposed charter amendment language. Upon review and approval, the amendment would enter the final phase which consisted of proposed amendments being considered for review and discussion at three public hearings.

The Committee conducted the three public hearings on the proposed charter amendments on January 26, February 1, and February 8, 2018. At the conclusion of the final public hearing, 10 Committee votes were needed to advance the proposed amendment to the Board of County Commissioners for consideration. Subsequent to this submission, the proposed amendments must then be approved by a majority vote of the Board prior to being placed on the general election ballot. A comprehensive review of the Committee process including the Charter amendment proposals, Committee By-Laws, meeting minutes, and meeting agendas are included as Appendix A-D.

PROPOSED CHARTER AMENDMENTS

While the Board of County Commissioners provided the Committee with by-laws to help guide the charter review process, the Committee was not limited in its purview and had full discretion to review any and all relevant issues. The Committee considered eleven issues during the course of its work and following three public hearings recommends the following two Charter Amendments to be advanced to the Board of County Commissioners for consideration for placement on the November 2018 general election ballot:

1. Proposal to Provide a Code of Ethics Requirement in the Leon County Charter
2. Proposal to Modify the Hiring/Firing Process for the County Attorney

The following information is provided for each proposed amendment:

- o A summary of the Committee's action on the specific subject
- o The proposed charter amendment language
- o A summary of the analysis considered by the committee

Code of Ethics Requirement

Summary of Committee Action: On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a "Code of Ethics" in the County Charter (Attachments #3).

Following staff's presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties' ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a "Code of Ethics" ordinance, with and without applicability to Constitutional Officers (Attachments #4).

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a "Code of Ethics" ordinance *not* applicable to Constitutional Officers. The Committee conducted public hearings on January 25, February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

At the final public hearing on February 8, the Committee voted 13-0 to approve the proposed charter amendment to provide a "Code of Ethics" requirement in the Leon County Charter for recommendation to the Board of County Commissioners for placement on the 2018 General Election ballot.

Proposed Charter Amendment language:

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of

County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Summary Analysis: A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code.” The County’s “Ethics Code” is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees. The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. Additionally, in support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #6) in a continuous effort to provide guidance and assistance to County employees.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law.

Of the 20 charter counties in Florida, seven have provisions in their charter that require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees.

However, unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

As Board Policy, the County’s Code of Ethics visibility and importance can be elevated through inclusion in the County’s Charter. Inclusion in the County’s Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a “Code of Ethics” ordinance elevates the

importance and visibility of the County's ethic's policy similar to the County's existing Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law.

Hiring/Firing Process for the County Attorney

Summary of Committee Action: At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter (Attachments #4).

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (Attachments #6) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing. The Committee conducted public hearings on January 25, February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

At the final public hearing on February 8, the Committee voted 13-0 to approve the proposed charter amendment regarding employment of the County Attorney for recommendation to the Board of County Commissioners for placement on the 2018 General Election ballot.

Proposed Charter Amendment language:

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Summary Analysis: The County Administrator and County Attorney are the only positions that are directly appointed by and report to Leon County Board of County Commissioners. The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator which the Board of County Commissioners placed on the November 2010 General Elections ballot and was approved by 58.4% of the local electorate. However, the process for the appointment or removal of the County Attorney is not specified in Leon County's Charter.

The majority of Florida's charter counties (17 of 20) outline the hiring and firing process for the county administrator within their charter. Only eight (8) counties include provisions for the county attorney in their charter and, of these, six (6) counties provide the same hiring/firing process for both positions (Brevard County, Clay County, Hillsborough County, Lee County, Seminole County and Volusia County). As is the case in Leon County, termination provisions for the county attorney are more commonly included as part of a negotiated contract between the county attorney and the board of county commissioners.

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting. If approved by the Leon County electorate, the Committee's proposed charter amendment would provide for a hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator.

ADDITIONAL TOPICS CONSIDERED FOR CHARTER AMENDMENTS

The Citizens Charter Review Committee considered the following topics as possible charter amendments but voted at various phases of the Committee process to not advance them as recommended amendments.

1. Proposal to Increase Campaign Contributions Limits for Local Elections
2. Proposal to Modify the District Commission Election Process
3. Proposal to Consider the Consolidation of Law Enforcement Services
4. Proposal to Explore Changes related to the Current Preservation of Constitutional Officers in the County Charter
5. Proposal to Consider Making the Superintendent of Schools Nonpartisan
6. Proposal to Impose Standards for CRA Expenditures
7. Proposal to Consider Nonpartisan Constitutional Officers
8. Proposal to Modify the District Composition of the BOCC
9. Protections for Water Resources

Increasing Campaign Contribution Limits for Local Elections

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter (Attachments #3). On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (Attachments #6). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing. The Committee conducted public hearings on January 25, February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

At the final public hearing on February 8, the proposed charter amendment failed to receive the necessary votes to be advanced to the Board of County Commissioners. The Committee voted 9-3 to approve the amendment; however, 10 votes were needed to recommend the charter amendment to the Board.

Proposed Charter Language: Proposed charter amendment language ***striking*** Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. Article II sec. 2.2 sub. (7) and Article III sec. 3.4 applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter that would be stricken read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Summary Analysis: Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers. The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by 65.5% the local electorate.

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals and political committees from \$500 to \$1,000. Of Florida's 67 counties, 64 follow the current state law of a \$1,000 campaign contribution limit. Only Alachua, Leon, and Sarasota County have local campaign contribution limits.

Most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount

outlined in state law cannot be exceeded.

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles. Campaign fund balances are the funds that remain following an election. However if a negative balances remains, it must be addressed by the campaign after an election has ended.

Modifying the District Composition of the Board of County Commissioners

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion 12-0 to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners. On November 30, 2017, the Committee received additional information and analysis (Attachment #3) and voted 11-1 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language for consideration. On January 11, 2018, following consideration of the proposed charter amendment language (Attachments #6), the Committee voted 8-5 to take no further action on this issue.

Summary Analysis: In accordance with Section 2.1 of Leon County's Charter, the Board of County Commissioners is composed of seven total members: One Commissioner elected for each of the five County Commission districts and two At-Large Commissioners. All County Commissioners serve staggered terms of four years. This composition has been in place since 1986 and was incorporated into the original Leon County Home Rule Charter adopted in 2002.

Florida's Constitution allows charter county voters to adopt a variety of structures and election processes for its board of county commissioners; however, Leon County has additional considerations. Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended.

In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the

Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No. 01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its “election plan,” no modifications to the current election system and composition of the BOCC could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Regardless of the approach taken, the County would still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval.

Staff was uncertain that all legal matters could be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. As an alternative, staff offered that the Committee could recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Charter Provisions Related to Constitutional Officers

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion 12-0 requesting an agenda item related to potential changes to the Constitutional Officers which the Charter Committee may wish to consider. Following staff’s presentation of the item on November 30, 2017 (Attachment #4), a

motion requesting staff to prepare additional analysis related to the duties and the process of appointing of Constitutional Officers failed 2-10.

On January 11, 2018 the Committee voted 8-5 to request that staff prepare additional information related to the duties and potential process of appointment for the Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector (Attachment #6). After discussion during the January 18, 2018 meeting, the Committee voted 9-1 to take no further action on this issue.

Summary Analysis: Across the nation, there is great disparity among county governments related to the election and appointments of County officers, known more commonly as “row officers.” The most commonly elected row offices include the Sheriff, Clerk, Assessor (i.e. Property Appraiser), and Treasurer; however, the variation of functions and titles of officers unique to some states make it difficult to equally compare. In addition, numerous County officers exist across the country which are unique to only one or two states. For instance, only two states (Florida and California) have elected elections supervisors.

All of the 47 non-charter governments and the majority of the 20 charter counties in Florida have five constitutional officers who perform a variety of constitutional and statutory duties and functions for the state and county. The five constitutional officers include the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Each of these constitutional officers administer their own office; however, each office obtains budgets and facilities from their respective Board of County Commissioners to perform their respective duties.

The Leon County’s Charter, as originally approved in 2002, includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections. The 2009-2010 Citizen Charter Review Committee previously considered changes to Constitutional Officers; however, the Committee did not recommend amending this provision of the County Charter.

Florida Charter Counties have the ability to abolish elected Constitutional Officers, as long as the duties of the individual office are provided for elsewhere. Article VIII, Section 1 (d) of the Florida Constitution states that there shall be five County Officers, “...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office.” There are two approaches to abolish an office and transfer its responsibilities to another office. One is to transfer the responsibility to an appointed position and the other is to transfer the duties to an elected charter officer. Variation among Florida’s Charter Counties related to the method of selection and transfer of duties of Constitutional Officers include:

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.

- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.
- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

Per the Committee’s request, staff provided a potential process for appointment of these positions, which is consistent with how the County currently recruits and hires for Department Directors. The appointed positions would become Department Directors reporting to the County Administrator. The County would establish the necessary skills, experience and education requirements for each of the positions. Hiring would be based on a competitive and open recruitment process. Appointments would be based on qualifications, skills, and ability to fulfill the statutory duties of the office.

Staff also noted that, while there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

Consolidation of Law Enforcement Offices

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 30, 2017, the Committee passed a motion 9-2 requesting additional information and analysis related to consolidation of law enforcement services (Attachment #4). On December 7, staff provided an analysis of the requested information (Attachment #5) and the Committee voted 10-2 to take no further action on this issue.

Summary Analysis: Currently, the City of Tallahassee Police Department (TPD) provides law enforcement services to citizens within the incorporated area of the County, while the Leon County Sheriff’s Office (LCSO) provides countywide services and patrol services to the unincorporated area. In addition to patrol, LCSO is also responsible for school resource deputies, judicial services (warrants, civil process, bailiffs, inmate transportation, etc.), and the operation of the Leon County Detention Center. TPD and LCSO have mutual aid and other agreements to ensure cooperation for the provision of law enforcement services throughout the County.

The consolidation of law enforcement services cannot be effectuated through a charter amendment or unilaterally by any one government. Consolidation requires the mutual agreement of all parties through one of the two methods for consolidation as provided by Florida law which include:

(1) Transfer of Powers

As outlined in Article VIII, Section 3 of the Florida Constitution, the powers and functions of a county or municipality may be permanently transferred to and performed by another county or municipality. This transfer of power requires a special law or resolution of the governing bodies of each of the affected governments followed by approval from the electors of both governments through a dual referendum. A “dual referendum” requires the residents of the City and unincorporated each to separately approve the referendum.

(2) Interlocal Agreement

Section 166.0495, Florida Statutes, authorizes a municipality to enter into an interlocal agreement to obtain law enforcement services from an adjoining municipality within the same county, without requiring dual referenda for approval. An interlocal agreement allows governments to set their terms when contracting for services and/or transferring certain functions such as the duration of time that one government will provide services for the other.

Subsequently, consolidation of law enforcement services in Leon County would require either the transfer of the City's law enforcement authority to LCSO by resolution and dual referendum or through an interlocal agreement between the City and the Sheriff. As the funding entity for the Sheriff's Office, the Leon County Board of County Commissioners would also need to support the consolidation and work collaboratively with the City and LCSO.

Additionally, prior to implementing a consolidation of law enforcement services, the Board of County Commissioners, the City Commission, and the Sheriff would need to conduct a broad review to address several issues including but not limited to impacts to services and/or crime rates, variations in organizational structure and leadership, and development of consistent policies and training. Potential costs associated with implementation such as modifications to salaries and benefits packages, increased pensions, and issuing standard equipment/materials (uniforms, vehicles, branding, etc.) would also need to be identified and budgeted for. Addressing these and other issues related to implementation, may require the respective entities to hire a consultant to perform an in-depth analysis.

Standards for CRA Expenditures

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency (CRA).

On December 7, 2017, County staff presented the Committee with an agenda item (Attachments #5) including a legal analysis of the proposed Charter amendment. The analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to existing Interlocal Agreements. The Committee passed a motion 12-0 to request a presentation from the Community Redevelopment Agency. During the January 11, 2018 Charter Review Committee Meeting, the Committee voted 11-2 to take no further action on this issue.

Summary Analysis: The Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) governs the creation of community redevelopment agencies and the exercise of powers in carrying out community redevelopment. In 1998, pursuant to and in accordance with the provisions of the Community Redevelopment Act, the City of Tallahassee adopted Ordinance No. 98-O-0046, which created the Tallahassee Community Redevelopment Agency (the "CRA").

The CRA is governed by the CRA Board, which is presently composed of nine members, including the Mayor of the City of Tallahassee, four City Commissioners, and four members of the Leon County Board of County Commissioners. The CRA presently employs five full-time employees and one part-time employee, all of whom are considered to be City employees. Per the Charter Review Committee's request, the Committee received a presentation from Wayne

Tedder, Tallahassee Assistant City Manager, on January 11th. The presentation provided an overview of the establishment, scope, and successes of the CRA as well as the collection and expenditure of CRA funds.

The County does not have any ordinances or Charter provisions concerning the CRA and community redevelopment, but has entered into Interlocal Agreements pertaining to same. Existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA beyond the allowable uses of CRA funds as articulated in Florida Statute. Imposing standards for these expenditures would require amendments to existing Interlocal Agreements and cannot be effectuated by a Charter amendment. Furthermore, amendments to the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County.

Modification of the District Commission Election Process

Summary of Committee Action: At the November 16 Leon County Charter Review Committee meeting, the Committee voted 7-5 to request an agenda item related to modifying the district commission election process for the Leon County Board of County Commissioners (Attachment #3). At the meeting on November 30, 2017 staff provided an analysis of the requested information (Attachment #4) and the Committee voted 11-1 to take no further action on this issue.

Summary Analysis: When the Leon County Home Rule Charter was adopted in 2002, the drafters of the proposed Charter and the Board of County Commissioners elected not to try to modify the existing composition of the Board of County Commissioners. In 2002, the composition included five (5) County Commission Districts, elected by the electors of that District, and two (2) At-large Commissioners elected on a County-wide basis by the electors of the County.

The Committee was provided with additional information and analysis on the proposal that only electors within each of the Commission single member Districts would vote in a primary election for candidates for each single member District office. However, after such a primary election, the two (2) highest vote getters (assuming there are more than one candidate) would be put on the General Election ballot for a vote by all of the electors of Leon County. No Counties in Florida (either Charter or non-Charter) currently utilize this election process.

Compliance with the Voting Right Acts of 1965 as amended would be necessary in order to make such a modification of the district commission election process. Because the United States District Court for the Northern District of Florida has retained jurisdiction, a petition for a modification to the election plan contained in the Court's Final Judgment of 1986 or seeking dissolution of the Court's continuing jurisdiction over Leon County and its election plan would be required. No significant research has been performed as to whether or not such an election system would comply with all Federal Laws, especially the Voting Rights Act of 1965, as amended; however, serious issues exist concerning significant dissolution of minority electors' voting impact, and thus will not comply with the Voting Rights Act.

Nonpartisan Superintendent of Schools and Constitutional Officers

Summary of Committee Action: On November 16, 2017, the Charter Review Committee voted 12-0 to request legal analysis on making the office of Superintendent of Schools and

Constitutional Officers nonpartisan (Attachment #3). On December 7, 2017, the requested analysis was presented which conveyed that charter counties have the authority to make Constitutional Officers, that are also considered “county officers”, nonpartisan. However, charter counties cannot effectuate this change for Superintendents of Schools as these positions are regulated and governed by the respective school district boards. Subsequently, the Committee voted 11-1 to receive additional information and analysis related to making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan (Attachment #5). On January 11, staff provided an analysis of the requested information (Attachment #6) and the Committee voted 9-4 to take no further action on this item.

Summary of Analysis: Leon County’s Charter currently requires that the election of the Supervisor of Elections shall be nonpartisan, a provision that was included in the County’s original Charter adopted by the voters in 2002.

The legal analysis presented to the Committee concluded that the office of Superintendent of Schools is regulated and governed by the respective district school boards and government at a state and not local level. Therefore, making the office nonpartisan could not legally be effectuated by a Charter amendment. In coming to this conclusion, the County Attorney’s Office reviewed Article VIII and IX of the Florida Constitution, searched Attorney General Opinions, and reviewed available case law. Additionally, staff looked at each of the 19 other charters of the 20 Florida Charter Counties. Staff provided the Committee with information and analysis on this issue as well as data on the Leon County electorate and candidates for local offices over the last four election cycles. Staff concluded that currently there are several challenges to charter counties’ authority to make constitutional officers nonpartisan. These include ongoing litigation and proposals being considered by the Florida Constitutional Revision Commission.

Protections for Water Resources

Summary of Committee Action: At the Leon County Charter Review Committee meeting of January 11, 2018, the Committee voted 13-0 to request additional information and analysis regarding how other county charters have addressed protecting water resources (Attachments #6). On January 18, staff provided an analysis of the requested information (Attachment #7) and the Committee voted 10-0 to take no further action on this issue.

Summary of Analysis: Waters in the state are considered a public resource to be managed on a state and regional basis. Consequently, the State maintains exclusive authority for requiring water use permits for the consumptive use of water, such as the construction of water wells. However, counties can establish environmental standards related to water quality protection.

Leon County, consistent with other Florida charter counties, has in its charter a countywide “Minimum Environmental Regulations” provision in Section 1.6.(2) which was an amendment recommended by the 2009/2010 Citizen Charter Review Committee and approved by 61% of the electorate. Section 1.6.(2) of the Charter requires the County to adopt minimum standards, procedures, requirements, and regulations for the protection of the environment to include, but are not limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and other environmental standards the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County. The amendment does not prohibit the City from

adopting more stringent environmental regulations. In March 2011, the Board of County Commissioners also adopted a minimum Countywide Environmental Standard Ordinance to provide consistency, reliability, and uniformity of standards countywide, recognizing that environmental conditions are not confined by jurisdictional boundaries.

Where not pre-empted by the State, the Leon County Charter provides for the adoption of countywide water protection ordinances or regulations. As a charter county, Leon County has taken advantage of its ability to enact ordinances regulating water so long as they are consistent with state laws such as inclusion of a countywide Aquifer/Wellhead Protection Program to “protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems” in its Code of Laws. The ordinance provides criteria for regulating the use, handling, production, storage, and disposal of regulated substances such as petroleum products, solvents, etc. While more specific provisions could be adopted as Charter amendments, the current approach of adopting local ordinances and regulations provides flexibility to address changing local conditions. Leon County continues explore and evaluate opportunities to improve water quality protection; however, there are no specific additional regulations recommended at this time.

SUMMARY OF RECOMMENDED AMENDMENTS to the CHARTER

Of the three tentative recommendations that were identified for review and discussion during the public hearing process, the Committee adopted two by the necessary 10 vote minimum to send the proposals to the Board of County Commissioners.

Code of Ethics Requirement

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Hiring/Firing Process for the County Attorney

Sec. 2.4. - County attorney.

- (1) There shall be a County Attorney selected by the Board of County Commissioners who shall report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

APPENDIX A: CURRENT LEON COUNTY CHARTER

LEON COUNTY FLORIDA - CHARTER

Footnotes:

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Editor's note— The Leon County Home Rule Charter was originally enacted by Ord. No. 2002-07 adopted May 28, 2002; to be presented at special election of Nov. 5, 2002. Ord. No. 2002-16, adopted Sept. 10, 2002, repealed Ord. No. 2002-07 in its entirety. Subsequently, Ord. No. 2002-17, adopted Sept. 10, 2002, special election of Nov. 5, 2002; effective Nov. 12, 2002, enacted the Home Rule Charter to read as set out herein.

SECTION 1. - HOME RULE CHARTER

The proposed Home Rule Charter of Leon County, Florida, shall read as follows:

PREAMBLE

We, the citizens of Leon County, Florida, united in the belief that governmental decisions affecting local interests should be made locally, rather than by the State, and that County government should be reflective of the people of the County and should serve them in achieving a more responsive and efficient form of government and in order to empower the people of this County to make changes in their own government, do ordain and establish this Home Rule Charter for Leon County, Florida.

ARTICLE I. - CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT

Sec. 1.1. - Creation and general powers of Home Rule Charter government.

The County shall have all powers of self- government not inconsistent with general law, with special law approved by vote of the electors, or with this Charter. The County shall have all county and municipal powers of self-government granted now or in the future by the Constitution and laws of the State of Florida.

Sec. 1.2. - Body corporate, name and boundaries.

Leon County shall be a body corporate and politic. The corporate name shall be Leon County, Florida. The County seat and boundaries shall be those designated by law on the effective date of this Home Rule Charter.

Sec. 1.3. - Construction.

The powers granted by this Home Rule Charter shall be construed broadly in favor of the charter government. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific power of the government as stated in this article. It is the intent of this article to grant to the charter government full power and authority to exercise all governmental powers necessary for the effective operation and conduct of the affairs of the charter government.

Sec. 1.4. - County purposes.

The County, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.

Sec. 1.5. - Municipal purposes.

The County shall have all necessary municipal powers to accomplish municipal purposes within the County.

In the event the board of county commissioners levies the municipal public services tax on utilities, any additional recurring or non-recurring fee or charge imposed on a utility relating to the use or occupation of the public rights-of-way shall not exceed what is reasonably necessary to properly monitor and enforce compliance with the county's rules and regulations concerning placement and maintenance of utility facilities in the public rights-of-way.

Sec. 1.6. - Relation to municipal ordinances.

- (1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances to the extent of any conflict within the boundaries of the municipality. To the extent that a county ordinance and a municipal ordinance shall cover the same subject without conflict, then both the municipal ordinance and the county ordinance shall be effective, each being deemed supplemental to the other.
- (2) *Minimum Environmental Regulations.* County ordinances shall establish minimum standards, procedures, requirements and regulations for the protection of the environment and shall be effective within the unincorporated and incorporated areas of the County. Such standards, procedures, requirements and regulations shall include, but shall not be limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and such other environmental standards as the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County. Standards shall be designed to place emphasis on supporting healthy natural systems occurring in the environment. However, nothing contained herein shall prohibit a municipality from adopting ordinances, standards, procedures, requirements or regulations establishing a more stringent level of environmental protection within the incorporated area of the County.

(Ord. No. 2010-22, § 1, 8-17-10)

Sec. 1.7. - Transfer of power.

Whenever a municipality, special district or agency shall request by a majority vote of the governing body the performance or transfer of a function to the County, the County is so authorized by a majority vote of the Board of County Commissioners to have the power and authority to assume and perform such functions and obligations. This section does not authorize a transfer in violation of Article VIII, § 4 of the Constitution of Florida.

Sec. 1.8. - Division of powers.

This Charter establishes the separation between legislative and administrative functions of this government. The establishment and adoption of policy shall be the responsibility of the Board of County Commissioners and the execution of that policy shall be the responsibility of the County Administrator.

Sec. 1.9. - Relation to state law.

Special laws of the state legislature relating to or affecting Leon County and general laws of local application which apply only to Leon County, except those laws relating exclusively to a municipality, the school board, or a special district, shall be subject to approval by local referendum to the extent that they are not in conflict with this Charter. All special laws so approved shall become ordinances, and may be subject to amendment or repeal by the Board of County Commissioners.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.1. - Elected Commission and appointed County Administrator form of government.

Leon County shall operate under an elected County Commission and an appointed County Administrator form of government with separation of legislative and executive functions in accordance with the provisions of this Home Rule Charter. The legislative responsibilities and powers of the County shall be assigned to, and vested in, the Board of County Commissioners. The executive responsibilities and power of the County shall be assigned to, and vested in, the County Administrator, who shall carry out the directives and policies of the Board of County Commissioners and enforce all orders, resolutions, ordinances and regulations of the Board, the Charter and all applicable general law to assure that they be faithfully executed.

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- (7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

(Ord. No. 2010-21, § 1, 8-17-10)

Sec. 2.3. - Executive branch.

- (1) *The County Administrator.*
 - (A) The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled

meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.

- (B) The County Administrator shall be chosen on the basis of his/her professional qualifications, administrative and executive experience, and ability to serve as the chief administrator of the County. The County Administrator shall reside within the County during his/her tenure as County Administrator.
- (C) The compensation of the County Administrator shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position, with performance appraisals conducted by the Board of County Commissioners at least annually.
- (D) A vacancy in the office shall be filled in the same manner as the original appointment. The County Administrator may appoint an Acting County Administrator in the case of his/her temporary vacancy.

(2) *Senior Management.*

The County's senior management employees, with the exception of the County Attorney's Staff, shall serve at the pleasure of the County Administrator, who may suspend or discharge senior management personnel with or without cause.

- (3) *Non-interference by Board of County Commissioners.* Except for the purpose of inquiry and information, members of the Board of County Commissioners are expressly prohibited from interfering with the performance of the duties of any employee of the county government who is under the direct or indirect supervision of the County Administrator or County Attorney by giving said employees instructions or directives. Such action shall constitute malfeasance within the meaning of Article IV, Section 7(a) of the Florida Constitution. However, nothing contained herein shall prevent a County Commissioner from discussing any county policy or program with a citizen or referring a citizen complaint or request for information to the County Administrator or County Attorney.

(Ord. No. 2010-23, § 1, 8-17-10; Ord. No. 2010-24, § 1, 8-17-10; Ord. No. 2010-25, § 1, 8-17-10)

Sec. 2.4. - County attorney.

- (1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

- (1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.
 - (A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.
 - (B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

- (1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.
- (2) *Audit Committee.* There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

Sec. 3.4. - Limitation on campaign contributions.

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

(Ord. No. 2010-21, § 2, 8-17-10)

ARTICLE IV. - POWERS RESERVED TO THE PEOPLE: INITIATIVE AND RECALL

Sec. 4.1. - Citizen initiative.

- (1) *Right to Initiate.* The electors of Leon County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances, not in conflict with the

Florida Constitution, general law or this Charter, upon petition signed by at least ten percent (10%) of the total number of electors qualified to vote in the County reflecting ten percent (10%) of the total number of electors qualified to vote within each of the five (5) commission districts. The total number of electors qualified shall mean the total number of electors qualified to vote in the last preceding general election.

- (2) *Procedure for Petition.* The sponsor of an initiative shall, prior to obtaining any signatures, submit the text of a proposed ordinance to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed and obtain a dated receipt therefor. Any such ordinances shall embrace but one (1) subject and matter directly connected therewith. The sponsor shall cause a notice of such submission to be published within fourteen (14) days thereof in a newspaper of general circulation in the County. The allowable period for obtaining signatures on the petition shall be completed not later than one (1) year after initial receipt of the petition by the Supervisor of Elections. The sponsor shall comply with all requirements of general law for political committees, and shall file quarterly reports with the Supervisor of Elections stating, to the best of the sponsor's information and belief, the number of signatures procured. The time and form of such reports may be prescribed by ordinance. When a sufficient number of signatures is obtained, the sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections, and upon submission, shall pay all fees required by general law. The Supervisor of Elections shall, within sixty (60) days after submission of signatures, verify the signatures thereon, or specify a reason for the invalidity of each rejected signature, if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days of submission of additional signatures, verify the additional signatures. In the event sufficient signatures are still not acquired, the Supervisor of Elections shall declare the petition null and void and none of the signatures may be carried over onto another identical or similar petition.
- (3) *Consideration by Board of County Commissioners.* Within sixty (60) days after the requisite number of signatures has been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall give notice and hold public hearing(s) as required by general law on the proposed ordinance and vote on it. If the Board fails to enact the proposed ordinance it shall, by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered electors voting on the question, the proposed ordinance shall be declared, by resolution of the Board of County Commissioners, to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative prior to the next succeeding general election, without the approval of a majority of the electors voting at a referendum called for that purpose.
- (4) *Limitation on Ordinances by Initiative.* The power to enact, amend or repeal an ordinance by initiative shall not include ordinances or provisions related to County budget, debt obligations, capital improvement programs, salaries of County officers and employees, the assessment or collection of taxes, or the zoning of land.

Sec. 4.2. - Recall.

All members of the Board of County Commissioners shall be subject to recall as provided by general law.

ARTICLE V. - HOME RULE CHARTER TRANSITION, AMENDMENTS, REVIEW, SEVERANCE, EFFECTIVE DATE

Sec. 5.1. - Home Rule Charter Transition.

- (1) *General Provisions.* Unless expressly provided otherwise in this Home Rule Charter, the adoption of this Charter shall not affect any existing contracts or obligations of Leon County; the validity of any of its laws, ordinances, regulations, and resolutions; or the term of office of any elected County officer, whose term shall continue as if this charter had not been adopted.
- (2) *Initial County Commissioners.* The persons comprising the Leon County Board of County Commissioners on the effective date of this Charter shall become the initial members of the Board of County Commissioners of the Charter government and shall perform the functions thereof until the normal expiration of their terms or until the election and qualification of their successors as provided by law.
- (3) *Outstanding Bonds.* All outstanding bonds, revenue certificates, and other financial obligations of the County outstanding on the effective date of this Charter shall be obligations of the Charter government. All actions taken by the former government relating to the issuance of such obligations are hereby ratified and confirmed. Payment of such obligations and the interest thereon shall be made solely from, and charged solely against, funds derived from the same sources from which such payment would have been made had this Charter not taken effect.
- (4) *Employees Continuation.* All employees of the former County government shall, on the effective date of this Charter, become employees of the County government created by this Charter. All existing wages, benefits, and agreements, and conditions of employment shall continue, until modified by lawful action of the County Commission.

Sec. 5.2. - Home rule charter amendments.

- (1) *Amendments Proposed by Petition.*
 - (A) The electors of Leon County shall have the right to amend this Home Rule Charter in accordance with Sec. 4.1 of this Charter.
 - (B) Each proposed amendment shall embrace but one (1) subject and matter directly connected therewith. Each Charter amendment proposed by petition shall be placed on the ballot by resolution of the Board of County Commissioners for the general election occurring in excess of ninety (90) days from the certification by the Supervisor of Elections that the requisite number of signatures has been verified. If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.
- (2) *Amendments and Revisions by Citizen Charter Review Committee.*
 - (A) A Citizen Charter Review Committee shall be appointed by the Board of County Commissioners at least twelve (12) months before the general election occurring every eight (8) years thereafter, to be composed and organized in a manner to be determined by the Board of County Commissioners, to review the Home Rule Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. Public hearings shall be conducted as provided by F.S. § 125.63.
 - (B) No later than ninety (90) days prior to the general election, the Citizen Charter Review Committee shall deliver to the Board of County Commissioners the proposed amendments or revisions, if any, to the Home Rule Charter, and the Board of County Commissioners shall consider such amendments or revisions to be placed on the general election ballot, in accordance with F.S. § 125.64.
 - (C) If the Citizen Charter Review Committee does not submit any proposed Charter amendments or revisions to the Board of County Commissioners at least ninety (90) days prior to the general election, the Citizen Charter Review Committee shall be automatically dissolved.
- (3) *Amendments Proposed by the Board of County Commissioners.*
 - (A) Amendments to this Home Rule Charter may be proposed by ordinance adopted by the Board of County Commissioners by an affirmative vote of a majority plus one (1) of the membership of

the Board. Each proposed amendment shall embrace but one (1) subject and matter directly connected therewith. Each proposed amendment shall only become effective upon approval by a majority of the electors of Leon County voting in a referendum at the next general election. The Board of County Commissioners shall give public notice of such referendum election at least ninety (90) days prior to the general election referendum date.

- (B) If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.

Sec. 5.3. - Severance.

If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Charter which can be given effect without the invalid provision or application, and to this end the provisions of the Charter are declared severable.

Sec. 5.4. - Home rule charter effective date.

This Charter shall become effective November 12, 2002.

SECTION 2. - BALLOT QUESTION TO BE PRESENTED TO ELECTORATE

The proposed Charter of Leon County, Florida, shall be presented to the qualified Leon County electorate by placing the question of whether to adopt same on the ballot at the special election to be held on November 5, 2002.

SECTION 3. - BALLOT QUESTION FORM

The question on the ballot shall be substantially in the following form:

CHARTER FOR LEON COUNTY, FLORIDA
AS PROPOSED BY LEON COUNTY ORDINANCE NO. 2002- _____

Question

Shall there be a Home Rule Charter for Leon County, Florida, establishing all rights and powers of local self government; authorizing the proposal and adoption of ordinances by voter initiative and referendum; preserving elected constitutional county officers; providing a non-partisan Supervisor of Elections; providing for non-partisan elections of county commissioners; allowing recall of commissioners by citizen referendum; and providing a method of amendment, which shall take effect November 12, 2002?

Yes for Approval _____

No for Rejection _____

SECTION 4. - FURTHER AUTHORIZATION

The Board of County Commissioners of Leon County, Florida, is authorized to adopt all resolutions and take all actions necessary in order for this Charter referendum proposition and those propositions referenced in the Preamble and Articles of the proposed Charter herein to be properly placed on the ballot for the special election of November 5, 2002. Said referendum shall be conducted according to the requirements of law governing referendum elections in the State of Florida.

SECTION 5. - SEVERABILITY

If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. - EFFECTIVE DATE

This ordinance shall have effect upon becoming law, but shall be of no further force or effect if the proposed Charter is not duly approved at the November 5, 2002, special election. The Charter of Leon County, Florida, as proposed by this Ordinance, shall become effective November 12, 2002, if the Charter is approved by a "yes" vote by a majority of those duly qualified electors voting on the question posed at the November 5, 2002, referendum.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 9th day of September, 2002.

LEON COUNTY, FLORIDA

BY:

/s/ DAN WINCHESTER
CHAIRMAN
BOARD OF COUNTY
COMMISSIONERS

ATTESTED BY:

/s/ BOB INZER
CLERK OF THE COURT

BY:

CLERK

APPROVED AS TO FORM:

COUNTY ATTORNEY'S OFFICE

LEON COUNTY, FLORIDA

BY:

/s/ HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY

CHARTER DISPOSITION TABLE—ORDINANCES

This table shows the disposition of legislation which amended the Charter.

Ordinance Number	Adoption Date	Election Date	Section	Disposition
2002-07	5-28-02	11- 5-02	1 Added	Char. §§ 1—6
2002-16	9-10-02		1 Rpld	Char. §§ 1—6
2002-17	9-10-02	11- 5-02	1 Added	Char. §§ 1—6
2010-21	8-17-10	11- 2-10	1 Added	Char. § 2.2(7)
			2 Added	Char. § 3.4
2010-22	8-17-10	11- 2-10	1	Char. § 1.6
2010-23	8-17-10	11- 2-10	1	Char. § 2.3(2)
2010-24	8-17-10	11- 2-10	1	Char. § 2.3
2010-25	8-17-10	11- 2-10	1 Added	Char. § 2.3(3)

APPENDIX B: COMMITTEE BY-LAWS

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

In order to govern its function and operation in a manner consistent with the Home Rule Charter of Leon County, Florida approved by the electorate of Leon County on the 5th day of November 2002 and subsequently amended on the 2nd day of November 2010, the Leon County Citizens Charter Review Committee (hereinafter the "Committee") hereby adopts the following Bylaws.

It shall be the duty of the Citizen Charter Review Committee to carry out the following charge: To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners (BCC) which may be advisable for placement on the general election ballot.

ARTICLE I. APPLICABLE FLORIDA LAWS AND BCC POLICIES

Section 1.1 Public Records Law and E-Mails: Each member of the Committee shall comply with the Florida's Public Records Law, Chapter 119, Florida Statutes, and Leon County BCC Policy 96-4, "Policy on Public Records Law and E-Mail", as may be amended from time to time, and each member of the Committee shall be provided a copy of BCC Policy 96-4.

Section 1.2 Government In the Sunshine Law: Each member of the Committee shall comply with the Florida Government in the Sunshine Law, Chapter 286, Florida Statutes, as may be amended from time to time.

Section 1.3 Code of Ethics: The Committee shall comply with the following state laws and BCC Policies with regard to the Florida Code of Ethics for Public Officers and Employees:

Clause 1.3.1 Each member of the Committee shall comply with Section 112.3143, Florida Statutes, "Voting Conflicts", as may be amended from time to time, and shall be provided a copy of Section 112.3143.

Clause 1.3.2 Each member of the Committee shall abide by the Standards of Conduct set forth in Section 112.313, Florida Statutes, as may be amended from time to time, and shall be provided a copy of Section 112.313, Florida Statutes.

ARTICLE II. OFFICERS AND DUTIES

Section 2.1 The Chairperson and Vice-Chairperson shall serve until the dissolution of the Committee and assume the following powers and duties:

Clause 2.1.1 The Chairperson shall preside at all regular and special meetings of the Committee.

Clause 2.1.2 The Chairperson shall represent the Committee at all functions and activities so requiring (but without authority to state any position of the Committee not previously approved).

Clause 2.1.3 The Chairperson shall call special meetings when necessary;

Clause 2.1.4 The Chairperson shall set meeting agendas in coordination with County staff.

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

Section 2.2 In the event of the Chairperson's absence, or at the direction of the Chairperson, the Vice-Chairperson shall assume the powers and duties of the Chairperson.

Section 2.3 In the event that either the Chairperson or the Vice-Chairperson is unable to complete their terms, a replacement from among its members should be appointed as soon as reasonably possible.

ARTICLE III. TERM OF MEMBERS

Section 3.1 Each member shall serve on the Committee for 120 days or upon the completion of the Committee's work.

ARTICLE IV. ATTENDANCE AND REPLACEMENT OF MEMBERS

Section 4.1 **Attendance at Meetings:** Regular attendance and attention to the business of the Committee is expected. The seat of any member who fails to attend three consecutive regular meetings, without previous notification, shall be presumed vacant, and the Chairperson shall report that fact to the County Commissioner who appointed the member, for confirmation that a vacancy exists. Vacancies shall be filled in the same manner as initial appointments.

ARTICLE V. MEETINGS

Section 5.1 **Regular Meetings:** The Committee shall hold weekly meetings on Thursdays. Such regular meetings shall be held at the **Leon County Courthouse**. The duration of meetings shall not exceed **two** hours unless extended by a majority vote of the Committee. In order to expedite meetings, the Chairperson may place time limits on discussion of agenda items.

Section 5.2 **Special Meetings:** The Chairperson or any seven (7) members of the Committee may call a special meeting of the Committee to discuss any issue properly before the Committee. Such special meeting may be convened only after notification is given to each member of the Committee and after public notice is given no later than forty-eight (48) hours before the special meeting is scheduled to begin.

Section 5.3 **Public Participation:** The Committee will consider public comment on all substantive agenda items. Under the agenda item of "Remarks of Interested Citizens", interested citizens shall be afforded an opportunity to comment on matters before the Committee. The remarks of any citizen should be germane to the agenda or matters to come before the Committee. Each agenda shall include a point during the meeting at which "Remarks of Interested Citizens" may be made. Each citizen addressing the Committee is asked to observe the general rules of courtesy and civility, and to avoid repetition of other speakers. Citizens are asked to limit their comments to five minutes in the interest of fairness to all citizens desiring to be heard, although this requirement may be waived at the discretion of the Chairman for good cause.

Section 5.4 **Meeting Agendas:** County staff shall assist the Chairperson of the Committee in developing an agenda for each meeting of the Committee. The agenda for regular meetings of the Committee shall be generally as follows, subject to amendment or revision by the Committee Chairperson or a majority of the members present:

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

- I. Call to Order
- II. Pledge
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
- V. Reports of Chairperson (if any)
- VI. Presentations by Invited Guests
- VII. Remarks of Interested Citizens
- VIII. Unfinished Business
- IX. New Business
- X. Adjournment with Day Fixed for Next Meeting

Section 5.5 Official Acts and Quorum: Any and all official acts by the Committee shall require a majority vote of the members present and voting except as otherwise set forth in these bylaws. However, the Committee shall take no such action unless a quorum is present at the meeting. In order to constitute a quorum, there must be a majority of the Committee's current membership present at the meeting. The minutes of the meeting shall reflect the number of affirmative votes on a motion and shall specify the names of any members voting against the motion.

No member of the Committee shall have the power to vote by proxy. Only those members physically present shall be entitled to vote. Telephonic participation is not permitted.

Section 5.6 Meeting Minutes: Minutes shall be taken at all regular and special meetings of the Committee. Minutes of committee proceedings shall be filed with the County in accordance with BCC Policy No. 03-15, "Board-Appointed Advisory Committees."

Section 5.7 Procedure: Roberts' Rules of Order Revised shall govern the procedure of all meetings.

ARTICLE VI. DELIBERATIONS

Section 6.1 The Committee shall conduct meetings in three phases: (1) Issues Agendas, (2) Decision Agendas, and (3) Public Hearings and Transmittal.

Clause 6.1.1 Issues Agenda: During the first phase of meetings, the Committee shall, identify policy issues for discussion and potential recommendations to the BCC for placement on the general election ballot. By simple majority vote, the Committee shall approve policy issues to be considered and schedule Issues Agenda meetings at which the approved issues shall be discussed. Prior to completion of Issues Agenda meetings, additional policy issues may be added and scheduled upon the request of four or more members.

After completion of the scheduled Issues Agenda meetings but not later than January 11, 2018, additional issues may be scheduled with the concurrence of a majority of the Committee.

Any issue may be stricken from further consideration at Issues Agenda meetings by a majority of those members present, but not less than seven members.

Clause 6.1.2 Decision Agenda: By a simple majority vote, the Committee shall approve those issues to be discussed during the second phase of meetings and schedule Decision

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

Agenda meetings at which sample text of proposed amendments shall be considered. After a proposed amendment has been discussed, the Committee may, by a majority of those members present, direct County staff to prepare proposed amendments for review and discussion at public hearings.

Clause 6.1.3 Public Hearings and Transmittal: The Charter requires the Committee to hold at least three public hearings prior to submitting amendments to the BCC in accordance with Section 125.63, F.S. After all necessary hearings, the Committee shall amend (if necessary) and approve, the proposed Charter amendments, ballot titles, and summaries for recommendation to the BCC with the concurrence of two-thirds of those present but not less than 10 members.

By two-thirds of those present but not less than 10 members, the Committee shall direct the Chairperson to transmit the proposed amendments, ballot titles, and summaries to the BCC ninety (90) days prior to the general election in order for the special election on the proposed Charter amendments to be held simultaneously with the general election.

**ARTICLE VII.
POLICY ON PUBLICITY**

Section 7.1 Public statements by the Committee shall be coordinated through the Chairperson and County staff. Members of the Committee may make public or private statements of their personal feelings, attitudes or beliefs at any time. In making such statements, however, members of the Committee shall on every occasion make an affirmative statement that their views are not represented as the views of the Committee as a whole. The Chairperson of the Committee shall be responsible for announcing the adopted positions of the Committee.

**ARTICLE VIII.
AMENDMENTS TO BYLAWS**

Section 8.1 Amendments: These rules and policies shall be presented by staff and adopted as the bylaws of the Committee at their first meeting. The Bylaws may be amended by an affirmative vote of two-thirds of the entire Committee.

Section 8.2 Approval: The Amended Bylaws shall become effective upon the approval of the County Attorney as to the legality of the form and content of such amendment.

Approved As To Legality of Form and Content:

County Administrator's Office

BY:

Vincent S. Long
County Administrator

County Attorney's Office

BY:

Herbert W. A. Thiele
County Attorney

APPENDIX C: MEETING MINUTES

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 9, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 9, 2017 in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, and Kim Williams in attendance. Committee members Shane Hopkins, James Revell and Bill Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order at 9:00 a.m. He welcomed the Committee and provided staff introductions. He advised that staff would be available to guide the Committee throughout the charter review process. Mr. Long advised that all meetings would be televised on Comcast Channel 16 and streamed live via the web.

Opening remarks were provided by Mr. Long. He advised that the County's Charter was initially adopted in 2002 and its first review was done in 2010. He conveyed that Board was clear in its intent that the Committee not be restricted in issues they wished to address.

CRC members were then provided an opportunity to introduce themselves and provide brief comments. Ms. Jones stated for the record that while she was aide to County Commissioner Nick Maddox, was not appointed by Commissioner Maddox.

Mr. Long utilized a power point presentation to provide an Overview of Charter Government, which included:

- What is a Charter?
 - Local "Home Rule" Constitution.
 - "Living document" which reflects the preferences of the local electorate as to the powers, structure and authority of county government.
 - Only voters can approve and amend a county charter.
- Why Charter Government?
 - "One size fits all" government doesn't work.
 - Citizen determination to reflect community preferences.
 - Flexibility in fulfilling state-mandated functions.
 - Increases ability to address local concerns.
 - Like city governments (all charters) "bottom-up" approach to government.
- Florida's Charter Counties
 - Twenty Florida counties are currently charter counties, representing over 75% of the population;
- Florida History
- 1968 Florida Constitution
 - Dillon's Rule replaced by Home Rule
- Leon County History
 - In 2002 Leon County voters adopted a "starter charter" which included:
 - Roles and responsibilities of the County's constitutional officers.
 - The County's relationship with its municipalities.
 - A separate executive and legislative branch under the council-manager form of government.
 - Charter Amendment Process.

- Citizen Petition
- Board of County Commissioners
- Citizen Charter Reviews Committee
- 2009/2010 Charter Review Committee Proposed Amendments
- 2010 General Election Charter Amendments
 - Tourist Development Council Structure
 - Minimum County-wide Environmental Regulations
 - Employment of the County Administrator
 - Non-Interference Policy
 - Limitation on Campaign Contributions
 - Petition Thresholds
 - Future Charter Review Committees

Mr. Long noted the Committee's Charge *"To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners which may be advisable for placement on the general election ballot."*

The CRC then engaged in roundtable discussion with Mr. Long and County Attorney Thiele on a variety of topics. These included: composition of other charter counties, municipal powers, establishment of CRA's, consolidation, and districting. It was established that while there were no pressing topics that the County had identified for the CRC to deliberate on, the CRC has the authority to discuss and bring forward any topic it deemed appropriate for Board consideration.

Mr. Thiele provided an overview of the Florida Public Records and Sunshine Laws. He advised that Public Records and Florida Sunshine Laws apply to CRC members, and to a certain extent, the Statewide Ethics Code.

- Sunshine Law: Requires that all public meetings be noticed, are open to the public and minutes are kept. A meeting is defined as two or more members of the same decision making body talking about substantive matters that may come before the committee. CRC members should not discuss any matters that may or may not be recommended to the Board.
- Public Records Law – Any written communications, i.e., texts, e-mails, Facebook posts or tweets received relating to the CRC or potential issues brought forth by citizens for CRC consideration are considered public record and should be retained and brought to the attention of staff for inclusion in the official CRC file.
- Florida Code of Ethics: Any potential voting conflicts should be brought to the attention of the County Attorney to determine if a conflict exists. CRC members are not permitted to accept gifts which may be given to persuade a member to advocate for a particular issue of interest to the giver. The County Attorney should be contacted if a CRC member has any concerns or questions about a particular gift.

In response to inquiries on the types of topics deliberated on by the 2010 CRC, Ms. Peeples shared that copies of the final report of the 2010 CRC was included in the binder provided. She then reviewed the proposed draft Bylaws of the CRC and noted that a vote to adopt would be done at the next CRC meeting.

Ms. Peeples discussed the process by which the CRC will deliberate potential amendments, sharing that a written copy of the process was included in the binder packet. The seven steps of this process are:

- **Step 1: Initial Committee Idea Deliberations.**
Requires four votes of the committee to formally agenda an idea for committee consideration.

- **Step 2: Proposed Charter Amendment Agendaed for Committee Consideration:**
A simple majority vote of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.
- **Step 3: Proposed Charter Amendment Agendaed for Committee Consideration with Draft Charter Amendment Language:**
A simple majority vote of the committee is required to advance the proposal to a public hearing.
- **Step 4: Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendment to the County Commission:**
Ten votes of the committee are required to recommend a proposed charter amendment to the Board of County Commissioners.
- **Step 5: Board of County Commissioners Workshop**
- **Step 6: Board of County Commissioners Public Hearings**
- **Step 7: 2018 General Election (November 6, 2018)**

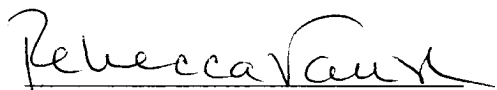
Ms. Peeples then referenced the proposed Committee schedule, noting that future meetings would be held on Thursdays from 11:30 a.m. – 1:30 p.m. (unless specified otherwise) and lunch would be provided. She mentioned that public hearing would be held at 6:00 p.m. to allow for public participation. She added that the Committee will elect its chair and vice chair at next week’s meeting.

County Administrator Long concluded the meeting by expressing appreciation for the Committee’s time and dedication to this effort.

There being no further business, the meeting was adjourned at 11:05 a.m.



 Chair, Leon County Charter Review Committee



 Deputy Clerk

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 16, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 16, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and Bill Graham were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order and thanked members for their participation in this important process. He reminded the CRC that all meeting were recorded and streamed live.

Mr. Long introduced CRC member Jay Revell, who provided brief introductory remarks.

Overview of Leon County Government

Mr. Long noted that a copy of the County's 2017 Annual Report and the Impact and Progress Report had been provided to the Committee. He then shared information on 1) the County (population, median age, County budget, etc.); 2) the County's organization chart; 3) the County's budget, and 4) how the County compares to other like size counties. He gave the CRC an overview of the accomplishments over the last five years and targets and "bold goals" for the next five years in the areas of the Economy, Environment, Quality of Life and Governance. He concluded his overview with a video summarizing the 2017 Annual Report.

Review of County Charter:

Mr. Long reviewed the current County Charter; which he pointed out contains five Articles:

1. Article I – Creation, Powers and Ordinances of Home Rule Charter Government
2. Article II – Organization of County Government
3. Article III – Elected Constitutional Officers
4. Article IV – Powers Reserved to the People: Initiative & Recall
5. Article V – Home Rule Transition, Amendments, Review, Severance, Effective Date

Approval of Committee Bylaws:

Mr. Long stated that should it be deemed that the Bylaws are not adequately serving the Committee, they can be amended by a two-thirds vote of the Committee.

A motion to approve the Committee Bylaws was offered by Gordon Thames and seconded by Michael Eurich. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Election of Chair and Vice Chair:

Mr. Long called for nominations for Chairman of the CRC.

A motion to nominate Lee Hinkle as Chairman of the Charter Review Committee was offered by Kim Williams and seconded by Jay Revell. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Long called for nomination for Vice-Chairman of the CRC.

A motion to nominate Kim Williams as Vice-Chairman of the Charter Review Committee was offered by Catherine Jones and seconded by Anice Prosser. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

At this point the meeting was turned over to Chair Hinkle to facilitate.

Approval of November 9, 2017 Meeting Minutes

A motion to approve the November 9, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Gordon Thames. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Initial Committee Ideas:

Chairman Hinkle stated that it was time for members to offer ideas for a proposed charter amendment for consideration by the committee. She explained that any idea that received four votes of support would be submitted to staff to prepare an analysis and returned to the CRC for further consideration.

The following topics were offered for CRC consideration:

1. Offered by Ken Hart:

Ken Hart moved, seconded by Ted Thomas, to provide for a change in the composition of the Board of County Commissioners to four districts/three at-large from the existing five district/two at-Large. The motion carried 12-0 (William Graham and Shane Hopkins absent).

Mr. Hart submitted that the proposal would allow all citizens to vote for a majority of the Commission.

2. Offered by Kim Williams:

Kim Williams moved, seconded by Ted Thomas, to provide for a change in the Charter that increases the current \$250 limitation on campaign contributions. The motion carried 8-4 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, and Anice Prosser in opposition and Bill Graham and Shane Hopkins absent).

Mr. Williams recalled that the Charter was amended in 2009 to restrict the allowable contributions in local campaigns to \$250. He suggested that it is difficult for individuals (particularly non incumbents) to raise enough funds to reach the county at large. He also mentioned that the State has increased its allowable contribution from \$500 to \$1,000.

3. Offered by Casey Perkins:

Casey Perkins moved, seconded by Gordon Thames, that the CRC deliver a resolution to the County Commission suggesting it consider the issue of consolidation. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Perkins offered that consolidation is a much discussed topic throughout community and in the media and suggested that it be decided by the voters.

County Administrator Long clarified that the Charter cannot effectuate a consolidation; however, the CRC could offer this as a recommendation to the County Commission for its consideration.

Ms. Jones stated that while she appreciated the sentiment, could not support bringing forward a resolution to the County Commission, especially in light of the County Administrator's comment that the Charter cannot effectuate this action.

4. **Offered by Gordon Thames:**

Gordon Thames moved, seconded by Anice Prosser, to provide for a change in the Charter that restricts Community Redevelopment Agency (CRA) funding to public infrastructure projects and requiring all CRA projects to follow open and competitive procurement processes. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thames proposed that CRA investment of County monies be limited to infrastructures which benefits the public and that higher standards be implemented over what is required by state statute.

Ms. Jones established with County Administrator Long that additional restrictions could be placed on the CRA within County boundaries.

5. **Offered by Neil Fleckenstein**

Neil Fleckenstein moved, seconded by Catherine Jones, to provide for a Code of Ethics and integrity for elected officials, appointed officials, County employees, and lobbyist in the Charter. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Fleckenstein opined that the Charter should identify the importance of adhering to standards of ethics and integrity for elected officials, appointed officials and County employees.

In response to inquiry from Mr. Thomas, County Administrator Long conveyed that a standard of ethics is included as a County policy. Mr. Long also stated that penalties are not currently included in the policy; however, could be included in the Charter.

Ms. Jones agreed that this should be codified in the Charter and suggested that the same be included in the County's lobbying policy. Mr. Fleckenstein agreed to include the recommendation in the motion.

6. **Offered by Catherine Jones**

Catherine Jones moved, seconded by Michael Eurich, to consider amending the Charter to change Constitutional Officers from elected to appointed officials. The motion carried 12-0 (Bill Graham and Shane Hopkins absent)

Ms. Jones emphasized that this is not a statement against any Constitutional Officer, but is a discussion that should be held by every CRC. She suggested that all Constitutional Offices be looked individually to determine if the office should be filled by the electorate or by the County Commission. She asked that pros and cons of each position be provided in the analysis.

7. **Offered by Ted Thomas**

Ted Thomas moved, seconded by Jay Revell, to provide for a change in the Charter that establishes non-partisan elections for Superintendent of Schools and all Constitutional Officers. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thomas disclosed that his son is the current Superintendent of Schools Rocky Hanna. He indicated that he had shared with County Attorney Thiele his intention to bring this issue forward and was advised that by Mr. Thiele that no conflict of interest existed.

Office races. He acknowledged that while there may be some legal questions on whether this could be included in the Charter, a precedent for doing this has been set in Columbia County.

Chairman Hinkle advised that the Committee had time to take up one more item and suggested that the two remaining issues be tabled until the next meeting. She also reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

8. Offered by Jay Revell

Jay Revell moved, seconded by Michael Eurich, to provide for a change in the voting process for electing District Commissioners. Requiring that candidates are selected initially through a primary election by district residents only and the top two candidates would then advance to a general election to be voted upon by the entire County electorate. The motion carried 7-5 (Reginald Ellis, Catherine Jones, Anice Prosser, Gordon Thames and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Revell mentioned that currently district commissioners are elected by residents only within the district boundary. He suggested that the process be amended to allow primary elections to continue to be district specific, but the top two candidates from that election be placed on a ballot to be voted on by the entire County. He opined that this would be another mechanism to get more people involved in the electoral process. Mr. Revell noted that district commissioners serve the entire county, not just a district.

Mr. Williams confirmed that a district commissioner candidate must reside within that district.

Mr. Thames brought up the legality of implementing such a change, since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district. Deputy County Attorney Riggins stated that staff would include information on the legal implications of this in the analysis brought back to the CRC.

Mr. Ellis expressed concerns that this change could reduce the power and voice of a district commissioner.

Ms. Jones maintained the importance of residents to have a district commissioner who first and foremost advocates for the citizens of that district.

Pending Committee Ideas

The following topics were tabled until the November 28, 2017 CRC meeting.

- Make the provisions for the hiring/firing of the County Attorney consistent with the County Administrator. (Offered by Jay Revell)
- Law Enforcement Consolidation (Offered by Ken Hart)

Remarks of Interested Citizens

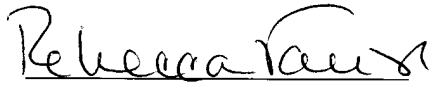
Chairman Hinkle confirmed there were no public speakers.

Adjourn

The Committee adjourned at 1:35 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 30, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 30, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Bill Graham, Michael Eurich, Gordon Thames, Shane Hopkins, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Reginald Ellis and Anice Prosser were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, County Attorney Herb Thiele, Special Projects Coordinator Heather Peoples, and Deputy Clerk Rebecca Vause.

I. Call to Order

Chairman Hinkle called the meeting to order. She introduced CRC members Shane Hopkins and Bill Graham, who provided brief introductory remarks.

She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated ideas.

II. Approval of November 16, 2017 Minutes

A motion to approve the November 16, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 12-0 (Reggie Ellis and Anice Prosser absent).

III. Remarks of Interested Citizens

- Sheriff Walt McNeil appeared before the CRC to advocate that the election of Constitutional Officers remain partisan elections. He opined that citizens have a right to know the political ideology of a candidate.
- Doris Maloy, Tax Collector, reminded the CRC that when the Charter was established in 2002, Constitutional Officers were assured that the document would not negatively affect the status of Constitutional Officers. She too urged the Committee to retain partisan elections for Constitutional Officers.

IV. Proposed Charter Amendments for Committee Consideration

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced and provided a brief summary of the item.

Mr. Fleckenstein asked by what percentage of the electorate voted in favor of the 2010 amendment. Mr. Long indicated that staff did not include that in their analysis; however, it would be included in staff's further analysis.

Mr. Williams advocated for the limit to be set at the established State limit of \$1,000. He suggested that limiting the amount of contributions makes it more difficult for individuals running against incumbents.

Mr. Thames established that the City has a campaign contribution limit of \$250 and submitted that consistency with the City may be something to consider.

Kim Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language increasing campaign

contributions to the state level of \$1,000 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

As there was some misunderstanding on the intent of the motion, Chairman Hinkle asked Mr. Williams to restate his motion and that the vote be revisited.

Mr. Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language which strikes from the Charter language the limitation of campaign contributions to \$250 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

After the vote was taken, Mr. Eurich asked that campaign fund balances for individual candidates from previous elections be included in the information brought back to the Committee. (Approved without objection)

b. Code of Ethics

County Administrator Long introduced and provided a brief overview of the item.

Mr. Fleckenstein remarked that his intent was to adopt a code of ethics ordinance to elevate the importance of ethical behavior and accountability in all elected and appointed officials and County staff. He agreed that the amendment should require a date certain for an ordinance to be enacted and to include prescribed requirements.

Ms. Jones asked how many charter counties with a Code of Ethics provision include constitutional officers. Ms. Peeples did not have an exact number, but indicated that many county charters have a provision to include constitutional officers, as well as committees appointed by the Board of County Commissioners and County staff. Ms. Jones inquired about enforcement of an Ethics ordinance. County Attorney Thiele responded that provisions of the ordinance would be enforced as a law.

Mr. Graham commented that ordinance language would need to be thoroughly vetted, as it can be difficult to properly define those provisions to ensure they are suitable for prosecution.

Mr. Thiele discussed Chapter 112 of the Florida Statutes and conveyed that, where applicable, language from there would be incorporated into a County ordinance.

There continued to be discussion amongst the CRC and staff, with Ms. Jones ascertaining that the ordinance would specify to whom it would apply and Mr. Long sharing that there are a number of existing County documents pertaining to this topic that would be utilized in the development of an ordinance.

Mr. Thiele reminded the Committee that an ethics ordinance would be brought forward to the Board as a recommendation by the CRC; only the Board of County Commissioners can adopt an ordinance.

Mr. Eurich confirmed with Mr. Thiele that if an Ethics Ordinance was adopted by the Board, it would be Mr. Thiele's recommendation that any duplication of language be removed from County documents, so as to ensure there is no duplicity.

There was discussion regarding authority to include Constitutional Officers in an Ethics Ordinance; however, Mr. Thiele opined that the CRC, should it wish to do so, could include constitutionals in its recommendation.

Mr. Eurich cited Section 3.1 of the current Charter, which states that constitutional officers should remain as independently elected constitutional offices whose status, powers, duties and function shall not be altered by the Charter. He submitted that this portion of the Charter would have to be amended to alter the status of constitutional officers.

Mr. Fleckenstein requested that further analysis include a legal prospective on the ramifications of applying a Code of Ethics to Constitutional Officers.

Mr. Hart agreed that constitutionals should be included and that enforcement issues, whatever they may be, would be addressed by the County Attorney in development of the ordinance.

The following motion was offered by Ms. Jones, seconded by Mr. Thames and amended by Mr. Hart.

Ms. Jones moved Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting, which includes language for a "Code of Ethics" which applies to Constitutional Officers.

The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

c. Charter Provision Related to Constitutional Officers

County Administrator Long introduced and provided a brief overview of the item.

Ms. Jones clarified that her intent for bringing this forward was to review and discuss each constitutional office to determine if it should be filled by the electorate or be an appointed position.

Ms. Jones reiterated that this was not a statement against any Constitutional Officer, but was a discussion that should be held by every CRC. She suggested that constitutional offices have become politicized and it was time to look at other options.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission.

Ms. Jones requested that an analysis include a breakdown of the role of constitutional officers and how the appointments would be made for each office.

Ms. Jones moved, seconded by Casey Perkins, to approve Option 2, as amended: Request additional information and analysis to include a summary of each

Ms. Jones moved, seconded by Casey Perkins, to approve Option 2, as amended: Request additional information and analysis to include a summary of each Constitutional Officer's job duties and potential process for making appointments to constitutional offices.

The motion failed 2-10 (Michael Eurich, Neil Fleckenstein, William Graham, Lee Hinkle, Shane Hopkins, Kenneth Hart, Jay Revell, Gordon Thames, Ted Thomas, and Kim Williams in opposition and Reginald Ellis and Anice Prosser absent).

d. Modifying the District Composition of the Board of County Commissioners

County Attorney Thiele introduced and provided a brief overview of the item, which included how to implement such a change since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district.

Mr. Hart clarified that his intent for bring this item forward is to allow citizens to elect a majority of the Board of County Commissioners. He suggested that most issues brought before the County Commission are countywide and voters should have a voice in electing a majority of the Commissioners.

Mr. Revell recommended that the County maintain its minority-majority and minority access districts. Mr. Thiele confirmed that would be his intent.

Mr. Hart moved, seconded by Mr. Revell to approve Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting. The motion carried 11-1 (Catherine Jones in opposition and Reginald Ellis and Anice Prosser absent).

e. Modifying the District Commissioner Election Process

Mr. Revell, as the originator of the item, asked that it be removed from consideration.

Mr. Revell moved, seconded by Neil Fleckenstein, to approve Option 3: Take no further action at this time regarding modification of the District Commissioner election process. The motion carried 11-1 (Bill Graham in opposition and Reginald Ellis and Anice Prosser absent).

V. Committee Idea Deliberation

a. County Attorney Hiring/Firing Process (Offered by Jay Revell)

Mr. Revell provided that his intent was to have hiring/firing requirements for the County Attorney match the hiring/firing requirements of the County Administrator.

Jay Revell moved, seconded by Neil Fleckenstein, to consider providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter. The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

b. Law Enforcement Consolidation (Offered by Ken Hart)

Mr. Hart indicated that he was unsure if this could be done; however, countywide consolidation has been a big topic of discussion within the community and he believed it a good idea to explore and discuss the feasibility of law enforcement consolidation. He confirmed with Mr. Thiele that law enforcement consolidation could not be realized through a Charter amendment; but also established that it could be done through an interlocal agreement between the Sheriff and the City of Tallahassee or by a transfer of power (which would require a City referendum). Mr. Thiele offered that a lot of "behind the scene" details would have to be worked out.

Ken Hart moved, seconded by Neil Fleckenstein to request additional information and analysis related to consolidation of law enforcement services.

Mr. Williams stated that he would not be in support of law enforcement consolidation and offered that the current system has worked well.

Mr. Hart submitted that consolidation could result in a more efficient, streamlined and coordinated approach.

Mr. Fleckenstein indicated that he was interested in learning the pros and cons of such an endeavor and asked that these be included in staff's analysis.

Mr. Thomas conveyed that he could not support the motion as he deemed it appropriate to look at total consolidation, not just in one area.

Chairman Hinkle mentioned functional consolidation that has occurred between the County and City, such as animal control, environmental standards, joint dispatch, etc. Mr. Long affirmed the extensive functional consolidation between the County and City and commented that there are not many more areas that could be considered.

Mr. Williams expressed his support for the motion and was interested in the potential financial savings that could be gained.

The motion carried 9-2 (Catherine Jones and Kim Williams in opposition and Reginald Ellis, Anice Prosser and Jay Revell absent).

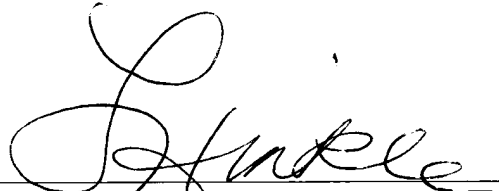
c. New Ideas for Committee Consideration

There were no additional ideas offered.


Ms. Peeples reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

VI. Adjournment

The Committee adjourned at 1:35 pm.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

**CHARTER REVIEW COMMITTEE
DECEMBER 7, 2017**

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on December 7, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and William Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggins, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

Chairman Hinkle convened the meeting. She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated issues at today's meeting.

II. Approval or Meeting Minutes. Chairman Hinkle advised that amended minutes had been distributed. The original minutes incorrectly listed Reginald Ellis and Anice Prosser as in opposition to the motion offered in Section IV, Item c. Mr. Ellis and Ms. Prosser should have been recorded as absent.

A motion to approve the amended November 30, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Ted Thomas. The motion carried 12-0 (Shane Hopkins and William Graham absent).

III. Remarks of Interested Citizens.

- Wilson Barnes addressed the CRC on behalf of the Tallahassee Branch of the NAACP. He spoke of their opposition to proposed charter amendments which would 1) alter the district composition of the County Commission and 2) establish non-partisan elections for all Constitutional Officers. He asked that the NAACP be a partner in potential changes and that it be offered an opportunity to review and make comment on proposed amendments.

Chairman Hinkle advised that the Committee would be holding three public hearing to provide an opportunity for the public to comment on proposed amendments and encouraged Mr. Barnes and others to attend.

IV. Proposed Charter Amendments for Committee Consideration

a. Consolidation of Law Enforcement

County Administrator Long provided an overview of the analysis. He relayed that consolidation of law enforcement services cannot be effectuated through a charter amendment. However, Florida law provides two methods for consolidating law enforcement services: 1) transfer of powers and 2) interlocal agreement. He articulated that should the CRC wish to further consider the issue, it may by a simple majority vote to direct staff to prepare language for inclusion in the Committee's Final Report recommending that the Board coordinate with the Sheriff's Office and the City to explore law enforcement consolidation after a thorough analysis of the costs/benefits to the community.

Mr. Perkins confirmed that the County could not place consolidation on the ballot without the City.

Ms. Jones submitted that the proposal is out of the purview of the CRC.

Catherine Jones moved, seconded by Michael Eurich, approval of Option 3: Take no further action at this time. The motion carried 10-2 (Ken Hart and Gordon Thames in opposition; William Graham and Shane Hopkins absent).

b. Hiring/Firing Process for County Attorney

County Attorney Thiele provided an overview of the analysis. The existing employment contract with the County Attorney includes a process for termination whereby the County Attorney may be removed at any time by a majority vote of the Board. He indicated that he is ambivalent on this issue; however, there is merit that the two employees reporting to the Board should have the same termination process.

Mr. Revell stated his intent for the amendment was consistency within the Charter.

Jay Revell moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting. The motion carried 12-0 (William Graham and Shane Hopkins absent).

c. Standards for Community Redevelopment Agency (CRA) Expenditures

County Attorney Thiele provided an overview of the analysis. He indicated that a review to determine if the Charter could bind the CRA to expend funds in a certain manner resulted in an opinion that the Charter cannot bind another properly constituted legal entity's expenditures.

Mr. Thames, while respecting the opinion of staff, did not believe the analysis addressed the intent of his recommendation. He clarified that his intent was that, going forward, anything purchased from CRA funds would be owned by the citizens of Leon County, i.e., parking garage, roads, etc.

Mr. Long, in response to a request from Mr. Revell, provided the CRC with an update on the County's decision to no longer participate in the Downtown CRA. He indicated that staff is working to facilitate the County's withdrawal from the Downtown CRA and will bring back options to both the City and County Commissions on the County's participation and the process going forward.

Mr. Williams provided his insight on the function and value of the CRA and submitted that a number of good projects have come from public funding of private structures (understanding that these structures must meet certain requirements.) He also mentioned that the only way the CRA can be effective is to create value within the boundaries where the CRA collects its funding. He stated that this was a very complex issue and suggested that CRA staff be invited to make presentation to the Committee.

Mr. Thames again advocated for placing this before the voters and allowing them to decide if they want to own what is bought with tax money.

Mr. Thomas pointed out that that the extra dollars going into the CRA are not going toward the general revenue, which places an extra burden on the rest of the community.

Gordon Thames moved, seconded by Catherine Jones, to limit, going forward, the expenditure of prospective County funding for the Community Redevelopment Agency to public infrastructure projects.

There continued to be much discussion among the Committee on the motion, including multiple suggestions for additional information and presentation from CRA staff.

Mr. Thomas Called the Question.

The motion failed 5-7 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Casey Perkins, Ted Thomas and Kim Williams in opposition and William Graham and Shane Hopkins absent).

Ted Thomas moved, duly seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis including a presentation from the Community Redevelopment Agency. The motion carried 12-0 (William Graham and Shane Hopkins absent).

d. Nonpartisan Superintendent of Schools and Constitutional Officers

Deputy County Attorney LaShawn Riggins provided an overview of the analysis. She conveyed that statute provides that a Charter County has the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. Regarding the Superintendent of Schools, staff concurred with the Florida Association of District School Superintendents (FADSS) Council that superintendents are regulated and governed by the respective district school boards and government at the state and not local level; thus the County Charter could not effectuate this change.

Mr. Thomas reviewed his rationale for bringing this issue forward. He submitted that 19% of voters in Leon County and 20% of the voters in the City are registered as nonpartisan. He submitted that this was a significant number of disenfranchised voters and the opportunity for all registered voters to vote for Constitutional positions was important. He acknowledged that the change to make Superintendent of Schools nonpartisan could not be accomplished through the Charter, but suggested that the Chairman of the CRC send a letter on behalf of the Committee to the School Board requesting they move to make the Superintendent of Schools a nonpartisan election to be placed on the November 2018 ballot.

Ms. Riggins reiterated that it was the opinion of the FADSS that the Superintendent of Schools, while overseen by the local School Board, was governed by state law.

Mr. Thomas offered that there is a nexus between the fact that the School Board has the authority to change the School Superintendent to an appointed position and the authority to also make it a nonpartisan race.

Mr. Fleckenstein suggested a “robust” analysis of the pros and cons of making constitutionals nonpartisan would be helpful.

Mr. Ellis indicated that he had some concerns about changing the election of constitutional officers to nonpartisan, as it would alter the manner in which African American voters have historically voted.

Mr. Eurich and Ms. Jones both commented that a proposed change to nonpartisan elections for the Superintendent of Schools was unlike a proposed change for the Constitutional Officers as it cannot be accomplished through the Charter and was outside of the Committee's purview.

Mr. Revell indicated that he had a number of issues that he would like staff to bring back more information on.

Jay Revell moved, seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis to include:

- *Total number of registered voters in Leon County.*
- *Number of voters in Leon County by party registration, including those with no party affiliation.*
- *Growth rates in party registration and no party affiliation over the last four election cycles.*
- *The number of partisan elections that resulted in two-party races in the last four election cycles.*
- *Voter turnout by party affiliation in the primary and general elections over the last four election cycles.*
- *The number of minority candidates in Leon County over the last four election cycles.*
- *Include County Commission in chart of partisan elections.*

The motion carried 11-1 (Catherine Jones in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle clarified that the information coming back to the Committee pertained to Constitutional Offices only.

Ted Thomas moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter to the Leon County School Board requesting a referendum on the November 6, 2018 General Election ballot to make the Superintendent of School nonpartisan. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Ken Hart, Casey Perkins, Anice Prosser and Jay Revell in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle suggested that Mr. Thomas take this issue up directly with the School Board.

V. Committee Idea Deliberation

Chairman Hinkle confirmed there were no additional items to be brought forward by the Committee for consideration.

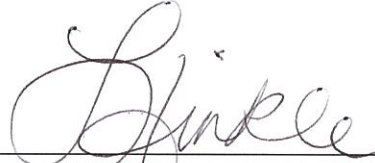
VI. Review of Committee Schedule

Chairman Hinkle commented that the Committee had conducted all the necessary action up to this point and recommended that the meeting scheduled for December 14, 2017 be cancelled. The next meeting of the Committee is scheduled for January 11, 2018 at 11:30 a.m.

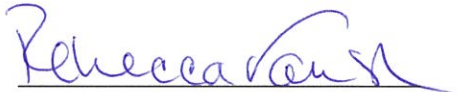
Ms. Jones clarified that Committee members could bring items forward at the January 11th meeting.

VI. Adjournment

The meeting was adjourned at 1:15 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

CHARTER REVIEW COMMITTEE
January 11, 2018

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 11, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Shane Hopkins, William Graham, and Jay Revell in attendance. Committee member Ken Hart was absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause. Committee Members Kim Williams arrived at 11:30 and Gordon Thames arrived at 11:43.

I. Call to Order: Chair Hinkle called the meeting to order at 11:30 a.m. She advised that Committee member Ken Hart would not be in attendance and that a serious health issue most likely would prevent him from participating further on the Committee.

II. Approval of December 7, 2017 Meeting Minutes:

A motion to approve the December 7, 2017 minutes was offered by Michael Eurich and seconded by Reginald Ellis. The motion carried 11-0 (Kim Williams, Gordon Thames and Ken Hart absent).

III. Remarks of Interested Citizens:

- Marilyn Wills, spoke on the value of nonpartisan elections for Constitutional Offices and the Supervisor of Elections. She commented that there were over 35,000 voters in Leon County registered as no party affiliation and provided some advantages of nonpartisan elections.
- Robert Travis, Tallahassee NAACP, referenced the Consent Decree that was entered into between the County and the NAACP in the 1990's, which stipulated that the County would notify the NAACP of any proposed changes to establish partisan/nonpartisan single member districts. He advised that the NAACP opposed any changes that would be in violation of the Consent Decree.
- Commissioner Bill Proctor expressed support for the comments expressed by Mr. Travis. He asked that the CRC not make any changes to current County Commission districts. He also requested that partisan elections remain for Constitutional Officers as party affiliation represents ideals and policies of a candidate.
- Angela Hardiman appeared to speak strongly in favor of nonpartisan races for Constitutional Offices. She asserted that politics has no place in determining how well a job can be performed.
- Wilson Barnes stated that independent voters made the choice to be independent and he did not want to lose the opportunity to exercise his vote. He requested the Committee maintain partisan elections.

IV. Proposed Charter Amendments for Committee Consideration:

Chairman Hinkle reminded the Committee that a majority vote of the Committee was needed to move the proposed amendments to the next phase.

a. Standards for CRA Expenditures

County Administrator Long recalled that the CRC had been provided at its last meeting an agenda item including a legal analysis of the proposed Charter amendment. He noted that the analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but could through an amendment to the existing Interlocal Agreements. County Administrator Long recalled that the Committee had also requested a presentation from the CRA. He then introduced Wayne Tedder, Assistant City Manager of Development Services and Economic Vitality, to make the presentation to the Committee. County Administrator Long also recognized the presence of Interim City Manager Reese Goad.

Mr. Thames questioned the analysis and submitted that a Charter amendment is at a different level from an interlocal agreement. He opined that the voters of Leon County should have the authority, via Charter amendment, to stipulate that going forward, anything purchased from CRA funds would be owned by taxpayers.

County Attorney Thiele reaffirmed that because the CRA is a separate legal entity, a change to their processes and budget by Charter amendment could not be realized.

Mr. Tedder provided a thorough presentation to the Committee including, but not limited to: the makeup and processes of the CRA; criteria to establish a CRA; information on the two Tallahassee CRA Districts; CRA funding, and an overview of CRA projects (past, current and pending).

Dialogue between Mr. Thames and Mr. Tedder ensued upon the conclusion of the presentation.

Mr. Graham acknowledged the opinion of staff regarding the authority of the CRC on this issue. He mentioned that there were currently two bills pending in the legislature that address many of the concerns expressed by Mr. Thames and suggested that would be a more appropriate venue to bring these issues forward.

Ted Thomas moved, seconded by William Graham, approval of Option 3: Take no further action at this time. The motion carried 11-2 (Gordon Thames and Catherine Jones in opposition and Ken Hart absent).

b. Non Partisan Constitutional Officers

County Administrator Long introduced the item. He mentioned that the Florida Constitutional Revision Committee is considering an amendment to the Constitution that would prohibit charter counties from modifying the powers, duties and elected status of Constitutional Officers. He announced that Chris Moore, Deputy Supervisor of Elections, was in attendance to answer any questions the Committee may have.

County Attorney Thiele provided a brief update on the Fifth District Court of Appeal opinion in *Orange County Florida v. Singh, et al.*, in which Orange County appealed a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. County Attorney Thiele offered that, while Leon County is not in the Fifth District, and it is unknown whether Orange County will appeal the decision, it could provide potential limitation on Leon County's ability to change the Constitutional Offices to nonpartisan status.

Mr. Thomas offered that a precedent has been set in this district (Wakulla County) and opined that the Committee should move forward with an amendment that there be nonpartisan elections for Constitutional Officers.

Ms. Jones mentioned that while the CRC should not made decisions based on what the Constitutional Revision Committee might do, believed that consideration should be given to the ruling in the Fifth District Court. She stated that she was opposed to making Constitutional Offices nonpartisan; however, recognized the “no party affiliation” individuals have a right to vote.

Mr. Ellis opined that the CRC should not take action on this as there are too many unknowns at this time.

Reginald Ellis moved, seconded by Catherine Jones, approval of Option 3: Take no further action at this time.

Mr. Fleckenstein asked Mr. Moore to address what impact could be realized by the change. Mr. Moore responded that it would simplify the election process; however, mentioned that the County has both nonpartisan and partisan elections and both appear to work.

Mr. Thomas conveyed that when he spoke in support of nonpartisan elections, he intended that to be a motion.

Mr. Revell stated that he was a fan of nonpartisan elections and supports any option which expands the electorate to allow more voters to have a say.

The motion carried 9-4 (Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Ken Hart absent).

V. Draft Charter Amendment Language:

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced the item and noted that proposed charter amendment language is provided for the CRC’s consideration.

Kim Williams moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.

Mr. Fleckenstein pointed out that 66.5% of the electorate approved of the amendment in the 2010 General Election and based on data from the Supervisor of Elections website 165 of 166 precincts supported the amendment. He submitted that based on the success of the amendment in 2010 citizens supported a decrease in campaign contribution and he saw no reason to go in the opposite direction.

Mr. Eurich commented that when the \$250 campaign contribution limit is compared to the state’s limit of \$1,000, there is no substantive change in the percentage of candidates with a surplus at the end of the campaign cycle; thus he did not see where an increase was needed.

The motion carried 9-4 (Michael Eurich, Neil Fleckenstein, Anice Prosser and Gordon Thames in opposition and Ken Hart absent).

b. Code of Ethics

County Administrator Long introduced the item. He advised that the County currently has an ethics policy that closely follows state law; however, acknowledged that a Charter amendment requiring the County to adopt an ordinance would further elevate the importance and visibility of the County's ethics rules. He mentioned that a recently developed Ethics "Field Manual" for employees was included in the Committee's packet. County Administrator Long also advised that unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Comptroller and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney's opinion that the County cannot impose a "Code of Ethics" on Constitutional Officers.

*Neil Fleckenstein moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a "Code of Ethics" **not** applicable to Constitutional Officers.*

Ms. Jones opined that there was not a Constitutional Officer who would not support, appreciate and want the public to know that they also uphold to a code of ethics.

The motion carried 13-0 (Ken Hart absent)

c. Hiring/Firing County Attorney

County Attorney Thiele introduced the item. He referenced the proposed language and stated that it is was taken verbatim from the Charter applicable for the County Administrator.

Jay Revell moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing. The motion carried 13-0 (Ken Hart absent).

d. Modifying the District Composition of the Leon County Board of County Commissioners

County Attorney Thiele introduced the item. He stated that he had deemed it premature to contact the NAACP on the proposed change; however, as the amendment moves through the process, and when appropriate, dialogue would be initiated. He then reviewed the legal process that would be required to implement the amendment and advised that legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot.

Mr. Williams confirmed with County Attorney Thiele that the change had to be done by Charter amendment. Mr. Williams, on behalf of Mr. Hart (who initiated the amendment) conveyed that the intent was to allow all the electorate to vote for four of the seven County Commissioners. He asserted that he could not support the proposed amendment until the legal issues had been addressed.

Chairman Hinkle agreed that a court decision could not be rendered by 2018 and that it would be 2020 (or after) before the amendment could be placed on the ballot. She recommended that the CRC suggest to the County Commission that they revisit

the Federal Courts decision, as it was rendered in 1985 and much progress has been made since that time.

Mr. Revell affirmed with County Attorney Thiele that the requirements from the Federal Court order were not included in the Charter and he did recommend that they be added.

Ms. Jones recommended that the Committee not move forward with the amendment in light of the time that would be required to address the legal challenges and that the NAACP was not supportive of the change.

Catherine Jones moved, seconded by Reginald Ellis, approval of Option 3: Take no further action at this time.

Mr. Williams asked if the maker of the motion would consider adding Chairman Hinkle's recommendation to bring the matter to the Board for consideration. **Ms. Jones did not accept the friendly amendment.**

The motion carried 8-5 (Lee Hinkle, Casey Perkins, Anice Prosser, Jay Revell, and Ted Thomas opposed and Ken Hart absent).

VI. Committee Idea Deliberation

Chairman Hinkle stated that this was the last opportunity to take up any new ideas for consideration. She asked if there were any new ideas to be brought forward.

- Ms. Jones advocated for the Constitutional Offices of Supervisor of Elections, Clerk of Circuit Court and Comptroller, Property Appraiser and Tax Collector to be appointed positions. She shared that the Constitutional Offices were established by the Florida Constitution in 1885 and opined it was time to offer the citizens an opportunity to have an opinion on this issue.
 - *Catherine Jones moved, seconded by Gordon Thames, to request staff bring back an analysis on how an appointed structure would look like for the Supervisor of Elections, Clerk of Court and Comptroller, Property Appraiser and Tax Collector. The motion carried 8-5 (Reginald Ellis, Lee Hinkle, Shane Hopkins, Ted Thomas and Kim Williams in opposition and Ken Hart absent).*

At the request of Chairman Hinkle, County Administrator Long provided an overview of the actions taken by the Committee. He informed the CRC that information on the last motion would be provided at the next meeting and the three items approved for amendment language will move to the public hearing phase. He reminded the Committee that the proposed amendments would require 10 votes to move to the Board for consideration. The three items moving forward to public hearing are:

- Increase Campaign Contribution Limits for Local Elections
- Provide a Code of Ethics Requirement in the Leon County Charter
- Modify the Hiring/Firing Process for the County Attorney

Chairman Hinkle shared that Commissioner Bill Proctor has requested an opportunity to address the Committee.

- Commissioner Proctor expressed his concerns regarding the potential relocation of the Capital from Tallahassee. He spoke of the devastating effect this would have on North Florida and the loss of 40% of jobs in Tallahassee.

- Commissioner Proctor also asked the Committee to consider the establishment of a Leon County Water Commission who's purpose would be to oversee and protect the areas water resources.

Ms. Jones was unclear how the Committee could address the relocation of the capital; however, suggested this was an issue to be addressed by the County Commission. She noted that Board Chairman Nick Maddox also chaired the Leon County Legislative Dialogue meetings and suggested that the delegation lobby to maintain the capital in Tallahassee.

- Chairman Maddox expressed his appreciation to the CRC for its work. He indicated that the issue of relocation is huge and would drastically change the character of the committee and create blight in the region. He suggested that the Committee direct Chairman Hinkle to send a letter to the County Commission expressing concerns over the possibility of relocation. He also suggested that a similar letter be sent to the legislative delegation expressing the Committee's concerns.

Gordon Thames moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter on behalf of the Committee to the Board of County Commissioners and the Legislative Delegation opposing efforts to move the state capital out of Leon County. The motion carried 13-0 (Ken Hart absent).

Ms. Jones stated that while she too was concerned about water issues she was unsure what authority the Committee has in creating a citizen advisory group.

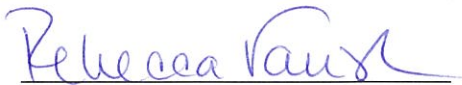
Mr. Fleckenstein stated that Tall Timbers considers water resource protection as one of its most important functions. He spoke of the quality and quantity of water in our area and on the importance of protecting our water resource from being directed elsewhere. He stated that he would be interested in a staff analysis of how other charter counties have addressed water resource protection.

Neil Fleckenstein moved, seconded by William Graham, to direct staff to bring back additional information and analysis regarding how other county charters have address protecting water resources. The motion carried 13-0 (Ken Hart absent).

Chairman Hinkle advised that the requested information on the appointment of Constitutional Officers and the water resources issue would be on the Committee's January 18 agenda.

VII. Adjourn

The Committee adjourned at 1:44 p.m.


Rebecca Vause, Deputy Clerk



Lee Hinkle, Chair
Leon County Charter Review Committee

2017/2018
Citizen Charter Review Committee
January 18, 2018

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 18, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Kim Williams and William Graham present. Committee members Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

- I. Call to Order: Chair Hinkle called the meeting to order at 11:30 a.m.
- II. Approval of Minutes: *A motion to approve the January 11, 2018 minutes was offered by Michael Eurich and seconded by Anice Prosser. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).*

III. Remarks of Interested Citizens:

Chair Hinkle confirmed there were no citizens to address the CRC.

IV. Proposed Charter Amendments for Committee Consideration

Chair Hinkle reminded the Committee that a simple majority vote of the CRC was needed to move the proposed amendments to the next phase.

a. Protections for Water Resources

County Administrator Long introduced the item. He advised that the state has exclusive authority over water consumption; however, counties may establish environmental standards related to water quality protection. He noted that a detailed memorandum from Deputy County Attorney Riggans on responsibilities of the state and counties as they pertain to the regulation of water quality is included in the Committee's agenda packet, as well as information on the actions of the 2010 Charter Review Committee by which countywide minimum environmental standards were established. He conveyed that the County will continue to evaluate opportunities to improve water quality and staff had no specific regulations to recommend at this time for inclusion in the County Charter.

Mr. Williams asked if there were any identified water quality issues to be cited in the Charter by which to oblige the County Commission to review or make improvements routinely.

County Administrator Long provided an overview of a number of actions the Board has taken to address water quality, such as leveraging opportunities to facilitate neighborhood conversions from septic to sewer services and actively evaluating pilot programs for alternative programs septic. He submitted that he did not believe a charter amendment was needed to ensure this issue remains on the Board's radar.

Mr. Fleckenstein inquired if there are water quality issues facing the County that are not being addressed by regulations or current programs.

David McDevitt, Development Support and Environmental Management Director, responded that the implementation of minimum countywide environmental standards and recent changes to the Comprehensive Plan has enhanced the means by which the County treats residential development in the lake protection area. He advised that staff is not aware of any additional regulations needed at this time.

Mr. Fleckenstein also ascertained from Mr. McDevitt that the County is adequately protected on issues such as oil drilling or fracking, as the County does not have a land use designation that would allow such events to occur.

Mr. Thomas submitted that, while regulations against pollutants affecting water quality are needed, an ordinance would be the more appropriate and effective venue.

Ms. Jones clarified that Commissioner Bill Proctor (who brought this issue forward) had asked for the establishment of a citizen board to look at water resource issues for the region. She confirmed with County Attorney Thiele that the County has no jurisdiction that would overcome state regulations and authority of the Water Management Districts. He also relayed that the County has a very active Water Resources Committee in place.

Catherine Jones moved, seconded by Neil Fleckenstein, approval of Option 3: Take no further action at this time. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

b. Consideration of Constitutional Officer Status

County Administrator Long introduced the item. He noted, as reflected in the analysis, that there is a great deal of diversity in the manner in which constitutional officers are treated on both the national and state levels. He mentioned that a vast majority of charter counties throughout the state have preserved their Constitutional Offices, with only six having modified at least one office. Mr. Long also outlined, as requested by the CRC, a process by which the appointed positions would be filled. He shared that the Constitutional Review Commission is considering a constitutional amendment that would mandate that all constitutionally prescribed county officers be elected and that all functions and duties be restored as originally prescribed in the Constitution. Lastly, Mr. Long conveyed that the County enjoys a very good and strong working relationship with the County's Constitutional Officers.

Ms. Jones expressed her appreciation for the thorough analysis. She asserted that any potential Constitutional amendment should not control how the Committee moves forward on an issue. She submitted that the County is very fortunate to have some "incredible" Constitutional Officers and that her request for the item was not reflective of their performance. She stated that her desire to pursue this issue was threefold: 1) Elected Constitutional Officers remain until they retire; 2) Elections have a tendency to be popularity contests, and 3) Residents have no recourse if the individual does something wrong.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission. Mr. Thomas also questioned the criteria to be used to hire and evaluate the performance of constitutional offices.

Ted Thomas moved, seconded by Reggie Ellis, approval of Option 3: Take no further action at this time. The motion carried 9-1 (Catherine Jones in opposition and Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

V. Adjournment:

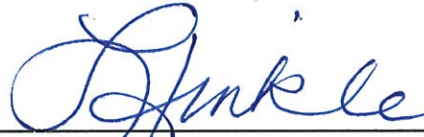
Chairman Hinkle thanked the CRC for its work thus far and reviewed the schedule going forward.

Chairman Hinkle recalled that the CRC has advanced the following proposed amendments to public hearing:

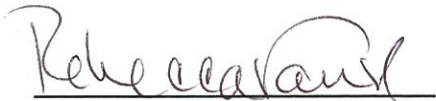
1. Increase campaign contribution limits for local elections.
2. Provide a Code of Ethics in the Leon County Charter.
3. Modify the hiring/firing of the County Attorney.

Due to the progress of the CRC, Chair Hinkle recommended that the CRC begin its public hearings on January 25, 2018. She stated that the hearings would begin at 6:00 p.m. in the Commission Chambers. She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend all three public hearings.

The Committee adjourned at 12:11 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

**2017/2018
Citizen Charter Review Committee
January 25, 2018
First Public Hearing**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) conducted the first of three public hearings on January 25, 2018 at 6:00 p.m. in the Commission Chambers with Committee members Lee Hinkle, Kim Williams, Ted Thomas, Catherine Jones, Neil Fleckenstein, Michael Eurich, Anice Prosser, Casey Perkins, and Shane Hopkins in attendance. Committee members Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order: Chairman Hinkle called the first Public Hearing to order at 6:00 p.m. She conveyed that the Committee had over the past three months made significant progress and has reviewed numerous issues. She stated that the Committee will hold three public hearings to receive citizen input on three proposed Charter amendments:

1. Increasing Campaign Contribution Limits for Local Elections
2. Providing a Code of Ethics
3. Modifying the Hiring/Firing Process for the County Attorney

She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend the public hearings.

II. Approval of Minutes: *A motion to approve the January 18, 2018 minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).*

III. Public Hearings:

- a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment proposes that the provision on the limitation on campaign contributions be stricken from the Charter. This change would increase local campaign contributions to the State limit of \$1000. He advised that the current \$250 limit was approved through a Charter amendment in 2010. He noted that the State limit at that time was \$500; however, was increased by the Florida Legislature to \$1,000 in 2013. He noted that Leon County is one of only three County Charters that have a local limit on campaign contributions.

County Administrator Long confirmed that there were no speakers on this issue.

Michael Eurich moved, seconded by Lee Hinkle, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the policy would apply to all County Commissioners, employees and members of appointed boards and committees. He advised the County's current Ethics Policy exceeds state law in promoting transparency and addressing potential conflicts of interest; however, to elevate the importance and visibility of the County's current Ethics Policy, the Charter amendment would require the County Commission to adopt a Code of Ethics by ordinance. He noted that there are currently six County Charters which require a Code of Ethics by ordinance.

County Administrator Long confirmed that there were no speakers on this issue.

Kim Williams moved, seconded by Michael Eurich, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment provides for the hiring/firing process of the County Attorney to be consistent with that of the County Administrator, as is provided in the County Charter.

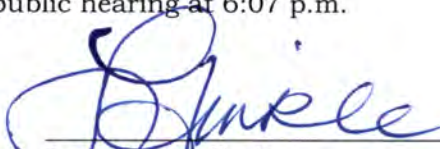
County Administrator Long confirmed that there were no speakers on this issue.

Shane Hopkins moved, seconded by Anice Prosser, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

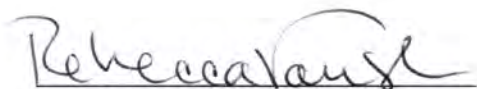
IV. Adjournment

Chairman Hinkle thanked the Committee for its work and reminded members that the second of three public hearing would be held Thursday, February 1, 2018 at 6:00 p.m. in the County Commission Charters.

Chairman Hinkle adjourned the public hearing at 6:07 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

APPENDIX D: ATTACHMENTS (MEETING AGENDAS)

Attachment #1: “Charter Committee Amendment Consideration Process”

Attachment #2: November 9, 2017 Meeting Agenda

Attachment #3: November 16, 2017 Meeting Agenda

Attachment #4: November 30, 2017 Meeting Agenda

Attachment #5: December 7, 2017 Meeting Agenda

Attachment #6: January 11, 2018 Meeting Agenda

Attachment #7: January 18, 2018 Meeting Agenda

Attachment #8: January 25, 2018 Public Hearing Agenda

Attachment #9: February 1, 2018 Public Hearing Agenda

Attachment #10: February 8, 2018 Public Hearing Agenda

Charter Committee Amendment Consideration Process

“How An Idea Becomes a Charter Amendment”

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Nov. 16th - Jan. 11th Issues/Discussion Meetings</p>	<ul style="list-style-type: none">❖ Step 1 - Initial Committee Idea Deliberations: Any idea for a proposed charter amendment may be requested by any committee member to be agendaed for formal consideration by the committee. Voting Threshold: <u>4 votes of the committee</u> is required to formally agenda an idea for formal committee consideration for a proposed charter amendment. Ideas which do not receive that level of interest will not be considered further. ❖ Step 2 - Proposed Charter Amendment Agendaed For Committee Consideration: For proposals receiving 4 votes by the committee (per Step 1), staff places an analysis of the proposal on the committee agenda for further consideration. Voting Threshold to Advance to Step 3: <u>A simple majority vote</u> of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.	
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Jan. 18th & 25th Decision Meetings</p>	<ul style="list-style-type: none">❖ Step 3 - Proposed Charter Amendment Agendaed For Committee Consideration with Draft Charter Amendment Language: Upon a simple majority vote for the committee to consider the proposal for the second time (per Step 2), staff agendas the proposal with draft charter amendment language and seeks a committee decision on whether to advance the proposed charter amendment to public hearing. Voting Threshold to Advance to Step 4: <u>A simple majority vote</u> of the committee is required to advance the proposal to a public hearing.	
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Feb. 1st, 8th, & 15th Public Hearings</p>	<ul style="list-style-type: none">❖ Step 4 - Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendments to the Board of County Commissioners: Upon a simple majority vote to advance the proposal to a public hearing (per Step 3), a public hearing is advertised and conducted by the committee to receive public comment on proposed charter amendment. Upon conclusion of the public hearing, the committee considers the proposed charter amendment (for a third time) and decides whether or not to recommend the proposed charter amendment to the Board of County Commissioners. Voting Threshold to Advance to Step 5: <u>10 votes of the committee</u> are required to recommend a proposed charter amendment to the Board of County Commissioners.	
<p style="text-align: center;">Step 5 - Board of County Commissioners Workshop</p>	<p style="text-align: center;">Step 6 - Board of County Commissioners Public Hearings</p>	<p style="text-align: center;">Step 7 - 2018 General Election November 6, 2018</p>

Citizen Charter Review Committee

November 9, 2017

9:00 a.m.-11:00 a.m.

Leon County Courthouse
Commission Chambers, 5th floor

AGENDA

- | | | |
|------|----------------------------------|-------------------------------------|
| I. | Opening Remarks | Vince Long
County Administrator |
| II. | Committee Introductions | Citizen Charter Review
Committee |
| III. | Overview of Charter Government | Vince Long
County Administrator |
| IV. | Overview of Florida Sunshine Law | Herb Thiele
County Attorney |
| V. | Review of Committee Bylaws | Heather Peeples |
| VI. | Review of Committee Schedule | Heather Peeples |
| VII. | Adjournment | |

*The next meeting of the Citizen Charter Review Committee will take place
on Thursday, November 16, 2017.*

I.


OPENING REMARKS

II.

COMMITTEE INTRODUCTIONS

III.


OVERVIEW OF CHARTER GOVERNMENT



2017-2018 Leon County Citizens Charter Review Committee


November 9, 2017

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Overview of Charter Government

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What is a Charter?

- Local "Home Rule" Constitution
- "Living document" which reflects the preferences of the local electorate as to the powers, structure and authority of county government.
- Only voters can approve and amend a county charter.

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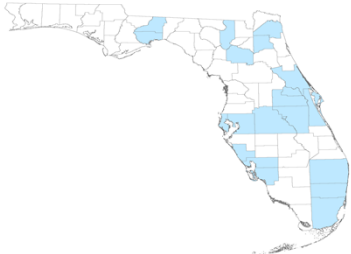
LEON **Why Charter Government?**

- "One size fits all" government doesn't work.
- Citizen determination to reflect community preferences.
- Flexibility in fulfilling state-mandated functions.
- Increases ability to address local concerns.
- Like city governments (all charters) "bottom-up" approach to government.

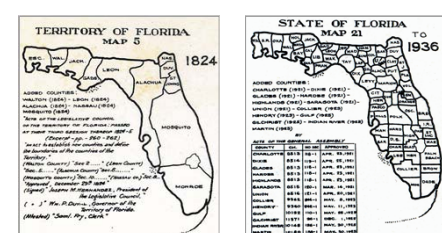
People Focused. Historically Driven.

LEON **Florida's Charter Counties**


- Of Florida's 67 counties, 20 are currently charter counties.
- These 20 counties represent over 75% of the state's population.




LEON **Florida History**



People Focused. Historically Driven.


 **Dillon's Rule**




John F. Dillon

- **Dillon's Rule:** Local governments only have those powers which are specifically granted by the State.
- **John Forrest Dillon**
 - Born December 25, 1831 in Northampton, New York
 - Served on the Iowa Supreme Court until 1864
 - Appointed by President Ulysses Grant to the U.S. Circuit Court for the Eighth Circuit

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 **Dillon's Rule**




John F. Dillon


"The true view is this: Municipal corporations owe their origin to, and derive their powers and rights wholly from the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so may it destroy... They are, so to phrase it, the mere tenants at will of the legislature"

(City of Clinton v. Cedar Rapids and Missouri Railroad Company)


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 **Florida History 1960s**

- The Florida Legislature is inundated with local bills and special acts seeking to address local issues.
 - 1965 Legislative Session: 2,107 Local Bills
 - 2016 Legislative Session: 35 Local Bills



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1968 Florida Constitution & "Home Rule"


- In 1968, voters amended the state constitution to:
 - Constitutionally-vest counties with "home rule."
 - Allow citizens to enact a local charter.
- Home Rule:** Municipalities have all powers of self-government, except those that are specifically prohibited or pre-empted by the State.

ARTICLE I
DECLARATION OF RIGHTS

Section 1. **FUNDAMENTAL RIGHTS.**— All political power is inherent in the people. The enumeration herein of certain rights shall not be construed to deny or disparage others retained by the people.

Section 2. **RIGHT TO SUE.**— All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend their life and liberty, to secure happiness, to be secured the industry, and to acquire, possess and protect property, except that the necessary, strictest, disposition and possession of real property by citizens ineligible for citizenship are so restricted or prohibited by law, no person shall be deprived of any right because of race or religion.


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Leon County History

- In 2002, Leon County voters adopted a "Starter Charter," which included:
 - Roles and responsibilities of the County's constitutional officers
 - The County's relationship with its municipalities
 - A separate executive and legislative branch under the council-manager form of government
 - Charter Amendment Process

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Charter Amendment Process

(2) **Amendments and Revisions by Citizen Charter Review Committee.**

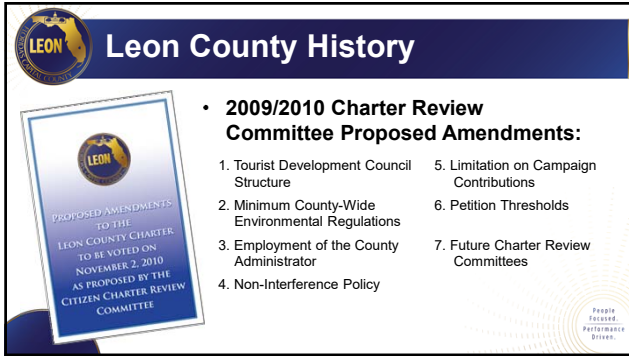
(A) A Citizen Charter Review Committee shall be appointed by the Board of County Commissioners at least twelve (12) months before the general election occurring every eight (8) years thereafter, to be composed and organized in a manner to be determined by the Board of County Commissioners, to review the Home Rule Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. Public hearings shall be conducted as provided by F.S. § 125.63.

(B) No later than ninety (90) days prior to the general election, the Citizen Charter Review Committee shall deliver to the Board of County Commissioners the proposed amendments or revisions, if any, to the Home Rule Charter, and the Board of County Commissioners shall consider such amendments or revisions to be placed on the general election ballot, as accordance with F.S. § 125.64.

(C) If the Citizen Charter Review Committee does not submit any proposed Charter amendments or revisions to the Board of County Commissioners at least ninety (90) days prior to the general election, the Citizen Charter Review Committee shall be automatically dissolved.

- Citizen Petition
- Board of County Commissioners
- Citizen Charter Review Committee

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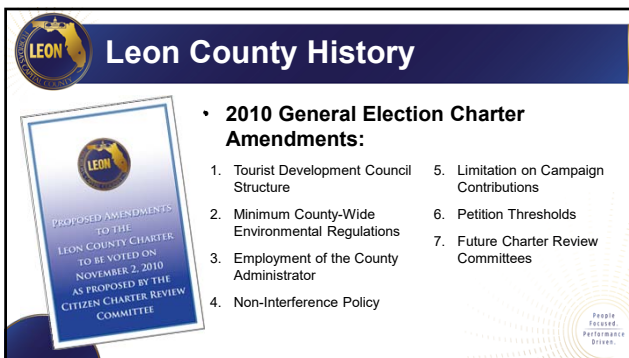
Leon County History

2009/2010 Charter Review Committee Proposed Amendments:

1. Tourist Development Council Structure
2. Minimum County-Wide Environmental Regulations
3. Employment of the County Administrator
4. Non-Interference Policy
5. Limitation on Campaign Contributions
6. Petition Thresholds
7. Future Charter Review Committees

PROPOSED AMENDMENTS TO THE LEON COUNTY CHARTER TO BE VOTED ON NOVEMBER 2, 2010 AS PROPOSED BY THE CITIZEN CHARTER REVIEW COMMITTEE

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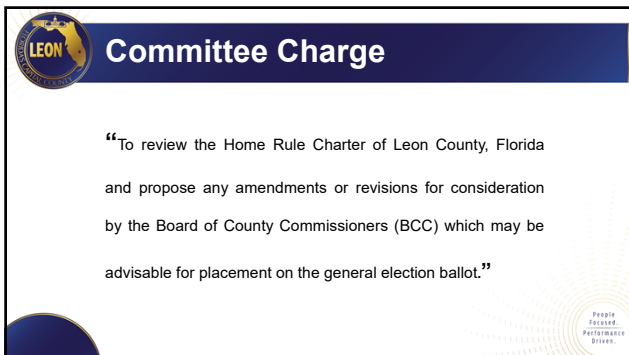
Leon County History

2010 General Election Charter Amendments:

1. Tourist Development Council Structure
2. Minimum County-Wide Environmental Regulations
3. Employment of the County Administrator
4. Non-Interference Policy
5. Limitation on Campaign Contributions
6. Petition Thresholds
7. Future Charter Review Committees

PROPOSED AMENDMENTS TO THE LEON COUNTY CHARTER TO BE VOTED ON NOVEMBER 2, 2010 AS PROPOSED BY THE CITIZEN CHARTER REVIEW COMMITTEE

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Committee Charge


“To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners (BCC) which may be advisable for placement on the general election ballot.”

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IV.


""""""OVERVIEW OF FLORIDA)S'QRGP"

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Overview of Florida's Open Government Laws


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The Laws

- ❖ **SUNSHINE LAW**
Protects the public from “closed door” decision making and provide a right of access to governmental meetings.
(F. S. Sec. 286.011 (“Sunshine Law”) and Fl. Constitution Art. I, Sec. 24)


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The Laws



- ❖ **CODE OF ETHICS**
Protects against conflict of interest and establishes standards for the conduct of elected officials and government employees in situations where conflicts may exist.
(F. S. 112, Part III, Code of Ethics for Public Officers and Employees and the Fl. Constitution Art. II, Sec. 8)


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 **The Laws**

❖ **PUBLIC RECORDS LAW**



Creates a right of access to records made or received in connection with official business of a public body.


 

 **The Sunshine Law**

❖ **Applies when:**



- Two or more members of a governing board (such as the BCC) discuss a matter that may foreseeably come before the governing board.
- When a governing board moves any part of its decision making process to a committee or group, thereby appointing an "alter ego."


 

 **The Sunshine Law** 21

Applying Sunshine Law to Board appointed committees


- Allows the public to observe each preliminary step leading to the final decision.
- Prevents the Board from creating closed committees that narrow the Board's decisions.

 **Meeting Subject to Sunshine Law**

- ❖ Formal or casual discussions about a matter on which the Committee may foreseeably take action, between two or more members of a Decision Making Committee.
- ❖ Discussions may occur through telephone or e-mail communications, or exchanges during workshops, social events, football games and neighborhood barbeques.

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 **The Sunshine Law Imposes Three Obligations of Openness** 23

- 1. Reasonable notice of meetings subject to the Sunshine Law must be given.**

Requires giving the public reasonable and timely notice so they can decide whether to attend.

What is "reasonable" or "timely" depends on the circumstance. Does not necessarily require a newspaper advertisement.

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 **The Sunshine Law Imposes Three Obligations of Openness**


- 2. Public must be allowed to attend meetings;**

Meetings cannot be held at exclusive or inaccessible facilities.

The public must be given an opportunity to be heard on any matter that is part of the Board's decision-making process.

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25




The Sunshine Law Imposes Three Obligations of Openness

3. Written minutes must be taken and made available promptly.

- Sound recordings may also be used, in addition to written minutes.
- Minutes may be a brief summary of meeting's events.
- Minutes must record the votes.





Sunshine Law: Penalties for Noncompliance


Criminal Penalties:


A violation of the Sunshine Law by a Decision Making Committee, can nullify subsequent Board decisions.

- It is a second degree misdemeanor to knowingly violate the Sunshine Law.
- Punishable with a fine of up to \$500 and/or up to 60 days imprisonment.

Other Penalties Include:

- Removal from position.
- Payment of attorney's fees incurred by the challenging party, as well as declaratory and injunctive relief.





Florida Code of Ethics


F.S. Chap 112, Pt. 3 addresses:


- ⊛ Standards of Conduct
- ⊛ Voting Conflict

Applies to:

- ⊛ County Commissioners and Board Employees
- ⊛ Board Appointed Committee Members


Prohibits certain actions or conduct.
Requires certain disclosures be made to the public.



 **Standards of Conduct**
Prohibit Public Officials, including Board Appointed Committee Members, from . . .

- ❖ **Soliciting and Accepting Gifts.** May not solicit or accept anything of value that is based on an understanding that their vote, official action, or judgment would be influenced by such a gift.
 - ❖ **Accepting Unauthorized Compensation.** May not accept any compensation, payment, or thing of value that is given to influence a vote or other official action.
- ❖ **Misusing Their Public Position.** May not corruptly use their official position to obtain a special privilege for themselves or others.
- ❖ **Disclosing or Using Certain Information.** May not disclose or use information not available to the public and obtained by reason of their public positions for the personal benefit of themselves or others.


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 **Standards of Conduct**
Prohibit Public Officials, including Board Appointed Committee Members, from . . .

The full Board may waive these two prohibitions, as they relate to Board appointed committees.


- ❖ **Doing business with their agency.** A public official's agency may not do business with a business entity in which the public official, or their spouse or child own more than a 5% interest.
- ❖ **Engaging in Conflicting Employment or Contractual Relationships.** A public official may not be employed or contract with any business entity regulated by or doing business with his or her public agency.

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 **Voting Conflicts of Interest**

- ❖ Requires no member of a Board appointed committee shall vote in an official capacity upon any measure which would inure to the special private gain or loss of themselves, any principal or entity by whom they are retained, other than an agency, or to any relative or business associate.
 - The term "agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university
 - The term "relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law


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Voting Conflicts of Interest

- ❖ **Requires that a member of a Board appointed committee:**
 - Must announce the nature of the conflict before the vote; abstain from voting; and file a memorandum of voting conflict
 - May not participate in the discussion without first disclosing the nature of their interest in the matter (either in writing prior to the meeting, or orally as soon as they become aware that a conflict exists)

Becomes an issue when stakeholders are appointed to Board appointed Committee





Public Records Law


Public Records include:


- ❖ All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency

The Public Records Law Applies to:


- ❖ Records developed by a Board Appointed Committee and its members
- ❖ All types of records including written communications, letters, notes and e-mails.

Numerous exemptions are identified in F. S. 119.07 and other statutes.





Questions?



V.

REVIEW OF COMMITTEE BYLAWS

Charter Committee Amendment Consideration Process

“How An Idea Becomes a Charter Amendment”

<p>Nov. 16th - Jan. 11th Issues/Discussion Meetings</p>	<ul style="list-style-type: none"> ❖ Step 1 - Initial Committee Idea Deliberations: Any idea for a proposed charter amendment may be requested by any committee member to be agendaed for formal consideration by the committee. <p style="margin-left: 40px;">Voting Threshold: <u>4 votes of the committee</u> is required to formally agenda an idea for formal committee consideration for a proposed charter amendment. Ideas which do not receive that level of interest will not be considered further.</p> ❖ Step 2 - Proposed Charter Amendment Agendaed For Committee Consideration: For proposals receiving 4 votes by the committee (per Step 1), staff places an analysis of the proposal on the committee agenda for further consideration. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 3: <u>A simple majority vote</u> of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.</p> 	
<p>Jan. 18th & 25th Decision Meetings</p>	<ul style="list-style-type: none"> ❖ Step 3 - Proposed Charter Amendment Agendaed For Committee Consideration with Draft Charter Amendment Language: Upon a simple majority vote for the committee to consider the proposal for the second time (per Step 2), staff agendas the proposal with draft charter amendment language and seeks a committee decision on whether to advance the proposed charter amendment to public hearing. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 4: <u>A simple majority vote</u> of the committee is required to advance the proposal to a public hearing.</p> 	
<p>Feb. 1st, 8th, & 15th Public Hearings</p>	<ul style="list-style-type: none"> ❖ Step 4 - Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendments to the Board of County Commissioners: Upon a simple majority vote to advance the proposal to a public hearing (per Step 3), a public hearing is advertised and conducted by the committee to receive public comment on proposed charter amendment. Upon conclusion of the public hearing, the committee considers the proposed charter amendment (for a third time) and decides whether or not to recommend the proposed charter amendment to the Board of County Commissioners. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 5: <u>10 votes of the committee</u> are required to recommend a proposed charter amendment to the Board of County Commissioners.</p> 	
<p>Step 5 - Board of County Commissioners Workshop</p>	<p>Step 6 - Board of County Commissioners Public Hearings</p>	<p>Step 7 - 2018 General Election November 6, 2018</p>

VI.

REVIEW OF COMMITTEE SCHEDULE

Charter Review Committee Meeting Schedule

All meetings are held on Thursdays from 11:30 am to 1:30 pm in the Leon County Commissioner Chambers unless otherwise noted.

November 9, 2017 / 9am

Orientation

November 16, 2017

Issue/Discussion Meeting

November 23, 2017 – No Meeting

Thanksgiving Holiday

November 30, 2017

Issue/Discussion Meeting

December 7, 2017

Issue/Discussion Meeting

December 14, 2017

Issue/Discussion Meeting

December 21 & 28, 2017 – No Meetings

Winter Holidays

January 4, 2018 – No Meeting

New Year's Holiday

January 11, 2018

Issue/Discussion Meeting

January 18, 2018

Decision Meeting

January 25, 2018

Decision Meeting

February 1, 2018 / 6pm

Public Hearing

February 8, 2018 / 6pm

Public Hearing

February 15, 2018 / 6pm

Public Hearing

February 22, 2018

(Tentatively scheduled if needed)



November 16th Meeting

- Election of the Chair & Vice-Chair
- Overview of Leon County Government
- Initial Committee Idea Deliberations

A decorative sunburst graphic composed of many thin, curved lines radiating from a central point, located in the bottom right corner of the slide.

People
Focused.
Performance
Driven.

VII.
ADJOURNMENT

Citizen Charter Review Committee
November 16, 2017
11:30 a.m. - 1:30 p.m.
Leon County Courthouse
Commission Chambers, 5th floor

AGENDA

- I. Overview of Leon County Government
- II. Review of County Charter
- III. Approval of Committee Bylaws
- IV. Election of a Chair & Vice-Chair
- V. Approval of November 9, 2017 Meeting Minutes
- VI. Initial Committee Idea Deliberations
- VII. Remarks of Interested Citizens
- VIII. Adjournment

*The next meeting of the Citizen Charter Review Committee will take place on
Thursday, November 30, 2017 at 11:30 A.M.*

I.

OVERVIEW OF LEON COUNTY GOVERNMENT



2017-2018 Leon County Citizens Charter Review Committee

November 16, 2017

People Focused. Performance Driven.



November 16th Meeting Agenda

- I. Overview of Leon County Government
- II. Review of County Charter
- III. Approval of Committee Bylaws
- IV. Election of a Chair & Vice-Chair
- V. Approval of November 9, 2017 Meeting Minutes
- VI. Initial Committee Idea Deliberations
- VII. Remarks of Interested Citizens
- VIII. Adjournment

People
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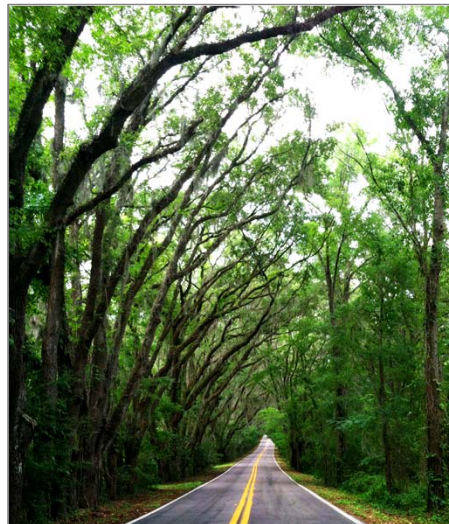
I. Overview of Leon County Government

People Focused. Performance Driven.

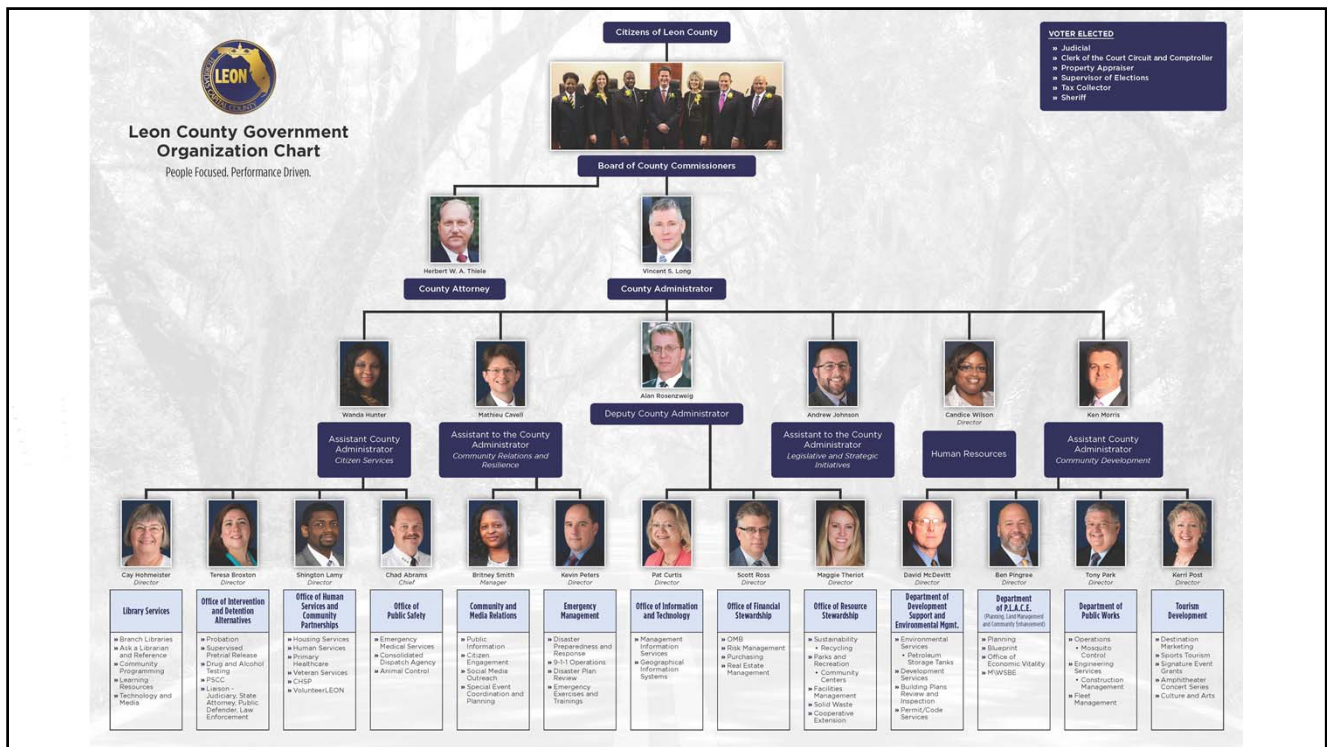


Leon County Fast Facts

- **Founded:** December 29, 1824
- **Charter Date:** 2002
- **Population:** 287,671
 - 34% Unincorporated
 - 66% within the City
- **Area (square miles):** 702
- **Homestead Properties:** 54,700
- **Median Age:** 31.1 Years
- **Total County Budget:** \$253.7 Million
- **County Employees:** 1,740 Total



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Performance
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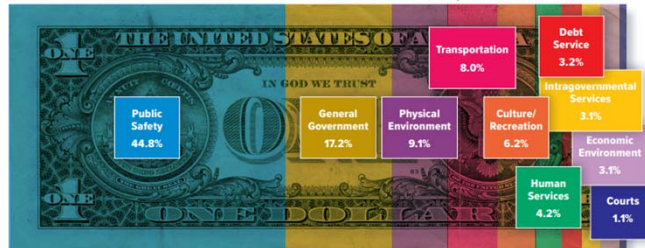
Budget at a Glance

WHERE THE \$253.7M COMES FROM...



FY 2017/2018 ADOPTED BUDGET:
\$253.7 MILLION

...AND HOW THE \$253.7M IS UTILIZED



People Focused.
Performance Driven.



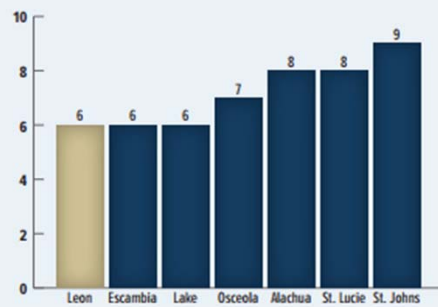
How We Compare

Net Budget Per Countywide Resident (FY 2017)



Leon County is the lowest for dollars spent per county resident. St. Johns County spends over two times the amount per resident that Leon County spends.

County Employees per 1,000 Residents (FY 2017)



Leon County has a ratio of 6.0 employees for every thousand County residents, tied with Escambia and Lake Counties for first in lowest per capita employees.

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ECONOMY

WHAT WE'VE ACCOMPLISHED



FY2012-2016

BOLD PROJECTS/BIG PROGRESS

**34 Total Initiatives,
33 Complete,
1 in Progress
97% Accomplished**

- » Passing the Penny Sales Tax
- » Conceiving and creating the Office of Economic Vitality
- » Launching the Leon Works Expo
- » Building and opening the Capital City Amphitheater and Apalachee Regional Park
- » Establishing the Domi Station business incubator

ECONOMY



WHAT WE'LL DO NEXT

BOLD GOAL

**Grow the five-year
tourism economy to
\$5 billion**

5-YEAR TARGETS

- » Attract 80 state, regional, or national championships across all sports
- » Co-create 500 entrepreneur ventures and 5,500 new jobs, including 200 high-wage jobs in high tech clusters
- » Connect 5,000 students and citizens to middle skilled job career opportunities
- » Host 100,000 residents and visitors as part of the Amphitheater County Concert Series

ENVIRONMENT

WHAT WE'VE ACCOMPLISHED



FY2012-2016

BOLD PROJECTS/BIG PROGRESS

**26 Total Initiatives,
24 Complete,
2 in Progress
92% Accomplished**

- » Initiating the Property Assessed Clean Energy (PACE) program
- » Closed the landfill operations
- » Launching single stream recycling to reduce waste and streamline collection
- » Creating the nation's first renovated Net-Zero government building
- » Protecting our water bodies through Minimum Environmental Standards and Lake Protection Zone

ENVIRONMENT



WHAT WE'LL DO NEXT

BOLD GOAL

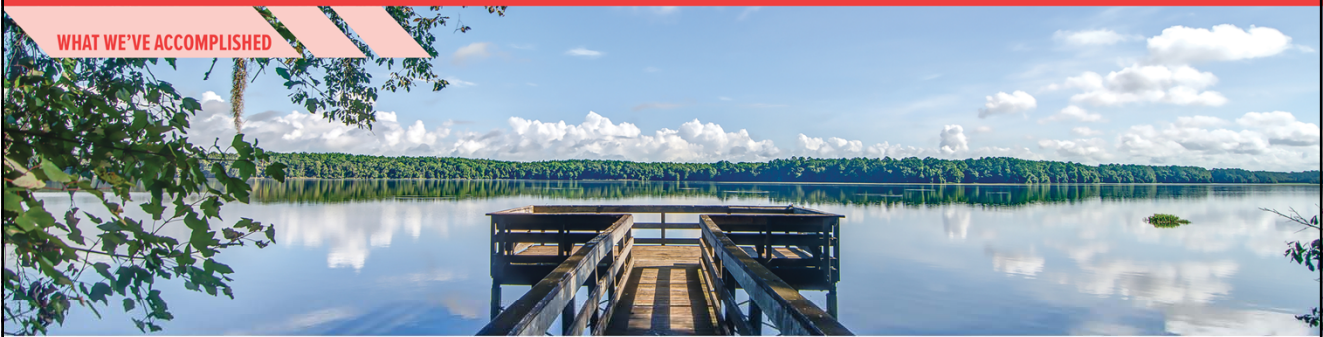
**Upgrade or eliminate
500 septic tanks in
the Primary Springs
Protection Zone**

5-YEAR TARGETS

- » Plant 15,000 trees including 1,000 in canopy roads
- » Ensure 100% of new County building construction, renovation and repair utilize sustainable design
- » 75% community recycling rate
- » Construct 30 miles of sidewalks, greenways and trails

QUALITY OF LIFE

WHAT WE'VE ACCOMPLISHED



FY2012-2016

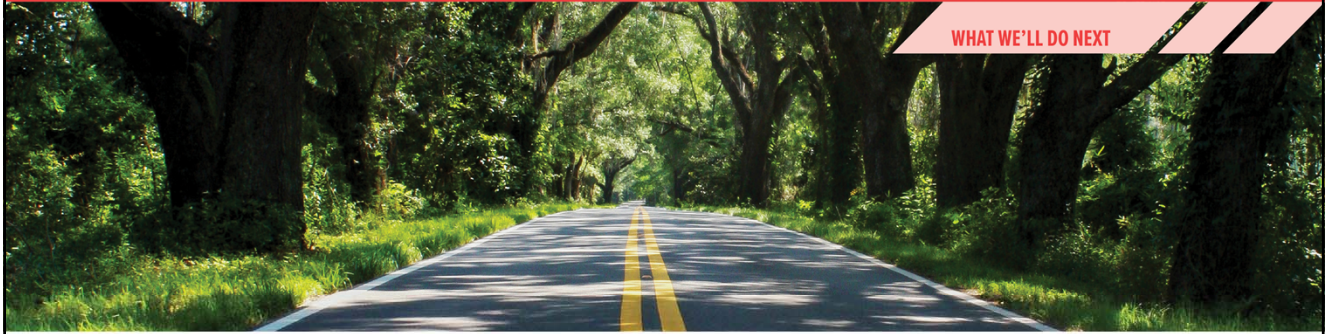
BOLD PROJECTS/BIG PROGRESS

**54 Total Initiatives,
52 Complete,
2 in Progress
96% Accomplished**

- » Constructing the Public Safety Complex
- » Establishing the Domestic Partnership Registry
- » Expanding the County library system with Woodville, Lake Jackson, and Eastside branches
- » Creating Operation Thank You to honor our local veterans
- » Revitalizing the Lake Jackson Center, library, and community center

QUALITY OF LIFE

WHAT WE'LL DO NEXT



BOLD GOAL

Secure more than \$100 million in Veteran Affairs benefits for Leon County veterans and their families

5-YEAR TARGETS

- » Double the number of downloadable books at the library
- » Construct 100 fire hydrants
- » Train 8,500 citizens in CPR/AEDs
- » Open 1,000 new acres of park land to the public

GOVERNANCE

WHAT WE'VE ACCOMPLISHED



FY2012-2016

**40 Total Initiatives,
39 Complete,
1 in Progress
98% Accomplished**

BOLD PROJECTS/BIG PROGRESS

- » Receiving bond upgrade to AA status for sound fiscal management
- » Creating the nationally recognized Citizen Engagement Series
- » Enhancing and streamlining permit process through launch of Project Dox, concurrent review, and ASAP
- » Opening the nationally recognized DesignWorks studio to focus on placemaking and design consultations
- » Promoting transparency and engagement online with My Checkbook and the Citizens Connect app

GOVERNANCE



BOLD GOAL

Implement 500 citizen ideas, improvements, solutions and opportunities for co-creation

5-YEAR TARGETS

- » Reduce by at least 30% the average time it takes to approve a single family building permit
- » Achieve 90% employee participation in the County's "My Rewards" Well Being Program
- » Reduce by 60% the outstanding debt of the County
- » 100% of employees are trained in Customer Experience, Diversity and Domestic Violence, Sexual Violence & Stalking in the Workplace

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2017 ANNUAL REPORT NOW AVAILABLE

LEON COUNTY, FLORIDA

2017

LEON COUNTY ANNUAL REPORT

PROVIDING

PUBLIC SERVICE

ARM Ready
Only certification by the
Weather Service

FLORIDA HEALTH
• Received EMS Partner of the
Year for 2017 Award from
Department of Health
• Designated as a Healthy 10
Community Champion by the
Florida Department of Health

MISSISSIPPI LIFELINE
• Received American Heart
Association Lifetime Stroke
Award

CMAA
• Received National Association
and Public Information
Technology
• Received national awards for
our performance

DIGITAL COUNTY SURVEY
• 2017 Digital Counties Survey
for efficiency, transparency,
citizen engagement

TRUST
• Suncoast
Center
received
an honor
award

LAND RECREATION
is Acquired
2010 2016
3,377 3,865
*Total number of acres purchased
by State and Association

SM DEVELOPMENT
Impact

Year	2014	2015	2017
Impact	\$200M	\$200M	\$200M

AGENCY MEDICAL SERVICES
Service

Year	2014	2015	2016
Service	38,729	38,294	40,592

Survival Rate
dependent on Emergency Medical Services each year

Category	Survival Rate
National	7%
Leon County	4%

LEON COUNTY ANNUAL REPORT
PRESENTED



II.

REVIEW OF COUNTY CHARTER



II. Review of County Charter

People Focused. Performance Driven.



Article I. – Creation, Powers and Ordinances of Home Rule Charter Government

Section 1.6 Relationship to Municipal Ordinances

- (1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances...

- (2) *Minimum Environmental Regulations.* County ordinances shall establish minimum standards, procedures, requirements and regulations for the protection of the environment...
(Adopted in 2009)



Article I. – Creation, Powers and Ordinances of Home Rule Charter Government

Section 1.7 Transfer of Power

Whenever a municipality, special district or agency shall request by a majority vote of the governing body the performance or transfer of a function to the County, the County is so authorized by a majority vote of the Board of County Commissioners to have the power and authority to assume and perform such functions and obligations. This section does not authorize a transfer in violation of Article VIII, § 4 of the Constitution of Florida.



Article I. – Creation, Powers and Ordinances of Home Rule Charter Government

Section 1.9 Relation to State Law

Special laws of the state legislature relating to or affecting Leon County ... shall be subject to approval by local referendum... All special laws so approved shall become ordinances, and may be subject to amendment or repeal by the Board of County Commissioners.



Article II. – Organization of County Government

Section 2.1 Elected Commission & Appointed County Administrator Form of Government

Leon County shall operate under an elected County Commission and an appointed County Administrator form of government with separation of legislative and executive functions...

7) *Limitation on Campaign Contributions.* No candidate for any County office shall accept any contribution...in an amount in excess of \$250 per election. **(Adopted in 2009)**

People
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Performance
Driven.



Article III. – Elected Constitutional Officers

Section 3.1 Preservation of Constitutional Offices

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices...

Section 3.2 Non-Partisan Offices

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

Section 3.4 Limitation on Campaign Contributions

People
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Performance
Driven.



Article IV. – Powers Reserved to the People: Initiative & Recall

Section 4.1 Citizen Initiative

- (1) *Right to Initiate.* The electors of Leon County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances...upon petition signed by at least ten percent (10%) of the total number of electors qualified to vote in the County reflecting ten percent (10%) of the total number of electors qualified to vote within each of the five (5) commission districts.



Article IV. – Powers Reserved to the People: Initiative & Recall

Section 4.2 Recall

All members of the Board of County Commissioners shall be subject to recall as provided by general law.



Article V. – Home Rule Transition, Amendments, Review, Severance, Effective Date

Section 5.2 Home Rule Charter Amendments

- (1) Amendments Proposed by Petition.
- (2) Amendments and Revisions by Citizen Charter Review Committee.
 - (A) A Citizen Charter Review Committee shall be appointed by the Board of County Commissioners ...to review the Home Rule Charter and propose any amendments or revisions...
- (3) Amendments Proposed by the Board of County Commissioners.
 - (A) Amendments to this Home Rule Charter may be proposed by ordinance adopted by the Board of County Commissioners by an affirmative vote of a majority plus one (1) of the membership...

III.

APPROVAL OF COMMITTEE BYLAWS

In order to govern its function and operation in a manner consistent with the Home Rule Charter of Leon County, Florida approved by the electorate of Leon County on the 5th day of November 2002 and subsequently amended on the 2nd day of November 2010, the Leon County Citizens Charter Review Committee (hereinafter the “Committee”) hereby adopts the following Bylaws.

It shall be the duty of the Citizen Charter Review Committee to carry out the following charge: To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners (BCC) which may be advisable for placement on the general election ballot.

ARTICLE I. APPLICABLE FLORIDA LAWS AND BCC POLICIES

Section 1.1 Public Records Law and E-Mails: Each member of the Committee shall comply with the Florida’s Public Records Law, Chapter 119, Florida Statutes, and Leon County BCC Policy 96-4, “Policy on Public Records Law and E-Mail”, as may be amended from time to time, and each member of the Committee shall be provided a copy of BCC Policy 96-4.

Section 1.2 Government In the Sunshine Law: Each member of the Committee shall comply with the Florida Government in the Sunshine Law, Chapter 286, Florida Statutes, as may be amended from time to time.

Section 1.3 Code of Ethics: The Committee shall comply with the following state laws and BCC Policies with regard to the Florida Code of Ethics for Public Officers and Employees:

Clause 1.3.1 Each member of the Committee shall comply with Section 112.3143, Florida Statutes, “Voting Conflicts”, as may be amended from time to time, and shall be provided a copy of Section 112.3143.

Clause 1.3.2 Each member of the Committee shall abide by the Standards of Conduct set forth in Section 112.313, Florida Statutes, as may be amended from time to time, and shall be provided a copy of Section 112.313, Florida Statutes.

ARTICLE II. OFFICERS AND DUTIES

Section 2.1 The Chairperson and Vice-Chairperson shall serve until the dissolution of the Committee and assume the following powers and duties:

Clause 2.1.1 The Chairperson shall preside at all regular and special meetings of the Committee.

Clause 2.1.2 The Chairperson shall represent the Committee at all functions and activities so requiring (but without authority to state any position of the Committee not previously approved).

Clause 2.1.3 The Chairperson shall call special meetings when necessary;

Clause 2.1.4 The Chairperson shall set meeting agendas in coordination with County staff.

Section 2.2 In the event of the Chairperson's absence, or at the direction of the Chairperson, the Vice-Chairperson shall assume the powers and duties of the Chairperson.

Section 2.3 In the event that either the Chairperson or the Vice-Chairperson is unable to complete their terms, a replacement from among its members should be appointed as soon as reasonably possible.

ARTICLE III. TERM OF MEMBERS

Section 3.1 Each member shall serve on the Committee for 120 days or upon the completion of the Committee's work.

ARTICLE IV. ATTENDANCE AND REPLACEMENT OF MEMBERS

Section 4.1 **Attendance at Meetings:** Regular attendance and attention to the business of the Committee is expected. The seat of any member who fails to attend three consecutive regular meetings, without previous notification, shall be presumed vacant, and the Chairperson shall report that fact to the County Commissioner who appointed the member, for confirmation that a vacancy exists. Vacancies shall be filled in the same manner as initial appointments.

ARTICLE V. MEETINGS

Section 5.1 **Regular Meetings:** The Committee shall hold weekly meetings on Thursdays. Such regular meetings shall be held at **the Leon County Courthouse**. The duration of meetings shall not exceed **two** hours unless extended by a majority vote of the Committee. In order to expedite meetings, the Chairperson may place time limits on discussion of agenda items.

Section 5.2 **Special Meetings:** The Chairperson or any seven (7) members of the Committee may call a special meeting of the Committee to discuss any issue properly before the Committee. Such special meeting may be convened only after notification is given to each member of the Committee and after public notice is given no later than forty-eight (48) hours before the special meeting is scheduled to begin.

Section 5.3 **Public Participation:** The Committee will consider public comment on all substantive agenda items. Under the agenda item of "Remarks of Interested Citizens", interested citizens shall be afforded an opportunity to comment on matters before the Committee. The remarks of any citizen should be germane to the agenda or matters to come before the Committee. Each agenda shall include a point during the meeting at which "Remarks of Interested Citizens" may be made. Each citizen addressing the Committee is asked to observe the general rules of courtesy and civility, and to avoid repetition of other speakers. Citizens are asked to limit their comments to five minutes in the interest of fairness to all citizens desiring to be heard, although this requirement may be waived at the discretion of the Chairman for good cause.

Section 5.4 **Meeting Agendas:** County staff shall assist the Chairperson of the Committee in developing an agenda for each meeting of the Committee. The agenda for regular meetings of the Committee shall be generally as follows, subject to amendment or revision by the Committee Chairperson or a majority of the members present:

- I. Call to Order
- II. Pledge
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
- V. Reports of Chairperson (if any)
- VI. Presentations by Invited Guests
- VII. Remarks of Interested Citizens
- VIII. Unfinished Business
- IX. New Business
- X. Adjournment with Day Fixed for Next Meeting

Section 5.5 Official Acts and Quorum: Any and all official acts by the Committee shall require a majority vote of the members present and voting except as otherwise set forth in these bylaws. However, the Committee shall take no such action unless a quorum is present at the meeting. In order to constitute a quorum, there must be a majority of the Committee's current membership present at the meeting. The minutes of the meeting shall reflect the number of affirmative votes on a motion and shall specify the names of any members voting against the motion.

No member of the Committee shall have the power to vote by proxy. Only those members physically present shall be entitled to vote. Telephonic participation is not permitted.

Section 5.6 Meeting Minutes: Minutes shall be taken at all regular and special meetings of the Committee. Minutes of committee proceedings shall be filed with the County in accordance with BCC Policy No. 03-15, "Board-Appointed Advisory Committees."

Section 5.7 Procedure: Roberts' Rules of Order Revised shall govern the procedure of all meetings.

ARTICLE VI. DELIBERATIONS

Section 6.1 The Committee shall conduct meetings in three phases: (1) Issues Agendas, (2) Decision Agendas, and (3) Public Hearings and Transmittal.

Clause 6.1.1 Issues Agenda: During the first phase of meetings, the Committee shall, identify policy issues for discussion and potential recommendations to the BCC for placement on the general election ballot. By simple majority vote, the Committee shall approve policy issues to be considered and schedule Issues Agenda meetings at which the approved issues shall be discussed. Prior to completion of Issues Agenda meetings, additional policy issues may be added and scheduled upon the request of four or more members.

After completion of the scheduled Issues Agenda meetings but not later than January 11, 2018, additional issues may be scheduled with the concurrence of a majority of the Committee.

Any issue may be stricken from further consideration at Issues Agenda meetings by a majority of those members present, but not less than seven members.

Clause 6.1.2 Decision Agenda: By a simple majority vote, the Committee shall approve those issues to be discussed during the second phase of meetings and schedule Decision

Agenda meetings at which sample text of proposed amendments shall be considered. After a proposed amendment has been discussed, the Committee may, by a majority of those members present, direct County staff to prepare proposed amendments for review and discussion at public hearings.

Clause 6.1.3 Public Hearings and Transmittal: The Charter requires the Committee to hold at least three public hearings prior to submitting amendments to the BCC in accordance with Section 125.63, F.S. After all necessary hearings, the Committee shall amend (if necessary) and approve, the proposed Charter amendments, ballot titles, and summaries for recommendation to the BCC with the concurrence of two-thirds of those present but not less than 10 members.

By two-thirds of those present but not less than 10 members, the Committee shall direct the Chairperson to transmit the proposed amendments, ballot titles, and summaries to the BCC ninety (90) days prior to the general election in order for the special election on the proposed Charter amendments to be held simultaneously with the general election.

**ARTICLE VII.
POLICY ON PUBLICITY**

Section 7.1 Public statements by the Committee shall be coordinated through the Chairperson and County staff. Members of the Committee may make public or private statements of their personal feelings, attitudes or beliefs at any time. In making such statements, however, members of the Committee shall on every occasion make an affirmative statement that their views are not represented as the views of the Committee as a whole. The Chairperson of the Committee shall be responsible for announcing the adopted positions of the Committee.

**ARTICLE VIII.
AMENDMENTS TO BYLAWS**

Section 8.1 Amendments: These rules and policies shall be presented by staff and adopted as the bylaws of the Committee at their first meeting. The Bylaws may be amended by an affirmative vote of two-thirds of the entire Committee.

Section 8.2 Approval: The Amended Bylaws shall become effective upon the approval of the County Attorney as to the legality of the form and content of such amendment.

Approved As To Legality of Form and Content:

County Administrator's Office

County Attorney's Office

BY: _____

BY: _____

Vincent S. Long
County Administrator

Herbert W. A. Thiele
County Attorney

IV.

ELECTION OF A CHAIR & VICE-CHAIR

V.

**APPROVAL OF NOVEMBER 9, 2017
MEETING MINUTES**

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 9, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 9, 2017 in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, and Kim Williams in attendance. Committee members Shane Hopkins, James Revell and Bill Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order at 9:00 a.m. He welcomed the Committee and provided staff introductions. He advised that staff would be available to guide the Committee throughout the charter review process. Mr. Long advised that all meetings would be televised on Comcast Channel 16 and streamed live via the web.

Opening remarks were provided by Mr. Long. He advised that the County's Charter was initially adopted in 2002 and its first review was done in 2010. He conveyed that Board was clear in its intent that the Committee not be restricted in issues they wished to address.

CRC members were then provided an opportunity to introduce themselves and provide brief comments. Ms. Jones stated for the record that while she was aide to County Commissioner Nick Maddox, was not appointed by Commissioner Maddox.

Mr. Long utilized a power point presentation to provide an Overview of Charter Government, which included:

- What is a Charter?
 - Local "Home Rule" Constitution.
 - "Living document" which reflects the preferences of the local electorate as to the powers, structure and authority of county government.
 - Only voters can approve and amend a county charter.
- Why Charter Government?
 - "One size fits all" government doesn't work.
 - Citizen determination to reflect community preferences.
 - Flexibility in fulfilling state-mandated functions.
 - Increases ability to address local concerns.
 - Like city governments (all charters) "bottom-up" approach to government.
- Florida's Charter Counties
 - Twenty Florida counties are currently charter counties, representing over 75% of the population;
- Florida History
- 1968 Florida Constitution
 - Dillon's Rule replaced by Home Rule
- Leon County History
 - In 2002 Leon County voters adopted a "starter charter" which included:
 - Roles and responsibilities of the County's constitutional officers.
 - The County's relationship with its municipalities.
 - A separate executive and legislative branch under the council-manager form of government.
 - Charter Amendment Process.

- Citizen Petition
- Board of County Commissioners
- Citizen Charter Reviews Committee
- 2009/2010 Charter Review Committee Proposed Amendments
- 2010 General Election Charter Amendments
 - Tourist Development Council Structure
 - Minimum County-wide Environmental Regulations
 - Employment of the County Administrator
 - Non-Interference Policy
 - Limitation on Campaign Contributions
 - Petition Thresholds
 - Future Charter Review Committees

Mr. Long noted the Committee's Charge *"To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners which may be advisable for placement on the general election ballot."*

The CRC then engaged in roundtable discussion with Mr. Long and County Attorney Thiele on a variety of topics. These included: composition of other charter counties, municipal powers, establishment of CRA's, consolidation, and districting. It was established that while there were no pressing topics that the County had identified for the CRC to deliberate on, the CRC has the authority to discuss and bring forward any topic it deemed appropriate for Board consideration.

Mr. Thiele provided an overview of the Florida Public Records and Sunshine Laws. He advised that Public Records and Florida Sunshine Laws apply to CRC members, and to a certain extent, the Statewide Ethics Code.

- Sunshine Law: Requires that all public meetings be noticed, are open to the public and minutes are kept. A meeting is defined as two or more members of the same decision making body talking about substantive matters that may come before the committee. CRC members should not discuss any matters that may or may not be recommended to the Board.
- Public Records Law – Any written communications, i.e., texts, e-mails, Facebook posts or tweets received relating to the CRC or potential issues brought forth by citizens for CRC consideration are considered public record and should be retained and brought to the attention of staff for inclusion in the official CRC file.
- Florida Code of Ethics: Any potential voting conflicts should be brought to the attention of the County Attorney to determine if a conflict exists. CRC members are not permitted to accept gifts which may be given to persuade a member to advocate for a particular issue of interest to the giver. The County Attorney should be contacted if a CRC member has any concerns or questions about a particular gift.

In response to inquiries on the types of topics deliberated on by the 2010 CRC, Ms. Peeples shared that copies of the final report of the 2010 CRC was included in the binder provided. She then reviewed the proposed draft Bylaws of the CRC and noted that a vote to adopt would be done at the next CRC meeting.

Ms. Peeples discussed the process by which the CRC will deliberate potential amendments, sharing that a written copy of the process was included in the binder packet. The seven steps of this process are:

- **Step 1: Initial Committee Idea Deliberations.**
Requires four votes of the committee to formally agenda an idea for committee consideration.

- **Step 2: Proposed Charter Amendment Agendaed for Committee Consideration:**
A simple majority vote of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.
- **Step 3: Proposed Charter Amendment Agendaed for Committee Consideration with Draft Charter Amendment Language:**
A simple majority vote of the committee is required to advance the proposal to a public hearing.
- **Step 4: Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendment to the County Commission:**
Ten votes of the committee are required to recommend a proposed charter amendment to the Board of County Commissioners.
- **Step 5: Board of County Commissioners Workshop**
- **Step 6: Board of County Commissioners Public Hearings**
- **Step 7: 2018 General Election (November 6, 2018)**

Ms. Peeples then referenced the proposed Committee schedule, noting that future meetings would be held on Thursdays from 11:30 a.m. – 1:30 p.m. (unless specified otherwise) and lunch would be provided. She mentioned that public hearing would be held at 6:00 p.m. to allow for public participation. She added that the Committee will elect its chair and vice chair at next week's meeting.

County Administrator Long concluded the meeting by expressing appreciation for the Committee's time and dedication to this effort.

There being no further business, the meeting was adjourned at 11:05 a.m.

Chair, Leon County Charter Review Committee

Deputy Clerk

VI.

INITIAL COMMITTEE IDEA DELIBERATIONS

VII.

REMARKS OF INTERESTED CITIZENS

VIII.

ADJOURNMENT

Citizen Charter Review Committee

November 30, 2017

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of November 16, 2017 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Increasing Campaign Contribution Limits for Local Elections
(*Vincent S. Long*)
 - b. Code of Ethics (*Vincent S. Long*)
 - c. Charter Provision Related to Constitutional Officers
(*Vincent S. Long*)
 - d. Modifying the District Composition of the Board of County Commissioners (*Herbert W.A. Thiele*)
 - e. Modifying the District Commissioner Election Process.
(*Herbert W.A. Thiele*)
- V. Committee Idea Deliberation
 - a. County Attorney Hiring/Firing Process (*Jay Revell*)
 - b. Law Enforcement Consolidation (*Ken Hart*)
 - c. New Ideas for Committee Consideration (*All*)
- VI. Adjournment

The next meeting of the Citizen Charter Review Committee will take place on Thursday, December 7, 2017 at 11:30 A.M.

I.

CALL TO ORDER

II.

APPROVAL OF NOVEMBER 16, 2017 MEETING MINUTES

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 16, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 16, 2017 at 9:00 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and Bill Graham were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order and thanked members for their participation in this important process. He reminded the CRC that all meeting were recorded and streamed live.

Mr. Long introduced CRC member Jay Revell, who provided brief introductory remarks.

Overview of Leon County Government

Mr. Long noted that a copy of the County's 2017 Annual Report and the Impact and Progress Report had been provided to the Committee. He then shared information on 1) the County (population, median age, County budget, etc.); 2) the County's organization chart; 3) the County's budget, and 4) how the County compares to other like size counties. He gave the CRC an overview of the accomplishments over the last five years and targets and "bold goals" for the next five years in the areas of the Economy, Environment, Quality of Life and Governance. He concluded his overview with a video summarizing the 2017 Annual Report.

Review of County Charter:

Mr. Long reviewed the current County Charter; which he pointed out contains five Articles:

1. Article I – Creation, Powers and Ordinances of Home Rule Charter Government
2. Article II – Organization of County Government
3. Article III – Elected Constitutional Officers
4. Article IV – Powers Reserved to the People: Initiative & Recall
5. Article V – Home Rule Transition, Amendments, Review, Severance, Effective Date

Approval of Committee Bylaws:

Mr. Long stated that should it be deemed that the Bylaws are not adequately serving the Committee, they can be amended by a two-thirds vote of the Committee.

A motion to approve the Committee Bylaws was offered by Gordon Thames and seconded by Michael Eurich. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Election of Chair and Vice Chair:

Mr. Long called for nominations for Chairman of the CRC.

A motion to nominate Lee Hinkle as Chairman of the Charter Review Committee was offered by Kim Williams and seconded by Jay Revell. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Long called for nomination for Vice-Chairman of the CRC.

A motion to nominate Kim Williams as Vice-Chairman of the Charter Review Committee was offered by Catherine Jones and seconded by Anice Prosser. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

At this point the meeting was turned over to Chair Hinkle to facilitate.

Approval of November 9, 2017 Meeting Minutes

A motion to approve the November 9, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Gordon Thames. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Initial Committee Ideas:

Chairman Hinkle stated that it was time for members to offer ideas for a proposed charter amendment for consideration by the committee. She explained that any idea that received four votes of support would be submitted to staff to prepare an analysis and returned to the CRC for further consideration.

The following topics were offered for CRC consideration:

1. **Offered by Ken Hart:**

Ken Hart moved, seconded by Ted Thomas, to provide for a change in the composition of the Board of County Commissioners to four districts/three at-large from the existing five district/two at-Large. The motion carried 12-0 (William Graham and Shane Hopkins absent).

Mr. Hart submitted that the proposal would allow all citizens to vote for a majority of the Commission.

2. **Offered by Kim Williams:**

Kim Williams moved, seconded by Ted Thomas, to provide for a change in the Charter that increases the current \$250 limitation on campaign contributions. The motion carried 8-4 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, and Anice Prosser in opposition and Bill Graham and Shane Hopkins absent).

Mr. Williams recalled that the Charter was amended in 2009 to restrict the allowable contributions in local campaigns to \$250. He suggested that it is difficult for individuals (particularly non incumbents) to raise enough funds to reach the county at large. He also mentioned that the State has increased its allowable contribution from \$500 to \$1,000.

3. **Offered by Casey Perkins:**

Casey Perkins moved, seconded by Gordon Thames, that the CRC deliver a resolution to the County Commission suggesting it consider the issue of consolidation. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Perkins offered that consolidation is a much discussed topic throughout community and in the media and suggested that it be decided by the voters.

County Administrator Long clarified that the Charter cannot effectuate a consolidation; however, the CRC could offer this as a recommendation to the County Commission for its consideration.

Ms. Jones stated that, while she appreciated the sentiment, she could not support bringing forward a resolution to the County Commission, especially in light of the County Administrator's comment that the Charter cannot effectuate this action.

4. **Offered by Gordon Thames:**

Gordon Thames moved, seconded by Anice Prosser, to provide for a change in the Charter that restricts Community Redevelopment Agency (CRA) funding to public infrastructure projects and requiring all CRA projects to follow open and competitive procurement processes. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thames proposed that CRA investment of County monies be limited to infrastructures which benefits the public and that higher standards be implemented over what is required by state statute.

5. **Offered by Neil Fleckenstein**

Neil Fleckenstein moved, seconded by Catherine Jones, to provide for a Code of Ethics and integrity for elected officials, appointed officials, County employees, and lobbyist in the Charter. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Fleckenstein opined that the Charter should identify the importance of adhering to standards of ethics and integrity for elected officials, appointed officials and County employees.

In response to inquiry from Mr. Thomas, County Administrator Long conveyed that a standard of ethics is included as a County policy. Mr. Long also stated that penalties are not currently included in the policy; however, could be included in the Charter.

Ms. Jones agreed that this should be codified in the Charter and suggested that the same be included in the County's lobbying policy. Mr. Fleckenstein agreed to include the recommendation in the motion.

6. **Offered by Catherine Jones**

Catherine Jones moved, seconded by Michael Eurich, to consider any changes the committee may wish to further explore related to the current Preservation of Constitutional Officers provision in the Leon County Charter. The motion carried 12-0 (Bill Graham and Shane Hopkins absent)

Ms. Jones emphasized that this is not a statement against any Constitutional Officer, but is a discussion that should be held by every CRC. She suggested that all Constitutional Offices be looked at individually to determine if the office should be filled by the electorate or by the County Commission. She asked that pros and cons of each position be provided in the analysis.

7. **Offered by Ted Thomas**

Ted Thomas moved, seconded by Jay Revell, to provide for a change in the Charter that establishes non-partisan elections for Superintendent of Schools and all Constitutional Officers. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thomas disclosed that his son is the current Superintendent of Schools Rocky Hannah. He indicated that he had shared with County Attorney Thiele his intention to bring this issue forward and was advised that by Mr. Thiele that no conflict of interest existed.

Mr. Thomas remarked that 19% of the County's electorate is nonpartisan and opined that all residents should be allowed to vote in Superintendent of School and Constitutional

Office races. He acknowledged that while there may be some legal questions on whether this could be included in the Charter, a precedent for doing this has been set in Columbia County.

Chairman Hinkle advised that the Committee had time to take up one more item and suggested that the two remaining issues be tabled until the next meeting. She also reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

8. Offered by Jay Revell

Jay Revell moved, seconded by Michael Eurich, to provide for a change in the voting process for electing District Commissioners. Requiring that candidates are selected initially through a primary election by district residents only and the top two candidates would then advance to a general election to be voted upon by the entire County electorate. The motion carried 7-5 (Reginald Ellis, Catherine Jones, Anice Prosser, Gordon Thames and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Revell mentioned that currently district commissioners are elected by residents only within the district boundary. He suggested that the process be amended to allow primary elections to continue to be district specific, but the top two candidates from that election be placed on a ballot to be voted on by the entire County. He opined that this would be another mechanism to get more people involved in the electoral process. Mr. Revell noted that district commissioners serve the entire county, not just a district.

Mr. Williams confirmed that a district commissioner candidate must reside within that district.

Mr. Thames brought up the legality of implementing such a change, since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district. Deputy County Attorney Riggins stated that staff would include information on the legal implications of this in the analysis brought back to the CRC.

Mr. Ellis expressed concerns that this change could reduce the power and voice of a district commissioner.

Ms. Jones maintained the importance of residents to have a district commissioner who first and foremost advocates for the citizens of that district.

Pending Committee Ideas

The following topics were tabled until the November 28, 2017 CRC meeting.

- Make the provisions for the hiring/firing of the County Attorney consistent with the County Administrator. (Offered by Jay Revell)
- Law Enforcement Consolidation (Offered by Ken Hart)

Remarks of Interested Citizens

Chairman Hinkle confirmed there were no public speakers.

Adjourn

The Committee adjourned at 1:35 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

DRAFT

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM A**

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

ORDINANCE NO. 2010- 21

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING
5 THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA;
6 AMENDING ARTICLE II, ORGANIZATION OF COUNTY
7 GOVERNMENT; AMENDING SECTION 2.2, LEGISLATIVE
8 BRANCH, BY ADDING A NEW SUBSECTION (7) ENTITLED
9 LIMITATIONS ON CAMPAIGN CONTRIBUTIONS; AMENDING
10 ARTICLE III, ELECTED COUNTY CONSTITUTIONAL
11 OFFICERS, BY ADDING A NEW SECTION 3.4 ENTITLED
12 LIMITATIONS ON CAMPAIGN CONTRIBUTIONS;
13 PROVIDING FOR A BALLOT QUESTION TO BE POSED TO
14 THE LEON COUNTY ELECTORATE AT THE SPECIAL
15 ELECTION ON NOVEMBER 2, 2010; PROVIDING FOR THE
16 BALLOT QUESTION FORM; PROVIDING FOR FURTHER
17 AUTHORIZATION; PROVIDING FOR SEVERABILITY; AND
18 PROVIDING FOR AN EFFECTIVE DATE.
19
20

21 BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida,

22 that:

23 **Section 1.** Article II, Section 2.2 of the Home Rule Charter of Leon County, Florida,
24 is hereby amended to read as follows:

25 **Sec. 2.2. Legislative Branch.**

26 (1) **The County Commission.** The governing body of the County shall be a Board
27 of County Commissioners composed of seven (7) members serving staggered terms of four (4)
28 years. There shall be one (1) Commissioner elected for each of the five (5) County Commission
29 districts, established pursuant to general law or by ordinance, and they shall be elected by the
30 electors of that district. There shall be two (2) At-large Commissioners elected on a countywide
31 basis by the electors of the County. Elections for all seven (7) members of the County
32 Commission shall be non-partisan. Each candidate for the office of district County
33 Commissioner shall reside within the district from which such candidate seeks election at the

1 time of qualifying to run for that office, and during the term of office each Commissioner shall
2 reside in the district from which such Commissioner ran for office, provided that any
3 Commissioner whose residence is removed from a district by redistricting may continue to serve
4 during the balance of the term of office.

5 (2) **Redistricting.** Redistricting of County Commission district boundaries shall be
6 in accordance with general law, changed only after notice and a public hearing as provided by
7 general law.

8 (3) **Salaries and Other Compensation.** Salaries and other compensation of the
9 County Commissioners shall be established by ordinance, and salary shall not be lowered during
10 an officer's term in office.

11 (4) **Authority.** The Board of County Commissioners shall exercise all legislative
12 authority provided by this Home Rule Charter in addition to all other powers and duties
13 authorized by general law or special law approved by a vote of the electorate.

14 (5) **Vacancies.** A vacancy in the office of County Commissioner shall be defined and
15 filled as provided by general law.

16 (6) **Administrative Code.** The County Commission shall adopt an administrative
17 code in accordance with general law.

18 (7) **Limitation on Campaign Contributions.** No candidate for any County office
19 for which compensation is paid shall accept any contribution from any contributor, including a
20 political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250
21 per election.

1 properly placed on the ballot for the special election of November 2, 2010. Said referendum
2 shall be conducted according to the requirements of law governing referendum elections in the
3 State of Florida.

4 **Section 6. Severability.**

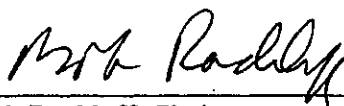
5 If any word, phrase, clause, section or portion of this ordinance shall be held invalid or
6 unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a
7 separate and independent provision and such holding shall not affect the validity of the
8 remaining portions thereof.

9 **Section 7. Effective Date.**

10 This ordinance shall have effect upon becoming law, but shall be of no further force or
11 effect if the proposed Charter amendments are not duly approved at the November 2, 2010,
12 special election. The amendments to the Home Rule Charter of Leon County, Florida, as
13 proposed by this Ordinance, shall become effective January 1, 2011, if the Charter amendment is
14 approved by a "yes" vote by a majority of those duly qualified electors voting on the question
15 posed at the November 2, 2010, referendum.

16 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
17 County, Florida, this 17th day of August, 2010.

18 LEON COUNTY, FLORIDA

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20
21
22 By: 
23 Bob Rackleff, Chairman
24 Board of County Commissioners
25
26



1 ATTESTED BY:
2 BOB INZER, CLERK OF THE COURT
3 LEON COUNTY, FLORIDA
4

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6 By: John Stott, Deputy Clerk
7 Clerk
8
9

10 APPROVED AS TO FORM:
11 COUNTY ATTORNEY'S OFFICE
12 LEON COUNTY, FLORIDA
13

14
15 By: Herbert W. A. Thiele, Esq.
16 Herbert W. A. Thiele, Esq.
17 County Attorney

The 2017 Florida Statutes

Title IX
ELECTORS AND ELECTIONS

Chapter 106
CAMPAIGN FINANCING

106.08 Contributions; limitations on.—

(1)(a) Except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of the following amounts:

1. To a candidate for statewide office or for retention as a justice of the Supreme Court, \$3,000. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.
2. To a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge, \$1,000.

(b) The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party or affiliated party committee regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the primary election and general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. [106.011](#). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election.

(2)(a) A candidate may not accept contributions from a county executive committee of a political party whose contributions in the aggregate exceed \$50,000, or from the national or state executive committees of a political party, including any subordinate committee of such political party or affiliated party committees, whose contributions in the aggregate exceed \$50,000.

(b) A candidate for statewide office may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of the political party, or affiliated party committees, which contributions in the aggregate exceed \$250,000. Polling services, research services, costs for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the contribution limits of paragraph (a) or this paragraph. Any item not expressly identified in this paragraph as nonallocable is a contribution in an amount equal to the fair market value of the item and must be counted as allocable toward the contribution limits of paragraph (a) or this paragraph. Nonallocable, in-kind contributions must be reported by the candidate under s. [106.07](#) and by the political party or affiliated party committee under s. [106.29](#).

(3)(a) Any contribution received by a candidate with opposition in an election or by the campaign treasurer or a deputy campaign treasurer of such a candidate on the day of that election or less than 5 days before the day of that election must be returned by him or her to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

(b) Any contribution received by a candidate or by the campaign treasurer or a deputy campaign treasurer of a candidate after the date at which the candidate withdraws his or her candidacy, or after the date the candidate is defeated, becomes unopposed, or is elected to office must be returned to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

(4) Any contribution received by the chair, campaign treasurer, or deputy campaign treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than 5 days before the day of that election may not be obligated or expended by the committee until after the date of the election.

(5)(a) A person may not make any contribution through or in the name of another, directly or indirectly, in any election.

(b) Candidates, political committees, affiliated party committees, and political parties may not solicit contributions from any religious, charitable, civic, or other causes or organizations established primarily for the public good.

(c) Candidates, political committees, affiliated party committees, and political parties may not make contributions, in exchange for political support, to any religious, charitable, civic, or other cause or organization established primarily for the public good. It is not a violation of this paragraph for:

1. A candidate, political committee, affiliated party committee, or political party executive committee to make gifts of money in lieu of flowers in memory of a deceased person;
2. A candidate to continue membership in, or make regular donations from personal or business funds to, religious, political party, affiliated party committee, civic, or charitable groups of which the candidate is a member or to which the candidate has been a regular donor for more than 6 months; or
3. A candidate to purchase, with campaign funds, tickets, admission to events, or advertisements from religious, civic, political party, affiliated party committee, or charitable groups.

(6)(a) A political party or affiliated party committee may not accept any contribution that has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate. Funds contributed to an affiliated party committee may not be

designated for the partial or exclusive use of a leader as defined in s. 103.092.

(b)1. A political party or affiliated party committee may not accept any in-kind contribution that fails to provide a direct benefit to the political party or affiliated party committee. A "direct benefit" includes, but is not limited to, fundraising or furthering the objectives of the political party or affiliated party committee.

2.a. An in-kind contribution to a state political party may be accepted only by the chairperson of the state political party or by the chairperson's designee or designees whose names are on file with the division in a form acceptable to the division before the date of the written notice required in sub-subparagraph b. An in-kind contribution to a county political party may be accepted only by the chairperson of the county political party or by the county chairperson's designee or designees whose names are on file with the supervisor of elections of the respective county before the date of the written notice required in sub-subparagraph b. An in-kind contribution to an affiliated party committee may be accepted only by the leader of the affiliated party committee as defined in s. 103.092 or by the leader's designee or designees whose names are on file with the division in a form acceptable to the division before the date of the written notice required in sub-subparagraph b.

b. A person making an in-kind contribution to a state or county political party or affiliated party committee must provide prior written notice of the contribution to a person described in sub-subparagraph a. The prior written notice must be signed and dated and may be provided by an electronic or facsimile message. However, prior written notice is not required for an in-kind contribution that consists of food and beverage in an aggregate amount not exceeding \$1,500 which is consumed at a single sitting or event if such in-kind contribution is accepted in advance by a person specified in sub-subparagraph a.

c. A person described in sub-subparagraph a. may accept an in-kind contribution requiring prior written notice only in a writing that is dated before the in-kind contribution is made. Failure to obtain the required written acceptance of an in-kind contribution to a state or county political party or affiliated party committee constitutes a refusal of the contribution.

d. A copy of each prior written acceptance required under sub-subparagraph c. must be filed at the time the regular reports of contributions and expenditures required under s. 106.29 are filed by the state executive committee, county executive committee, and affiliated party committee. A state executive committee and an affiliated party committee must file with the division. A county executive committee must file with the county's supervisor of elections.

e. An in-kind contribution may not be given to a state or county political party or affiliated party committee unless the in-kind contribution is made as provided in this subparagraph.

(7)(a) Any person who knowingly and willfully makes or accepts no more than one contribution in violation of subsection (1) or subsection (5), or any person who knowingly and willfully fails or

refuses to return any contribution as required in subsection (3), commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#). If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$1,000 and not more than \$10,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political party, affiliated party committee, political committee, electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or participates in a violation of any provision punishable under this paragraph commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(b) Any person who knowingly and willfully makes or accepts two or more contributions in violation of subsection (1) or subsection (5) commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$10,000 and not more than \$50,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political committee, political party, affiliated party committee, or electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or participates in a violation of any provision punishable under this paragraph commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(8) Except when otherwise provided in subsection (7), any person who knowingly and willfully violates any provision of this section shall, in addition to any other penalty prescribed by this chapter, pay to the state a sum equal to twice the amount contributed in violation of this chapter. Each campaign treasurer shall pay all amounts contributed in violation of this section to the state for deposit in the General Revenue Fund.

(9) This section does not apply to the transfer of funds between a primary campaign depository and a savings account or certificate of deposit or to any interest earned on such account or certificate.

(10) Contributions to a political committee may be received by an affiliated organization and

transferred to the bank account of the political committee via check written from the affiliated organization if such contributions are specifically identified as intended to be contributed to the political committee. All contributions received in this manner shall be reported pursuant to s.106.07 by the political committee as having been made by the original contributor.

History.—s. 8, ch. 73-128; s. 6, ch. 74-200; s. 1, ch. 77-174; s. 48, ch. 77-175; s. 1, ch. 78-403; s. 9, ch. 79-365; s. 5, ch. 79-378; s. 7, ch. 85-226; s. 4, ch. 86-134; s. 12, ch. 89-256; ss. 33, 46, ch. 90-315; s. 9, ch. 90-338; s. 11, ch. 91-107; s. 642, ch. 95-147; s. 3, ch. 97-13; s. 8, ch. 99-355; s. 27, ch. 2002-17; s. 3, ch. 2002-197; s. 1, ch. 2002-281; s. 68, ch. 2005-277; s. 46, ch. 2005-278; s. 25, ch. 2005-286; s. 1, ch. 2005-360; s. 9, ch. 2006-300; s. 44, ch. 2007-30; s. 26, ch. 2010-167; ss. 14, 30, ch. 2011-6; s. 62, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 8, ch. 2012-5; s. 13, ch. 2013-37.

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: CS/CS/CS/HB 569

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): State Affairs Committee and
Appropriations Committee and
Ethics & Elections Subcommittee
and Schenck

79 Y's 34 N's

COMPANION (CS/CS/CS/CS/SB 1382)

GOVERNOR'S ACTION: Approved

BILLS:

SUMMARY ANALYSIS

CS/CS/CS/HB 569 passed the House on March 22, 2013. The bill was amended by the Senate on April 24, 2013, and subsequently passed the House on the same day. This bill makes multiple changes to Florida's campaign finance laws, including the following:

Issue	Effect of Changes
Committees of Continuous Existence (CCE)	<ul style="list-style-type: none"> • Requires the Division of Elections to notify CCEs of new laws by 7/15/13; prohibits acceptance of contributions by CCEs after 8/1/13; revokes all CCE certifications effective 9/30/13; all CCE statutes are deleted on 11/1/13. • Requires submission of any outstanding reports after revocation; authorizes a CCE to make unlimited contributions to a political committee effective May 1, 2013.
Limits on Campaign Contributions to Candidates	<ul style="list-style-type: none"> • Increases limit from \$500 to \$3,000 for candidates for statewide office or retention as a Supreme Court justice. • Increases limit from \$500 to \$1,000 for candidates for retention as a district court of appeal judge, legislative office, multicounty office, countywide office, county court judge, or circuit judge, and for candidates in any election conducted on less than a countywide basis. • Removes \$100 limit on contributions made by unemancipated children under the age of 18, applying the above limits. • Allows \$50,000 contribution, in the aggregate, from a county executive committee of a political party. • Limits contributions to candidates who decide to run for another office to the above limits in the aggregate.
Political Committees (PCs)	<ul style="list-style-type: none"> • Removes current \$500 limit to allow unlimited contributions to PCs but prohibits PCs from making unlimited expenditures for the purpose of jointly endorsing three or more candidates. • Allows multiple, uniform contributions of less than \$250 per calendar year from the same person to be reported in the aggregate, with an annual disclosure required July 1 each year.
Surplus Campaign Funds	<ul style="list-style-type: none"> • Increases the amount of surplus funds that may be transferred to an office account, specifies permissible uses for surplus funds transferred to an office account, allows a candidate elected to state office to retain up to \$20,000 in surplus campaign funds for use in the next election for the same office, and limits to \$25,000 surplus funds given by a candidate to an affiliated party committee or political party of which the candidate is a member. • Eliminates the requirement that a candidate who qualifies by petition pay the election assessment prior to disposing of surplus campaign funds.
Disclosures by Statewide Candidates; PCs or Electioneering Communications Organizations (ECOs) that file with the Division of Elections	<ul style="list-style-type: none"> • Requires monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); • Requires weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election; and • Requires, for PCs and candidates, daily contribution reports beginning on the 10th day before the general election, with the last report due on the 5th day before the general election. ECOs are also required to file contribution reports on the 10th – 5th and the 3rd – 1st days before the general election.
Disclosures by all Non-Statewide Candidates; PCs or ECOs that file with a Supervisor of Elections or a municipal clerk	<ul style="list-style-type: none"> • Requires monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); • Requires biweekly contribution and expenditure reports on the 60th – 32nd day before the primary election, and the 74th – 32nd day before the general election; and • Requires weekly contribution and expenditure reports beginning on the 32nd day before the primary and general elections, with the last weekly report due on the 4th day before the primary and general election.
Statewide Campaign Finance Database	Requires the Division of Elections to submit a proposal to the House and Senate by 12/1/13 for a mandatory statewide electronic filing system for all state and local campaign finance reports and filings reporting the disposition of campaign funds.
Campaign Fund Raisers and Accounts	Requires that tickets and advertising for campaign fund raisers contain sponsorship disclaimers and meet the other requirements applicable to political advertisements. Revises certain campaign account requirements.
Candidates for Political Party Executive Committee	Requires candidates for political party executive committees to file a campaign finance report with the supervisor of elections on the 4th day before the primary election.

This bill appropriates \$85,000 to the Division of Elections of the Department of State for two FTEs to implement reporting requirements imposed by this bill. This bill also appropriates \$42,900 for one FTE to the Florida Elections Commission to prepare additional cases as a result of the reporting requirements imposed by this bill.

The bill was approved by the Governor on May 1, 2013, ch. 2013-37, L.O.F., and became effective on November 1, 2013, except as otherwise provided in the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0569z.EES

DATE: May 15, 2013

A. EFFECT OF CHANGES:

1. *Committees of Continuous Existence (CCEs)*

Current Situation

A CCE is a group, organization, association, or other such entity that is involved in making contributions to candidates, PCs, ECOs, other CCEs, or political parties.¹ A CCE may not make electioneering communications or independent expenditures.

An "independent expenditure" is defined as "an expenditure by a person for the purpose of expressly advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee. An expenditure for such purpose by a person having a contract with the candidate, political committee, or agent of such candidate or committee in a given election period shall not be deemed an independent expenditure."²

An electioneering communication is defined by Florida law as "any communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone" that:

- A. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
- B. Is made within 30 days before a primary election or 60 days before a general election; and
- C. Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.³

An organization that registers as a CCE may exist for purposes other than influencing the outcome of an election in Florida, and may make expenditures of funds for non-election related activities.⁴ However, if an entity wishes to conduct political activities as a CCE, it must apply for and receive certification from the Division of Elections.⁵

CCEs are required to file periodic reports of contributions received and expenditures made.⁶ CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than \$250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members.⁷

Effect of Changes

This bill repeals s. 106.04, F.S., and creates an unnumbered section of law to establish a process to eliminate CCEs. As of August 1, 2013, CCEs are not permitted to accept contributions as that term is defined in the Florida Election Code,⁸ and on September 30, 2013, all CCE certifications are revoked. Before revocation, CCEs must disburse funds as currently authorized by law, or CCEs may make unlimited contributions to a political committee as of May 1, 2013. In order to provide sufficient notice to CCEs in advance of revocation, the Division of Elections is required to notify CCEs of the new laws by July 15, 2013. Even though CCE certifications are revoked by operation of law on September 30, 2013, s. 106.04, F.S., which governs CCEs, remains effective until November 1, 2013. Therefore, a CCE whose certification is revoked on September 30, 2013, must file required campaign finance reports, including the report due in October 2013 for the third quarter of 2013, disclosing contributions received and expenditures made that have not been previously reported. Regardless of whether the CCE is legally dissolved, a violation of these provisions or any other provision of ch. 106, F.S., constitutes a violation of ch. 106, F.S. A PC or ECO receiving funds from a CCE whose certification has been revoked is

¹ § 106.04(1), F.S.
² § 106.011(5)(a), F.S.
³ § 106.011(18), F.S.
⁴ § 106.04(5), F.S.
⁵ *Id.*

⁶ Please see Section 4 of this analysis for a discussion of the frequency of campaign finance reporting.

⁷ §§ 106.04(4)(b)1. and 106.04(4)(c)1., F.S.

⁸ "Contribution" is defined in § 106.011(3), F.S., as: (a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication. (b) A transfer of funds between political committees, between committees of continuous existence, between electioneering communications organizations, or between any combination of these groups. (c) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services. (d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate. Notwithstanding the foregoing meanings of "contribution," the term may not be construed to include services, including, but not limited to, legal and accounting services, provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or editorial endorsements.

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responsible for any unpaid fine or penalty incurred by the former CCE. If no such PC or ECO exists, the principal officers of the former CCE will be held jointly and severally liable for any fine or penalty

The following table describes the current law and the effect of the bill's changes:

Committees of Continuous Existence		
	Current Law	Effect of Changes
Political Purpose	To make contributions to candidates, political committees, CCEs, ⁹ ECOs, or political parties. ¹⁰	This bill eliminates CCEs.
Limits on Contributions to a CCE	There are no limits as long as the CCE maintains the following organizational requirements: <ul style="list-style-type: none"> • Must be organized and operated under a written charter or bylaws specifying procedures for the election of officers and defining membership.¹¹ • At least 25% of the income, excluding interest, of the organization must come from dues of members.¹² 	
Limits on Contributions by a CCE	<ul style="list-style-type: none"> • \$500 maximum to each candidate or political committee supporting candidates.¹³ • No limit on contributions to ECOs, CCEs, political committees, or political parties. • 25% of annual income to a political committee supporting or opposing issues.¹⁴ 	
Permissible and Prohibited Activities	<ul style="list-style-type: none"> • May contribute to candidates, ECOs, CCEs, political committees, and political parties. • May not make electioneering communications or independent expenditures.¹⁵ • In order to directly support or oppose an issue, a CCE must register as a political committee.¹⁶ 	

2. Electioneering Communications Organizations (ECOs)

Current Situation

At the federal level, ECOs were first extensively regulated by the Bipartisan Campaign Reform Act of 2002 (the McCain-Feingold Act).¹⁷ After these provisions were upheld, Florida adopted similar standards for electioneering communications. Florida's initial attempt was struck down on First Amendment grounds in 2008,¹⁸ but the revised version was upheld on appeal in 2012 and remains the current law.¹⁹

Under current law, ECOs are required to file a statement of organization after making an expenditure for an electioneering communication in excess of \$5,000.²⁰ The statement of organization must include the following information:

1. The name, mailing address, and street address of the organization.
2. The names, addresses, and relationships of affiliated or connected organizations.
3. The area, scope or jurisdiction of the organization.
4. The name, mailing address, street address, and position of the custodian of books and accounts.
5. The name, mailing address, street address, and position of other principal officers, including the treasurer and deputy treasurer, if any.
6. Plans for the disposition of residual funds which will be made in the event of dissolution.
7. A listing of all banks, safe-deposit boxes, or other depositories used for organization funds.
8. A statement of the reports required to be filed with federal officials, if any, and names, addresses, and positions of such officials.
9. A statement of whether the organization was formed as a newly created organization during the current calendar quarter or was formed from an organization existing prior to the current calendar quarter.²¹

⁹ DEO 76-31.

¹⁰ § 106.04(1), F.S.

¹¹ § 106.04(1)(a), F.S.

¹² § 106.04(1)(b), F.S.

¹³ § 106.08, F.S.

¹⁴ § 106.04(5), F.S.

¹⁵ § 106.04(5); DEO 04-09.

¹⁶ § 106.04(5), F.S.

¹⁷ 2 U.S.C.A. § 431.

¹⁸ See *Broward Coalition of Condominiums v. Browning*, 2009 WL 1457972 (N.D. Fla. 2009).

¹⁹ See *National Organization for Marriage, Inc. v. Secretary, State of Fla.*, 447 Fed. Appx. 584 (11th Cir. 2012).

²⁰ § 106.03(b)1., F.S.

²¹ *Id.*

The following table describes the current law and effect of the bill's changes as they relate to ECOs:

Electioneering Communications Organizations		
	Current Law	Effect of Changes
Purpose	Any group, other than a political party, political committee, or CCE, whose <i>election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications</i> and whose activities would not otherwise require the group to register as a political party, political committee, or committee of continuous existence under chapter 106, F.S. ²²	No change.
Limits on Contributions to an ECO	No limit on any contributions to an ECO.	No change.
Limits on Contributions by an ECO	May NOT contribute to candidates, political parties, political committees, or CCEs. ²³	No change.
Permissible and Prohibited Activities	<ul style="list-style-type: none"> • May make electioneering communications, but may not “expressly advocate” the election or defeat of a candidate. • May NOT make independent expenditures. 	No change.
Disclosure Requirements	Generally, except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of each calendar quarter from the time the ECO registers, except if the 10th day is a Saturday, Sunday, or legal holiday, the report shall be filed on the next business day that is not a Saturday, Sunday, or legal holiday. Following the last day of qualifying, the reports must be filed on the 32nd, 18th, and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. ²⁴	Increases the frequency of campaign finance disclosure reporting. Please see discussion of reporting requirements under Section 4 of this analysis.

The bill also amends s. 106.03, F.S., to require an ECO's statement of organization to include the name, street addresses, and relationships of “affiliated sponsors.”

3. Political Committees (PCs)

Current Situation

A “political committee” is defined by Florida law as a combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:

- Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party;
- Accepts contributions for the purpose of *expressly advocating* the election or defeat of a candidate or the passage or defeat of an issue;
- Makes expenditures that *expressly advocate* the election or defeat of a candidate or the passage or defeat of an issue; or
- Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party.²⁵

A “political advertisement” is “a paid expression in any communications media...which *expressly advocates* the election or defeat of a candidate or the approval or rejection of an issue.”²⁶ “Express advocacy” is defined as “[c]ommunications that in express terms advocate the election or defeat of a clearly identified candidate.”²⁷

²² § 106.011(19).

²³ *Id.*

²⁴ § 106.0703(1)(a)-(b).

²⁵ § 106.011(1), F.S.

²⁶ § 106.011(17), F.S.

²⁷ *Buckley v. Valeo*, 424 U.S. 1, 44 (1976).

The following table describes the current law and effect of the bill's changes with regard to political committees:

Political Committees		
	Current Law	Effect of Changes
Purpose	A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year, accepts contributions to support or oppose any candidate, issue, political committee, CCE, ECO, or political party. ²⁸	No change (other than the elimination of CCEs).
Limits on Contributions to a PC	<ul style="list-style-type: none"> No limit to a political committee supporting or opposing issues only.²⁹ \$500 per election limit to a political committee supporting or opposing one or more candidates.³⁰ \$500 per election limit to a political committee supporting or opposing both candidates and issues.³¹ \$100 per election limit from unemancipated children under the age of 18 to a political committee supporting one or more candidates.³² Limits do not apply to contributions from political parties.³³ 	The bill amends s. 106.08, F.S., to allow unlimited contributions to any PC. In addition, Section 2 of the bill specifies that, effective May 1, 2013, CCEs may make unlimited contributions to a PC.
Limits on Contributions by a PC	<ul style="list-style-type: none"> To a candidate - \$500 per election.³⁴ In support of or in opposition to issues, or to a political party, CCE, or ECO - no limit.³⁵ To obtain time, space or services via any communication medium for the purpose of endorsing three or more candidates – no limit and do not have to be reported.³⁶ 	<ul style="list-style-type: none"> PCs may contribute up to \$3,000 to a candidate for statewide office or retention as a Supreme Court justice, and up to \$1,000 to a candidate for retention as a district court of appeal judge, legislative office, multicounty office, countywide office, county court judge, or circuit judge, or to a candidate in any election conducted on less than a countywide basis. PCs are required to adhere to the above contribution limits when jointly endorsing three or more candidates, and such contributions are required to be reported.
Permissible and Prohibited Activities	<ul style="list-style-type: none"> May contribute to candidates, ECOs, CCEs, PCs, APCs, and political parties. May make independent expenditures and electioneering communications.³⁷ 	No change (other than the elimination of CCEs).
Disclosure Requirements	Generally, except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of each calendar quarter from the time the political committee registers, except if the 10th day is a Saturday, Sunday, or legal holiday, the report must be filed on the next business day that is not a Saturday, Sunday, or legal holiday. In an election year, reports must also be filed on the 32nd, 18th, and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. ³⁸	Increases the frequency of campaign finance disclosure reporting. Please see discussion of reporting requirements under Section 4 of this analysis.

4. Frequency of Campaign Finance Reporting

Current Situation

In Florida, candidates, political committees, electioneering communications organizations, and committees of continuous existence³⁹ are required to file periodic reports of contributions received and expenditures made. CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than \$250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members.⁴⁰ Except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of *each calendar quarter* from the time the campaign treasurer is appointed.⁴¹ Quarterly reports must include all contributions received and expenditures made during the calendar quarter. In an election year, reports containing this information must also be filed every other week on the 32nd, 18th, and 4th days immediately preceding the primary and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. Any statewide candidate who has requested to receive contributions pursuant to the Florida Election Campaign Financing Act or any statewide candidate in a race with a candidate who has requested to receive contributions must also file weekly reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the primary election, and on the 4th, 11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the general election. In addition, there are different filing requirements during special elections.⁴²

²⁸ § 106.011(1)(a), F.S.

²⁹ § 106.08, F.S.

³⁰ § 106.08(1)(a), F.S.

³¹ § 106.08, F.S.

³² § 106.08(1)(b)2., F.S.

³³ *Id.*

³⁴ § 106.08, F.S.

³⁵ § 106.08, F.S.

³⁶ § 106.021(d), F.S.

³⁷ § 106.011, F.S.

³⁸ § 106.07, F.S.

³⁹ In addition to the reporting requirements applicable to all candidates, CCEs, PCs, and ECOs, CCEs are also required to file annual reports in January of each year.

⁴⁰ §§ 106.04(4)(b)1. and 106.04(4)(c)1., F.S.

⁴¹ §§ 106.07(1), 106.07(1)(a), 106.07(1)(b), and 106.0703, F.S. Quarterly reports are due on the 10th day after the quarter, unless the 10th day is a Saturday, Sunday, or legal holiday, in which case the report is due on the next business day.

⁴² § 106.07, F.S.

- *Candidates*: Reports are filed with the officer before whom the candidate qualifies. Candidates filing reports with the Division of Elections are required to electronically file by means of the Electronic Filing System.
- *Political Committees*: Reports are electronically filed with the Division of Elections if the PC supports or opposes statewide, legislative, or multicounty candidates or issues; with the Supervisor of Elections if the PC supports or opposes candidates or issues in a countywide or less than a countywide election, except municipal; or with the municipal clerk if the PC supports or opposes only municipal candidates or issues.
- *Committees of Continuous Existence*: Reports are filed electronically with the Division of Elections.
- *Electioneering Communications Organizations*: Reports are electronically filed with the Division of Elections if the ECO relates to statewide, legislative, or multicounty candidates; with the Supervisor of Elections if the ECO relates to candidates in a countywide or less than a countywide election, except municipal; or with the municipal clerk if the ECO relates to only municipal candidates.⁴³

While reports filed with the Division of Elections are submitted electronically, reports filed at the local level are frequently filed on paper forms rather than electronically.

Effect of Changes

The bill repeals s. 106.04, F.S., and creates an unnumbered section of law to eliminate committees of continuous existence and all associated reporting requirements.

The bill amends s. 106.07(4)(b), F.S., to allow multiple uniform contributions from the same person that do not exceed a total of \$250 per calendar year and that are collected by an organization that is an affiliated sponsor of a political committee to be reported by the political committee in an aggregate amount that lists the number of contributors, the amount contributed by each, and the total amount contributed during the reporting period. The identity of each person making a uniform contribution must be reported to the filing officer by July 1 of each calendar year, or, in a general election year, no later than the 60th day before the primary.

The bill amends s. 106.07, F.S., to require submission of the following reports by *statewide* candidates and political committees that file campaign finance reports with the Division of Elections:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election;
- Daily contribution reports beginning on the 10th day before the general election, with the last report due on the 5th day before the general election.

The bill amends s. 106.0703, F.S., to require submission of the following reports by electioneering communications organizations that file campaign finance reports with the Division of Elections:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election;
- Daily contribution reports beginning on the 10th day before the general election through the 5th day before the general election, and the 3rd day of the general election with the last report due on the day before the general election.

All daily reports required above must contain contributions received, but not expenditures made.

⁴³ §§ 106.0705 and 106.07(2), F.S.

The bill amends ss. 106.07 and 106.0703, F.S., to require submission of the following reports by all non-statewide candidates, regardless of the candidate's filing officer, and political committees or electioneering communications organizations that file reports with a Supervisor of Elections or a municipal clerk:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Biweekly contribution and expenditure reports on the 60th – 32nd day before the primary election, and the 74th – 32nd day before the general election;
- Weekly contribution and expenditure reports beginning on the 32nd day before the primary and general elections, with the last weekly report due on the 4th day before the primary and general elections.

This bill also creates an unnumbered section of law that requires the Division of Elections to submit to the Florida Legislature, by December 1, 2013, a proposal for creating a mandatory electronic filing system for all state and local campaign finance reports and filings reporting the disposition of campaign funds required by ss. 106.07, 106.0703, or 106.29, F.S.

5. Campaign Contribution Limits

Current Situation

Most states place some sort of limit on contributions to candidates from various sources, and also on contributions to political committees and political parties.⁴⁴ Four states—Missouri, Oregon, Utah, and Virginia—place no limits on contributions. Seven states—Alabama, Indiana, Iowa, Mississippi, North Dakota, Pennsylvania, and Texas—place few limits on contributions. These seven states allow unlimited contributions from all sources, but prohibit contributions by corporations and unions to candidates. The remaining states typically limit contributions to candidates from individuals, political parties, political committees, corporations, and unions. Sometimes contributions are prohibited outright, particularly contributions from corporations and unions. Limitations are also commonly placed on cash contributions, contributions by minors, and contributions to political committees and political parties made during the legislative session.

In addition, there are limitations applicable to candidates for federal office. According to the Federal Elections Commission, the federal contribution limits for 2013-2014 are as follows:⁴⁵

	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year[1]	Special Limits
Individual may give	\$2,600*	\$32,400*	\$10,000 (combined limit)	\$5,000	\$123,200* overall biennial limit: • \$48,600* to all candidates • \$74,600* to all PACs and parties[2]
National Party Committee may give	\$5,000	No limit	No limit	\$5,000	\$45,400* to Senate candidate per campaign[3]
State, District & Local Party Committee may give	\$5,000 (combined limit)	No limit	No limit	\$5,000 (combined limit)	No limit
PAC (multicandidate)[4] may give	\$5,000	\$15,000	\$5,000 (combined limit)	\$5,000	No limit
PAC (not multicandidate) may give	\$2,600*	\$32,400*	\$10,000 (combined limit)	\$5,000	No limit
Authorized Campaign Committee may give	\$2,000[5]	No limit	No limit	\$5,000	No limit

* These contribution limits are increased for inflation in odd-numbered years.

1. A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. In certain circumstances, the contribution may also count against the contributor's limit to the PAC. 11 CFR 110.6. See also 11 CFR 110.1(h).
2. No more than \$48,600 of this amount may be contributed to state and local party committees and PACs.
3. This limit is shared by the national committee and the Senate campaign committee.
4. A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office. 11 CFR 100.5(e)(3).
5. A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 2 U.S.C. 432(e)(3)(B).

⁴⁴ Information in this paragraph was obtained in *Contribution Limits: An Overview*, National Conference of State Legislatures, Oct. 31, 2011, <http://www.ncsl.org/legislatures-elections/elections/campaign-contribution-limits-overview.aspx>.

⁴⁵ This table was obtained from the Federal Elections Commission website on February 6, 2013. *Contribution Limits 2013-2014*, <http://www.fec.gov/pages/brochures/contriblimits.shtml>.

The table below summarizes Florida's current campaign contribution limits and the effect of the bill's changes:

CAMPAIGN CONTRIBUTION LIMITS IN FLORIDA ⁴⁶			
	Current Limit		Effect of Changes
Candidates	From any one person, PC, or CCE	\$500 per election	<ul style="list-style-type: none"> Increases the limit to \$3,000 per election for candidates for statewide office or retention as a Supreme Court justice. Increases the limit to \$1,000 per election for candidates for retention as a district court of appeal judge, legislative office, multicounty office, countywide office, county court judge, or circuit judge, and for candidates in any election conducted on less than a countywide basis. Contributions will no longer be available from CCEs because CCEs are eliminated by this bill.
	From unemancipated children under the age of 18	\$100 per election	Same as above; the bill removes the distinction between any other person and unemancipated children under the age of 18.
	From a PP or APC to a candidate for statewide office	\$250,000 per election, in the aggregate	No change.
	From a PP or APC to any other candidate	\$50,000 per election, in the aggregate	Permits candidates to accept a contribution of up to \$50,000, in the aggregate, from a county executive committee of a political party, which is in addition to the \$50,000 limit per election, in the aggregate, from a national or state executive committee of a political party. In effect, it increases the limit to \$100,000 total.
Political Committees (PCs)	To a PC supporting or opposing issues only	No limit	No change.
	To a PC supporting or opposing one or more candidates	\$500 per election	The bill amends s. 106.08, F.S., to allow unlimited contributions to any PC. In addition, Section 2 of the bill specifies that, effective May 1, 2013, CCEs may make unlimited contributions to a PC.
	To a PC supporting or opposing both candidates and issues	\$500 per election	The bill amends s. 106.08, F.S., to allow unlimited contributions to any PC. In addition, Section 2 of the bill specifies that, effective May 1, 2013, CCEs may make unlimited contributions to a PC.
	Contributions from political parties	No limit	No change.
Electioneering Communications Organizations (ECOs)	No limit on any contributions to an ECO		No change.
Committees of Continuous Existence (CCEs)	No limit on any contributions to a CCE		This bill eliminates CCEs.
Political Parties (PPs)	No limit on any contributions to a PP		No change.
Affiliated Party Committees (APCs)	No limit on any contributions to an APC		No change.

6. Contributions to Candidates Who Change Designated Office

Current Situation

During the course of a campaign, a candidate is permitted to change the designated office for which he or she is a candidate.⁴⁷ However, the candidate is required to notify all contributors in writing of the intent to seek a different office and offer to return pro rata contributions given for the original office.⁴⁸ This notification is required 15 days after changing the designation with the Division of Elections.⁴⁹ Any contributions not requested to be returned within 30 days of the notification may be used by the candidate for the new office.⁵⁰

Contributions for the original office are limited to \$500 per election from non-political party contributors.⁵¹ Current law also permits a candidate to receive contributions limited to \$500 per election for the newly designated office, as well. Therefore, candidates changing their designated office could circumvent the contribution limits and receive twice as many contributions from the same contributor.

⁴⁶ § 106.08, F.S.

⁴⁷ § 106.021(1)(a), F.S.

⁴⁸ *Id.*

⁴⁹ *Id.* Notification is not required for changes in numerical designation as a result of redistricting.

⁵⁰ *Id.*

⁵¹ See Section 5 for discussion on contribution limits.

The bill amends s. 106.021(1)(a), F.S., to include the amount of a contribution for the original office for the purposes of contribution limits to the newly designated office. If a candidate receives contributions in excess of the contribution limits applicable to the newly designated office, the candidate must dispose of the excess contributions by:

1. Paying for items which were obligated before the candidate withdrew, became unopposed, or was eliminated or elected;
2. Paying for expenditures necessary to close down the campaign office and to prepare final campaign reports;
3. Returning the funds pro rata to each contributor;
4. Donating to a charitable organization or a 501(c)(3) organization; or
5. Giving the funds to the state (for a statewide candidate) or to a political subdivision (for a candidate for an office of such political subdivision)

7. Surplus Campaign Funds

Current Situation

Section 106.141, F.S., governs the disposal of surplus campaign funds. A candidate must dispose of all funds remaining in his or her campaign account and file a report within 90 days after the candidate is elected or eliminated, becomes unopposed, or withdraws from the election. A candidate may dispose of surplus funds in any of the following methods, or any combination thereof:⁵²

1. Return funds on a pro rata basis to each contributor.
2. Donate funds to s. 501(c)(3) charitable organizations.
3. Contribute funds to an affiliated party committee or the candidate's political party (there is not a limit on the amount of funds that may be transferred to these entities).
4. For statewide candidates, give funds to the state for use in the Election Campaign Financing Trust Fund or the General Revenue Fund.
5. For candidates for office in a political subdivision, give funds to the political subdivision for deposit in the general fund.
6. Transfer funds to an office account.⁵³

If a candidate is elected to office, he or she may transfer surplus campaign funds into an office account up to the following limits:

- \$20,000 for a candidate for statewide office.
- \$5,000 for a candidate for multicounty office.
- \$5,000 multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- \$2,500 multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- \$6,000 for a candidate for retention as a justice of the Supreme Court.
- \$3,000 for a candidate for retention as a judge of a district court of appeal.
- \$1,500 for a candidate for county court judge or circuit judge.⁵⁴

Surplus campaign funds transferred to an office account are also subject to use limitations. Such funds can be used only for legitimate expenses in connection with the candidate's public office, including travel expenses incurred by the officer or a staff member, personal taxes payable on office account funds by the candidate or elected public official, or expenses incurred in the operation of the official's office. Office operations include the employment of additional staff.⁵⁵

Upon leaving public office, any remaining funds in an office account must be disposed of by giving such funds to a 501(c)(3) charitable organization, or by giving the funds to the state (for a statewide candidate) or to a political subdivision (for a candidate for an office of such political subdivision).⁵⁶

⁵² § 106.141(4)(a), F.S.

⁵³ Section 106.141(5), F.S., permits a candidate elected to office to transfer surplus campaign funds to an office account, which may be used for "legitimate expenses in connection with the candidate's public office." The amount that may be transferred to an office account varies depending upon the office to which the candidate is elected.

⁵⁴ § 106.141(5), F.S.

⁵⁵ *Id.*

⁵⁶ § 106.141(5)(g)

Prior to disposing of surplus campaign funds, state and local candidates who qualified by the petition process and were not required to pay an election assessment or who filed an oath stating that he or she was unable to pay the assessment must reimburse the state or local government entity for the waived assessment.⁵⁷

Several states, including Delaware,⁵⁸ Maine,⁵⁹ South Carolina,⁶⁰ and Washington,⁶¹ allow candidates to use remaining campaign funds for future elections. However, other states, such as Connecticut⁶² and Montana,⁶³ expressly prohibit the use of remaining campaign funds for future elections.

Candidates for federal office are permitted to use surplus campaign funds for future federal elections.⁶⁴

Effect of Changes

This bill amends s. 106.141, F.S., in a number of areas. First, in addition to the current permissible methods of disposing of surplus campaign funds described above, this bill allows a candidate to retain up to \$20,000 in the candidate's campaign account for use in the candidate's next campaign for the same office. "Same office" is defined as an office in the same legislative body, regardless of district number or designation or geographic boundary. Candidates who do not qualify for the same office in the next election for that office are required to dispose of the retained funds within 90 days in one of the methods described above.

Second, this bill increases the amount of surplus campaign funds that may be transferred to an office account. The following table illustrates the amount of surplus campaign funds that may be transferred into an office account under the current law, and the changes in those amounts made by this bill:

OFFICE	CURRENT LIMIT	EFFECT OF CHANGES
Candidates for statewide office	\$20,000	\$50,000
Candidates for multicounty office	\$5,000	\$10,000
Candidates for legislative office	\$5,000 multiplied by the number of years in the term of office for which elected	\$10,000 multiplied by the number of years in the term of office for which elected
Candidates for county office or candidates in any election conducted on less than a countywide basis	\$2,500 multiplied by the number of years in the term of office for which elected	\$5,000 multiplied by the number of years in the term of office for which elected
Candidates for retention as a Supreme Court justice	\$6,000	No change
Candidates for retention as a judge of a district court of appeal	\$3,000	No change
Candidates for county court judge or circuit judge	\$1,500	\$3,000

Third, the bill expressly authorizes payment of the following expenses using office account funds:

- CPA or attorney services for preparation of the public official's financial disclosure filing.
- Costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents, so long as the correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication.
- Fees or dues to religious, civic, or charitable organizations of which the elected public official is a member.
- Items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at special events or family occasions of constituents.
- Personal expenses incurred in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week.

⁵⁷ § 106.141(6), F.S.

⁵⁸ DEL. CODE ANN. § 8022.

⁵⁹ ME. REV. STAT. tit. 21-A, § 1017(8).

⁶⁰ S.C. CODE ANN. § 8-13-1370.

⁶¹ WASH. REV. CODE § 42.17A.430.

⁶² CONN. GEN. STAT. § 9-608(e)(A)(i).

⁶³ MONT. CODE ANN. § 13-37-240; MONT. ADMIN. R. 44-10-335.

⁶⁴ See 11 C.F.R. §§ 110.3(c)(4), 110.1(b)(3)(ii) and 116.2(c)(2); Federal Elections Commission Advisory Opinion 1980-30.

Fourth, the bill limits surplus funds contributed to an affiliated party committee or political party of which the candidate is a member to \$25,000.

Lastly, the bill removes the requirement for state or local candidates who qualified by the petition process and were not required to pay an election assessment or who filed an oath stating that he or she was unable to pay the assessment to reimburse the state or local government entity for the waived assessment prior to disposing of surplus campaign funds.

8. Campaign Fund Raisers and Political Advertisements

Current Situation

A campaign fund raiser may not be held unless the person for whom the funds are to be used is a candidate for public office.⁶⁵ All money and contributions received during a campaign fund raiser are considered campaign contributions subject to the same requirements as other campaign contributions.⁶⁶ In 2011, the Florida Legislature deleted a statutory requirement that campaign fund raiser tickets and advertising comply with the disclaimer requirements applicable to political advertisements.⁶⁷ As a result, such tickets and advertisements are exempt from sponsorship disclaimer requirements, unless they otherwise meet the definition of a political advertisement.⁶⁸

Political advertisements are governed by section 106.143, F.S., which requires certain sponsorship disclaimers and disclosures for any paid political advertisement that is published, displayed, or circulated on or before Election Day.⁶⁹ The requirements of that section may be summarized as follows:

1. Any political advertisement that is paid for by a candidate, except a write-in candidate, and that is published, displayed, or circulated before, or on the day of, any election must prominently state:
 - A. "Political advertisement paid for and approved by (name of candidate) , (party affiliation) , for (office sought) "; or
 - B. "Paid by (name of candidate) , (party affiliation) , for (office sought) ."
2. Any political advertisement that is paid for by a write-in candidate and that is published, displayed, or circulated before, or on the day of, any election must prominently state:
 - A. "Political advertisement paid for and approved by (name of candidate) , write-in candidate, for (office sought) "; or
 - B. "Paid by (name of candidate), write-in candidate, for (office sought)."
3. Any other political advertisement published, displayed, or circulated before, or on the day of, any election must prominently:
 - A. Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv."
 - B. State the name and address of the persons paying for the advertisement.
 - C. State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement.
4. Any political advertisement of a candidate running for partisan office must express the name of the political party of which the candidate is seeking nomination or is the nominee. If the candidate for partisan office is running as a candidate with no party affiliation, any political advertisement of the candidate must state that the candidate has no party affiliation. A political advertisement of a candidate running for nonpartisan office may not state the candidate's political party affiliation. However, a political advertisement may state the candidate's partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

Effect of Changes

This bill reinstates the statutory requirement that tickets and advertising for campaign fund raisers must contain sponsorship disclaimers and meet the other requirements applicable to political advertisements in s. 106.143, F.S., as described above.

⁶⁵ § 106.025, F.S.

⁶⁶ *Id.*

⁶⁷ Ch. 2001-40, § 56 Laws of Fla.

⁶⁸ A "political advertisement" is "a paid expression . . . which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue." § 106.011(17), F.S.

⁶⁹ § 106.143(1), F.S.

9. Campaign Accounts

Current Situation

Section 106.05, F.S., requires all funds received by the campaign treasurer of any candidate or political committee to be deposited into a campaign depository in an account designated "(name of candidate or committee) Campaign Account."

Section 106.11, F.S., requires that all checks drawn on the campaign depository and all debit cards contain the statement "(name of candidate or political committee) Campaign Account."

Effect of Changes

This bill amends s. 106.05, F.S., to remove the requirement that the campaign account, and checks and debit cards associated therewith, contain the exact phrase "Campaign Account"; however, the name of the candidate or committee must still appear on the campaign account, checks, and debit cards.

10. Political Party Executive Committee Candidates

Current Situation

Section 103.091, F.S., provides for the establishment of political party executive committees and the selection of members. Each political party of the state must be represented by a state executive committee. County executive committees and other committees may be established in accordance with the rules of the state executive committee. A political party may provide for the selection of its national committee and its state and county executive committees in such manner as it deems proper. Unless otherwise provided by party rule, the county executive committee of each political party must consist of at least two members, a man and a woman, from each precinct, who are called the precinct committeeman and committeewoman. For counties divided into 40 or more precincts, the state executive committee may adopt a district unit of representation for such county executive committees. Upon adoption of a district unit of representation, the state executive committee must request the supervisor of elections of that county, with approval of the board of county commissioners, to provide for election districts as nearly equal in number of registered voters as possible. Each county committeeman or committeewoman must be a resident of the precinct from which he or she is elected. Each state committeeman or committeewoman must be a member in good standing of the county executive committee for the county in which the state committeeman or committeewoman is a registered voter.

Any political party other than a minor political party may by rule provide for the membership of its state or county executive committee to be elected for 4-year terms at the primary election in each year a presidential election is held. The terms commence on the first day of the month following each presidential general election, but the names of candidates for political party offices may not be placed on the ballot at any other election. The results of such election must be determined by a plurality of the votes cast. In such event, electors seeking to qualify for such office must do so with the Department of State or supervisor of elections not earlier than noon of the 71st day, or later than noon of the 67th day, preceding the primary election. The outgoing chair of each county executive committee must, within 30 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers.

Pursuant to s. 106.011(16), F.S., candidates for a political party executive committee are excluded from the definition of "candidate" for purposes of the campaign finance laws in chapter 106. Therefore, candidates for a political party executive committee are exempt from the chapter 106 campaign finance requirements, including disclosure requirements and contribution limits, currently imposed on candidates for public office.

Effect of Changes

The bill creates s. 106.0702, F.S., to require candidates for a publicly elected political party executive committee position to file a campaign finance report with the supervisor of elections of the appropriate county on the 4th day before the primary election. The bill retains current law to allow candidates for political party executive committee to collect unlimited contributions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: *Department of State:* According to the Department of State, the increase in the number of campaign finance reports filed with the Division of Elections will increase their workload, requiring two FTEs and a recurring fiscal impact of \$85,000. The Department asserts that, "[t]he increase in reports would cause an increase in fail to file letters, fine letters, incomplete report letters and Election Commission referrals. All of these documents must be scanned and posted to the web. One entry level FTE would be required to handle incomplete letters and Election Commission referrals. One additional FTE would be required to handle fail to file letters, scanning and posting the letters to the web and to handle the increased traffic on the help desk answering phone calls. In total if you take an average salary of \$30,000 for each FTE plus benefits would total \$85,000."

The Department of State intends to produce the report on the feasibility of a statewide database using current resources, so production of the report should not have a fiscal impact on the department.

The bill authorizes two full-time equivalent positions, with associated salary rate of 57,297 and appropriates \$85,000 in recurring funds from the General Revenue Fund to the Division of Elections of the Department of State to carry out the provisions of this bill.

Florida Elections Commission: According to the Florida Elections Commission (Commission), the increase in campaign finance reports filed will increase the number of cases against candidates, political committees, and electioneering communications organizations that fail to file reports. The Commission also expects the increase in reports to increase the number of cases appealing fines imposed for late filing of reports. According to the Commission, investigating and preparing these cases for presentation to the Commission requires one additional FTE at a salary of \$33,000, plus benefits for a total cost of \$42,900.

The bill authorizes one full-time equivalent position, with associated salary rate of 33,000 and appropriates \$42,000 in recurring funds from the Elections Commission Trust Fund within the Department of Legal Affairs to the Florida Elections Commission to carry out the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: The supervisors of elections and municipal clerks will receive and process more campaign finance reports, but the fiscal impact is indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The increased frequency of reporting may result in increased preparation costs for candidates seeking public office and private entities operating as political committees or electioneering communications organizations.

D. FISCAL COMMENTS: None.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
3. Leon County Board Policy “Code of Ethics”
4. Leon County’s Lobbyist Regulations Ordinance

The Florida Constitution

CONSTITUTION OF THE STATE OF FLORIDA

AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

ARTICLE II GENERAL PROVISIONS

SECTION 8. **Ethics in government.**—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(g) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(h) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(i) Schedule—On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

- a. A copy of the person's most recent federal income tax return; or
- b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also file disclosure of their financial interests pursuant to subsection (i)(1).

(3) The independent commission provided for in subsection (f) shall mean the Florida Commission on Ethics.

History.—Proposed by Initiative Petition filed with the Secretary of State July 29, 1976; adopted 1976; Ams. proposed by Constitution Revision Commission, Revision Nos. 8 and 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

The 2017 Florida Statutes

Title X

PUBLIC OFFICERS, EMPLOYEES, AND
RECORDS

Chapter 112

PUBLIC OFFICERS AND EMPLOYEES: GENERAL
PROVISIONS

PART III

**CODE OF ETHICS FOR
PUBLIC OFFICERS AND EMPLOYEES**

- 112.311 Legislative intent and declaration of policy.
- 112.312 Definitions.
- 112.3125 Dual public employment.
- 112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.
- 112.3135 Restriction on employment of relatives.
- 112.3136 Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.
- 112.3142 Ethics training for specified constitutional officers and elected municipal officers.
- 112.31425 Qualified blind trusts.
- 112.3143 Voting conflicts.
- 112.3144 Full and public disclosure of financial interests.
- 112.31445 Electronic filing system; full and public disclosure of financial interests.
- 112.3145 Disclosure of financial interests and clients represented before agencies.
- 112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.
- 112.3146 Public records.
- 112.3147 Forms.
- 112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.
- 112.31485 Prohibition on gifts involving political committees.
- 112.3149 Solicitation and disclosure of honoraria.
- 112.3151 Extensions of time for filing disclosure.
- 112.316 Construction.
- 112.317 Penalties.
- 112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.

- 112.3175 Remedies; contracts voidable.
- 112.3185 Additional standards for state agency employees.
- 112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.
- 112.3188 Confidentiality of information given to the Chief Inspector General, internal auditors, inspectors general, local chief executive officers, or other appropriate local officials.
- 112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.
- 112.31895 Investigative procedures in response to prohibited personnel actions.
- 112.31901 Investigatory records.
- 112.3191 Short title.
- 112.320 Commission on Ethics; purpose.
- 112.321 Membership, terms; travel expenses; staff.
- 112.3213 Legislative intent and purpose.
- 112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.
- 112.32151 Requirements for reinstatement of lobbyist registration after felony conviction.
- 112.32155 Electronic filing of compensation reports and other information.
- 112.3217 Contingency fees; prohibitions; penalties.
- 112.322 Duties and powers of commission.
- 112.3231 Time limitations.
- 112.3232 Compelled testimony.
- 112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.
- 112.3241 Judicial review.
- 112.3251 Citizen support and direct-support organizations; standards of conduct.
- 112.326 Additional requirements by political subdivisions and agencies not prohibited.
- 112.3261 Lobbying before water management districts; registration and reporting.

112.311 Legislative intent and declaration of policy.—

(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

(2) It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be

denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided.

(3) It is likewise essential that the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and past or pending legislative and executive actions at every level of government. In order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures, and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions, either by direct communication with such officials or by solicitation of others to engage in such efforts, be regularly disclosed to the people.

(4) It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

(5) It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.

(6) It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.

History.—s. 1, ch. 67-469; s. 1, ch. 69-335; s. 1, ch. 74-177; s. 2, ch. 75-208; s. 698, ch. 95-147.

112.312 Definitions.—As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(1) "Advisory body" means any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than 1 percent

of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations.

(2) "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district as defined in s. 189.012.

(3) "Breach of the public trust" means a violation of a provision of the State Constitution or this part which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests, including, without limitation, a violation of s. 8, Art. II of the State Constitution or of this part.

(4) "Business associate" means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or coowner of property.

(5) "Business entity" means any corporation, partnership, limited partnership, company, limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.

(6) "Candidate" means any person who has filed a statement of financial interest and qualification papers, has subscribed to the candidate's oath as required by s. 99.021, and seeks by election to become a public officer. This definition expressly excludes a committeeman or committeewoman regulated by chapter 103 and persons seeking any other office or position in a political party.

(7) "Commission" means the Commission on Ethics created by s. 112.320 or any successor to which its duties are transferred.

(8) "Conflict" or "conflict of interest" means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(9) "Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

(10) "Disclosure period" means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.

(11) "Facts materially related to the complaint at issue" means facts which tend to show a violation of this part or s. 8, Art. II of the State Constitution by the alleged violator other than those alleged in the complaint and consisting of separate instances of the same or similar conduct as alleged in the

complaint, or which tend to show an additional violation of this part or s. 8, Art. II of the State Constitution by the alleged violator which arises out of or in connection with the allegations of the complaint.

(12)(a) "Gift," for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:

1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.
4. The use of tangible or intangible personal property.
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
6. Forgiveness of an indebtedness.
7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
8. Food or beverage.
9. Membership dues.
10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Plants, flowers, or floral arrangements.
12. Services provided by persons pursuant to a professional license or certificate.
13. Other personal services for which a fee is normally charged by the person providing the services.
14. Any other similar service or thing having an attributable value not already provided for in this section.

(b) "Gift" does not include:

1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.
2. Except as provided in s. 112.31485, contributions or expenditures reported pursuant to chapter 106, contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party or affiliated party committee.
3. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.

4. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.
 5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.
 6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.
 7. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.
 8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.
- (c) For the purposes of paragraph (a), "intangible personal property" means property as defined in s. 192.001(11)(b).
- (d) For the purposes of paragraph (a), the term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.
- (13) "Indirect" or "indirect interest" means an interest in which legal title is held by another as trustee or other representative capacity, but the equitable or beneficial interest is held by the person required to file under this part.
- (14) "Liability" means any monetary debt or obligation owed by the reporting person to another person, entity, or governmental entity, except for credit card and retail installment accounts, taxes owed unless reduced to a judgment, indebtedness on a life insurance policy owed to the company of issuance, contingent liabilities, or accrued income taxes on net unrealized appreciation. Each liability which is required to be disclosed by s. 8, Art. II of the State Constitution shall identify the name and address of the creditor.
- (15) "Material interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity. For the purposes of this act, indirect ownership does not include ownership by a spouse or minor child.
- (16) "Materially affected" means involving an interest in real property located within the jurisdiction of the official's agency or involving an investment in a business entity, a source of income or a position of employment, office, or management in any business entity located within the jurisdiction or doing business within the jurisdiction of the official's agency which is or will be affected in a substantially different manner or degree than the manner or degree in which the public in general

will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.

(17) "Ministerial matter" means action that a person takes in a prescribed manner in obedience to the mandate of legal authority, without the exercise of the person's own judgment or discretion as to the propriety of the action taken.

(18) "Parties materially related to the complaint at issue" means any other public officer or employee within the same agency as the alleged violator who has engaged in the same conduct as that alleged in the complaint, or any other public officer or employee who has participated with the alleged violator in the alleged violation as a coconspirator or as an aider and abettor.

(19) "Person or business entities provided a grant or privilege to operate" includes state and federally chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage companies, credit unions, small loan companies, alcoholic beverage licensees, pari-mutuel wagering companies, utility companies, and entities controlled by the Public Service Commission or granted a franchise to operate by either a city or county government.

(20) "Purchasing agent" means a public officer or employee having the authority to commit the expenditure of public funds through a contract for, or the purchase of, any goods, services, or interest in real property for an agency, as opposed to the authority to request or requisition a contract or purchase by another person.

(21) "Relative," unless otherwise specified in this part, means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

(22) "Represent" or "representation" means actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client.

(23) "Source" means the name, address, and description of the principal business activity of a person or business entity.

(24) "Value of real property" means the most recently assessed value in lieu of a more current appraisal.

History.—s. 2, ch. 67-469; ss. 11, 12, ch. 68-35; s. 8, ch. 69-353; s. 2, ch. 74-177; s. 1, ch. 75-196; s. 1, ch. 75-199; s. 3, ch. 75-208; s. 4, ch. 76-18; s. 1, ch. 77-174; s. 2, ch. 82-98; s. 1, ch. 83-282; s. 2, ch. 90-502; s. 2, ch. 91-85; s. 3, ch. 91-292; s. 699, ch. 95-147; s. 1, ch. 96-328; s. 1, ch. 2000-243; ss. 28, 30, ch. 2011-6; s. 75, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 1, ch. 2013-36; s. 3, ch. 2014-22.

112.3125 Dual public employment.—

(1) As used in this section, the term “public officer” includes any person who is elected to state or local office or, for the period of his or her candidacy, any person who has qualified as a candidate for state or local office.

(2) A public officer may not accept public employment with the state or any of its political subdivisions if the public officer knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the public officer’s office or candidacy.

(3) Any public employment accepted by a public officer must meet all of the following conditions:

(a) The position was already in existence or was created by the employer without the knowledge or anticipation of the public officer’s interest in such position;

(b) The position was publicly advertised;

(c) The public officer was subject to the same application and hiring process as other candidates for the position; and

(d) The public officer meets or exceeds the required qualifications for the position.

(4) A person who was employed by the state or any of its political subdivisions before qualifying as a public officer for his or her current term of office or the next available term of office may continue his or her employment. However, he or she may not accept promotion, advancement, additional compensation, or anything of value that he or she knows, or with the exercise of reasonable care should know, is provided or given as a result of his or her election or position, or that is otherwise inconsistent with the promotion, advancement, additional compensation, or anything of value provided or given an employee who is similarly situated.

(5) This section may not be interpreted as authorizing employment that is otherwise prohibited by law.

History.—s. 2, ch. 2013-36.

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(1) **DEFINITION.**—As used in this section, unless the context otherwise requires, the term “public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) **SOLICITATION OR ACCEPTANCE OF GIFTS.**—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value

to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(3) **DOING BUSINESS WITH ONE'S AGENCY.**—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

(4) **UNAUTHORIZED COMPENSATION.**—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) **SALARY AND EXPENSES.**—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) **MISUSE OF PUBLIC POSITION.**—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

(7) **CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.**—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION.—A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Governors of the State University System; and the president, provost, vice presidents, and deans of each state university.

(VI) Any person, including an other-personal-services employee, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3.a. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

b. For a period of 2 years following vacation of office, a former member of the Legislature may not act as a lobbyist for compensation before an executive branch agency, agency official, or employee. The terms used in this sub-subparagraph have the same meanings as provided in s. 112.3215.

4. An agency employee, including an agency employee who was employed on July 1, 2001, in a Career Service System position that was transferred to the Selected Exempt Service System under chapter 2001-43, Laws of Florida, may not personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

- a. A person employed by the Legislature or other agency prior to July 1, 1989;
- b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;
- c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;
- d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or
- e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

(10) EMPLOYEES HOLDING OFFICE.—

(a) No employee of a state agency or of a county, municipality, special taxing district, or other political subdivision of the state shall hold office as a member of the governing board, council, commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.

(b) The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.

(11) PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD MEMBERS.—No officer, director, or administrator of a Florida state, county, or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

(12) EXEMPTION.—The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the

advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer or an officer of any district within a county, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it appears in the records of the agency that the governing

body of the agency has determined that such officer or member of a public board or body has not favored such bank over other qualified banks.

(h) The transaction is made pursuant to s. 1004.22 or s. 1004.23 and is specifically approved by the president and the chair of the university board of trustees. The chair of the university board of trustees shall submit to the Governor and the Legislature by March 1 of each year a report of the transactions approved pursuant to this paragraph during the preceding year.

(i) The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and:

1. The price and terms of the transaction are available to similarly situated members of the general public; and

2. The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

(13) COUNTY AND MUNICIPAL ORDINANCES AND SPECIAL DISTRICT AND SCHOOL DISTRICT RESOLUTIONS REGULATING FORMER OFFICERS OR EMPLOYEES.—The governing body of any county or municipality may adopt an ordinance and the governing body of any special district or school district may adopt a resolution providing that an appointed county, municipal, special district, or school district officer or a county, municipal, special district, or school district employee may not personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining. Nothing in this section may be construed to prohibit such ordinance or resolution.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection:

(a) The “government body or agency” of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.

(b) The “government body or agency” of any other county elected officer is the office or department headed by that officer, including all subordinate employees.

(c) The “government body or agency” of an elected municipal officer consists of the governing body of the municipality, the chief administrative officer or employee of the municipality, and their immediate support staff.

(d) The "government body or agency" of an elected special district officer is the special district.

(e) The "government body or agency" of an elected school district officer is the school district.

(15) ADDITIONAL EXEMPTION.—No elected public officer shall be held in violation of subsection (7) if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the officer's agency and:

(a) The officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;

(b) The officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the agency, or otherwise; and

(c) The officer abstains from voting on any matter which may come before the agency involving the officer's employer, publicly states to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s. 112.3143.

(16) LOCAL GOVERNMENT ATTORNEYS.—

(a) For the purposes of this section, "local government attorney" means any individual who routinely serves as the attorney for a unit of local government. The term shall not include any person who renders legal services to a unit of local government pursuant to contract limited to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. For the purposes of this section, "unit of local government" includes, but is not limited to, municipalities, counties, and special districts.

(b) It shall not constitute a violation of subsection (3) or subsection (7) for a unit of local government to contract with a law firm, operating as either a partnership or a professional association, or in any combination thereof, or with a local government attorney who is a member of or is otherwise associated with the law firm, to provide any or all legal services to the unit of local government, so long as the local government attorney is not a full-time employee or member of the governing body of the unit of local government. However, the standards of conduct as provided in subsections (2), (4), (5), (6), and (8) shall apply to any person who serves as a local government attorney.

(c) No local government attorney or law firm in which the local government attorney is a member, partner, or employee shall represent a private individual or entity before the unit of local government to which the local government attorney provides legal services. A local government attorney whose contract with the unit of local government does not include provisions that authorize or mandate the use of the law firm of the local government attorney to complete legal services for the unit of local government shall not recommend or otherwise refer legal work to that attorney's law firm to be completed for the unit of local government.

(17) BOARD OF GOVERNORS AND BOARDS OF TRUSTEES.—No citizen member of the Board of Governors of the State University System, nor any citizen member of a board of trustees of a local constituent university, shall have or hold any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. 11.045.

History.—s. 3, ch. 67-469; s. 2, ch. 69-335; ss. 10, 35, ch. 69-106; s. 3, ch. 74-177; ss. 4, 11, ch. 75-208; s. 1, ch. 77-174; s. 1, ch. 77-349; s. 4, ch. 82-98; s. 2, ch. 83-26; s. 6, ch. 83-282; s. 14, ch. 85-80; s. 12, ch. 86-145; s. 1, ch. 88-358; s. 1, ch. 88-408; s. 3, ch. 90-502; s. 3, ch. 91-85; s. 4, ch. 91-292; s. 1, ch. 92-35; s. 1, ch. 94-277; s. 1406, ch. 95-147; s. 3, ch. 96-311; s. 34, ch. 96-318; s. 41, ch. 99-2; s. 29, ch. 2001-266; s. 20, ch. 2002-1; s. 894, ch. 2002-387; s. 2, ch. 2005-285; s. 2, ch. 2006-275; s. 10, ch. 2007-217; s. 16, ch. 2011-34; s. 3, ch. 2013-36.

112.3135 Restriction on employment of relatives.—

(1) In this section, unless the context otherwise requires:

(a) “Agency” means:

1. A state agency, except an institution under the jurisdiction of the Board of Governors of the State University System;
2. An office, agency, or other establishment in the legislative branch;
3. An office, agency, or other establishment in the judicial branch;
4. A county;
5. A city; and
6. Any other political subdivision of the state, except a district school board or community college district.

(b) “Collegial body” means a governmental entity marked by power or authority vested equally in each of a number of colleagues.

(c) “Public official” means an officer, including a member of the Legislature, the Governor, and a member of the Cabinet, or an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency, including the authority as a member of a collegial body to vote on the appointment, employment, promotion, or advancement of individuals.

(d) “Relative,” for purposes of this section only, with respect to a public official, means an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(2)(a) A public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a

relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member. However, this subsection shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population. This subsection does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide.

(b) Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

(3) An agency may prescribe regulations authorizing the temporary employment, in the event of an emergency as defined in s. 252.34, of individuals whose employment would be otherwise prohibited by this section.

(4) Legislators' relatives may be employed as pages or messengers during legislative sessions.

History.—ss. 1, 2, 3, ch. 69-341; ss. 15, 35, ch. 69-106; s. 70, ch. 72-221; s. 3, ch. 83-334; s. 1, ch. 89-67; s. 4, ch. 90-502; s. 2, ch. 94-277; s. 1407, ch. 95-147; s. 1, ch. 98-160; s. 42, ch. 99-2; s. 11, ch. 2007-217; s. 47, ch. 2011-142.

Note.—Former s. 116.111.

112.3136 Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.—The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision, for the purposes of the following sections, are public officers and employees who are subject to the following standards of conduct of this part:

(1) Section 112.313, and their "agency" is the political subdivision that they serve; however, the contract under which the business entity serves as chief executive or administrative officer of the political subdivision is not deemed to violate s. 112.313(3) or (7).

(2) Section 112.3145, as a "local officer."

(3) Sections 112.3148 and 112.3149, as a "reporting individual."

History.—s. 1, ch. 2009-126.

112.3142 Ethics training for specified constitutional officers and elected municipal officers.—

(1) As used in this section, the term "constitutional officers" includes the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state

attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

(2)(a) All constitutional officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(b) Beginning January 1, 2015, all elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(c) The commission shall adopt rules establishing minimum course content for the portion of an ethics training class which addresses s. 8, Art. II of the State Constitution and the Code of Ethics for Public Officers and Employees.

(d) The Legislature intends that a constitutional officer or elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer or elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

(3) Each house of the Legislature shall provide for ethics training pursuant to its rules.

History.—s. 4, ch. 2013-36; s. 2, ch. 2014-183.

112.31425 Qualified blind trusts.—

(1) The Legislature finds that if a public officer creates a trust and does not control the interests held by the trust, his or her official actions will not be influenced or appear to be influenced by private considerations.

(2) If a public officer holds a beneficial interest in a qualified blind trust as described in this section, he or she does not have a conflict of interest prohibited under s. 112.313(3) or (7) or a voting conflict of interest under s. 112.3143 with regard to matters pertaining to that interest.

(3) The public officer may not attempt to influence or exercise any control over decisions regarding the management of assets in a qualified blind trust. The public officer or any person having a beneficial interest in the qualified blind trust may not make any effort to obtain information with respect to the

holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto, except as otherwise provided in this section.

(4) Except for communications that consist solely of requests for distributions of cash or other unspecified assets of the trust, the public officer or the person who has a beneficial interest may not have any direct or indirect communication with the trustee with respect to the trust, unless such communication is in writing and relates only to:

(a) A distribution from the trust which does not specify the source or assets within the trust from which the distribution is to be made in cash or in kind;

(b) The general financial interests and needs of the public officer or the person who has a beneficial interest, including, but not limited to, an interest in maximizing income or long-term capital gain;

(c) A notification of the trustee of a law or regulation subsequently applicable to the public officer which prohibits the officer from holding an asset and directs that the asset not be held by the trust; or

(d) A direction to the trustee to sell all of an asset initially placed in the trust by the public officer which, in the determination of the public officer, creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the public officer.

(5) The public officer shall report the beneficial interest in the qualified blind trust and its value as an asset on his or her financial disclosure form, if the value is required to be disclosed. The public officer shall report the blind trust as a primary source of income on his or her financial disclosure forms and its amount, if the amount of income is required to be disclosed. The public officer is not required to report as a secondary source of income any source of income to the blind trust.

(6) In order to constitute a qualified blind trust, the trust established by the public officer must meet the following requirements:

(a) The appointed trustee must be a bank, trust company, or other institutional fiduciary or an individual who is an attorney, certified public accountant, broker, or investment advisor. If the trustee is an individual or if the trustee is a bank, trust company, or other institutional fiduciary, the individual responsible for managing the trust may not be:

1. The public officer's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin, or the spouse of any such person;
2. A person who is an elected or appointed public officer or a public employee;
3. A person who has been appointed to serve in an agency by the public officer or by a public officer or public employee supervised by the public officer; or
4. A business associate or principal of the public officer.

(b) All assets in the trust must be free of any restrictions with respect to their transfer or sale. The trust may not contain investments or assets the transfer of which by the trustee is improbable or impractical without the public officer's knowledge.

(c) The trust agreement must:

1. Contain a statement that its purpose is to remove from the grantor control and knowledge of investment of trust assets so that conflicts between the grantor's responsibilities as a public officer and his or her private interests are eliminated.
2. Give the trustee complete discretion to manage the trust, including, but not limited to, the power to dispose of and acquire trust assets without consulting or notifying the covered public officer or the person having a beneficial interest in the trust.
3. Prohibit communication between the trustee and the public officer, or the person who has a beneficial interest in the trust, concerning the holdings or sources of income of the trust, except amounts of cash value or net income or loss, if such report does not identify any asset or holding, or except as provided in this section.
4. Provide that the trust tax return is prepared by the trustee or his or her designee and that any information relating thereto is not disclosed to the public officer or to the person who has a beneficial interest, except as provided in this section.
5. Permit the trustee to notify the public officer of the date of disposition and value at disposition of any original investment or interest in real property to the extent required by federal tax law so that the information can be reported on the public officer's applicable tax returns.
6. Prohibit the trustee from disclosing to the public officer or the person who has a beneficial interest any information concerning replacement assets to the trust, except for the minimum tax information necessary to enable the public official to complete an individual tax return required by law.

(d) Within 5 business days after the agreement is executed, the public officer shall file with the commission a notice setting forth:

1. The date that the agreement is executed.
2. The name and address of the trustee.
3. The acknowledgment by the trustee that he or she has agreed to serve as trustee.
4. A certification by the trustee on a form prescribed by the commission that the trust meets all of the requirements of this section. In lieu of said certification, the public officer may file a copy of the trust agreement.
5. A complete list of assets placed in the trust that the public officer would be required to disclose pursuant to s. 112.3144 or s. 112.3145.

(7) If the trust is revoked while the covered public official is a public officer, or if the covered public official learns of any replacement assets that have been added to the trust, the covered public official shall file an amendment to his or her most recent financial disclosure statement. The amendment shall be filed no later than 60 days after the date of revocation or the addition of the replacement assets. The covered public official shall disclose the previously unreported pro rata share

of the trust's interests in investments or income deriving from any such investments. For purposes of this section, any replacement asset that becomes known to the covered public official shall thereafter be treated as though it were an original asset of the trust.

History.—s. 5, ch. 2013-36.

112.3143 Voting conflicts.—

(1) As used in this section:

(a) "Principal by whom retained" means an individual or entity, other than an agency as defined in s. 112.312(2), that for compensation, salary, pay, consideration, or similar thing of value, has permitted or directed another to act for the individual or entity, and includes, but is not limited to, one's client, employer, or the parent, subsidiary, or sibling organization of one's client or employer.

(b) "Public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(c) "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(d) "Special private gain or loss" means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered.

(2)(a) A state public officer may not vote on any matter that the officer knows would inure to his or her special private gain or loss. Any state public officer who abstains from voting in an official capacity upon any measure that the officer knows would inure to the officer's special private gain or loss, or who votes in an official capacity on a measure that he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained other than an agency as defined in s.

112.312(2); or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer, shall make every reasonable effort to disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the

minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for the state public officer to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

(b) A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection.

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(b) However, a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was

made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term “participate” means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer’s direction.

(5) If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

(6) Whenever a public officer or former public officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

History.—s. 6, ch. 75-208; s. 2, ch. 84-318; s. 1, ch. 84-357; s. 2, ch. 86-148; s. 5, ch. 91-85; s. 3, ch. 94-277; s. 1408, ch. 95-147; s. 43, ch. 99-2; s. 6, ch. 2013-36.

112.3144 Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics. Additionally, beginning January 1, 2015, an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(2) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall not be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. If an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

(3) For purposes of full and public disclosure under s. 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over \$1,000 in the aggregate, may be reported in a lump sum and identified as “household goods and personal effects”:

(a) Jewelry;

- (b) Collections of stamps, guns, and numismatic properties;
- (c) Art objects;
- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles for personal use.

(4)(a) With respect to reporting, on forms prescribed under this section, assets valued in excess of \$1,000 which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets that are held jointly, with right of survivorship, must be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own a percentage of a partnership which is equal to the reporting individual's interest in the capital or equity of the partnership.

(b)1. With respect to reporting liabilities valued in excess of \$1,000 on forms prescribed under this section for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.

2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.

(5) Forms for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution shall be created by the Commission on Ethics. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names and addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. In compiling the list, the commission shall be assisted by each unit of government in providing at the request of the commission the name, address, and name of the office held by each public official within the respective unit of government.

(b) Not later than 30 days before July 1 of each year, the commission shall mail a copy of the form prescribed for compliance with full and public disclosure and a notice of the filing deadline to each person on the mailing list.

(c) Not later than 30 days after July 1 of each year, the commission shall determine which persons on the mailing list have failed to file full and public disclosure and shall send delinquency notices by certified mail to such persons. Each notice shall state that a grace period is in effect until September 1 of the current year.

(d) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been

filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.

(e) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:
 - a. When a statement is actually received by the office.
 - b. When the statement is postmarked.
 - c. When the certificate of mailing is dated.
 - d. When the receipt from an established courier company is dated.
2. Upon receipt of the disclosure statement or upon accrual of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys shall be deposited into the General Revenue Fund.
3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be made within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

(f) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's mailing list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(g) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and

the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (7).

(h) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(6) If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a full and public disclosure of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.

(7) Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection.

(8)(a) The commission shall treat an amended full and public disclosure of financial interests which is filed before September 1 of the year in which the disclosure is due as the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amended full and public disclosure of financial interests correcting any errors. If the filer does not file an amended full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final full and public disclosure of financial interests, the commission shall treat a new final full and public disclosure of financial interests as the original filing if filed within 60 days after the original filing, regardless of whether a complaint has been filed. If, more than 60 days after a final full and public disclosure of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint, other than notifying the filer of the complaint. The filer must be given 30 days to file a new final full and public disclosure of financial interests correcting any errors. If the filer does not file a new final full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(9)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual required to file is not a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(10) The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

History.—s. 1, ch. 82-98; s. 3, ch. 88-358; s. 19, ch. 91-45; s. 4, ch. 94-277; s. 1409, ch. 95-147; s. 2, ch. 2000-243; s. 30, ch. 2000-258; s. 127, ch. 2003-261; s. 3, ch. 2006-275; s. 7, ch. 2013-36; s. 3, ch. 2014-183.

112.31445 Electronic filing system; full and public disclosure of financial interests.—

(1) As used in this section, the term “electronic filing system” means an Internet system for recording and reporting full and public disclosure of financial interests or any other form that is required pursuant to s. 112.3144.

(2) Beginning with the 2012 filing year, all full and public disclosures of financial interests filed with the commission pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must be scanned and made publicly available by the commission through a searchable Internet database.

(3) By December 1, 2015, the commission shall submit a proposal to the President of the Senate and the Speaker of the House of Representatives for a mandatory electronic filing system. The proposal must, at a minimum:

(a) Provide for access through the Internet.

(b) Establish a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software.

(c) Provide for direct completion of the full and public disclosure of financial interests forms as well as upload such information using software approved by the commission.

(d) Provide a secure method that prevents unauthorized access to electronic filing system functions.

(e) Provide a method for an attorney or certified public accountant licensed in this state to sign the disclosure form to indicate that he or she prepared the form in accordance with s. 112.3144 and the instructions for completing and filing the disclosure form and that, upon his or her reasonable knowledge and belief, the form is true and correct.

(f) Address whether additional statutory or rulemaking authority is necessary for implementation of the system, and must include, at a minimum, the following elements: alternate filing procedures to be used in the event that the commission’s electronic filing system is inoperable, issuance of an electronic receipt via electronic mail indicating and verifying to the individual who submitted the full and public disclosure of financial interests form that the form has been filed, and a determination of the feasibility and necessity of including statements of financial interests filed pursuant to s. 112.3145 in the proposed system.

History.—s. 8, ch. 2013-36.

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires, the term:

(a) “Local officer” means:

1. Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. Any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision of the state:

- a. The governing body of the political subdivision, if appointed;
- b. A community college or junior college district board of trustees;
- c. A board having the power to enforce local code provisions;
- d. A planning or zoning board, board of adjustment, board of appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and such other groups who only have the power to make recommendations to planning or zoning boards;
- e. A pension board or retirement board having the power to invest pension or retirement funds or the power to make a binding determination of one's entitlement to or amount of a pension or other retirement benefit; or
- f. Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

3. Any person holding one or more of the following positions: mayor; county or city manager; chief administrative employee of a county, municipality, or other political subdivision; county or municipal attorney; finance director of a county, municipality, or other political subdivision; chief county or municipal building code inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator, with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; district school superintendent; community college president; district medical examiner; or purchasing agent having the authority to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY ONE, on behalf of any political subdivision of the state or any entity thereof.

(b) "Specified state employee" means:

1. Public counsel created by chapter 350, an assistant state attorney, an assistant public defender, a criminal conflict and civil regional counsel, an assistant criminal conflict and civil regional counsel, a full-time state employee who serves as counsel or assistant counsel to any state agency, the Deputy Chief Judge of Compensation Claims, a judge of compensation claims, an administrative law judge, or a hearing officer.
2. Any person employed in the office of the Governor or in the office of any member of the Cabinet if that person is exempt from the Career Service System, except persons employed in clerical, secretarial, or similar positions.

3. The State Surgeon General or each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council; unless otherwise provided, the division director, assistant division director, deputy director, bureau chief, and assistant bureau chief of any state department or division; or any person having the power normally conferred upon such persons, by whatever title.

4. The superintendent or institute director of a state mental health institute established for training and research in the mental health field or the warden or director of any major state institution or facility established for corrections, training, treatment, or rehabilitation.

5. Business managers, purchasing agents having the power to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY ONE, finance and accounting directors, personnel officers, or grants coordinators for any state agency.

6. Any person, other than a legislative assistant exempted by the presiding officer of the house by which the legislative assistant is employed, who is employed in the legislative branch of government, except persons employed in maintenance, clerical, secretarial, or similar positions.

7. Each employee of the Commission on Ethics.

(c) "State officer" means:

1. Any elected public officer, excluding those elected to the United States Senate and House of Representatives, not covered elsewhere in this part and any person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. An appointed member of each board, commission, authority, or council having statewide jurisdiction, excluding a member of an advisory body.

3. A member of the Board of Governors of the State University System or a state university board of trustees, the Chancellor and Vice Chancellors of the State University System, and the president of a state university.

4. A member of the judicial nominating commission for any district court of appeal or any judicial circuit.

(2)(a) A person seeking nomination or election to a state or local elective office shall file a statement of financial interests together with, and at the same time he or she files, qualifying papers. When a candidate has qualified for office prior to the deadline to file an annual statement of financial interests, the statement of financial interests that is filed with the candidate's qualifying papers shall be deemed to satisfy the annual disclosure requirement of this section. The qualifying officer must record that the statement of financial interests was timely filed. However, if a candidate does not qualify until after the annual statement of financial interests has been filed, the candidate may file a copy of his or her statement with the qualifying officer.

(b) Each state or local officer and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state

employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(c) State officers and specified state employees shall file their statements of financial interests with the Commission on Ethics. Local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Local officers who do not permanently reside in any county in the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.

(3) The statement of financial interests for state officers, specified state employees, local officers, and persons seeking to qualify as candidates for state or local office shall be filed even if the reporting person holds no financial interests requiring disclosure, in which case the statement shall be marked "not applicable." Otherwise, the statement of financial interests shall include, at the filer's option, either:

(a)1. All sources of income in excess of 5 percent of the gross income received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received an amount which was in excess of 10 percent of his or her gross income during the disclosure period and which exceeds \$1,500. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residences and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal

property worth in excess of 10 percent of such person's total assets. For the purposes of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every individual liability that equals more than the reporting person's net worth; or

(b)1. All sources of gross income in excess of \$2,500 received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received gross income exceeding \$5,000 during the disclosure period. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residence and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of \$10,000. For the purpose of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every liability in excess of \$10,000.

A person filing a statement of financial interests shall indicate on the statement whether he or she is using the method specified in paragraph (a) or paragraph (b).

(4) Beginning January 1, 2015, an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her statement of financial interests that he or she has completed the required training.

(5) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has

actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity. Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

(6) Each elected constitutional officer and each candidate for such office, any other public officer required pursuant to s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests, and each state officer, local officer, specified state employee, and candidate for elective public office who is or was during the disclosure period an officer, director, partner, proprietor, or agent, other than a resident agent solely for service of process, of, or owns or owned during the disclosure period a material interest in, any business entity which is granted a privilege to operate in this state shall disclose such facts as a part of the disclosure form filed pursuant to s. 8, Art. II of the State Constitution or this section, as applicable. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest.

(7) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a)1. Not later than May 1 of each year, the commission shall prepare a current list of the names and addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. In compiling the list, the commission shall be assisted by each unit of government in providing, at the request of the commission, the name, address, and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government.

2. Not later than May 15 of each year, the commission shall provide each supervisor of elections with a current mailing list of all local officers required to file with such supervisor of elections.

(b) Not later than 30 days before July 1 of each year, the commission and each supervisor of elections, as appropriate, shall mail a copy of the form prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests.

(c) Not later than 30 days after July 1 of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their

respective offices have failed to do so and shall send delinquency notices by certified mail, return receipt requested, to these persons. Each notice shall state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; for notices sent by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317.

(d) No later than November 15 of each year, the supervisor of elections in each county shall certify to the commission a list of the names and addresses of, and the offices or positions held by, all persons who have failed to timely file the required statements of financial interests. The certification must include the earliest of the dates described in subparagraph (f)1. The certification shall be on a form prescribed by the commission and shall indicate whether the supervisor of elections has provided the disclosure forms and notice as required by this subsection to all persons named on the delinquency list.

(e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.

(f) Any person who is required to file a statement of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however, this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:
 - a. When a statement is actually received by the office.
 - b. When the statement is postmarked.
 - c. When the certificate of mailing is dated.
 - d. When the receipt from an established courier company is dated.
2. For a specified state employee or a state officer, upon receipt of the disclosure statement by the commission or upon accrual of the maximum penalty, whichever occurs first, and for a local officer

upon receipt by the commission of the certification from the local officer's supervisor of elections pursuant to paragraph (d), the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. The fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys are to be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be made within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

(g) Any state officer, local officer, or specified employee whose name is not on the mailing list of persons required to file an annual statement of financial interests is not subject to the penalties provided in s. 112.317 or the fine provided in this section for failure to timely file a statement of financial interests in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h) The notification requirements and fines of this subsection do not apply to candidates or to the first or final filing required of any state officer, specified employee, or local officer as provided in paragraph (2)(b).

(i) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such a fine to a collection agent as provided in s. 17.20.

(8)(a) The appointing official or body shall notify each newly appointed local officer, state officer, or specified state employee, not later than the date of appointment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The agency head of each employing agency shall notify each newly employed local officer or specified state employee, not later than the day of employment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The appointing official or body or employing agency head may designate a person to be responsible for the notification requirements of this paragraph.

(b) The agency head of the agency of each local officer, state officer, or specified state employee who is required to file a statement of financial interests for the final disclosure period shall notify such

persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this paragraph.

(c) If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.

(9) A public officer who has filed a disclosure for any calendar or fiscal year shall not be required to file a second disclosure for the same year or any part thereof, notwithstanding any requirement of this act, except that any public officer who qualifies as a candidate for public office shall file a copy of the disclosure with the officer before whom he or she qualifies as a candidate at the time of qualification.

(10)(a) The commission shall treat an amended annual statement of financial interests which is filed before September 1 of the year in which the statement is due as the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amended statement of financial interests correcting any errors. If the filer does not file an amended statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final statement of financial interests, the commission shall treat a new final statement of financial interests as the original filing, if filed within 60 days of the original filing regardless of whether a complaint has been filed. If, more than 60 days after a final statement of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file a new final statement of financial interests correcting any errors. If the filer does not file a new final statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of

interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(11)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual who is required to file the disclosure does not constitute a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(12) The commission shall adopt rules and forms specifying how a state officer, local officer, or specified state employee may amend his or her statement of financial interests to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

History.—s. 5, ch. 74-177; ss. 2, 6, ch. 75-196; s. 2, ch. 76-18; s. 1, ch. 77-174; s. 63, ch. 77-175; s. 54, ch. 79-40; s. 3, ch. 82-98; s. 2, ch. 83-128; ss. 2, 5, ch. 83-282; s. 3, ch. 84-318; s. 1, ch. 88-316; s. 1, ch. 90-169; s. 5, ch. 90-502; s. 27, ch. 91-46; s. 6, ch. 91-85; s. 6, ch. 91-292; ss. 5, 13, ch. 94-277; s. 3, ch. 94-340; s. 1410, ch. 95-147; s. 14, ch. 96-410; s. 31, ch. 97-286; s. 17, ch. 99-399; s. 2, ch. 2000-161; s. 3, ch. 2000-243; s. 31, ch. 2000-258; s. 23, ch. 2000-372; s. 3, ch. 2001-91; s. 2, ch. 2001-282; s. 128, ch. 2003-261; s. 4, ch. 2006-275; s. 12, ch. 2007-217; s. 7, ch. 2008-6; s. 9, ch. 2013-36; s. 4, ch. 2014-183.

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

(2) If the commission determines that the individual who is the subject of an unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) is no longer a public officer or public employee or if the commission is unable to determine whether the individual is a current public officer or public employee, the commission may, 6 months after the order becomes final, seek garnishment of any wages to satisfy the amount of the fine, or any unpaid portion thereof, pursuant to chapter 77. Upon recording the order imposing the fine with the clerk of the circuit court, the order shall be deemed a judgment for purposes of garnishment pursuant to chapter 77.

(3) The commission may refer unpaid fines to the appropriate collection agency, as directed by the Chief Financial Officer, to utilize any collection methods provided by law. Except as expressly limited by this section, any other collection methods authorized by law are allowed.

(4) Action may be taken to collect any unpaid fine imposed by ss. 112.3144 and 112.3145 within 20 years after the date the final order is rendered.

History.—s. 10, ch. 2013-36; s. 10, ch. 2015-2.

112.3146 Public records.—The statements required by ss. 112.313, 112.3145, 112.3148, and 112.3149 shall be public records within the meaning of s. 119.01.

History.—s. 6, ch. 74-177; s. 6, ch. 90-502; s. 7, ch. 91-85.

112.3147 Forms.—Except as otherwise provided, all information required to be furnished by ss. 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149 and by s. 8, Art. II of the State Constitution shall be on forms prescribed by the Commission on Ethics.

History.—s. 7, ch. 74-177; s. 3, ch. 76-18; s. 7, ch. 90-502; s. 8, ch. 91-85; s. 12, ch. 2000-243; s. 5, ch. 2006-275; s. 11, ch. 2013-36.

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(1) The provisions of this section do not apply to gifts solicited or accepted by a reporting individual or procurement employee from a relative.

(2) As used in this section:

(a) “Immediate family” means any parent, spouse, child, or sibling.

(b)1. “Lobbyist” means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or

procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as "lobbyists" who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

(c) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(d) "Reporting individual" means any individual, including a candidate upon qualifying, who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office. For purposes of implementing this section, the "agency" of a reporting individual who is not an officer or employee in public service is the agency to which the candidate seeks election, or in the case of an individual elected to but yet to formally take office, the agency in which the individual has been elected to serve.

(e) "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds or is expected to exceed \$10,000 in any fiscal year.

(f) "Vendor" means a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

(3) A reporting individual or procurement employee is prohibited from soliciting any gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or the partner, firm, employer, or principal of such lobbyist, where such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement employee, or any member of the immediate family of a reporting individual or procurement employee.

(4) A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

(5)(a) A vendor doing business with the reporting individual's or procurement employee's agency; a political committee as defined in s. 106.011; a lobbyist who lobbies a reporting individual's or procurement employee's agency; the partner, firm, employer, or principal of a lobbyist; or another on behalf of the lobbyist or partner, firm, principal, or employer of the lobbyist is prohibited from giving, either directly or indirectly, a gift that has a value in excess of \$100 to the reporting individual or procurement employee or any other person on his or her behalf; however, such person may give a gift having a value in excess of \$100 to a reporting individual or procurement employee if the gift is intended to be transferred to a governmental entity or a charitable organization.

(b) However, a person who is regulated by this subsection, who is not regulated by subsection (6), and who makes, or directs another to make, an individual gift having a value in excess of \$25, but not in excess of \$100, other than a gift that the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter for the previous calendar quarter in which a reportable gift is made. The report shall be filed with the Commission on Ethics, except with respect to gifts to reporting individuals of the legislative branch, in which case the report shall be filed with the Office of Legislative Services. The report must contain a description of each gift, the monetary value thereof, the name and address of the person making such gift, the name and address of the recipient of the gift, and the date such gift is given. In addition, if a gift is made which requires the filing of a report under this subsection, the donor must notify the intended recipient at the time the gift is made that the donor, or another on his or her behalf, will report the gift under this subsection. Under this paragraph, a gift need not be reported by more than one person or entity.

(6)(a) Notwithstanding the provisions of subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of \$100 to any reporting individual or procurement employee if a public purpose can be shown

for the gift; and a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.

(b) Notwithstanding the provisions of subsection (4), a reporting individual or procurement employee may accept a gift having a value in excess of \$100 from an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board if a public purpose can be shown for the gift; and a reporting individual or procurement employee who is an officer or employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization.

(c) No later than March 1 of each year, each governmental entity or direct-support organization specifically authorized by law to support a governmental entity which has given a gift to a reporting individual or procurement employee under paragraph (a) shall provide the reporting individual or procurement employee with a statement of each gift having a value in excess of \$100 given to such reporting individual or procurement employee by the governmental entity or direct-support organization during the preceding calendar year. Such report shall contain a description of each gift, the date on which the gift was given, and the value of the total gifts given by the governmental entity or direct-support organization to the reporting individual or procurement employee during the calendar year for which the report is made. A governmental entity may provide a single report to the reporting individual or procurement employee of gifts provided by the governmental entity and any direct-support organization specifically authorized by law to support such governmental entity.

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to the statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics. The report filed by a reporting individual or

procurement employee who left office or employment during the calendar year covered by the report shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(7)(a) The value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities, except as otherwise provided in this subsection, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided shall be used. If additional expenses are required as a condition precedent to eligibility of the donor to purchase or provide a gift and such expenses are primarily for the benefit of the donor or are of a charitable nature, such expenses shall not be included in determining the value of the gift.

(b) Compensation provided by the donee to the donor, if provided within 90 days after receipt of the gift, shall be deducted from the value of the gift in determining the value of the gift.

(c) If the actual gift value attributable to individual participants at an event cannot be determined, the total costs shall be prorated among all invited persons, whether or not they are reporting individuals or procurement employees.

(d) Transportation shall be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses shall be considered a single gift. Transportation provided in a private conveyance shall be given the same value as transportation provided in a comparable commercial conveyance.

(e) Lodging provided on consecutive days shall be considered a single gift. Lodging in a private residence shall be valued at the per diem rate provided in s. 112.061(6)(a)1. less the meal allowance rate provided in s. 112.061(6)(b).

(f) Food and beverages which are not consumed at a single sitting or meal and which are provided on the same calendar day shall be considered a single gift, and the total value of all food and beverages provided on that date shall be considered the value of the gift. Food and beverage consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(g) Membership dues paid to the same organization during any 12-month period shall be considered a single gift.

(h) Entrance fees, admission fees, or tickets shall be valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater.

(i) Except as otherwise specified in this section, a gift shall be valued on a per occurrence basis.

(j) The value of a gift provided to several individuals may be attributed on a pro rata basis among all of the individuals. If the gift is food, beverage, entertainment, or similar items, provided at a function for more than 10 people, the value of the gift to each individual shall be the total value of the

items provided divided by the number of persons invited to the function, unless the items are purchased on a per person basis, in which case the value of the gift to each person is the per person cost.

(k) The value of a gift of an admission ticket shall not include that portion of the cost which represents a charitable contribution, if the gift is provided by the charitable organization.

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

(b) The statement shall include:

1. A description of the gift, the monetary value of the gift, the name and address of the person making the gift, and the dates thereof. If any of these facts, other than the gift description, are unknown or not applicable, the report shall so state.
2. A copy of any receipt for such gift provided to the reporting individual or procurement employee by the donor.

(c) The statement may include an explanation of any differences between the reporting individual's or procurement employee's statement and the receipt provided by the donor.

(d) The reporting individual's or procurement employee's statement shall be sworn to by such person as being a true, accurate, and total listing of all such gifts.

(e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company, which bears a date on or before the due date constitutes proof of mailing in a timely manner.

(f) If a reporting individual or procurement employee has not received any gifts described in paragraph (a) during a calendar quarter, he or she is not required to file a statement under this subsection for that calendar quarter.

(9) A person, other than a lobbyist regulated under s. 11.045, who violates the provisions of subsection (5) commits a noncriminal infraction, punishable by a fine of not more than \$5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to which the gift was given in violation of subsection (5), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action

to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.

(10) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

History.—s. 2, ch. 89-380; s. 8, ch. 90-502; s. 9, ch. 91-85; s. 7, ch. 91-292; s. 6, ch. 94-277; s. 1411, ch. 95-147; s. 2, ch. 96-328; s. 8, ch. 98-136; s. 4, ch. 2000-243; s. 32, ch. 2000-258; s. 8, ch. 2003-159; s. 6, ch. 2006-275; s. 4, ch. 2012-51; s. 12, ch. 2013-36; s. 29, ch. 2013-37; s. 3, ch. 2013-235.

112.31485 Prohibition on gifts involving political committees.—

(1)(a) For purposes of this section, the term “gift” means any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to chapter 106.

(b) For purposes of this section, the term “immediate family” means any parent, spouse, child, or sibling.

(2)(a) A reporting individual or procurement employee or a member of his or her immediate family is prohibited from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee.

(b) A political committee is prohibited from giving, directly or indirectly, any gift to a reporting individual or procurement employee or a member of his or her immediate family.

(3) Any person who violates this section is subject to a civil penalty equal to three times the amount of the gift. Such penalty is in addition to the penalties provided in s. 112.317 and shall be paid to the General Revenue Fund of the state. A reporting individual or procurement employee or a member of his or her immediate family who violates this section is personally liable for payment of the treble penalty. Any agent or person acting on behalf of a political committee who gives a prohibited gift is personally liable for payment of the treble penalty.

History.—s. 13, ch. 2013-36.

112.3149 Solicitation and disclosure of honoraria.—

(1) As used in this section:

(a) “Honorarium” means a payment of money or anything of value, directly or indirectly, to a reporting individual or procurement employee, or to any other person on his or her behalf, as consideration for:

1. A speech, address, oration, or other oral presentation by the reporting individual or procurement employee, regardless of whether presented in person, recorded, or broadcast over the media.

2. A writing by the reporting individual or procurement employee, other than a book, which has been or is intended to be published.

The term "honorarium" does not include the payment for services related to employment held outside the reporting individual's or procurement employee's public position which resulted in the person becoming a reporting individual or procurement employee, any ordinary payment or salary received in consideration for services related to the reporting individual's or procurement employee's public duties, a campaign contribution reported pursuant to chapter 106, or the payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual or procurement employee and spouse.

(b) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(c) "Reporting individual" means any individual who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file a full or limited public disclosure of his or her financial interests.

(d)1. "Lobbyist" means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as "lobbyists" who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

(e) "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds \$10,000 in any fiscal year.

(f) "Vendor" means a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

(2) A reporting individual or procurement employee is prohibited from soliciting an honorarium which is related to the reporting individual's or procurement employee's public office or duties.

(3) A reporting individual or procurement employee is prohibited from knowingly accepting an honorarium from a political committee, as defined in s. 106.011, from a vendor doing business with the reporting individual's or procurement employee's agency, from a lobbyist who lobbies the reporting individual's or procurement employee's agency, or from the employer, principal, partner, or firm of such a lobbyist.

(4) A political committee, as defined in s. 106.011, a vendor doing business with the reporting individual's or procurement employee's agency, a lobbyist who lobbies a reporting individual's or procurement employee's agency, or the employer, principal, partner, or firm of such a lobbyist is prohibited from giving an honorarium to a reporting individual or procurement employee.

(5) A person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee, but who provides a reporting individual or procurement employee, or a reporting individual or procurement employee and his or her spouse, with expenses related to an honorarium event, shall provide to the reporting individual or procurement employee, no later than 60 days after the honorarium event, a statement listing the name and address of the person providing the expenses, a description of the expenses provided each day, and the total value of the expenses provided for the honorarium event.

(6) A reporting individual or procurement employee who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual or procurement employee in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for those expenses received during the previous calendar year. The reporting individual or procurement employee shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (5) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. The attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual statement of a procurement employee shall be filed with the Commission on Ethics. The statement filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the statement shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial

disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(7) A person, other than a lobbyist regulated under s. 11.045, who violates the provisions of subsection (4) commits a noncriminal infraction, punishable by a fine of not more than \$5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to whom the honorarium was paid in violation of subsection (4), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.

(8) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

History.—s. 9, ch. 90-502; s. 7, ch. 94-277; s. 1412, ch. 95-147; s. 5, ch. 2000-243; s. 33, ch. 2000-258; s. 7, ch. 2006-275; s. 14, ch. 2013-36; s. 30, ch. 2013-37.

112.3151 Extensions of time for filing disclosure.—The Commission on Ethics may grant, for good cause, on an individual basis, an extension of time for filing of any disclosure required under the provisions of this part or s. 8(a), Art. II of the State Constitution. However, no extension may extend the filing deadline to a date within 20 days before a primary election. The commission may delegate to its chair the authority to grant any extension of time which the commission itself may grant under this section; however, no extension of time granted by the chair may exceed 45 days. Extensions of time granted under this section shall be exempt from the provisions of chapter 120.

History.—s. 4, ch. 83-282; s. 700, ch. 95-147.

112.316 Construction.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.

History.—s. 6, ch. 67-469; s. 2, ch. 69-335; s. 701, ch. 95-147.

112.317 Penalties.—

(1) Any violation of this part, including, but not limited to, failure to file disclosures required by this part or violation of any standard of conduct imposed by this part, or any violation of s. 8, Art. II of the State Constitution, in addition to any criminal penalty or other civil penalty involved, under applicable constitutional and statutory procedures, constitutes grounds for, and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The

commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in his or her salary level.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The

commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.

8. Public censure and reprimand.

(c) In the case of a candidate who violates this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.
2. Public censure.
3. Reprimand.
4. A civil penalty not to exceed \$10,000.

(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the officer's or employee's leaving public office or employment:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$10,000.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.

(e) In the case of a person who is subject to the standards of this part, other than a lobbyist or lobbying firm under s. 112.3215 for a violation of s. 112.3215, but who is not a public officer or employee:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$10,000.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the person or to the General Revenue Fund.

(2) In any case in which the commission finds a violation of this part or of s. 8, Art. II of the State Constitution and the proper disciplinary official or body under s. 112.324 imposes a civil penalty or restitution penalty, the Attorney General shall bring a civil action to recover such penalty. No defense may be raised in the civil action to enforce the civil penalty or order of restitution that could have been raised by judicial review of the administrative findings and recommendations of the commission by certiorari to the district court of appeal. The Attorney General shall collect any costs, attorney fees, expert witness fees, or other costs of collection incurred in bringing the action.

(3) The penalties prescribed in this part shall not be construed to limit or to conflict with:

(a) The power of either house of the Legislature to discipline its own members or impeach a public officer.

(b) The power of agencies to discipline officers or employees.

(4) Any violation of this part or of s. 8, Art. II of the State Constitution by a public officer constitutes malfeasance, misfeasance, or neglect of duty in office within the meaning of s. 7, Art. IV of the State Constitution.

(5) By order of the Governor, upon recommendation of the commission, any elected municipal officer who violates this part or s. 8, Art. II of the State Constitution may be suspended from office and the office filled by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the Governor. The Senate may, in proceedings prescribed by law, remove from office, or reinstate, the suspended official, and for such purpose the Senate may be convened in special session by its President or by a majority of its membership.

(6) In any case in which the commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with, or any testimony given before, the commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution and taxation of costs.

(7) In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this part, the complainant shall be liable for costs plus reasonable attorney fees incurred in the defense of the person complained against, including the costs and reasonable attorney fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.

History.—s. 7, ch. 67-469; s. 1, ch. 70-144; s. 2, ch. 74-176; s. 8, ch. 74-177; s. 2, ch. 75-199; s. 7, ch. 75-208; s. 5, ch. 82-98; s. 10, ch. 90-502; s. 10, ch. 91-85; s. 8, ch. 94-277; s. 1413, ch. 95-147; s. 1, ch. 95-354; s. 13, ch. 2000-151; s. 8, ch. 2006-275; s. 2, ch. 2009-126; s. 15, ch. 2013-36.

112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(1) **INTENT.**—It is the intent of the Legislature to implement the provisions of s. 8(d), Art. II of the State Constitution.

(2) **DEFINITIONS.**—As used in this section, unless the context otherwise requires, the term:

(a) “Conviction” and “convicted” mean an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or of nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

(b) “Court” means any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense.

(c) “Public officer or employee” means an officer or employee of any public body, political subdivision, or public instrumentality within the state.

(d) “Public retirement system” means any retirement system or plan to which the provisions of part VII of this chapter apply.

(e) “Specified offense” means:

1. The committing, aiding, or abetting of an embezzlement of public funds;
2. The committing, aiding, or abetting of any theft by a public officer or employee from his or her employer;
3. Bribery in connection with the employment of a public officer or employee;
4. Any felony specified in chapter 838, except ss. 838.15 and 838.16;
5. The committing of an impeachable offense;

6. The committing of any felony by a public officer or employee who, willfully and with intent to defraud the public or the public agency for which the public officer or employee acts or in which he or she is employed of the right to receive the faithful performance of his or her duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position; or

7. The committing on or after October 1, 2008, of any felony defined in s. 800.04 against a victim younger than 16 years of age, or any felony defined in chapter 794 against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.

(3) FORFEITURE.—Any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions as of the date of termination.

(4) NOTICE.—

(a) The clerk of a court in which a proceeding involving a specified offense is being conducted against a public officer or employee shall furnish notice of the proceeding to the Commission on Ethics after the state attorney advises the clerk that the defendant is a public officer or employee and that the defendant is alleged to have committed a specified offense. Such notice is sufficient if it is in the form of a copy of the indictment, information, or other document containing the charges. In addition, if a verdict of guilty is returned by a jury or by the court trying the case without a jury, or a plea of guilty or of nolo contendere is entered in the court by the public officer or employee, the clerk shall furnish a copy thereof to the Commission on Ethics.

(b) The Secretary of the Senate shall furnish to the Commission on Ethics notice of any proceeding of impeachment being conducted by the Senate. In addition, if such trial results in conviction, the Secretary of the Senate shall furnish notice of the conviction to the commission.

(c) The employer of any member whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense shall forward notice thereof to the commission.

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the Department of Management Services shall assist the commission in identifying the appropriate public retirement system.

(5) FORFEITURE DETERMINATION.—

(a) Whenever the official or board responsible for paying benefits under a public retirement system receives notice pursuant to subsection (4), or otherwise has reason to believe that the rights and privileges of any person under such system are required to be forfeited under this section, such official or board shall give notice and hold a hearing in accordance with chapter 120 for the purpose of determining whether such rights and privileges are required to be forfeited. If the official or board determines that such rights and privileges are required to be forfeited, the official or board shall order such rights and privileges forfeited.

(b) Any order of forfeiture of retirement system rights and privileges is appealable to the district court of appeal.

(c) The payment of retirement benefits ordered forfeited, except payments drawn from nonemployer contributions to the retiree's account, shall be stayed pending an appeal as to a felony conviction. If such conviction is reversed, no retirement benefits shall be forfeited. If such conviction is affirmed, retirement benefits shall be forfeited as ordered in this section.

(d) If any person's rights and privileges under a public retirement system are forfeited pursuant to this section and that person has received benefits from the system in excess of his or her accumulated contributions, such person shall pay back to the system the amount of the benefits received in excess of his or her accumulated contributions. If he or she fails to pay back such amount, the official or board responsible for paying benefits pursuant to the retirement system or pension plan may bring an action in circuit court to recover such amount, plus court costs.

(6) FORFEITURE NONEXCLUSIVE.—

(a) The forfeiture of retirement rights and privileges pursuant to this section is supplemental to any other forfeiture requirements provided by law.

(b) This section does not preclude or otherwise limit the Commission on Ethics in conducting under authority of other law an independent investigation of a complaint which it may receive against a public officer or employee involving a specified offense.

History.—s. 14, ch. 84-266; s. 4, ch. 90-301; s. 44, ch. 92-279; s. 55, ch. 92-326; s. 22, ch. 94-249; s. 1414, ch. 95-147; s. 13, ch. 99-255; s. 3, ch. 2008-108; s. 14, ch. 2012-100.

112.3175 Remedies; contracts voidable.—

(1) Any contract that has been executed in violation of this part is voidable:

(a) By any party to the contract.

(b) In any circuit court, by any appropriate action, by:

1. The commission.

2. The Attorney General.

3. Any citizen materially affected by the contract and residing in the jurisdiction represented by the officer or agency entering into such contract.

(2) Any contract that has been executed in violation of this part is presumed void with respect to any former employee or former public official of a state agency and is voidable with respect to any private sector third party who employs or retains in any capacity such former agency employee or former public official.

History.—s. 8, ch. 75-208; s. 2, ch. 2001-266.

112.3185 Additional standards for state agency employees.—

(1) For the purposes of this section:

(a) “Contractual services” shall be defined as set forth in chapter 287.

(b) “Agency” means any state officer, department, board, commission, or council of the executive or judicial branch of state government and includes the Public Service Commission.

(2) An agency employee who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services may not become or be, while an agency employee, the employee of a person contracting with the agency by whom the employee is employed.

(3) An agency employee may not, after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract in which the agency employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, or investigation while an officer or employee. When the agency employee’s position is eliminated and his or her duties are performed by the business entity, this subsection does not prohibit him or her from employment or contractual relationship with the business entity if the employee’s participation in the contract was limited to recommendation, rendering of advice, or investigation and if the agency head determines that the best interests of the state will be served thereby and provides prior written approval for the particular employee.

(4) An agency employee may not, within 2 years after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract for contractual services which was within his or her responsibility while an employee. If the agency employee’s position is eliminated and his or her duties are performed by the business entity, this subsection may be waived by the agency head through prior written approval for a particular employee if the agency head determines that the best interests of the state will be served thereby.

(5) The sum of money paid to a former agency employee during the first year after the cessation of his or her responsibilities, by the agency with whom he or she was employed, for contractual services provided to the agency, shall not exceed the annual salary received on the date of cessation of his or her responsibilities. This subsection may be waived by the agency head for a particular contract if the agency head determines that such waiver will result in significant time or cost savings for the state.

(6) An agency employee acting in an official capacity may not directly or indirectly procure contractual services for his or her own agency from any business entity of which a relative is an officer, partner, director, or proprietor or in which the officer or employee or his or her spouse or child, or any combination of them, has a material interest.

(7) A violation of any provision of this section is punishable in accordance with s. 112.317.

(8) This section is not applicable to any employee of the Public Service Commission who was so employed on or before December 31, 1994.

History.—s. 6, ch. 82-196; s. 32, ch. 83-217; s. 2, ch. 90-268; s. 11, ch. 90-502; s. 9, ch. 94-277; s. 1415, ch. 95-147; s. 9, ch. 2006-275.

112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—

(1) **SHORT TITLE.**—Sections 112.3187-112.31895 may be cited as the “Whistle-blower’s Act.”

(2) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public’s health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.

(3) **DEFINITIONS.**—As used in this act, unless otherwise specified, the following words or terms shall have the meanings indicated:

(a) “Agency” means any state, regional, county, local, or municipal government entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.

(b) “Employee” means a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

(c) “Adverse personnel action” means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor.

(d) “Independent contractor” means a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency.

(e) “Gross mismanagement” means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.

(4) ACTIONS PROHIBITED.—

(a) An agency or independent contractor shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this section.

(b) An agency or independent contractor shall not take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under this section.

(c) The provisions of this subsection shall not be applicable when an employee or person discloses information known by the employee or person to be false.

(5) NATURE OF INFORMATION DISCLOSED.—The information disclosed under this section must include:

(a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare.

(b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

(6) TO WHOM INFORMATION DISCLOSED.—The information disclosed under this section must be disclosed to any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act, including, but not limited to, the Office of the Chief Inspector General, an agency inspector general or the employee designated as agency inspector general under s. 112.3189(1) or inspectors general under s. 20.055, the Florida Commission on Human Relations, and the whistle-blower's hotline created under s. 112.3189. However, for disclosures concerning a local governmental entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer as defined in s. 447.203(9) or other appropriate local official.

(7) EMPLOYEES AND PERSONS PROTECTED.—This section protects employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower's hotline or the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs; or employees who file any written complaint to their supervisory officials or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, to the employee designated as agency inspector general under s. 112.3189(1), or to the Florida Commission on Human Relations. The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional

system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration. No remedy or other protection under ss. 112.3187-112.31895 applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. 112.3187-112.31895 is being sought.

(8) REMEDIES.—

(a) Any employee of or applicant for employment with any state agency, as the term “state agency” is defined in s. 216.011, who is discharged, disciplined, or subjected to other adverse personnel action, or denied employment, because he or she engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. 112.31895. Upon receipt of notice from the Florida Commission on Human Relations of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. 112.31895 or bring a civil action within 180 days after receipt of the notice.

(b) Within 60 days after the action prohibited by this section, any local public employee protected by this section may file a complaint with the appropriate local governmental authority, if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings under s. 120.65 to conduct hearings under this section. The administrative procedure created by ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate local governmental authority. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the local governmental authority. Within 180 days after entry of a final decision by the local governmental authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction. If the local governmental authority has not established an administrative procedure by ordinance or contract, a local public employee may, within 180 days after the action prohibited by this section, bring a civil action in a court of competent jurisdiction. For the purpose of this paragraph, the term “local governmental authority” includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing.

(c) Any other person protected by this section may, after exhausting all available contractual or administrative remedies, bring a civil action in any court of competent jurisdiction within 180 days after the action prohibited by this section.

(9) RELIEF.—In any action brought under this section, the relief must include the following:

(a) Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief.

(b) Reinstatement of the employee’s full fringe benefits and seniority rights, as appropriate.

(c) Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action.

(d) Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

(e) Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

(f) Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the Florida Commission on Human Relations, as applicable under s. 112.31895, determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency. This paragraph does not apply to an employee of a municipality.

(10) DEFENSES.—It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by this section.

(11) EXISTING RIGHTS.—Sections 112.3187-112.31895 do not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies in s. 447.401 also applies to whistle-blower actions.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 86-233; s. 1, ch. 91-285; s. 12, ch. 92-316; s. 1, ch. 93-57; s. 702, ch. 95-147; s. 1, ch. 95-153; s. 15, ch. 96-410; s. 20, ch. 99-333; s. 2, ch. 2002-400.

¹112.3188 Confidentiality of information given to the Chief Inspector General, internal auditors, inspectors general, local chief executive officers, or other appropriate local officials.—

(1) The name or identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general, a local chief executive officer, or other appropriate local official information that alleges that an employee or agent of an agency or independent contractor:

(a) Has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare; or

(b) Has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty

may not be disclosed to anyone other than a member of the Chief Inspector General's, agency inspector general's, internal auditor's, local chief executive officer's, or other appropriate local official's staff without the written consent of the individual, unless the Chief Inspector General, internal auditor, agency inspector general, local chief executive officer, or other appropriate local

official determines that: the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime; or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.

(2)(a) Except as specifically authorized by s. 112.3189, all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Florida Commission on Human Relations or the Department of Law Enforcement is confidential and exempt from s. 119.07(1) if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b), and an investigation is active.

(b) All information received by a local chief executive officer or appropriate local official or information produced or derived from fact-finding or investigations conducted pursuant to the administrative procedure established by ordinance by a local government as authorized by s. 112.3187(8)(b) is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b) and an investigation is active.

(c) Information deemed confidential under this section may be disclosed by the Chief Inspector General, agency inspector general, local chief executive officer, or other appropriate local official receiving the information if the recipient determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime. Information disclosed under this subsection may be disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

1. An investigation is active under this section if:

a. It is an ongoing investigation or inquiry or collection of information and evidence and is continuing with a reasonable, good faith anticipation of resolution in the foreseeable future; or

b. All or a portion of the matters under investigation or inquiry are active criminal intelligence information or active criminal investigative information as defined in s. 119.011.

2. Notwithstanding sub-subparagraph 1.a., an investigation ceases to be active when:

a. The written report required under s. 112.3189(9) has been sent by the Chief Inspector General to the recipients named in s. 112.3189(9);

b. It is determined that an investigation is not necessary under s. 112.3189(5); or

c. A final decision has been rendered by the local government or by the Division of Administrative Hearings pursuant to s. 112.3187(8)(b).

3. Notwithstanding paragraphs (a), (b), and this paragraph, information or records received or produced under this section which are otherwise confidential under law or exempt from disclosure under chapter 119 retain their confidentiality or exemption.

4. Any person who willfully and knowingly discloses information or records made confidential under this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 6, ch. 90-247; s. 1, ch. 91-150; s. 3, ch. 91-285; s. 2, ch. 93-57; s. 1, ch. 95-136; s. 2, ch. 95-153; s. 1, ch. 95-166; ss. 36, 37, ch. 96-406; s. 21, ch. 99-333.

¹**Note.**—As amended by s. 1, ch. 95-166, s. 2, ch. 95-153, and s. 36, ch. 96-406; this version of paragraph (2)(a) was also amended by s. 21, ch. 99-333. For a description of multiple acts in the same session affecting a statutory provision, see preface to the *Florida Statutes*, “Statutory Construction.” This section was also amended by s. 1, ch. 95-136, and s. 37, ch. 96-406, and that version reads:

112.3188 Confidentiality of information given to the Chief Inspector General and agency inspectors general.—

(1) The identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general information that alleges that an employee or agent of an agency or independent contractor has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public’s health, safety, or welfare or has committed or is suspected of having committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be disclosed to anyone other than a member of the Chief Inspector General’s or agency inspector general’s staff without the written consent of the individual, unless the Chief Inspector General or agency inspector general determines that:

(a) The disclosure of the individual’s identity is necessary to prevent a substantial and specific danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime, provided that such information is disclosed only to persons who are in a position to prevent the danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime;

(b) The disclosure of the individual’s identity is unavoidable and absolutely necessary during the course of the inquiry or investigation; or

(c) The disclosure of the individual’s identity is authorized as a result of the individual consenting in writing to attach general comments signed by such individual to the final report required pursuant to s. 112.3189(6)(b).

(2)(a) Except as specifically authorized by s. 112.3189 and except as provided in subsection (1), all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Department of Legal Affairs, the Office of the Public Counsel, or the Department of Law Enforcement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution for an initial period of not more than 30 days during which time a determination is made whether an investigation is required pursuant to s. 112.3189(5)(a) and, if an investigation is determined to be required, until the investigation is closed or ceases to be active. For the purposes of this subsection, an investigation is active while such

investigation is being conducted with a reasonable good faith belief that it may lead to the filing of administrative, civil, or criminal charges. An investigation does not cease to be active so long as the Chief Inspector General or the agency inspector general is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the Chief Inspector General or agency inspector general or other administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information as defined in s. 119.011, and except as otherwise provided in this section, all information obtained pursuant to this subsection shall become available to the public when the investigation is closed or ceases to be active. An investigation is closed or ceases to be active when the final report required pursuant to s. 112.3189(9) has been sent by the Chief Inspector General to the recipients specified in s. 112.3189(9)(c).

(b) Information deemed confidential under this subsection may be disclosed by the Chief Inspector General or agency inspector general receiving the information if the Chief Inspector General or agency inspector general determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime, and such information may be disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

(3) Information or records obtained under this section which are otherwise confidential under law or exempt from disclosure shall retain their confidentiality or exemption.

(4) Any person who willfully and knowingly discloses information or records made confidential under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(1) This section only applies to the disclosure of information as described in s. 112.3187(5) by an employee or former employee of, or an applicant for employment with, a state agency, as the term "state agency" is defined in s. 216.011, to the Office of the Chief Inspector General of the Executive Office of the Governor or to the agency inspector general. If an agency does not have an inspector general, the head of the state agency, as defined in s. 216.011, shall designate an employee to receive information described in s. 112.3187(5). For purposes of this section and s. 112.3188 only, the employee designated by the head of the state agency shall be deemed an agency inspector general.

(2) To facilitate the receipt of information described in subsection (1), the Chief Inspector General shall maintain an in-state toll-free whistle-blower's hotline and shall circulate among the various state agencies an advisory for all employees which indicates the existence of the toll-free number and its purpose and provides an address to which written whistle-blower information may be forwarded.

(3) When a person alleges information described in s. 112.3187(5), the Chief Inspector General or agency inspector general actually receiving such information shall within 20 days of receiving such information determine:

(a) Whether the information disclosed is the type of information described in s. 112.3187(5).

(b) Whether the source of the information is a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011.

(c) Whether the information actually disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

(4) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is not the type of information described in s. 112.3187(5), or that the source of the information is not a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, or that the information disclosed does not demonstrate reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general shall notify the complainant of such fact and copy and return, upon request of the complainant, any documents and other materials that were provided by the complainant.

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.
2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.
3. The benefit to state government to have a final report on the disclosed information.

4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter 110.

5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.

6. The time that has elapsed between the alleged event and the disclosure of the information.

(b) If the Chief Inspector General or agency inspector general determines under paragraph (a) that an investigation is not necessary, the Chief Inspector General or agency inspector general making such determination shall:

1. Copy and return, upon request of the complainant, any documents and other materials provided by the individual who made the disclosure.

2. Inform in writing the head of the state agency for the agency inspector general making the determination that the investigation is not necessary and the individual who made the disclosure of the specific reasons why an investigation is not necessary and why the disclosure will not be further acted on under this section.

(6) The agency inspector general may conduct an investigation pursuant to paragraph (5)(a) only if the person transmitting information to the agency inspector general is an employee or former employee of, or an applicant for employment with, the agency inspector general's agency. The agency inspector general shall:

(a) Conduct an investigation with respect to the information and any related matters.

(b) Submit to the complainant and the Chief Inspector General, within 60 days after the date on which a determination to conduct an investigation is made under paragraph (5)(a), a final written report that sets forth the agency inspector general's findings, conclusions, and recommendations, except as provided under subsection (11). The complainant shall be advised in writing by the agency head that the complainant may submit to the Chief Inspector General and agency inspector general comments on the final report within 20 days of the date of the report and that such comments will be attached to the final report.

(7) If the Chief Inspector General decides an investigation should be conducted pursuant to paragraph (5)(a), the Chief Inspector General shall either:

(a) Promptly transmit to the appropriate head of the state agency the information with respect to which the determination to conduct an investigation was made, and such agency head shall conduct an investigation and submit to the Chief Inspector General a final written report that sets forth the agency head's findings, conclusions, and recommendations; or

(b)1. Conduct an investigation with respect to the information and any related matters; and

2. Submit to the complainant within 60 days after the date on which a determination to conduct an investigation is made under paragraph (5)(a), a final written report that sets forth the Chief Inspector General's findings, conclusions, and recommendations, except as provided under subsection (11). The

complainant shall be advised in writing by the Chief Inspector General that the complainant may submit to the Chief Inspector General comments on the final report within 20 days of the date of the report and that such comments will be attached to the final report.

(c) The Chief Inspector General may require an agency head to conduct an investigation under paragraph (a) only if the information was transmitted to the Chief Inspector General by:

1. An employee or former employee of, or an applicant for employment with, the agency that the information concerns; or
2. An employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

(8) Final reports required under this section must be reviewed and signed by the person responsible for conducting the investigation (agency inspector general, agency head, or Chief Inspector General) and must include:

- (a) A summary of the information with respect to which the investigation was initiated.
- (b) A description of the conduct of the investigation.
- (c) A summary of any evidence obtained from the investigation.
- (d) A listing of any violation or apparent violation of any law, rule, or regulation.
- (e) A description of any action taken or planned as a result of the investigation, such as:
 1. A change in an agency rule, regulation, or practice.
 2. The restoration of an aggrieved employee.
 3. A disciplinary action against an employee.
 4. The referral to the Department of Law Enforcement of any evidence of a criminal violation.

(9)(a) A report required of the agency head under paragraph (7)(a) shall be submitted to the Chief Inspector General and the complainant within 60 days after the agency head receives the complaint from the Chief Inspector General, except as provided under subsection (11). The complainant shall be advised in writing by the agency head that the complainant may submit to the Chief Inspector General comments on the report within 20 days of the date of the report and that such comments will be attached to the final report.

(b) Upon receiving a final report required under this section, the Chief Inspector General shall review the report and determine whether the report contains the information required by subsection (8). If the report does not contain the information required by subsection (8), the Chief Inspector General shall determine why and note the reasons on an addendum to the final report.

(c) The Chief Inspector General shall transmit any final report under this section, any comments provided by the complainant, and any appropriate comments or recommendations by the Chief Inspector General to the Governor, the Legislative Auditing Committee, the investigating agency, and the Chief Financial Officer.

(d) If the Chief Inspector General does not receive the report of the agency head within the time prescribed in paragraph (a), the Chief Inspector General may conduct the investigation in accordance with paragraph (7)(b) or request that another agency inspector general conduct the investigation in accordance with subsection (6) and shall report the complaint to the Governor, to the Joint Legislative Auditing Committee, and to the investigating agency, together with a statement noting the failure of the agency head to file the required report.

(10) For any time period set forth in subsections (3), (6), (7), and (9), such time period may be extended in writing by the Chief Inspector General for good cause shown.

(11) If an investigation under this section produces evidence of a criminal violation, the report shall not be transmitted to the complainant, and the agency head or agency inspector general shall notify the Chief Inspector General and the Department of Law Enforcement.

History.—s. 13, ch. 92-316; s. 3, ch. 93-57; s. 129, ch. 2003-261; s. 17, ch. 2011-34.

112.31895 Investigative procedures in response to prohibited personnel actions.—

(1)(a) If a disclosure under s. 112.3187 includes or results in alleged retaliation by an employer, the employee or former employee of, or applicant for employment with, a state agency, as defined in s. 216.011, that is so affected may file a complaint alleging a prohibited personnel action, which complaint must be made by filing a written complaint with the Office of the Chief Inspector General in the Executive Office of the Governor or the Florida Commission on Human Relations, no later than 60 days after the prohibited personnel action.

(b) Within three working days after receiving a complaint under this section, the office or officer receiving the complaint shall acknowledge receipt of the complaint and provide copies of the complaint and any other preliminary information available concerning the disclosure of information under s. 112.3187 to each of the other parties named in paragraph (a), which parties shall each acknowledge receipt of such copies to the complainant.

(2) **FACT FINDING.**—The Florida Commission on Human Relations shall:

(a) Receive any allegation of a personnel action prohibited by s. 112.3187, including a proposed or potential action, and conduct informal fact finding regarding any allegation under this section, to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel action under s. 112.3187 has occurred, is occurring, or is to be taken.

(b) Notify the complainant, within 15 days after receiving a complaint, that the complaint has been received by the department.

(c) Within 90 days after receiving the complaint, provide the agency head and the complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.

(3) **CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.**—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before the Public Employees Relations Commission or any other appropriate agency, except that the Florida Commission on Human Relations must comply with the rules of the commission or other agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(b) Within 15 days after receiving a complaint that a person has been discharged from employment allegedly for disclosing protected information under s. 112.3187, the Florida Commission on Human Relations shall review the information and determine whether temporary reinstatement is appropriate

under s. 112.3187(9)(f). If the Florida Commission on Human Relations so determines, it shall apply for an expedited order from the appropriate agency or circuit court for the immediate reinstatement of the employee who has been discharged subsequent to the disclosure made under s. 112.3187, pending the issuance of the final order on the complaint.

(c) The Florida Commission on Human Relations shall notify a complainant of the status of the investigation and any action taken at such times as the commission considers appropriate.

(d) If the Florida Commission on Human Relations is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Florida Commission on Human Relations shall terminate the investigation. Upon termination of any investigation, the Florida Commission on Human Relations shall notify the complainant and the agency head of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding but is not admissible without the consent of the complainant.

(e)1. The Florida Commission on Human Relations may request an agency or circuit court to order a stay, on such terms as the court requires, of any personnel action for 45 days if the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited personnel action has occurred, is occurring, or is to be taken. The Florida Commission on Human Relations may request that such stay be extended for appropriate periods of time.

2. If, in connection with any investigation, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken which requires corrective action, the Florida Commission on Human Relations shall report the determination together with any findings or recommendations to the agency head and may report that determination and those findings and recommendations to the Governor and the Chief Financial Officer. The Florida Commission on Human Relations may include in the report recommendations for corrective action to be taken.

3. If, after 20 days, the agency does not implement the recommended action, the Florida Commission on Human Relations shall terminate the investigation and notify the complainant of the right to appeal under subsection (4), or may petition the agency for corrective action under this subsection.

4. If the Florida Commission on Human Relations finds, in consultation with the individual subject to the prohibited action, that the agency has implemented the corrective action, the commission shall file such finding with the agency head, together with any written comments that the individual provides, and terminate the investigation.

(f) If the Florida Commission on Human Relations finds that there are no reasonable grounds to believe that a prohibited personnel action has occurred, is occurring, or is to be taken, the commission shall terminate the investigation.

(g)1. If, in connection with any investigation under this section, it is determined that reasonable grounds exist to believe that a criminal violation has occurred which has not been previously reported, the Florida Commission on Human Relations shall report this determination to the Department of Law Enforcement and to the state attorney having jurisdiction over the matter.

2. If an alleged criminal violation has been reported, the Florida Commission on Human Relations shall confer with the Department of Law Enforcement and the state attorney before proceeding with the investigation of the prohibited personnel action and may defer the investigation pending completion of the criminal investigation and proceedings. The Florida Commission on Human Relations shall inform the complainant of the decision to defer the investigation and, if appropriate, of the confidentiality of the investigation.

(h) If, in connection with any investigation under this section, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a violation of a law, rule, or regulation has occurred, other than a criminal violation or a prohibited action under this section, the commission may report such violation to the head of the agency involved. Within 30 days after the agency receives the report, the agency head shall provide to the commission a certification that states that the head of the agency has personally reviewed the report and indicates what action has been or is to be taken and when the action will be completed.

(i) During any investigation under this section, disciplinary action may not be taken against any employee of a state agency, as the term "state agency" is defined in s. 216.011, for reporting an alleged prohibited personnel action that is under investigation, or for reporting any related activity, or against any employee for participating in an investigation without notifying the Florida Commission on Human Relations.

(j) The Florida Commission on Human Relations may also petition for an award of reasonable attorney's fees and expenses from a state agency, as the term "state agency" is defined in s. 216.011, pursuant to s. 112.3187(9).

(4) RIGHT TO APPEAL.—

(a) Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file, with the Public Employees Relations Commission, a complaint against the employer-agency regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).

(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.

History.—s. 14, ch. 92-316; s. 4, ch. 93-57; s. 703, ch. 95-147; s. 22, ch. 99-333; s. 130, ch. 2003-261.

112.31901 Investigatory records.—

(1) If certified pursuant to subsection (2), an investigatory record of the Chief Inspector General within the Executive Office of the Governor or of the employee designated by an agency head as the

agency inspector general under s. 112.3189 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or a report detailing the investigation is provided to the Governor or the agency head, or 60 days from the inception of the investigation for which the record was made or received, whichever first occurs. Investigatory records are those records that are related to the investigation of an alleged, specific act or omission or other wrongdoing, with respect to an identifiable person or group of persons, based on information compiled by the Chief Inspector General or by an agency inspector general, as named under the provisions of s. 112.3189, in the course of an investigation. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

(2) The Governor, in the case of the Chief Inspector General, or agency head, in the case of an employee designated as the agency inspector general under s. 112.3189, may certify that such investigatory records require an exemption to protect the integrity of the investigation or avoid unwarranted damage to an individual's good name or reputation. The certification must specify the nature and purpose of the investigation and shall be kept with the exempt records and made public when the records are made public.

(3) This section does not apply to whistle-blower investigations conducted pursuant to ss. 112.3187, 112.3188, 112.3189, and 112.31895.

History.—s. 4, ch. 93-405; s. 35, ch. 95-398; s. 38, ch. 2005-251; s. 13, ch. 2006-1.

Note.—Former s. 119.07(6)(w).

112.3191 Short title.—This act shall be known and cited as “The John J. Savage Memorial Act of 1974.”

History.—s. 1, ch. 74-176.

112.320 Commission on Ethics; purpose.—There is created a Commission on Ethics, the purpose of which is to serve as guardian of the standards of conduct for the officers and employees of the state, and of a county, city, or other political subdivision of the state, as defined in this part, and to serve as the independent commission provided for in s. 8(f), Art. II of the State Constitution.

History.—s. 2, ch. 74-176; s. 11, ch. 91-85.

112.321 Membership, terms; travel expenses; staff.—

(1) The commission shall be composed of nine members. Five of these members shall be appointed by the Governor, no more than three of whom shall be from the same political party, subject to confirmation by the Senate. One member appointed by the Governor shall be a former city or county official and may be a former member of a local planning or zoning board which has only advisory duties. Two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President of the Senate. Neither the Speaker of the House of Representatives nor the President of the Senate shall appoint more than one member from the same political party. Of the nine members of the Commission, no more than five members shall be from the

same political party at any one time. No member may hold any public employment. An individual who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or pursuant to any local government charter or ordinance may not serve as a member of the commission, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term. A member of the commission may not lobby any state or local governmental entity as provided in s. 11.045 or s. 112.3215 or as provided by any local government charter or ordinance, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term. All members shall serve 2-year terms. A member may not serve more than two full terms in succession. Any member of the commission may be removed for cause by majority vote of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

(2) The members of the commission shall elect a chair from their number, who shall serve for a 1-year term and may not succeed himself or herself as chair.

(3) Members of the commission shall receive no salary but shall receive travel and per diem as provided in s. 112.061.

(4) In accordance with the uniform personnel, job classification, and pay plan adopted with the approval of the President of the Senate and the Speaker of the House of Representatives and administered by the Office of Legislative Services, the commission shall employ an executive director and shall provide the executive director with necessary office space, assistants, and secretaries. Within the above uniform plan, decisions relating to hiring, promotion, demotion, and termination of commission employees shall be made by the commission or, if so delegated by the commission, by its executive director.

History.—s. 2, ch. 74-176; s. 3, ch. 75-199; s. 6, ch. 82-98; s. 1, ch. 86-148; s. 3, ch. 88-29; s. 2, ch. 91-49; s. 704, ch. 95-147; s. 24, ch. 98-136; s. 6, ch. 2000-243; s. 10, ch. 2006-275.

112.3213 Legislative intent and purpose.—The Legislature finds that the operation of open and responsible government requires the fullest opportunity to be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on executive branch action. Further, the Legislature finds that preservation of the integrity of the governmental decisionmaking process is essential to the continued functioning of an open government. Therefore, in order to preserve and maintain the integrity of the process and to better inform citizens of the efforts to influence executive branch action, the Legislature finds it necessary to require the public disclosure of the identity, expenditures, and activities of certain persons who attempt to influence actions of the executive branch in the areas of policy and procurement.

History.—s. 5, ch. 93-121.

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(1) For the purposes of this section:

(a) "Agency" means the Governor, Governor and Cabinet, or any department, division, bureau, board, commission, or authority of the executive branch. In addition, "agency" shall mean the Constitution Revision Commission as provided by s. 2, Art. XI of the State Constitution.

(b) "Agency official" or "employee" means any individual who is required by law to file full or limited public disclosure of his or her financial interests.

(c) "Compensation" means a payment, distribution, loan, advance, reimbursement, deposit, salary, fee, retainer, or anything of value provided or owed to a lobbying firm, directly or indirectly, by a principal for any lobbying activity.

(d) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term "expenditure" does not include contributions or expenditures reported pursuant to chapter 106 or contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or an affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).

(e) "Fund" means the Executive Branch Lobby Registration Trust Fund.

(f) "Lobbies" means seeking, on behalf of another person, to influence an agency with respect to a decision of the agency in the area of policy or procurement or an attempt to obtain the goodwill of an agency official or employee. "Lobbies" also means influencing or attempting to influence, on behalf of another, the Constitution Revision Commission's action or nonaction through oral or written communication or an attempt to obtain the goodwill of a member or employee of the Constitution Revision Commission.

(g) "Lobbying firm" means a business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist.

(h) "Lobbyist" means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. "Lobbyist" does not include a person who is:

1. An attorney, or any person, who represents a client in a judicial proceeding or in a formal administrative proceeding conducted pursuant to chapter 120 or any other formal hearing before an agency, board, commission, or authority of this state.

2. An employee of an agency or of a legislative or judicial branch entity acting in the normal course of his or her duties.

3. A confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.

4. A person who lobbies to procure a contract pursuant to chapter 287 which contract is less than the threshold for CATEGORY ONE as provided in s. 287.017.

(i) "Principal" means the person, firm, corporation, or other entity which has employed or retained a lobbyist.

(2) The Executive Branch Lobby Registration Trust Fund is hereby created within the commission to be used for the purpose of funding any office established to administer the registration of lobbyists lobbying an agency, including the payment of salaries and other expenses. The trust fund is not subject to the service charge to General Revenue provisions of chapter 215. All annual registration fees collected pursuant to this section shall be deposited into such fund.

(3) A person may not lobby an agency until such person has registered as a lobbyist with the commission. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar year basis thereafter. Upon registration the person shall provide a statement signed by the principal or principal's representative that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the commission. The registration shall require each lobbyist to disclose, under oath, the following information:

(a) Name and business address;

(b) The name and business address of each principal represented;

(c) His or her area of interest;

(d) The agencies before which he or she will appear; and

(e) The existence of any direct or indirect business association, partnership, or financial relationship with any employee of an agency with which he or she lobbies, or intends to lobby, as disclosed in the registration.

(4) The annual lobbyist registration fee shall be set by the commission by rule, not to exceed \$40 for each principal represented.

(5)(a)1. Each lobbying firm shall file a compensation report with the commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:

a. Full name, business address, and telephone number of the lobbying firm;

b. Name of each of the firm's lobbyists; and

c. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories: \$0; \$1 to \$49,999; \$50,000 to \$99,999; \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to \$999,999; \$1 million or more.

2. For each principal represented by one or more of the firm's lobbyists, the lobbying firm's compensation report shall also include the:

- a. Full name, business address, and telephone number of the principal; and
- b. Total compensation provided or owed to the lobbying firm for the reporting period, reported in one of the following categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or \$50,000 or more. If the category "\$50,000 or more" is selected, the specific dollar amount of compensation must be reported, rounded up or down to the nearest \$1,000.

3. If the lobbying firm subcontracts work from another lobbying firm and not from the original principal:

- a. The lobbying firm providing the work to be subcontracted shall be treated as the reporting lobbying firm's principal for reporting purposes under this paragraph; and
- b. The reporting lobbying firm shall, for each lobbying firm identified under subparagraph 2., identify the name and address of the principal originating the lobbying work.

4. The senior partner, officer, or owner of the lobbying firm shall certify to the veracity and completeness of the information submitted pursuant to this paragraph.

(b) For each principal represented by more than one lobbying firm, the commission shall aggregate the reporting-period and calendar-year compensation reported as provided or owed by the principal.

(c) The reporting statements shall be filed no later than 45 days after the end of each reporting period. The four reporting periods are from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. Reporting statements must be filed by electronic means as provided in s. 112.32155.

(d) The commission shall provide by rule the grounds for waiving a fine, the procedures by which a lobbying firm that fails to timely file a report shall be notified and assessed fines, and the procedure for appealing the fines. The rule shall provide for the following:

1. Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbying firm as to the failure to timely file the report and that a fine is being assessed for each late day. The fine shall be \$50 per day per report for each late day up to a maximum of \$5,000 per late report.

2. Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon the earliest of the following:

- a. When a report is actually received by the lobbyist registration and reporting office.
 - b. When the electronic receipt issued pursuant to s. 112.32155 is dated.
3. Such fine shall be paid within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office, unless appeal is made to the commission. The moneys shall be deposited into the Executive Branch Lobby Registration Trust Fund.

4. A fine shall not be assessed against a lobbying firm the first time any reports for which the lobbying firm is responsible are not timely filed. However, to receive the one-time fine waiver, all reports for which the lobbying firm is responsible must be filed within 30 days after the notice that any reports have not been timely filed is transmitted by the Lobbyist Registration Office. A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbying firm may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the commission, which shall have the authority to waive the fine in whole or in part for good cause shown. Any such request shall be made within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office. In such case, the lobbying firm shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

6. The person designated to review the timeliness of reports shall notify the commission of the failure of a lobbying firm to file a report after notice or of the failure of a lobbying firm to pay the fine imposed. All lobbyist registrations for lobbyists who are partners, owners, officers, or employees of a lobbying firm that fails to timely pay a fine are automatically suspended until the fine is paid or waived, and the commission shall promptly notify all affected principals of each suspension and each reinstatement.

7. Notwithstanding any provision of chapter 120, any fine imposed under this subsection that is not waived by final order of the commission and that remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the lobbying firm's appeal shall be collected by the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department may assign the collection of such fine to a collection agent as provided in s. 17.20.

(e) Each lobbying firm and each principal shall preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate compensation. Any documents and records retained pursuant to this section may be subpoenaed for audit by the Legislative Auditing Committee pursuant to s. 11.40, and such subpoena may be enforced in circuit court.

(6)(a) Notwithstanding s. 112.3148, s. 112.3149, or any other provision of law to the contrary, no lobbyist or principal shall make, directly or indirectly, and no agency official, member, or employee shall knowingly accept, directly or indirectly, any expenditure.

(b) No person shall provide compensation for lobbying to any individual or business entity that is not a lobbying firm.

(7) A lobbyist shall promptly send a written statement to the commission canceling the registration for a principal upon termination of the lobbyist's representation of that principal. Notwithstanding this

requirement, the commission may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the office that a person is no longer authorized to represent that principal.

(8)(a) The commission shall investigate every sworn complaint that is filed with it alleging that a person covered by this section has failed to register, has failed to submit a compensation report, has made a prohibited expenditure, or has knowingly submitted false information in any report or registration required in this section.

(b) All proceedings, the complaint, and other records relating to the investigation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any meetings held pursuant to an investigation are exempt from the provisions of s. 286.011(1) and s. 24(b), Art. I of the State Constitution either until the alleged violator requests in writing that such investigation and associated records and meetings be made public or until the commission determines, based on the investigation, whether probable cause exists to believe that a violation has occurred.

(c) The commission shall investigate any lobbying firm, lobbyist, principal, agency, officer, or employee upon receipt of information from a sworn complaint or from a random audit of lobbying reports indicating a possible violation other than a late-filed report.

(d)1. Records relating to an audit conducted pursuant to this section or an investigation conducted pursuant to this section or s. 112.32155 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Any portion of a meeting wherein such investigation or audit is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. The exemptions no longer apply if the lobbying firm requests in writing that such investigation and associated records and meetings be made public or the commission determines there is probable cause that the audit reflects a violation of the reporting laws.

(9) If the commission finds no probable cause to believe that a violation of this section occurred, it shall dismiss the complaint, whereupon the complaint, together with a written statement of the findings of the investigation and a summary of the facts, shall become a matter of public record, and the commission shall send a copy of the complaint, findings, and summary to the complainant and the alleged violator. If, after investigating information from a random audit of lobbying reports, the commission finds no probable cause to believe that a violation of this section occurred, a written statement of the findings of the investigation and a summary of the facts shall become a matter of public record, and the commission shall send a copy of the findings and summary to the alleged violator. If the commission finds probable cause to believe that a violation occurred, it shall report the results of its investigation to the Governor and Cabinet and send a copy of the report to the alleged violator by certified mail. Such notification and all documents made or received in the disposition of the complaint shall then become public records. Upon request submitted to the Governor and Cabinet in writing, any person whom the commission finds probable cause to believe has violated any provision

of this section shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification. However, the Governor and Cabinet may on its own motion require a public hearing and may conduct such further investigation as it deems necessary.

(10) If the Governor and Cabinet find that a violation occurred, the Governor and Cabinet may reprimand the violator, censure the violator, or prohibit the violator from lobbying all agencies for a period not to exceed 2 years. If the violator is a lobbying firm, lobbyist, or principal, the Governor and Cabinet may also assess a fine of not more than \$5,000 to be deposited in the Executive Branch Lobby Registration Trust Fund.

(11) Any person who is required to be registered or to provide information under this section or under rules adopted pursuant to this section and who knowingly fails to disclose any material fact that is required by this section or by rules adopted pursuant to this section, or who knowingly provides false information on any report required by this section or by rules adopted pursuant to this section, commits a noncriminal infraction, punishable by a fine not to exceed \$5,000. Such penalty is in addition to any other penalty assessed by the Governor and Cabinet pursuant to subsection (10).

(12) Any person, when in doubt about the applicability and interpretation of this section to himself or herself in a particular context, may submit in writing the facts of the situation to the commission with a request for an advisory opinion to establish the standard of duty. An advisory opinion shall be rendered by the commission and, until amended or revoked, shall be binding on the conduct of the person who sought the opinion, unless material facts were omitted or misstated in the request.

(13) Agencies shall be diligent to ascertain whether persons required to register pursuant to this section have complied. An agency may not knowingly permit a person who is not registered pursuant to this section to lobby the agency.

(14) Upon discovery of violations of this section an agency or any person may file a sworn complaint with the commission.

(15) The commission shall adopt rules to administer this section, which shall prescribe forms for registration and compensation reports, procedures for registration, and procedures that will prevent disclosure of information that is confidential as provided in this section.

History.—s. 2, ch. 89-325; s. 3, ch. 90-268; s. 29, ch. 90-360; s. 5, ch. 91-292; s. 2, ch. 92-35; s. 6, ch. 93-121; s. 705, ch. 95-147; s. 1, ch. 95-357; s. 2, ch. 96-203; s. 38, ch. 96-406; s. 1, ch. 97-12; s. 2, ch. 2000-232; s. 131, ch. 2003-261; ss. 5, 6, ch. 2005-359; s. 1, ch. 2005-361; ss. 12, 13, 14, ch. 2006-275; s. 6, ch. 2010-151; ss. 29, 30, ch. 2011-6; s. 76, ch. 2011-40; s. 1, ch. 2011-178; HJR 7105, 2011 Regular Session; s. 3, ch. 2012-25; s. 16, ch. 2013-36; s. 17, ch. 2014-17.

112.32151 Requirements for reinstatement of lobbyist registration after felony conviction.—A person convicted of a felony after January 1, 2006, may not be registered as a lobbyist pursuant to s. 112.3215 until the person:

(1) Has been released from incarceration and any postconviction supervision, and has paid all court costs and court-ordered restitution; and

(2) Has had his or her civil rights restored.

History.—s. 9, ch. 2005-359; s. 8, ch. 2007-5.

112.32155 Electronic filing of compensation reports and other information.—

(1) As used in this section, the term “electronic filing system” means an Internet system for recording and reporting lobbying compensation and other required information by reporting period.

(2) Each lobbying firm who is required to file reports with the Commission on Ethics pursuant to s. 112.3215 must file such reports with the commission by means of the electronic filing system.

(3) A report filed pursuant to this section must be completed and filed through the electronic filing system not later than 11:59 p.m. of the day designated in s. 112.3215. A report not filed by 11:59 p.m. of the day designated is a late-filed report and is subject to the penalties under s. 112.3215(5).

(4) Each report filed pursuant to this section is considered to meet the certification requirements of s. 112.3215(5)(a)4. Persons given a secure sign-on to the electronic filing system are responsible for protecting it from disclosure and are responsible for all filings using such credentials, unless they have notified the commission that their credentials have been compromised.

(5) The electronic filing system must:

(a) Be based on access by means of the Internet.

(b) Be accessible by anyone with Internet access using standard web-browsing software.

(c) Provide for direct entry of compensation report information as well as upload of such information from software authorized by the commission.

(d) Provide a method that prevents unauthorized access to electronic filing system functions.

(6) The commission shall provide by rule procedures to implement and administer this section, including, but not limited to:

(a) Alternate filing procedures in case the electronic filing system is not operable.

(b) The issuance of an electronic receipt to the person submitting the report indicating and verifying the date and time that the report was filed.

(7) The commission shall make all the data filed available on the Internet in an easily understood and accessible format. The Internet website shall also include, but not be limited to, the names and business addresses of lobbyists, lobbying firms, and principals, the affiliations between lobbyists and principals, and the classification system designated and identified by each principal pursuant to s. 112.3215(3).

History.—s. 7, ch. 2005-359.

112.3217 Contingency fees; prohibitions; penalties.—

(1) "Contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent or in any way contingent on the enactment, defeat, modification, or other outcome of any specific executive branch action.

(2) No person may, in whole or in part, pay, give, or receive, or agree to pay, give, or receive, a contingency fee. However, this subsection does not apply to claims bills.

(3) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If such person is a lobbyist, the lobbyist shall forfeit any fee, bonus, commission, or profit received in violation of this section and is subject to the penalties set forth in s. 112.3215. When the fee, bonus, commission, or profit is nonmonetary, the fair market value of the benefit shall be used in determining the amount to be forfeited. All forfeited benefits shall be deposited into the Executive Branch Lobby Registration Trust Fund.

(4) Nothing in this section may be construed to prohibit any salesperson engaging in legitimate state business on behalf of a company from receiving compensation or commission as part of a bona fide contractual arrangement with that company.

History.—s. 7, ch. 93-121; s. 9, ch. 2000-336.

112.322 Duties and powers of commission.—

(1) It is the duty of the Commission on Ethics to receive and investigate sworn complaints of violation of the code of ethics as established in this part and of any other breach of the public trust, as provided in s. 8(f), Art. II of the State Constitution, including investigation of all facts and parties materially related to the complaint at issue.

(2)(a) Any public officer or employee may request a hearing before the Commission on Ethics to present oral or written testimony in response to allegations that such person violated the code of ethics established in this part or allegations of any other breach of the public trust, as provided in s. 8, Art. II of the State Constitution, provided a majority of the commission members present and voting consider that the allegations are of such gravity as to affect the general welfare of the state and the ability of the subject public officer or employee effectively to discharge the duties of the office. If the allegations made against the subject public officer or employee are made under oath, then he or she shall also be required to testify under oath.

(b) Upon completion of any investigation initiated under this subsection, the commission shall make a finding and public report as to whether any provision of the code of ethics has been violated or any other breach of the public trust has been committed by the subject official or employee. In the event that a violation or breach is found to have been committed, the commission shall recommend appropriate action to the agency or official having power to impose any penalty provided by s. 112.317.

(c) All proceedings conducted pursuant to this subsection shall be public meetings within the meaning of chapter 286, and all documents made or received in connection with the commission's investigation thereof shall be public records within the meaning of chapter 119.

(d) Any response to a request of a public official or employee shall be addressed in the first instance to the official or employee making the request.

(3)(a) Every public officer, candidate for public office, or public employee, when in doubt about the applicability and interpretation of this part or s. 8, Art. II of the State Constitution to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission on Ethics with a request for an advisory opinion to establish the standard of public duty. Any public officer or employee who has the power to hire or terminate employees may likewise seek an advisory opinion from the commission as to the application of the provisions of this part or s. 8, Art. II of the State Constitution to any such employee or applicant for employment. An advisory opinion shall be rendered by the commission, and each such opinion shall be numbered, dated, and published without naming the person making the request, unless such person consents to the use of his or her name.

(b) Such opinion, until amended or revoked, shall be binding on the conduct of the officer, employee, or candidate who sought the opinion or with reference to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

(4) The commission has the power to subpoena, audit, and investigate. The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers. The commission may delegate to its investigators the authority to administer oaths and affirmations. The commission may delegate the authority to issue subpoenas to its chair, and may authorize its employees to serve any subpoena issued under this section. In the case of a refusal to obey a subpoena issued to any person, the commission may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before the commission and to produce evidence, if so ordered, or to give testimony touching on the matter in question. Failure to obey the order may be punished by the court as contempt. Witnesses shall be paid mileage and witnesses fees as authorized for witnesses in civil cases, except that a witness who is required to travel outside the county of his or her residence to testify is entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, to be paid after the witness appears.

(5) The commission may recommend that the Governor initiate judicial proceedings in the name of the state against any executive or administrative state, county, or municipal officer to enforce compliance with any provision of this part or of s. 8, Art. II of the State Constitution or to restrain violations of this part or of s. 8, Art. II of the State Constitution, pursuant to s. 1(b), Art. IV of the State Constitution; and the Governor may without further action initiate such judicial proceedings.

(6) The commission is authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties. The Department of Legal Affairs shall, upon request, provide legal and investigative assistance to the commission.

(7) The commission may prepare materials designed to assist persons in complying with the provisions of this part and with s. 8, Art. II of the State Constitution.

(8) It shall be the further duty of the commission to submit to the Legislature from time to time a report of its work and recommendations for legislation deemed necessary to improve the code of ethics and its enforcement.

(9) The commission is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the commission by s. 8, Art. II of the State Constitution or by this part. Such rules shall be limited to:

(a) Rules providing for the practices and procedures of the commission.

(b) Rules interpreting the disclosures and prohibitions established by s. 8, Art. II of the State Constitution and by this part.

History.—s. 2, ch. 74-176; s. 4, ch. 75-199; s. 1, ch. 76-89; s. 1, ch. 77-174; s. 7, ch. 82-98; s. 33, ch. 89-169; s. 12, ch. 91-85; s. 13, ch. 94-277; s. 1416, ch. 95-147; s. 7, ch. 2000-243; s. 15, ch. 2006-275.

112.3231 Time limitations.—

(1) On or after October 1, 1993, all sworn complaints alleging a violation of this part, or of any other breach of the public trust within the jurisdiction of the Commission on Ethics under s. 8, Art. II of the State Constitution, shall be filed with the commission within 5 years of the alleged violation or other breach of the public trust.

(2) A violation of this part or any other breach of public trust is committed when every element has occurred or, if the violation or breach of public trust involves a continuing course of conduct, at the time when the course of conduct or the officer's, employee's, or candidate's complicity therein is terminated. Time starts to run on the day after the violation or breach of public trust is committed.

(3) The applicable period of limitation is tolled on the day a sworn complaint against the public officer, employee, or candidate is filed with the Commission on Ethics. If it can be concluded from the face of the complaint that the applicable period of limitation has run, the complaint shall be dismissed and the commission shall issue a public report.

History.—s. 13, ch. 91-85; s. 10, ch. 94-277.

112.3232 Compelled testimony.—If any person called to give evidence in a commission proceeding shall refuse to give evidence because of a claim of possible self-incrimination, the commission, with the written authorization of the appropriate state attorney, may apply to the chief judge of the appropriate judicial circuit for a judicial grant of immunity ordering the testimony or other evidence of such person notwithstanding his or her objection, but in such case no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal proceeding.

History.—s. 10, ch. 2000-243.

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(1) The commission shall investigate an alleged violation of this part or other alleged breach of the public trust within the jurisdiction of the commission as provided in s. 8(f), Art. II of the State Constitution:

(a) Upon a written complaint executed on a form prescribed by the commission and signed under oath or affirmation by any person; or

(b) Upon receipt of a written referral of a possible violation of this part or other possible breach of the public trust from the Governor, the Department of Law Enforcement, a state attorney, or a United States Attorney which at least six members of the commission determine is sufficient to indicate a violation of this part or any other breach of the public trust.

Within 5 days after receipt of a complaint by the commission or a determination by at least six members of the commission that the referral received is deemed sufficient, a copy shall be transmitted to the alleged violator.

(2)(a) The complaint and records relating to the complaint or to any preliminary investigation held by the commission or its agents, by a Commission on Ethics and Public Trust established by any county defined in s. 125.011(1) or by any municipality defined in s. 165.031, or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements as provided in s. 112.326 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Written referrals and records relating to such referrals held by the commission or its agents, the Governor, the Department of Law Enforcement, or a state attorney, and records relating to any preliminary investigation of such referrals held by the commission or its agents, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Any portion of a proceeding conducted by the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process, pursuant to a complaint or preliminary investigation, is exempt from s. 286.011, s. 24(b), Art. I of the State Constitution, and s. 120.525.

(d) Any portion of a proceeding of the commission in which a determination regarding a referral is discussed or acted upon is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, and s. 120.525.

(e) The exemptions in paragraphs (a)-(d) apply until:

1. The complaint is dismissed as legally insufficient;
2. The alleged violator requests in writing that such records and proceedings be made public;
3. The commission determines that it will not investigate the referral; or

4. The commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.

(f) A complaint or referral under this part against a candidate in any general, special, or primary election may not be filed nor may any intention of filing such a complaint or referral be disclosed on the day of any such election or within the 30 days immediately preceding the date of the election, unless the complaint or referral is based upon personal information or information other than hearsay.

(g) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) A preliminary investigation shall be undertaken by the commission of each legally sufficient complaint or referral over which the commission has jurisdiction to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the preliminary investigation, the commission finds no probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, the commission shall dismiss the complaint or referral with the issuance of a public report to the complainant and the alleged violator, stating with particularity its reasons for dismissal. At that time, the complaint or referral and all materials relating to the complaint or referral shall become a matter of public record. If the commission finds from the preliminary investigation probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, it shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint or referral shall then become public records. Upon request submitted to the commission in writing, any person who the commission finds probable cause to believe has violated any provision of this part or has committed any other breach of the public trust shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification required by this subsection. However, the commission may on its own motion, require a public hearing, may conduct such further investigation as it deems necessary, and may enter into such stipulations and settlements as it finds to be just and in the best interest of the state. The commission is without jurisdiction to, and no respondent may voluntarily or involuntarily, enter into a stipulation or settlement which imposes any penalty, including, but not limited to, a sanction or admonition or any other penalty contained in s. 112.317. Penalties shall be imposed only by the appropriate disciplinary authority as designated in this section.

(4) If, in cases pertaining to members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution, the commission shall forward a copy of the

complaint or referral and its findings by certified mail to the President of the Senate or the Speaker of the House of Representatives, whichever is applicable, who shall refer the complaint or referral to the appropriate committee for investigation and action which shall be governed by the rules of its respective house. It is the duty of the committee to report its final action upon the matter to the commission within 90 days of the date of transmittal to the respective house. Upon request of the committee, the commission shall submit a recommendation as to what penalty, if any, should be imposed. In the case of a member of the Legislature, the house in which the member serves has the power to invoke the penalty provisions of this part.

(5) If, in cases against impeachable officers, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution, and the commission finds that the violation may constitute grounds for impeachment, the commission shall forward a copy of the complaint or referral and its findings by certified mail to the Speaker of the House of Representatives, who shall refer the complaint or referral to the appropriate committee for investigation and action which shall be governed by the rules of the House of Representatives. It is the duty of the committee to report its final action upon the matter to the commission within 90 days of the date of transmittal.

(6) If the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution by an impeachable officer other than the Governor, and the commission recommends public censure and reprimand, forfeiture of a portion of the officer's salary, a civil penalty, or restitution, the commission shall report its findings and recommendation of disciplinary action to the Governor, who has the power to invoke the penalty provisions of this part.

(7) If the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution by the Governor, and the commission recommends public censure and reprimand, forfeiture of a portion of the Governor's salary, a civil penalty, or restitution, the commission shall report its findings and recommendation of disciplinary action to the Attorney General, who shall have the power to invoke the penalty provisions of this part.

(8) If, in cases other than complaints or referrals against impeachable officers or members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of s. 8, Art. II of the State Constitution, it is the duty of the commission to report its findings and recommend appropriate action to the proper disciplinary official or body as follows, and such official or body has the power to invoke the penalty provisions of this part, including the power to order the appropriate elections official to remove a candidate from the ballot for a violation of s. 112.3145 or s. 8(a) and (i), Art. II of the State Constitution:

(a) The President of the Senate and the Speaker of the House of Representatives, jointly, in any case concerning the Public Counsel, members of the Public Service Commission, members of the Public

Service Commission Nominating Council, the Auditor General, or the director of the Office of Program Policy Analysis and Government Accountability.

(b) The Supreme Court, in any case concerning an employee of the judicial branch.

(c) The President of the Senate, in any case concerning an employee of the Senate; the Speaker of the House of Representatives, in any case concerning an employee of the House of Representatives; or the President and the Speaker, jointly, in any case concerning an employee of a committee of the Legislature whose members are appointed solely by the President and the Speaker or in any case concerning an employee of the Public Counsel, Public Service Commission, Auditor General, or Office of Program Policy Analysis and Government Accountability.

(d) Except as otherwise provided by this part, the Governor, in the case of any other public officer, public employee, former public officer or public employee, candidate or former candidate, or person who is not a public officer or employee, other than lobbyists and lobbying firms under s. 112.3215 for violations of s. 112.3215.

(e) The President of the Senate or the Speaker of the House of Representatives, whichever is applicable, in any case concerning a former member of the Legislature who has violated a provision applicable to former members or whose violation occurred while a member of the Legislature.

(9) In addition to reporting its findings to the proper disciplinary body or official, the commission shall report these findings to the state attorney or any other appropriate official or agency having authority to initiate prosecution when violation of criminal law is indicated.

(10) Notwithstanding the foregoing procedures of this section, a sworn complaint against any member or employee of the Commission on Ethics for violation of this part or of s. 8, Art. II of the State Constitution shall be filed with the President of the Senate and the Speaker of the House of Representatives. Each presiding officer shall, after determining that there are sufficient grounds for review, appoint three members of their respective bodies to a special joint committee who shall investigate the complaint. The members shall elect a chair from among their number. If the special joint committee finds insufficient evidence to establish probable cause to believe a violation of this part or of s. 8, Art. II of the State Constitution has occurred, it shall dismiss the complaint. If, upon completion of its preliminary investigation, the committee finds sufficient evidence to establish probable cause to believe a violation has occurred, the chair thereof shall transmit such findings to the Governor who shall convene a meeting of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court to take such final action on the complaint as they shall deem appropriate, consistent with the penalty provisions of this part. Upon request of a majority of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, the special joint committee shall submit a recommendation as to what penalty, if any, should be imposed.

(11)(a) Notwithstanding subsections (1)-(8), the commission may dismiss any complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the commission shall consider whether the interests of the public were protected despite the violation. This subsection does not apply to complaints or referrals pursuant to ss. 112.3144 and 112.3145.

(b) For the purposes of this subsection, a de minimis violation is any violation that is unintentional and not material in nature.

(12) Notwithstanding the provisions of subsections (1)-(8), the commission may, at its discretion, dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the commission shall issue a public report stating with particularity its reasons for the dismissal.

History.—s. 2, ch. 74-176; s. 5, ch. 75-199; s. 3, ch. 83-282; s. 30, ch. 90-360; s. 14, ch. 91-85; s. 11, ch. 94-277; s. 1417, ch. 95-147; s. 2, ch. 95-354; s. 4, ch. 96-311; s. 3, ch. 97-293; s. 14, ch. 2000-151; s. 17, ch. 2000-331; s. 30, ch. 2001-266; s. 1, ch. 2002-186; s. 1, ch. 2005-186; s. 17, ch. 2008-4; s. 3, ch. 2009-126; s. 1, ch. 2010-116; s. 1, ch. 2010-130; s. 18, ch. 2011-34; s. 17, ch. 2013-36; s. 1, ch. 2013-38; s. 18, ch. 2014-17.

112.3241 Judicial review.—Any final action by the commission taken pursuant to this part shall be subject to review in a district court of appeal upon the petition of the party against whom an adverse opinion, finding, or recommendation is made.

History.—s. 6, ch. 75-199; s. 4, ch. 84-318.

112.3251 Citizen support and direct-support organizations; standards of conduct.—A citizen support or direct-support organization created or authorized pursuant to law must adopt its own ethics code. The ethics code must contain the standards of conduct and disclosures required under ss. 112.313 and 112.3143(2), respectively. However, an ethics code adopted pursuant to this section is not required to contain the standards of conduct specified in s. 112.313(3) or (7). The citizen support or direct-support organization may adopt additional or more stringent standards of conduct and disclosure requirements if those standards of conduct and disclosure requirements do not otherwise conflict with this part. The ethics code must be conspicuously posted on the citizen support or direct-support organization's website.

History.—s. 5, ch. 2014-183.

112.326 Additional requirements by political subdivisions and agencies not prohibited.—Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

History.—s. 5, ch. 75-196; s. 12, ch. 94-277.

112.3261 Lobbying before water management districts; registration and reporting.—

(1) As used in this section, the term:

(a) "District" means a water management district created in s. 373.069 and operating under the authority of chapter 373.

(b) "Lobbies" means seeking, on behalf of another person, to influence a district with respect to a decision of the district in an area of policy or procurement or an attempt to obtain the goodwill of a district official or employee. The term "lobbies" shall be interpreted and applied consistently with the rules of the commission implementing s. 112.3215.

(c) "Lobbyist" has the same meaning as provided in s. 112.3215.

(d) "Principal" has the same meaning as provided in s. 112.3215.

(2) A person may not lobby a district until such person has registered as a lobbyist with that district. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar-year basis thereafter. Upon registration, the person shall provide a statement signed by the principal or principal's representative stating that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the district. Any changes to the information required by this section must be disclosed within 15 days by filing a new registration form. The registration form shall require each lobbyist to disclose, under oath, the following:

(a) The lobbyist's name and business address.

(b) The name and business address of each principal represented.

(c) The existence of any direct or indirect business association, partnership, or financial relationship with any officer or employee of a district with which he or she lobbies or intends to lobby.

(d) In lieu of creating its own lobbyist registration forms, a district may accept a completed legislative branch or executive branch lobbyist registration form.

(3) A district shall make lobbyist registrations available to the public. If a district maintains a website, a database of currently registered lobbyists and principals must be available on the district's website.

(4) A lobbyist shall promptly send a written statement to the district canceling the registration for a principal upon termination of the lobbyist's representation of that principal. A district may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the district that a person is no longer authorized to represent that principal.

(5) A district may establish an annual lobbyist registration fee, not to exceed \$40, for each principal represented. The district may use registration fees only to administer this section.

(6) A district shall be diligent to ascertain whether persons required to register pursuant to this section have complied. A district may not knowingly authorize a person who is not registered pursuant to this section to lobby the district.

(7) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a district or has knowingly submitted false information in a report or registration required under this section, the commission shall investigate a lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the Governor with a report of its findings and recommendations in any investigation conducted pursuant to this subsection. The Governor is authorized to enforce the commission's findings and recommendations.

(8) Water management districts may adopt rules to establish procedures to govern the registration of lobbyists, including the adoption of forms and the establishment of a lobbyist registration fee.

History.—s. 6, ch. 2014-183.

Board of County Commissioners

Leon County, Florida

Policy No. 03-05

Title: Code of Ethics
Date Adopted: December 11, 2007
Effective Date: December 11, 2007
Reference: Chapter 112, Florida Statutes; Leon County Ordinance No. 07-27
(Lobbyist Regulations)
Policy Superseded: Amending Policy No. 03-05, "Code of Ethics," adopted February 10, 2004;
Amending Policy No. 03-05, "Code of Ethics," adopted March 18, 2003;
Superseding Policy No. 02-08, adopted July 30, 2002

Policy No. 03-05, Code of Ethics, adopted by the Leon County Board of County Commissioners on February 10, 2004, is hereby amended to read as follows:

It shall be the policy of the Board of County Commissioners of Leon County, Florida, that this policy shall apply to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

Section 1. Code of Ethics.

This Policy shall be known as the Leon County Code of Ethics.

If any word, phrase, clause, section or portion of this policy shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

This policy shall take effect upon being approved by a majority vote of the Board of County Commissioners.

Section 2. Intent and Purpose.

The proper operation of County government requires that County Commissioners be independent and impartial; that County policy and decisions be made through established processes; that County Commissioners not use public office to obtain private benefit; that County Commissioners avoid actions which create the appearance of using public office to obtain a benefit; and that the public have confidence in the integrity of its County government and County Commissioners.

Section 3. Acknowledgment.

All County Commissioners, upon taking their oath of office to their current term and all current County Commissioners within ten (10) days of the passage hereof, shall submit a signed statement to the County Attorney acknowledging that they have received and read the Leon County Code of Ethics, that they understand it, and that they are bound by it.

All candidates for County Commission, upon qualifying to run for that office, shall submit a signed statement to the Clerk to the Board located at the Clerk of Court's Office, Finance Department, Room 450, 315 South Calhoun Street, Tallahassee, Florida 32301, acknowledging that they have received and read the Leon County Code of Ethics, that they understand it, and that they shall be bound by it upon election to office.

Section 4. Interpretation, Advisory Opinions.

When in doubt as to the applicability and interpretation of the Leon County Code of Ethics, any County Commissioner may request an advisory opinion from the County Attorney's Office. The County Attorney's Office shall keep a file, open to the public, of all written opinions issued and submit a copy of each opinion rendered to every County Commissioner.

Any County Commissioner may request a review by the Board of County Commissioners of any advisory opinion within thirty (30) days of its issuance or it shall become final. A majority vote of the Board of County Commissioners shall be the final determination of said opinion.

Section 5. Definitions.

- I. "Advisory body" means any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than 1 percent of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations.
- II. "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university.
- III. "Breach of the public trust" means a violation of a provision of the State Constitution or this part which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests, including, without limitation, a violation of s. 8, Art. II of the State Constitution or of this part.

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- IV. "Business associate" means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property.
- V. "Business entity" means any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.
- VI. "Candidate" means any person who has filed a statement of financial interest and qualification papers, has subscribed to the candidate's oath as required by s. 99.021, and seeks by election to become a public officer. This definition expressly excludes a committeeman or committeewoman regulated by chapter 103 and persons seeking any other office or position in a political party.
- VII. "Commission" means the Commission on Ethics created by s. 112.320 or any successor to which its duties are transferred.
- VIII. "Conflict" or "conflict of interest" means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.
- IX. "Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.
- X. "Disclosure period" means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.
- XI. "Facts materially related to the complaint at issue" means facts which tend to show a violation of this part or s. 8, Art. II of the State Constitution by the alleged violator other than those alleged in the complaint and consisting of separate instances of the same or similar conduct as alleged in the complaint, or which tend to show an additional violation of this part or s. 8, Art. II of the State Constitution by the alleged violator which arises out of or in connection with the allegations of the complaint.

XII.

- A. "Gift," for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:
1. Real property.
 2. The use of real property.
 3. Tangible or intangible personal property.
 4. The use of tangible or intangible personal property.
 5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
 6. Forgiveness of indebtedness.
 7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
 8. Food or beverage.
 9. Membership dues.
 10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
 11. Plants, flowers, or floral arrangements.
 12. Services provided by persons pursuant to a professional license or certificate.
 13. Other personal services for which a fee is normally charged by the person providing the services.
 14. Any other similar service or thing having an attributable value not already provided for in this section.
- B. "Gift" does not include:
1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.

2. Contributions or expenditures reported pursuant to chapter 106, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party.
 3. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.
 4. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.
 5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.
 6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.
 7. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.
 8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.
- C. For the purposes of paragraph (a), "intangible personal property" means property as defined in s. 192.001(11)(b), Florida Statutes.
- D. For the purposes of paragraph (a), the term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.
- XIII. "Indirect" or "indirect interest" means an interest in which legal title is held by another as trustee or other representative capacity, but the equitable or beneficial interest is held by the person required to file under this part.
- XIV. "Liability" means any monetary debt or obligation owed by the reporting person to another person, entity, or governmental entity, except for credit card and retail installment. accounts, taxes owed unless reduced to a judgment, indebtedness on a life insurance policy owed to the company of issuance, contingent liabilities, or accrued income taxes on net unrealized appreciation. Each liability which is required to be disclosed by s. 8, Art. II of the State Constitution shall identify the name and address of the creditor.
- XV. "Material interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity. For the purposes of this act, indirect ownership does not include ownership by a spouse or minor child.

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- XVI. "Materially affected" means involving an interest in real property located within the jurisdiction of the official's agency or involving an investment in a business entity, source of income or a position of employment, office, or management in any business entity located within the jurisdiction or doing business within the jurisdiction of the official's agency which is or will be affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.
- XVII. "Ministerial matter" means action that a person takes in a prescribed manner in obedience to the mandate of legal authority, without the exercise of the person's own judgment or discretion as to the propriety of the action taken.
- XVIII. "Parties materially related to the complaint at issue" means any other public officer or employee within the same agency as the alleged violator who has engaged in the same conduct as that alleged in the complaint, or any other public officer or employee who has participated with the alleged violator in the alleged violation as a coconspirator or as an aider and abettor.
- XIX. "Person or business entities provided a grant or privilege to operate" includes state and federally chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage companies, credit unions, small loan companies, alcoholic beverage licensees, pari-mutuel wagering companies, utility companies, and entities controlled by the Public Service Commission or granted a franchise to operate by either a city or county government.
- XX. "Purchasing agent" means a public officer or employee having the authority to commit the expenditure of public funds through a contract for, or the purchase of, any goods, services, or interest in real property for an agency, as opposed to the authority to request or requisition a contract or purchase by another person.
- XXI. "Relative," unless otherwise specified in this part, means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

XXII. "Represent" or "representation" means actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client.

XXIII. "Source" means the name, address, and description of the principal business activity of a person or business entity.

XXIV. "Value of real property" means the most recently assessed value in lieu of a more current appraisal.

Section 6. Standards of Conduct.

- I. Definitions. As used in this Section, unless the context otherwise requires, the following terms shall be defined as follows:
 - A. "County Officer" shall include any person elected or appointed to hold office in the Leon County government, including any person serving on an advisory body.
 - B. "County Commissioner" shall include any member of the Leon County Board of County Commissioners.
 - C. "County Employee" shall include any person employed by the Leon County Board of County Commissioners.
- II. Solicitation or Acceptance of Gifts. No County Officer or County Employee shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the County Officer, County Employee, local government attorney, or candidate would be influenced thereby.
- III. Doing Business with One's Agency. No County Employee acting in his or her official capacity as a purchasing agent, or County Officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the County Officer or County Employee or the County Officer's or County Employee's spouse or child is an officer, partner, director, or proprietor or in which such County Officer or County Employee or the County Officer's or County Employee's spouse or child, or any combination of them, has a material interest. Nor shall a County Officer or County Employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the County. This subsection shall not affect or be construed to prohibit contracts entered into prior to:
 - A. October 1, 1975.
 - B. Qualification for elective office.
 - C. Appointment to public office.
 - D. Beginning public employment.

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- IV. **Unauthorized Compensation.** No County Officer or County Employee or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such County Officer, or County Employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the County Officer or County Employee was expected to participate in his or her official capacity.
- V. **Salary and Expenses.** No County Commissioner shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a County Officer, as provided by law. The County Attorney shall not be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.
- VI. **Misuse of Public Position.** No County Officer or County Employee shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31, Florida Statutes.
- VII. **Conflicting Employment or Contractual Relationship.**
- A. No County Officer or County Employee shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, Leon County, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall a County Officer or County Employee have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.
- If the Leon County Board of County Commissioners exercises regulatory power over a business entity residing in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a County Officer or County Employee shall not be prohibited by this subsection or be deemed a conflict.
- B. This subsection shall not prohibit a County Officer or County Employee from practicing in a particular profession or occupation when such practice is required or permitted by law or ordinance.

- VIII. Disclosure or Use of Certain Information. No County Officer or County Employee shall disclose or use information not available to members of the general public and gained by reason of his or her official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.
- IX. Post-Employment Restrictions; Standards of Conduct. No County Officer or County Employee shall personally represent another person or entity for compensation before Leon County Board of County Commissioners for a period of 2 years following vacation of office.
- X. County Employees Holding Office.
- A. No County Employee shall hold office as a member of the Leon County Board of County Commissioners while, at the same time, continuing as a County Employee.
- B. The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.
- C. Exemption. The requirements of Subsection III, "Doing Business With One's Agency," and Subsection VII, "Conflicting Employment or Contractual Relationship," as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing entity and full disclosure of the transaction or relationship by the appointee to the appointing entity. In addition, no person shall be held in violation of Subsection III, "Doing Business With One's Agency," and Subsection VII, "Conflicting Employment or Contractual Relationship" if:
1. Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.
 2. The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:
 - a. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder.
 - b. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

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- c. The official, prior to or at the time of the submission of the bid, has filed a statement with the County.
 3. The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.
 4. An emergency purchase or contract which would otherwise violate a provision of Subsection III, "Doing Business with One's Agency," and Subsection VII, "Conflicting Employment or Contractual Relationship," must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.
 5. The business entity involved is the only source of supply within the political subdivision of the County Officer or County Employee and there is full disclosure by the County Officer or County Employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.
 6. The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.
 7. The fact that a County Officer or County Employee is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of Leon County, provided it appears in the record that the Board of County Commissioners has determined that such County Officer or County Employee has not favored such bank over other qualified banks.
 8. The County Officer or County Employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with Leon County.
 9. The County Officer or County Employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of Leon County and:
 - a. The price and terms of the transaction are available to similarly situated members of the general public; and
 - b. The County Officer or County Employee makes full disclosure of the relationship to the Board of County Commissioners prior to the transaction.

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- XI. Additional Exemption. No County Officer or County Employee shall be held in violation of Subsection III, "Doing Business With One's Agency," or Subsection VII, "Conflicting Employment or Contractual Relationship," if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with Leon County, and:
- A. The County Officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;
 - B. The County Officer has in no way participated in the County's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with County Officers or County Employees, or otherwise; and
 - C. The County Officer abstains from voting on any matter which may come before the Board of County Commissioners involving the officer's employer, publicly states to the assembly the nature of the County Officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s.112.3143, Florida Statutes.
- XII. Non-Interference in County Real Estate Transactions. The following provisions are intended to assure the integrity of the competitive bidding process is preserved, agreements are negotiated at arms-length and consistently enforced, and that no County Commissioner utilizes his or her position or any property within his or her trust, to secure a special privilege, benefit, or exemption for himself, herself, or others.
- A. Definitions. As used in this subsection, unless the context otherwise requires, following terms shall be defined as follows:
 - 1. "County Real Estate Transaction" shall include any existing or proposed real estate transaction in which Leon County is involved as either a buyer, seller, lessee, lessor, or is otherwise involved as a party.
 - 2. "Communicate" or "Communication" shall include one-on-one meetings, discussions, telephone calls, e-mails, and the use of other persons to convey information or receive information.
 - 3. "Property Manager" shall mean the individual or entity retained by the Board of County Commissioners to lease and manage any County-owned property.

- B. Restricted Communication With Parties to County Real Estate Transactions.
1. No County Commissioner shall knowingly communicate with any individual or entity, or their employees, officers, or agents, involved as a party in any County Real Estate Transaction, unless the communication is:
 - a. Part of the transactional process expressly described in a request for bids or other such solicitation invitation;
 - b. Part of a noticed meeting of the Board of County Commissioners; or
 - c. Incidental and does not include any substantive issues involving a County Real Estate Transaction in which such individual or entity is a party.
 2. Any Board member who receives a communication in violation of this subsection shall place in the record at the next regular meeting of the Board of County Commissioners, the following:
 - a. Any and all such written communications;
 - b. Memoranda stating the substance of any and all such oral communications; and
 - c. Any and all written responses to such communications, and memoranda stating the substance of any and all oral responses thereto.
- C. Restricted Communication With County Employees and Property Manager.
1. No County Commissioner shall directly or indirectly coerce or attempt to coerce the County Administrator, the County Attorney, any other County Employee, or the Property Manager, with respect to any County Real Estate Transaction.
 2. In accordance with the Board of County Commissioners Policy No. 03-01 and the Leon County Administrative Code, the County Administrator or his designee shall be responsible for the management of any County-owned property, including the enforcement and termination of lease and license agreements. Except for the purpose of inquiry, County Commissioners shall not communicate directly or indirectly, give directions or otherwise interfere with these property management responsibilities.

3. Any communication outside a noticed meeting of the Board of County Commissioners between a County Commissioner, or their Aide, and the County Administrator, the County Attorney, any County Employee, and/or the Property Manager, which communication involves a substantive issue in a County Real Estate Transaction, shall be summarized in writing no later than three (3) working days after the communication (the Communication Summary), as follows:
 - a. While it is preferred that the template provided on the County intranet is utilized for the Communication Summary, another form of effective written communication, such as e-mail, is acceptable.
 - b. The Communication Summary shall include, at a minimum, the name of the persons involved in the communication, the date of the communication, the subject matter of the communication, and the way in which the communication was ended. The Communication Summary may also include the remarks of the persons involved.
4. The completed Communication Summary shall be forwarded to the Chairperson of the Board of County Commissioners, unless the communication involved the Chairperson in which case it shall be forwarded to the Vice-Chairperson, and a copy of the Communication Summary shall be forwarded to the County Administrator and the County Attorney.

Section 7. Voting Conflicts.

- I. As used in this section:
 - A. "County Officer" includes any person elected or appointed to hold office in the Leon County government, including any person serving on an advisory body.
 - B. "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.
 - C. No County Officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2), Florida Statutes; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the County Officer. Such County Officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

However, a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

- D. No appointed County Officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the County Officer, without first disclosing the nature of his or her interest in the matter.
1. Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.
 2. In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.
 3. For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.
- E. Whenever a county officer or former county officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

Section 8. Use of Office for Political Campaigns or Personal Matters.

Use of Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters, is strictly forbidden.

Section 9. Investigation and Prosecution of Alleged Violation of Code of Ethics.

The investigation and prosecution of any alleged violation of this Code of Ethics shall be in accordance with the Florida Statutes or local ordinances.

Section 10. Conflicts Between this Policy and Florida Statutes.

The Florida Statutes shall apply in the event of any conflict between this adopted policy and the Florida Statutes.

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ARTICLE XII. - LOBBYIST REGULATIONS

Sec. 2-700. - Definitions.

- (a) *Lobbying* shall mean communications, whether written or oral, by a lobbyist with any member or members of the Board of County Commissioners, or any member or members of any decision-making body under the jurisdiction of the board, or any county employee, whereby the lobbyist seeks to encourage or influence the passage, defeat, modification or repeal of any item which may be presented for vote before the Board of County Commissioners, or any decision-making body under the jurisdiction of the board, or which may be presented for consideration by a county employee as a recommendation to the board or decision-making body.
- (b) *Lobbyist* means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity.
- (c) *Lobbying firm* means a business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist.
- (d) *Principal* shall mean a person, firm, corporation, or other legal entity which has employed or retained a lobbyist.
- (e) *Employee* shall mean the county administrator, county attorney, executive director of tourist development, commission staff, and all persons employed by the board of county commissioners.
- (f) *Decision-making body* shall mean any body established by the board of county commissioners.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-701. - Registration of lobbyists.

All lobbyists, as defined herein, shall register with the clerk of the Board of County Commissioners on an annual basis, including payment of a non-refundable \$25.00 fee for each principal so represented, prior to engaging in any lobbying. Registration shall be updated annually to add or withdraw principals, and at least each time a lobbyist commences lobbying on behalf of any new principle. Each lobbyist shall be required to register on forms prepared by the clerk of the board. The lobbyist shall state under oath his or her name, business address, the name and business address of each principal represented, that the principal has actually retained the lobbyist, the general and specific areas of legislative interest, and the nature and extent of any direct business association or partnership with any current member of the Board of County Commissioners, county employee, or person sitting on a decision-making body. Each lobbying firm may register in the name of such firm, corporation or legal entity, provided the registration and the payment of the lobbyist fees shall be for each of the persons who engage in lobbying as defined in this article. Failure to register, or providing false information in the lobbyist registration form, shall constitute a violation of this article.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-702. - Exemptions.

The following persons are not lobbyists as defined in section 2-700(b), and shall not be required to register as lobbyists or to keep records as lobbyists:

- (1) Leon County employees discussing government business;
- (2) Law enforcement personnel conducting an investigation;

- (3) Persons who communicate with board members or employees in an individual capacity for the purpose of self-representation, or on behalf of a family member, without compensation or reimbursement;
- (4) Consultants under contract with Leon County who communicate with commissioners or county employees regarding issues related to the scope of services in their contract;
- (5) Any government officials or employees who are acting in their official capacity or in the normal course of their duties, unless they are proposing in a competitive procurement, or are government employees principally employed for, or whose substantial duties pertain to, governmental affairs lobbying;
- (6) Persons who make purely factual informational requests to a member of the board of county commissioners, member of a decision-making body, or employee with no intent to affect a decision or recommendation on any item; and
- (7) Persons or representatives of organizations contacted by a member of the board of county commissioners, member of a decision-making board, or employee when the contact is initiated by that board member, decision-making board member, or employee in his or her official capacity in the normal course of his or her duties to obtain factual information only.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-703. - Validity of action.

The validity of any decision, action, or determination made by the commission, decision-making board or employee shall not be affected by the failure of any person to comply with the provisions of this article.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-704. - Quarterly compensation report.

Each lobbying firm shall file a compensation report, signed under oath, with the clerk of the board of county commissioners for each calendar quarter during any portion of which such a lobbyist or lobbyist firm was registered under this article to represent a principal (hereinafter "reporting period").

- (1) Each lobbying firm shall file a quarterly compensation report with the clerk of the board for each calendar quarter during any portion of which the lobbyist or one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:
 - a. Full name, business address, and telephone number of the lobbying firm;
 - b. Name of each of the firm's lobbyists; and
 - c. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories: \$0.00; \$1.00 to \$49,999.00; \$50,000.00 to \$99,999.00; \$100,000.00 to \$249,999.00; \$250,000.00 to \$499,999.00; \$500,000.00 to \$999,999.00; \$1 million or more.
- (2) For each principal represented by one or more of the firm's lobbyists, the quarterly compensation report shall also include the:
 - a. Full name, business address, and telephone number of the principal; and
 - b. Total compensation provided or owed to the lobbying firm for the reporting period from such principal, reported in one of the following categories: \$0.00; \$1.00 to \$9,999.00; \$10,000.00 to \$19,999.00; \$20,000.00 to \$29,999.00; \$30,000.00 to \$39,999.00; \$40,000.00 to \$49,999.00; or \$50,000.00 or more. If the category "\$50,000 or more" is

selected, the specific dollar amount of compensation must be reported, rounded up or down to the nearest \$1,000.00.

- (3) The quarterly compensation reports shall be filed no later than 30 days after the end of each reporting period. The four reporting periods are from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. The quarterly compensation reports shall be filed in the form provided by the clerk of the Board of County Commissioners, and the quarterly reporting shall commence on January 1 of each year.
- (4) Failure to file a required quarterly compensation report with the clerk of the board shall result in the imposition of a penalty equal to twice the annual lobbyist registration fee.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-705. - Maintaining Registrations and Compensation Reports.

The clerk of the board of county commissioners shall accept and maintain the lobbyist registrations and quarterly compensation reports, which shall be open for public inspection.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-706. - Prohibited conduct of county officials and employees.

No member of the board of county commissioners or employee of Leon County shall solicit or accept as compensation, payment, favor, service, or thing of value from a lobbyist or principal when such member of the board of county commissioners or employee, as specified above, knows, or with the exercise of reasonable care, should know, that it was given to influence a vote or recommendation favorable to the lobbyist or principal.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-707. - Prohibited communication.

- (a) Any form of communication, except for written correspondence, shall be prohibited regarding a particular request for proposal, request for qualification, bid, or any other competitive solicitation between:
 - (1) Any person or person's representative seeking an award from such competitive solicitation; and
 - (2) Any county commissioner or commissioner's staff, or any county employee authorized to act on behalf of the commission to award a particular contract.
- (b) For the purpose of this section, a person's representative shall include, but not be limited to, the person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the person.
- (c) The prohibited communication shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation.
- (d) The provisions of this section shall not apply to oral communications at any public proceeding, including pre-bid conferences, oral presentations before selection committees, contract negotiations during any public meetings, presentations made to the board, and protest hearings. Further, the provisions of this section shall not apply to contract negotiations between any employee and the intended awardee, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence with any employee, county

commissioner, or decision-making board member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.

- (e) The provisions of this section shall not apply to any purchases made in an amount less than the competitive bid threshold of \$20,000.00, as set forth in Leon County Purchasing Policy No. 96-1, as amended.
- (f) The provisions of this section shall terminate at the time the board, or a county department authorized to act on behalf of the board, awards or approves a contract, rejects all bids or responses, or otherwise takes action which ends the solicitation process.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-708. - Penalties.

The penalties for an intentional violation of this article shall be those specified in F.S. § 125.69(1), as amended, and shall be deemed supplemental to the penalties set forth in section 1-9 of this Code.

(Ord. No. 07-27, § 1, 12-11-07)

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Charter Provision Related to Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

To consider any changes the committee may wish to further explore related to the current Preservation of Constitutional Officers provision in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to potential changes to the Constitutional Officers which the Charter Committee may wish to consider.

All of the 47 non-charter governments and the majority of the 20 charter counties in Florida have five constitutional officers who perform a variety of constitutional and statutory duties and functions for the state and county. The five constitutional officers include the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Each of these constitutional officers administer their own office; however, each office obtains budgets and facilities from their respective Board of County Commissioners to perform their respective duties, including :

- Sheriff: Oversees law enforcement, public safety and often corrections for the county;
- Property Appraiser: assesses the fair value of all property so that property taxes can be computed;
- Tax Collector: receives property tax and other payments for both the county and state;
- Supervisor of Elections: registers voters and organizes all elections in the county; and
- Clerk of the Courts: maintains public records and is clerk to the county commission.

The Leon County's Charter as originally approved in 2002 includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections. The 2009-2010 Citizen Charter Review Committee previously considered this issue, but chose not to recommend any changes to this provision of the County Charter.

Analysis:

Florida Charter Counties have the ability to abolish elected Constitutional Officers, as long as the duties of the individual office are provided for elsewhere. Article VIII, Section 1 (d) of the Florida Constitution states that there shall be five County Officers, "...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office."

Of the Charter Counties in Florida (Attachment #1):

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.
- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.

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- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

In evaluating whether to propose any changes to the Constitutional Officers through a county charter, individuals in support of preserving the constitutional officers generally make the following arguments:

1. The Constitutional Officers' duties are mandated by state law and those duties must be carried out no matter what form of government exists in the county.
2. Maintaining complete independence of those offices insures a system of "checks and balances."
3. The independently elected status permits the offices to focus exclusively on the duties mandated by state law without the undue influence from the legislative body of the county. Because the people directly elect them, constitutional officials are more responsive to the electorate than are appointed officers.
4. The offices provide many services to other jurisdictions in addition to the county government and should therefore be independent of the county legislative body.

Individuals supporting revisions to the constitutional officers generally make the following arguments:

1. Changes to the Constitutional Officers through a county charter provides for a more efficient, uniform set of administrative support policies (budget, personnel, purchasing, etc.) to be implemented.
2. The entity imposing the taxes to fund a program should have ultimate control over the expenditure thereof.
3. Charter amendments provide the opportunity to prescribe additional professional qualifications for candidates seeking to run large, sophisticated operations.

If a charter amendment is considered, as noted in other Florida Charter Counties, there are two approaches to abolish an office and transfer its responsibilities to another office. One is to transfer the responsibility to an appointed position and the other is to transfer the duties to an elected charter officer. Note that all constitutional officers need not be treated in the same manner by the charter.

While there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

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Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Summary

Comparative Analysis: Florida Charter Counties Elected/Appointed Constitutional Officers

County	Elected vs. Appointed Constitutional Officers
Alachua	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Brevard	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Broward	Elected: Sheriff, Property Appraiser, Supervisor of Elections, Clerk of the Courts Appointed: (1) The Office of the Tax Collector was abolished and powers were transferred to County Manager who appoints The Department of Finance (2) Some functions of the Clerk related to county funds transferred to County Manager
Charlotte	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Clay	Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts Appointed: Some functions of the Clerk of Court related to county funds transferred to Appointed County Manager
Columbia	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Duval	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Hillsborough	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Lee	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Leon	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Miami-Dade	Elected: Clerk of Courts, Property Appraiser Appointed: (1) Supervisor of Elections (Department under Mayor), (2) Tax Collector (Office Abolished and Transferred to Department of Finance under Mayor), (3) Sheriff (Office Abolished and Powers Transferred to Mayor)
Orange	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Osceola	Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts Appointed: Some functions of the Clerk of Court related to county funds, ex officio clerk, and accountant transferred to Appointed County Manager
Palm Beach	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Pinellas	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Polk	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Sarasota	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Seminole	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Volusia	Elected: Sheriff, Property Appraiser, Supervisor of Elections, Clerk of the Courts Appointed: (1) The Office of the Tax Collector was abolished and powers were transferred to County Manager who appoints The Department of Finance (2) Some functions of the Clerk related to county funds and ex officio to the Board of County Commissioner transferred to County Manager
Wakulla	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM D**

Citizen Charter Review Committee

Agenda Item D

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modifying the District Composition of the Board of County Commissioners

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator

Summary:

To consider a change in the composition of the Board of County Commissioners to four (4) District/three (3) At-Large from the existing five (5) District/two (2) At-Large.

Staff Recommendation:

Option #4: Committee direction.

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Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners.

In accordance with Section 2.1 of Leon County's Charter, the Board of County Commissioners is composed of seven total members: One Commissioner elected for each of the five County Commission districts and two At-Large Commissioners. All County Commissioners serve staggered terms of four years. This composition has been in place since 1986 and was incorporated into the original Leon County Home Rule Charter adopted in 2002.

Florida's Constitution allows charter county voters to adopt a variety of structures and election processes for its board of county commissioners; however, Leon County has additional considerations. Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended.

In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and

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before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No. 01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Amending the composition of the Leon County BOCC was previously considered by the 2009-2010 Citizen Charter Review Committee (Attachment #2); however, the Committee ultimately voted to recommend that no change be made to the Charter on this issue.

Analysis:

Charter counties vary in the composition of their board of county commissioners. Prior to 1968, all Florida counties were required to have a board of county commissioners composed of five members with one commissioner from each of five commission districts, but elected on a countywide basis. In 1968, Florida counties were constitutionally-vested with home rule, which allowed them to adopt a charter with alternative board compositions. Attachment #1 contains a summary of charter county board compositions and is summarized as follows:

- Seven (7) charter counties: All at-large commissioners;
- Eight (8) charter counties: All single-member districts; and
- Five (5) charter counties: Mix of single-member districts and at-large commissioners.

Since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its “election plan,” no modifications to the current election system and composition of the BOCC could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Regardless of the approach taken, the County will still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval. Staff is uncertain at this time if all of the necessary requirements can be met in the timeframe between the Committee’s final meeting and the 2018 General Election.

After taking into consideration the legal matters outlined above, the Charter Review Committee may still wish to advance modifying the composition of the board of county commissioners as a recommended charter amendment. The Committee’s process can continue to be followed and

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November 30, 2017
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ultimately the recommended charter amendment can be proposed to the Board of County Commissioners for consideration to be placed on the November 2018 ballot.

However, all legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. The Committee, however, may recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting.

Voting Threshold: Simple Majority Vote

2. Request additional information and analysis.

Voting Threshold: Four (4) Votes

3. Take no further action at this time.

Voting Threshold: Simple Majority Vote

4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Charter County Districting Scheme Comparison
2. 2009 Memo on Modifying the BOCC Structure

Charter County Districting Scheme Comparison

County	All At-Large	All Single-Member Districts	Mixed
Alachua	5 At-large		
Charlotte	5 At-Large		
Lee	5 At-Large		
Polk	5 At-Large		
Sarasota	5 At-Large		
Seminole	5 At-Large		
Wakulla	5 At-Large		
Brevard		5 Single	
Clay		5 Single	
Columbia		5 Single	
Osceola		5 Single	
Orange		6 Single	
Palm Beach		7 Single	
Broward		9 Single	
Miami-Dade		13 Single	
Hillsborough			Mixed (4S /3A)
Pinellas			Mixed (4S/ 3A)
Leon			Mixed (5S/ 2A)
Volusia			Mixed (5S/2A)
Duval			Mixed (14S/ 5A)

MEMORANDUM

TO: 2009/2010 Leon County Charter Review Committee

FROM: Kurt Spitzer

DATE: December 14, 2009

RE: Information for Meeting of December 17, 2009

BCC Structure

The issue raised for the consideration of the charter review advisory committee is whether to revise Leon County's districting system to one where there are three Commissioners elected countywide and four from single-member districts.

For years, the "default" structure of the Board of County Commissioners as required by the Florida Constitution was five Commissioners residing in separate residence districts but elected by all of the voters on a countywide (at-large) basis. Numerous lawsuits centering on whether this system had a discriminatory effect or intent resulted in the Legislature passing a proposed constitutional amendment allowing the voters of a county to approve one of two alternative systems: Five single-member districts or seven commissioners with two elected at-large and five from single-member districts. The Florida electorate adopted the amendment to the Constitution in the mid-1980's.

About half of the non-charter counties have retained the at-large system, as have many charter counties.

However, the electorate in most charter counties have the ability to adopt a wide variety of districting schemes for electing County Commissioners and are not bound by the statutory options of electing commissions based on a system of five at-large, five single-member, or five single-member plus two at-large. The attached table illustrates the districting practice in other charter counties.

Those who favor a system of single-member districts generally argue that Commissioners elected from individual districts are much more responsive to and reflective of the residents from within that district. At-large districting schemes may make it difficult for a member of a minority community to be elected.

Those who argue against single-member districts believe that such systems can lead to "ward" politics or that it is often more difficult for persons elected from a single district to be able to balance a wide variety of competing, countywide interests and view the "big picture" for the jurisdiction as a whole.

Several county charters contain provisions attempting to balance the objectives of the differing systems. Some pair a system of single-member districts with a strong elected executive or mayor. Others combine a system of single-member and at-large districts.

Hillsborough and Pinellas counties utilize a system where there are three commissioners elected at-large and four from single-member districts. Each elector has the ability to vote for a majority of the county commission ~ three Commissioners elected countywide plus his or her own district representative. The Pinellas system requires residence areas for those commissioners elected at-large; Hillsborough does not.

The five/two system in Leon County pre-dates the adoption of the charter but was not adopted by vote of the electorate. It is the result of a lawsuit brought by the NAACP. Altering the current system will require review by the federal court at some point in time.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM E**

Citizen Charter Review Committee

Agenda Item E

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modification of District Commission Election Process

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Herbert W.A. Thiele, County Attorney

Summary:

This item provides the Committee with additional information and analysis on the proposal that only electors within each of the Commission single member Districts would vote in a primary election for candidates for each single member District office. However, after such a primary election, the two (2) highest vote getters (assuming there are more than one candidate) would be put on the General Election ballot for a vote by all of the electors of Leon County.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request an agenda item related to modifying the district commission election process for the Leon County Board of County Commissioners.

When the Leon County Home Rule Charter was adopted in 2002, the drafters of the proposed Charter and the Board of County Commissioners elected not to try to modify the existing composition of the Board of County Commissioners. In 2002 that composition was five (5) County Commission Districts, elected by the electors of that District, and two (2) At-large Commissioners elected on a County-wide basis by the electors of the County.

While the proposed change is theoretically possible in all Charter Counties, Leon County has additional considerations.

Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended. In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No.

01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Analysis:

This item provides the Committee with additional information and analysis on the proposal that only electors within each of the Commission single member Districts would vote in a primary election for candidates for each single member District office. However, after such a primary election, the two (2) highest vote getters (assuming there are more than one candidate) would be put on the General Election ballot for a vote by all of the electors of Leon County. No Counties in Florida (either Charter or non-Charter) currently utilize this election process.

Compliance with the Voting Right Acts of 1965, as amended will be necessary in order to make such a modification. Again, because the United States District Court for the Northern District of Florida has retained jurisdiction, we will need to petition for a modification to the election plan contained in the Court's Final Judgment of 1986 or to seek dissolution of the Court's continuing jurisdiction over Leon County and its election plan. No significant research has been performed at this early juncture as to whether or not such an election system would comply with all Federal Laws, especially the Voting Rights Act of 1965, as amended; however, we have serious concerns that this will significantly dilute minority electors' voting impact, and thus will not comply with the Voting Rights Act.

Options:

1. Direct County staff to prepare proposed charter amendment language and agenda the issue for further Committee consideration.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

V.

COMMITTEE IDEA DELIBERATION

VI.

ADJOURNMENT

Citizen Charter Review Committee

December 7, 2017

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of November 30, 2017 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Consolidation of Law Enforcement Services (*Vincent S. Long*)
 - b. Hiring/Firing Process for the County Attorney (*Vincent S. Long*)
 - c. Standards for Community Redevelopment Agency Expenditures (*Herbert W.A. Thiele*)
 - d. Nonpartisan Superintendent of Schools and Constitutional Officers (*Herbert W.A. Thiele*)
- V. Committee Idea Deliberation
 - a. New Ideas for Committee Consideration (*All*)
- VI. Review of Committee Schedule
- VII. Adjournment

The next meeting of the Citizen Charter Review Committee will take place on Thursday, December 14, 2017 at 11:30 A.M.

I.

CALL TO ORDER

II.

APPROVAL OF NOVEMBER 30, 2017 MEETING MINUTES

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 30, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 30, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Bill Graham, Michael Eurich, Gordon Thames, Shane Hopkins, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Reginald Ellis and Anice Prosser were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, County Attorney Herb Thiele, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order

Chairman Hinkle called the meeting to order. She introduced CRC members Shane Hopkins and Bill Graham, who provided brief introductory remarks.

She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated ideas.

II. Approval of November 16, 2017 Minutes

A motion to approve the November 16, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 12-0 (Reggie Ellis and Anice Prosser absent).

III. Remarks of Interested Citizens

- Sheriff Walt McNeil appeared before the CRC to advocate that the election of Constitutional Officers remain partisan elections. He opined that citizens have a right to know the political ideology of a candidate.
- Doris Maloy, Tax Collector, reminded the CRC that when the Charter was established in 2002, Constitutional Officers were assured that the document would not negatively affect the status of Constitutional Officers. She too urged the Committee to retain partisan elections for Constitutional Officers.

IV. Proposed Charter Amendments for Committee Consideration

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced and provided a brief summary of the item.

Mr. Fleckenstein asked by what percentage of the electorate voted in favor of the 2010 amendment. Mr. Long indicated that staff did not include that in their analysis; however, it would be included in staff's further analysis.

Mr. Williams advocated for the limit to be set at the established State limit of \$1,000. He suggested that limiting the amount of contributions makes it more difficult for individuals running against incumbents.

Mr. Thames established that the City has a campaign contribution limit of \$250 and submitted that consistency with the City may be something to consider.

Kim Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language increasing campaign

contributions to the state level of \$1,000 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

As there was some misunderstanding on the intent of the motion, Chairman Hinkle asked Mr. Williams to restate his motion and that the vote be revisited.

Mr. Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language which strikes from the Charter language the limitation of campaign contributions to \$250 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

After the vote was taken, Mr. Eurich asked that campaign fund balances for individual candidates from previous elections be included in the information brought back to the Committee. (Approved without objection)

b. Code of Ethics

County Administrator Long introduced and provided a brief overview of the item.

Mr. Fleckenstein remarked that his intent was to adopt a code of ethics ordinance to elevate the importance of ethical behavior and accountability in all elected and appointed officials and County staff. He agreed that the amendment should require a date certain for an ordinance to be enacted and to include prescribed requirements.

Ms. Jones asked how many charter counties with a Code of Ethics provision include constitutional officers. Ms. Peebles did not have an exact number, but indicated that many county charters have a provision to include constitutional officers, as well as committees appointed by the Board of County Commissioners and County staff. Ms. Jones inquired about enforcement of an Ethics ordinance. County Attorney Thiele responded that provisions of the ordinance would be enforced as a law.

Mr. Graham commented that ordinance language would need to be thoroughly vetted, as it can be difficult to properly define those provisions to ensure they are suitable for prosecution.

Mr. Thiele discussed Chapter 112 of the Florida Statutes and conveyed that, where applicable, language from there would be incorporated into a County ordinance.

There continued to be discussion amongst the CRC and staff, with Ms. Jones ascertaining that the ordinance would specify to whom it would apply and Mr. Long sharing that there are a number of existing County documents pertaining to this topic that would be utilized in the development of an ordinance.

Mr. Thiele reminded the Committee that an ethics ordinance would be brought forward to the Board as a recommendation by the CRC; only the Board of County Commissioners can adopt an ordinance.

Mr. Eurich confirmed with Mr. Thiele that if an Ethics Ordinance was adopted by the Board, it would be Mr. Thiele's recommendation that any duplication of language be removed from County documents, so as to ensure there is no duplicity.

There was discussion regarding authority to include Constitutional Officers in an Ethics Ordinance; however, Mr. Thiele opined that the CRC, should it wish to do so, could include constitutionals in its recommendation.

Mr. Eurich cited Section 3.1 of the current Charter, which states that constitutional officers should remain as independently elected constitutional offices whose status, powers, duties and function shall not be altered by the Charter. He submitted that this portion of the Charter would have to be amended to alter the status of constitutional officers.

Mr. Fleckenstein requested that further analysis include a legal prospective on the ramifications of applying a Code of Ethics to Constitutional Officers.

Mr. Hart agreed that constitutionals should be included and that enforcement issues, whatever they may be, would be addressed by the County Attorney in development of the ordinance.

The following motion was offered by Ms. Jones, seconded by Mr. Thames and amended by Mr. Hart.

Ms. Jones moved Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting, which includes language for a "Code of Ethics" which applies to Constitutional Officers.

The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

c. Charter Provision Related to Constitutional Officers

County Administrator Long introduced and provided a brief overview of the item.

Ms. Jones clarified that her intent for bringing this forward was to review and discuss each constitutional office to determine if it should be filled by the electorate or be an appointed position.

Ms. Jones reiterated that this was not a statement against any Constitutional Officer, but was a discussion that should be held by every CRC. She suggested that constitutional offices have become politicized and it was time to look at other options.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission.

Ms. Jones requested that an analysis include a breakdown of the role of constitutional officers and how the appointments would be made for each office.

Ms. Jones moved, seconded by Casey Perkins, to approve Option 2, as amended: Request additional information and analysis to include a summary of each

Constitutional Officer's job duties and potential process for making appointments to constitutional offices.

The motion failed 2-10 (Michael Eurich, Neil Fleckenstein, William Graham, Lee Hinkle, Shane Hopkins, Kenneth Hart, Jay Revell, Gordon Thames, Ted Thomas, and Kim Williams in opposition and Reginald Ellis and Anice Prosser in opposition).

d. Modifying the District Composition of the Board of County Commissioners

County Attorney Thiele introduced and provided a brief overview of the item, which included how to implement such a change since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district.

Mr. Hart clarified that his intent for bring this item forward is to allow citizens to elect a majority of the Board of County Commissioners. He suggested that most issues brought before the County Commission are countywide and voters should have a voice in electing a majority of the Commissioners.

Mr. Revell recommended that the County maintain its minority-majority and minority access districts. Mr. Thiele confirmed that would be his intent.

Mr. Hart moved, seconded by Mr. Revell to approve Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting. The motion carried 11-1 (Catherine Jones in opposition and Reginald Ellis and Anice Prosser absent).

e. Modifying the District Commissioner Election Process

Mr. Revell, as the originator of the item, asked that it be removed from consideration.

Mr. Revell moved, seconded by Neil Fleckenstein, to approve Option 3: Take no further action at this time regarding modification of the District Commissioner election process. The motion carried 11-1 (Bill Graham in opposition and Reginald Ellis and Anice Prosser absent).

V. Committee Idea Deliberation

a. County Attorney Hiring/Firing Process (Offered by Jay Revell)

Mr. Revell provided that his intent was to have hiring/firing requirements for the County Attorney match the hiring/firing requirements of the County Administrator.

Jay Revell moved, seconded by Neil Fleckenstein, to consider providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter. The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

b. Law Enforcement Consolidation (Offered by Ken Hart)

Mr. Hart indicated that he was unsure if this could be done; however, countywide consolidation has been a big topic of discussion within the community and he believed it a good idea to explore and discuss the feasibility of law enforcement consolidation. He confirmed with Mr. Thiele that law enforcement consolidation could not be realized through a Charter amendment; but also established that it could be done through an interlocal agreement between the Sheriff and the City of Tallahassee or by a transfer of power (which would require a City referendum). Mr. Thiele offered that a lot of “behind the scene” details would have to be worked out.

Ken Hart moved, seconded by Neil Fleckenstein to request additional information and analysis related to consolidation of law enforcement services.

Mr. Williams stated that he would not be in support of law enforcement consolidation and offered that the current system has worked well.

Mr. Hart submitted that consolidation could result in a more efficient, streamlined and coordinated approach.

Mr. Fleckenstein indicated that he was interested in learning the pros and cons of such an endeavor and asked that these be included in staff's analysis.

Mr. Thomas conveyed that he could not support the motion as he deemed it appropriate to look at total consolidation, not just in one area.

Chairman Hinkle mentioned functional consolidation that has occurred between the County and City, such as animal control, environmental standards, joint dispatch, etc. Mr. Long affirmed the extensive functional consolidation between the County and City and commented that there are not many more areas that could be considered.

Mr. Williams expressed his support for the motion and was interested in the potential financial savings that could be gained.

The motion carried 9-2 (Catherine Jones and Kim Williams in opposition and Reginald Ellis, Anice Prosser and Jay Revell absent).

c. New Ideas for Committee Consideration

There were no additional ideas offered.

Ms. Peeples reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

VI. Adjournment

The Committee adjourned at 1:35 pm.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM A

Citizen Charter Review Committee

Agenda Item A

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Consolidation of Law Enforcement Services

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to the consolidation of law enforcement services.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 30, 2017, the Committee passed a motion to request additional information and analysis related to consolidation of law enforcement services.

As discussed during the November 30, 2017 Charter Review Committee meeting, consolidation of law enforcement services cannot be effectuated through a charter amendment. However, Florida law provides two methods for consolidating law enforcement services: (1) Transfer of Powers and (2) Interlocal Agreement.

Transfer of Powers

As outlined in Article VIII, Section 3 of the Florida Constitution (Attachment #1), the powers and functions of a county or municipality may be permanently transferred to and performed by another county or municipality. This transfer of power requires a special law or resolution of the governing bodies of each of the affected governments followed by approval from the electors of both governments through a dual referendum. A “dual referendum” requires the residents of the City and unincorporated each to separately approve the referendum.

Interlocal Agreement

Section 166.0495, Florida Statutes, authorizes a municipality to enter into an interlocal agreement to obtain law enforcement services from an adjoining municipality within the same county, without requiring dual referenda for approval (Attachment #2). An interlocal agreement allows governments to set their terms when contracting for services and/or transferring certain functions such as the duration of time that one government will provide services for the other.

Regardless of the approach, consolidation cannot be effectuated unilaterally by any one government and requires mutual agreement of all parties.

Analysis:

Currently, the City of Tallahassee Police Department (TPD) provides law enforcement services to citizens within the incorporated area of the County, while the Leon County Sheriff's Office (LCSO) provides countywide services and patrol services to the unincorporated area. In addition to patrol, LCSO is also responsible for school resource deputies, judicial services (warrants, civil process, bailiffs, inmate transportation, etc.), and the operation of the Leon County Detention Center. TPD and LCSO have mutual aid and other agreements to ensure cooperation for the provision of law enforcement services throughout the county.

Consolidation of law enforcement services in Leon County would require either the transfer of the City's law enforcement authority to LCSO by resolution and dual referendum or through an interlocal agreement between the City and the Sheriff. As the funding entity for the Sheriff's Office, the Leon County Board of County Commissioners would also need to support the consolidation and work collaboratively with the City and LCSO.

Title: Consolidation of Law Enforcement Services
December 7, 2017
Page 3

Although the outcome of consolidation is dependent on the jurisdiction in which it occurs, general arguments in support of consolidation of law enforcement include:

1. Consolidating law enforcement services can reduce service delivery and administrative costs to provide fiscal savings for tax payers by eliminating the duplication of services.
2. Consolidation can leverage greater efficiency through the streamlining of services, greater flexibility related to large-scale issues, and improved utilization of resources.
3. Consolidation provides law enforcement on a larger, cross-jurisdictional scale which can enhance coordination of services and reduce jurisdictional confusion of citizens.

General arguments in favor of maintaining separate law enforcement authorities and in opposition of consolidation include:

1. Consolidation of services is typically cost prohibitive due to the high cost of implementation such as new branding, uniforms, and vehicles/equipment.
2. Citizens in the incorporated area that previously received City services may experience a reduction in services and/or a resulting increase in costs following consolidation.
3. Merging law enforcement services of two entities may cause issues related to organizational structure, culture, and the alignment of priorities which may hinder coordination.

Prior to implementing a consolidation of law enforcement services, the Board of County Commissioners, the City Commission, and the Sheriff would need to conduct a broad review to address several issues including but not limited to impacts to services and/or crime rates, variations in organizational structure and leadership, and development of consistent policies and training. Potential costs associated with implementation such as modifications to salaries and benefits packages, increased pensions, and issuing standard equipment/materials (uniforms, vehicles, branding, etc.) would also need to be identified and budgeted for. Addressing these and other issues related to implementation, may require the respective entities to hire a consultant to perform an in-depth analysis.

As consolidation of law enforcement cannot be effectuated by a charter amendment, the Committee is limited in how it may make such a recommendation to the Board. Should the Committee wish to further consider the issue, the Committee may by simple majority vote request that staff prepare language for inclusion in the Committee's Final Report recommending that the Board coordinate with LCSO and the City to explore law enforcement consolidation through transfer of powers or interlocal agreement upon a thorough analysis of the costs/benefits to the community.

Title: Consolidation of Law Enforcement Services
December 7, 2017
Page 4

Options:

1. Request staff prepare language for inclusion in the Citizen Charter Review Committee's Final Report recommending that the Board of County Commissioners consider consolidation of law enforcement services.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Article VIII, Section 3 and Section 4 of the Florida Constitution
2. F.S. 166.0495 Interlocal agreements to provide law enforcement services

The Florida Constitution

CONSTITUTION OF THE STATE OF FLORIDA

AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

ARTICLE VIII LOCAL GOVERNMENT

SECTION 4. **Transfer of powers.**—By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.

The 2017 Florida Statutes

[Title XII](#)
MUNICIPALITIES

[Chapter 166](#)
MUNICIPALITIES

[View Entire Chapter](#)

166.0495 Interlocal agreements to provide law enforcement services.—A municipality may enter into an interlocal agreement pursuant to s. [163.01](#) with an adjoining municipality or municipalities within the same county to provide law enforcement services within the territorial boundaries of the other adjoining municipality or municipalities. Any such agreement shall specify the duration of the agreement and shall comply with s. [112.0515](#), if applicable. The authority granted a municipality under this section is in addition to and not in limitation of any other authority granted a municipality to enter into agreements for law enforcement services or to conduct law enforcement activities outside the territorial boundaries of the municipality.

History.—s. 1, ch. 97-62.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of charter counties do not include a provision in their charter's related to the hiring / firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

1 and powers shall be assigned to, and vested in, the County Administrator. The County
2 Administrator shall exercise all executive authority provided by this Home Rule Charter and all
3 other powers and duties authorized by general or special law.

4 (B) The County Administrator shall be chosen on the basis of his/her professional
5 qualifications, administrative and executive experience, and ability to serve as the chief
6 administrator of the County. The County Administrator shall reside within the County during
7 his/her tenure as County Administrator.

8 (C) The compensation of the County Administrator shall be fixed by the Board of
9 County Commissioners at a level commensurate with the responsibilities of the position, with
10 performance appraisals conducted by the Board of County Commissioners at least annually.

11 (D) A vacancy in the office shall be filled in the same manner as the original
12 appointment. The County Administrator may appoint an Acting County Administrator in the
13 case of his/her temporary vacancy.

14 (2) **Senior Management.**

15 The County's senior management employees, with the exception of the County
16 Attorney's and Tourist Development Council (TDC) staff, shall serve at the pleasure of the
17 County Administrator, who may suspend or discharge senior management personnel with or
18 without cause.

19 **Section 2. Ballot Question To Be Presented To Electorate.**

20 The proposed amendments to the Home Rule Charter of Leon County, Florida, shall be
21 presented to the qualified Leon County electorate by placing the question of whether to adopt
22 same on the ballot at the special election to be held on November 2, 2010.

23 **Section 3. Ballot Question Form.**

1 The question on the ballot shall be substantially in the following form:

2 **EMPLOYMENT OF THE COUNTY ADMINISTRATOR AS PROPOSED BY**
3 **THE CITIZEN CHARTER REVIEW COMMITTEE**

4
5 Question

6
7 Shall the Home Rule Charter of Leon County, Florida be amended to
8 provide the manner by which the County Administrator shall be
9 employed and the manner by which the County Administrator is
10 terminated; effective January 1, 2011?

11
12 Yes for Approval _____

13
14 No for Rejection _____

15
16 **Section 4. Further Authorization.**

17 The Board of County Commissioners of Leon County, Florida, is authorized to adopt all
18 resolutions and take all actions necessary in order for this Charter amendment referendum to be
19 properly placed on the ballot for the special election of November 2, 2010. Said referendum
20 shall be conducted according to the requirements of law governing referendum elections in the
21 State of Florida.

22 **Section 5. Severability.**

23 If any word, phrase, clause, section or portion of this ordinance shall be held invalid or
24 unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a
25 separate and independent provision and such holding shall not affect the validity of the
26 remaining portions thereof.

27 **Section 6. Effective Date.**

28 This ordinance shall have effect upon becoming law, but shall be of no further force or
29 effect if the proposed Charter amendments are not duly approved at the November 2, 2010,
30 special election. The amendments to the Home Rule Charter of Leon County, Florida, as

1 proposed by this Ordinance, shall become effective January 1, 2011, if the Charter amendment is
2 approved by a "yes" vote by a majority of those duly qualified electors voting on the question
3 posed at the November 2, 2010, referendum.

4 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
5 County, Florida, this 17th day of August, 2010.

6
7 LEON COUNTY, FLORIDA



By: Bob Rackleff
Bob Rackleff, Chairman
Board of County Commissioners

15 ATTESTED BY:
16 BOB INZER, CLERK OF THE COURT
17 LEON COUNTY, FLORIDA

18
19
20 By: John Stott, Deputy Clerk
21 Clerk
22

23
24 APPROVED AS TO FORM:
25 COUNTY ATTORNEY'S OFFICE
26 LEON COUNTY, FLORIDA

27
28
29 By: Herbert W. A. Thiele, Esq.
30 Herbert W. A. Thiele, Esq.
31 County Attorney

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Standards for CRA Expenditures

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn D. Riggans, Deputy County Attorney

Summary:

This item provides the Committee with additional information and analysis concerning creating and imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency.

Staff Recommendation:

Option #3: Take no further action at this time.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency

The City of Tallahassee Community Redevelopment Agency is a public body corporate and politic that was created by the City of Tallahassee in 1998 to carry out and effectuate the purposes and provisions of Part III of Chapter 163, Florida Statutes (the Community Redevelopment Act of 1969). On August 26, 1998, the City of Tallahassee adopted Resolution No. 98-R-0039, which declared that one or more blighted areas existed within the City limits and that the rehabilitation, conservation, or redevelopment of such areas was necessary. On September 23, 1998, the City adopted Ordinance No. 98-O-0046, which created the City of Tallahassee Community Redevelopment Agency (the "CRA"). The CRA is governed by the CRA Board, which is presently composed of nine members, including the Mayor of the City of Tallahassee, four City Commissioners, and four members of the Leon County Board of County Commissioners. The CRA presently employs five full-time employees and one part-time employee, all of whom are considered to be City employees.

Analysis:

The Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) governs the creation of community redevelopment agencies and the exercise of powers in carrying out community redevelopment. Pursuant to and in accordance with the provisions of the Community Redevelopment Act, the City of Tallahassee established the CRA and CRA Board, and the provisions governing same are codified at Chapter 6, Article II of the City of Tallahassee Code of Ordinances. Notably, Section 6-52(a) of the City of Tallahassee Code provides that the CRA "shall be governed by a board of commissioners consisting of the mayor, the four members of the city commission and four members of the county commission." The County does not have any ordinances or Charter provisions concerning the CRA and community redevelopment, but has entered into Interlocal Agreements pertaining to same.

On June 23, 2004, the County, City of Tallahassee, and the CRA entered into an Interlocal Agreement regarding the creation and operation of the Downtown District Community Redevelopment Area. As stated in the Recitals of this Interlocal Agreement, it is the County's position that neither the City, nor the CRA, may legally create or designate any new community redevelopment areas, expand the boundaries of any existing community redevelopment areas, or exercise any powers within new or expanded community redevelopment areas without first obtaining the County's specific delegation of power or consent. Accordingly, Section 4 provides that any boundary adjustments to existing or newly created community redevelopment areas require the prior written approval of the County. In addition, in Section 5 of the Agreement, the County delegated to the City the County's powers pertaining to the Downtown District Community Redevelopment Area. Section 6 of the Agreement contains the financial provisions, which include funding via "tax increment financing" by both the City and County, as well as the use of certain tourist development tax dollars.

Title: Standards for CRA Expenditures
December 7, 2017
Page 3

The Interlocal Agreement was subsequently amended on October 4, 2007, February 9, 2009, and December 11, 2014, and included amendments to the financial provisions. The Interlocal Agreement provides that, “any portion of the Agreement may be amended or waived only pursuant to an instrument in writing, approved by the City Commission, the Governing Board of the Agency, and the County’s Board of County Commissioners, and jointly executed by the Parties.” For example, the 2014 amendments to the Interlocal Agreement provided that tourist development tax funds in the amount of \$5,042,522, which had been previously collected through and including September 30, 2014, and which had been dedicated for a performing arts center, shall be set aside for use by the CRA, and, subject to the approval of the County and City, utilized for projects, programs and expenses related to culture, visual arts, and heritage programs, performing arts space as part of a convention center project, or other performing arts projects.

Florida Statute articulates the allowable uses of CRA funds, and the existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA. Imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to the existing Interlocal Agreements. Furthermore, amending the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County.

Finally, it appears that additional regulations regarding community redevelopment agencies will be considered during the upcoming 2018 Legislative Session. Both the Florida House and Senate are reportedly working on bills that will add transparency to and increase spending reporting requirements for community redevelopment agencies.

Options:

1. Direct County staff to prepare proposed charter amendment language and agenda the issue for further Committee consideration.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #3: Take no further action at this time.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM D**

Citizen Charter Review Committee

Agenda Item D

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Nonpartisan Superintendent of Schools and Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn Riggans, Deputy County Attorney Heather Peoples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis on the ability of Charter Review Committee to address making the office of Superintendent of Schools and Constitutional Officers nonpartisan.

Staff Recommendation:

Option #4: Committee direction.

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 2

Report and Discussion

Background: On November 16, 2017, the Charter Review Committee requested legal analysis on whether the Leon County Charter may address whether or not the office of Superintendent of Schools and other Constitutional Officers may be made nonpartisan.

Analysis: This item is intended to provide a brief overview and seeks additional direction from the Committee. The Florida Constitution address the subject of education in Article IX and the subject of local government in Article VIII.

Constitutional Officers

Regarding the question of changing Constitutional Officers to a nonpartisan election process you can look to Article VIII (d) County officers which states: “There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified....” There is an Attorney General opinion (Fla. AGO 2000-02) and case law that supports the position that either the Legislature or a charter amendment may make county officers electable on a nonpartisan basis.

Of the Charter Counties in Florida (Attachment #1):

- 12 hold partisan elections for its Constitutional Officers.
- Columbia, Polk, Volusia, and Wakulla County hold nonpartisan elections for its Constitutional Officers.
- Lee, Leon, Miami-Dade, and Palm Beach have both partisan and nonpartisan elections of Constitutional Officers.

It should be noted that Leon County’s Charter currently requires that the election of the Supervisor of Elections shall be nonpartisan. This provision was included in the County’s original Charter adopted by the voters in 2002.

Superintendent of Schools

To address the question of whether or not the Leon County Charter could make the election of the Superintendent of Schools nonpartisan the County Attorney’s Office reviewed Article VIII and IX of the Florida Constitution, searched Attorney General Opinions and reviewed available case law. Additionally, we looked at each of the 19 other charters of the 20 Florida Charter Counties.

It is worth noting that Article IX expressly provides for the election the Superintendent of Schools but has remained silent as to the selection process (partisan/nonpartisan) although in 1998 the Constitution was amended to provide for the nonpartisan election of school board members.

The current case law on this issue is not clear and does not provide a lot of guidance as to the legality of such a charter amendment.

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 3

Likewise, during our review of county charters it was found that only one, Columbia County, had incorporated in their charter a provision for making the Superintendent of Schools nonpartisan. Columbia County appears to have based their decision on the interplay between Articles VIII and IX of the Florida Constitution and a 1993 advisory opinion to the Governor regarding his power to suspend a school board member who had committed a crime. In the opinion, the Florida Supreme Court advised the Governor that the school board members and the superintendent were considered “county officers” within the meaning of Article IV of the Constitution which pertains to the Executive Branch. However, in our opinion this does not mean that the Superintendent falls within the meaning of “county officer” as defined in Article VIII, which expressly enumerates said officers.

Additionally, in our research of the issue we reached out to the Florida Association of District School Superintendents (FADSS). Counsel for FADSS has opined that Superintendents are separate and distinct Constitutional Officers, not county officers that would fall under the purview of local governments. It is counsel’s opinion that the Superintendents are regulated and governed by the respective district school boards and government at a state and not local level.

In conclusion, there is an argument that can be made that charter counties have the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. However, as it relates to the School Superintendents that same argument can be made but there is not a lot of information that supports that position. Moreover, most opinions are to the contrary. Taking all the gathered information in its totality we concur with the opinion of counsel representing the FADSS.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers

Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers

County	Partisan	Non-Partisan	Both Partisan & Non-Partisan
Alachua	X		
Brevard	X		
Broward	X		
Charlotte	X		
Clay	X		
Duval	X		
Hillsborough	X		
Osceola	X		
Pinellas	X		
Sarasota	X		
Seminole	X		
Columbia		X	
Orange		X	
Polk		X	
Volusia		X	
Wakulla		X	
Miami-Dade			<ul style="list-style-type: none"> • Partisan Clerk of Courts • Non-Partisan Property Appraiser (Appointed: Supervisor of Elections, Tax Collector, and Sheriff)
Palm Beach			<ul style="list-style-type: none"> • Partisan Clerk of Courts and Tax Collector • Non-Partisan Property Appraiser, Sheriff, and Supervisor of Elections
Lee			<ul style="list-style-type: none"> • Partisan Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan Supervisor of Elections
Leon			<ul style="list-style-type: none"> • Partisan Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan Supervisor of Elections

V.

COMMITTEE IDEA DELIBERATION

VI.

REVIEW OF COMMITTEE SCHEDULE

Charter Review Committee Meeting Schedule

All meetings are held on Thursdays from 11:30 am to 1:30 pm in the Leon County Commissioner Chambers unless otherwise noted.

November 9, 2017 / 9am
Orientation

November 16, 2017
Issue/Discussion Meeting

November 23, 2017 – No Meeting
Thanksgiving Holiday

November 30, 2017
Issue/Discussion Meeting

December 7, 2017
Issue/Discussion Meeting

December 14, 2017
Issue/Discussion Meeting

December 21 & 28, 2017 – No Meetings
Winter Holidays

January 4, 2018 – No Meeting
New Year's Holiday

January 11, 2018
Issue/Discussion Meeting

January 18, 2018
Decision Meeting

January 25, 2018
Decision Meeting

February 1, 2018 / 6pm
Public Hearing

February 8, 2018 / 6pm
Public Hearing

February 15, 2018 / 6pm
Public Hearing

February 22, 2018
(Tentatively scheduled if needed)

VII.

ADJOURNMENT

Citizen Charter Review Committee

January 11, 2018

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of December 7, 2017 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Standards for CRA Expenditures (*Herbert W.A. Thiele*)
 - Presentation on the Community Redevelopment Agency
Wayne Tedder, Assistant City Manager
 - b. Nonpartisan Constitutional Officers (*Vincent S. Long, Herbert W.A. Thiele*)
- V. Draft Charter Amendment Language for Committee Consideration
 - a. Increasing Campaign Contribution Limits for Local Elections
(*Vincent S. Long*)
 - b. “Code of Ethics” (*Vincent S. Long*)
 - c. Hiring/Firing Process for the County Attorney
(*Herbert W.A. Thiele*)
 - d. Modifying the District Composition of the Leon County Board of
County Commissioners (*Herbert W.A. Thiele*)
- VI. Committee Idea Deliberation
 - a. New Ideas for Committee Consideration (*All*)
- VII. Adjournment

*The next meeting of the Citizen Charter Review Committee will take place on
Thursday, January 18, 2018 at 11:30 A.M.*

I.

CALL TO ORDER

II.

APPROVAL OF DECEMBER 7, 2017 MEETING MINUTES

**CHARTER REVIEW COMMITTEE
DECEMBER 7, 2017**

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on December 7, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and William Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

Chairman Hinkle convened the meeting. She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated issues at today's meeting.

II. Approval or Meeting Minutes. Chairman Hinkle advised that amended minutes had been distributed. The original minutes incorrectly listed Reginald Ellis and Anice Prosser as in opposition to the motion offered in Section IV, Item c. Mr. Ellis and Ms. Prosser should have been recorded as absent.

A motion to approve the amended November 30, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Ted Thomas. The motion carried 12-0 (Shane Hopkins and William Graham absent).

III. Remarks of Interested Citizens.

- Wilson Barnes addressed the CRC on behalf of the Tallahassee Branch of the NAACP. He spoke of their opposition to proposed charter amendments which would 1) alter the district composition of the County Commission and 2) establish non-partisan elections for all Constitutional Officers. He asked that the NAACP be a partner in potential changes and that it be offered an opportunity to review and make comment on proposed amendments.

Chairman Hinkle advised that the Committee would be holding three public hearing to provide an opportunity for the public to comment on proposed amendments and encouraged Mr. Barnes and others to attend.

IV. Proposed Charter Amendments for Committee Consideration

a. Consolidation of Law Enforcement

County Administrator Long provided an overview of the analysis. He relayed that consolidation of law enforcement services cannot be effectuated through a charter amendment. However, Florida law provides two methods for consolidating law enforcement services: 1) transfer of powers and 2) interlocal agreement. He articulated that should the CRC wish to further consider the issue, it may by a simple majority vote to direct staff to prepare language for inclusion in the Committee's Final Report recommending that the Board coordinate with the Sheriff's Office and the City to explore law enforcement consolidation after a thorough analysis of the costs/benefits to the community.

Mr. Perkins confirmed that the County could not place consolidation on the ballot without the City.

Ms. Jones submitted that the proposal is out of the purview of the CRC.

Catherine Jones moved, seconded by Michael Eurich, approval of Option 3: Take no further action at this time. The motion carried 10-2 (Ken Hart and Gordon Thames in opposition; William Graham and Shane Hopkins absent).

b. Hiring/Firing Process for County Attorney

County Attorney Thiele provided an overview of the analysis. The existing employment contract with the County Attorney includes a process for termination whereby the County Attorney may be removed at any time by a majority vote of the Board. He indicated that he is ambivalent on this issue; however, there is merit that the two employees reporting to the Board should have the same termination process.

Mr. Revell stated his intent for the amendment was consistency within the Charter.

Jay Revell moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting. The motion carried 12-0 (William Graham and Shane Hopkins absent).

c. Standards for Community Redevelopment Agency (CRA) Expenditures

County Attorney Thiele provided an overview of the analysis. He indicated that a review to determine if the Charter could bind the CRA to expend funds in a certain manner resulted in an opinion that the Charter cannot bind another properly constituted legal entities expenditures.

Mr. Thames, while respecting the opinion of staff, did not believe the analysis addressed the intent of his recommendation. He clarified that his intent was that, going forward, anything purchased from CRA funds would be owned by the citizens of Leon County, i.e., parking garage, roads, etc.

Mr. Long, in response to a request from Mr. Revell, provided the CRC with an update on the County's decision to no longer participate in the Downtown CRA. He indicated that staff is working to facilitate the County's withdrawal from the Downtown CRA and will bring back options to both the City and County Commissions on the County's participation and the process going forward.

Mr. Williams provided his insights on the function and value of the CRA and submitted that a number of good projects have come from public funding of private structures (understanding that these structure must meet certain requirements.) He also mentioned that the only way the CRA can be effective is to create value within the boundaries where the CRA collects its funding. He stated that this was a very complex issue and suggested that CRA staff be invited to make presentation to the Committee.

Mr. Thames again advocated for placing this before the voters and allowing them to decide if they want to own what is bought with tax money.

Mr. Thomas pointed out that that the extra dollars going into the CRA are not going toward the general revenue, which places an extra burden on the rest of the community.

Gordon Thames moved, seconded by Catherine Jones, to limit, going forward, the expenditure of prospective County funding for the Community Redevelopment Agency to public infrastructure projects.

There continued to be much discussion among the Committee on the motion, including multiple suggestions for additional information and presentation from CRA staff.

Mr. Thomas Called the Question.

The motion failed 5-7 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Casey Perkins, Ted Thomas and Kim Williams in opposition and William Graham and Shane Hopkins absent).

Ted Thomas moved, duly seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis including a presentation from the Community Redevelopment Agency. The motion carried 12-0 (William Graham and Shane Hopkins absent).

d. Nonpartisan Superintendent of Schools and Constitutional Officers

Deputy County Attorney LaShawn Riggins provided an overview of the analysis. She conveyed that statute provides that a Charter County has the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. Regarding the Superintendent of Schools, staff concurred with the Florida Association of District School Superintendents (FADSS) Council that superintendents are regulated and governed by the respective district school boards and government at the state and not local level; thus the County Charter could not effectuate this change.

Mr. Thomas reviewed his rationale for bringing this issue forward. He submitted that 19% of voters in Leon County and 20% of the voters in the City are registered as nonpartisan. He submitted that this was a significant number of disenfranchised voters and the opportunity for all registered voters to vote for Constitutional positions was important. He acknowledged that the change to make Superintendent of Schools nonpartisan could not be accomplished through the Charter, but suggested that the Chairman of the CRC send a letter on behalf of the Committee to the School Board requesting they move to make the Superintendent of Schools a nonpartisan election to be placed on the November 2018 ballot.

Ms. Riggins reiterated that it was the opinion of the FADSS that the Superintendent of Schools, while overseen by the local School Board, was governed by state law.

Mr. Thomas offered that there is a nexus between the fact that the School Board has the authority to change the School Superintendent to an appointed position and the authority to also make it a nonpartisan race.

Mr. Fleckenstein suggested a “robust” analysis of the pros and cons of making constitutionals nonpartisan would be helpful.

Mr. Ellis indicated that he had some concerns about changing the election of constitutional officers to nonpartisan, as it would alter the manner in which African American voters have historically voted.

Mr. Eurich and Ms. Jones both commented that a proposed change to nonpartisan elections for the Superintendent of Schools was unlike a proposed change for the Constitutional Officers as it cannot be accomplished through the Charter and was outside of the Committee's purview.

Mr. Revell indicated that he had a number of issues that he would like staff to bring back more information on.

Jay Revell moved, seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis to include:

- *Total number of registered voters in Leon County.*
- *Number of voters in Leon County by party registration, including those with no party affiliation.*
- *Growth rates in party registration and no party affiliation over the last four election cycles.*
- *The number of partisan elections that resulted in two-party races in the last four election cycles.*
- *Voter turnout by party affiliation in the primary and general elections over the last four election cycles.*
- *The number of minority candidates in Leon County over the last four election cycles.*
- *Include County Commission in chart of partisan elections.*

The motion carried 11-1 (Catherine Jones in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle clarified that the information coming back to the Committee pertained to Constitutional Offices only.

Ted Thomas moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter to the Leon County School Board requesting a referendum on the November 6, 2018 General Election ballot to make the Superintendent of School nonpartisan. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Ken Hart, Casey Perkins, Anice Prosser and Jay Revell in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle suggested that Mr. Thomas take this issue up directly with the School Board.

V. Committee Idea Deliberation

Chairman Hinkle confirmed there were no additional items to be brought forward by the Committee for consideration.

VI. Review of Committee Schedule

Chairman Hinkle commented that the Committee had conducted all the necessary action up to this point and recommended that the meeting scheduled for December 14, 2017 be cancelled. The next meeting of the Committee is scheduled for January 11, 2018 at 11:30 a.m.

Ms. Jones clarified that Committee members could bring items forward at the January 11th meeting.

VI. Adjournment

The meeting was adjourned at 1:15 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

DRAFT

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM 4-A**

Citizen Charter Review Committee

Agenda Item #4A

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Standards for CRA Expenditures

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn D. Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis concerning creating and imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency.

Staff Recommendation:

Option #4: Committee direction.

Title: Standards for CRA Expenditures
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency (CRA).

On December 7, 2017, County staff presented the Committee with an agenda item (Attachment #1) including a legal analysis of the proposed Charter amendment. The analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to existing Interlocal Agreements. After significant discussion, the Committee passed a motion 12-0 to request a presentation from the Community Redevelopment Agency.

Analysis:

On December 8, 2017, the Citizen Charter Review Committee Chair sent a letter to the City of Tallahassee on behalf of the Committee requesting a CRA representative attend the Committee's next meeting to provide a presentation and answer any questions members may have (Attachment #2). A CRA representative is scheduled to present during the Committee's January 11, 2018 meeting.

Currently, none of Florida's 20 county charters contain provisions regarding the regulation of Community Redevelopment Agencies. As stated in the item presented to the Committee on December 7, 2017, the Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) articulates the allowable uses of CRA funds. Existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA.

Imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to the existing Interlocal Agreements. Furthermore, amending the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County. Consequently, it remains the recommendation of staff that the Committee take no further action at this time.

Title: Standards for CRA Expenditures
January 11, 2018
Page 3

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. December 7, 2017 Item, “Standards for CRA Expenditures”
2. Letter Requesting CRA Presentation

Citizen Charter Review Committee

Agenda Item C

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Standards for CRA Expenditures

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn D. Riggans, Deputy County Attorney

Summary:

This item provides the Committee with additional information and analysis concerning creating and imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency.

Staff Recommendation:

Option #3: Take no further action at this time.

Title: Standards for CRA Expenditures
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency

The City of Tallahassee Community Redevelopment Agency is a public body corporate and politic that was created by the City of Tallahassee in 1998 to carry out and effectuate the purposes and provisions of Part III of Chapter 163, Florida Statutes (the Community Redevelopment Act of 1969). On August 26, 1998, the City of Tallahassee adopted Resolution No. 98-R-0039, which declared that one or more blighted areas existed within the City limits and that the rehabilitation, conservation, or redevelopment of such areas was necessary. On September 23, 1998, the City adopted Ordinance No. 98-O-0046, which created the City of Tallahassee Community Redevelopment Agency (the "CRA"). The CRA is governed by the CRA Board, which is presently composed of nine members, including the Mayor of the City of Tallahassee, four City Commissioners, and four members of the Leon County Board of County Commissioners. The CRA presently employs five full-time employees and one part-time employee, all of whom are considered to be City employees.

Analysis:

The Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) governs the creation of community redevelopment agencies and the exercise of powers in carrying out community redevelopment. Pursuant to and in accordance with the provisions of the Community Redevelopment Act, the City of Tallahassee established the CRA and CRA Board, and the provisions governing same are codified at Chapter 6, Article II of the City of Tallahassee Code of Ordinances. Notably, Section 6-52(a) of the City of Tallahassee Code provides that the CRA "shall be governed by a board of commissioners consisting of the mayor, the four members of the city commission and four members of the county commission." The County does not have any ordinances or Charter provisions concerning the CRA and community redevelopment, but has entered into Interlocal Agreements pertaining to same.

On June 23, 2004, the County, City of Tallahassee, and the CRA entered into an Interlocal Agreement regarding the creation and operation of the Downtown District Community Redevelopment Area. As stated in the Recitals of this Interlocal Agreement, it is the County's position that neither the City, nor the CRA, may legally create or designate any new community redevelopment areas, expand the boundaries of any existing community redevelopment areas, or exercise any powers within new or expanded community redevelopment areas without first obtaining the County's specific delegation of power or consent. Accordingly, Section 4 provides that any boundary adjustments to existing or newly created community redevelopment areas require the prior written approval of the County. In addition, in Section 5 of the Agreement, the County delegated to the City the County's powers pertaining to the Downtown District Community Redevelopment Area. Section 6 of the Agreement contains the financial provisions, which include funding via "tax increment financing" by both the City and County, as well as the use of certain tourist development tax dollars.

Title: Standards for CRA Expenditures
December 7, 2017
Page 3

The Interlocal Agreement was subsequently amended on October 4, 2007, February 9, 2009, and December 11, 2014, and included amendments to the financial provisions. The Interlocal Agreement provides that, “any portion of the Agreement may be amended or waived only pursuant to an instrument in writing, approved by the City Commission, the Governing Board of the Agency, and the County’s Board of County Commissioners, and jointly executed by the Parties.” For example, the 2014 amendments to the Interlocal Agreement provided that tourist development tax funds in the amount of \$5,042,522, which had been previously collected through and including September 30, 2014, and which had been dedicated for a performing arts center, shall be set aside for use by the CRA, and, subject to the approval of the County and City, utilized for projects, programs and expenses related to culture, visual arts, and heritage programs, performing arts space as part of a convention center project, or other performing arts projects.

Florida Statute articulates the allowable uses of CRA funds, and the existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA. Imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to the existing Interlocal Agreements. Furthermore, amending the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County.

Finally, it appears that additional regulations regarding community redevelopment agencies will be considered during the upcoming 2018 Legislative Session. Both the Florida House and Senate are reportedly working on bills that will add transparency to and increase spending reporting requirements for community redevelopment agencies.

Options:

1. Direct County staff to prepare proposed charter amendment language and agenda the issue for further Committee consideration.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #3: Take no further action at this time.



Leon County

Board of County Commissioners

301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5302 www.leoncountyfl.gov

Commissioners

NICK MADDOX
At-Large
Chairman

JIMBO JACKSON
District 2
Vice Chairman

BILL PROCTOR
District 1

JOHN E. DAILEY
District 3

BRYAN DESILOGE
District 4

KRISTIN DOZIER
District 5

MARY ANN LINDLEY
At-Large

VINCENT S. LONG
County Administrator

HERBERT W.A. THIELE
County Attorney

December 8, 2017

Reese Goad, Acting City Manager
City of Tallahassee
300 South Adams Street
Tallahassee, FL 32301

Dear Mr. Goad,

Over the last several weeks, the Leon County Citizen Charter Review Committee has convened to review the County's Home Rule Charter and propose any amendments or revisions for consideration by the Board of County Commissioners for placement on the 2018 general election ballot.

At yesterday's meeting, the Committee members voted to request that a Community Redevelopment Agency (CRA) representative be invited to provide the Committee with a general overview of the CRA and answer any question the Committee may have.

On behalf of the Leon County Citizen Charter Review Committee, I am writing to formally request a CRA representative present during the Committee's next meeting on January 11, 2018. We would greatly appreciate your assistance and that of your staff in providing input as the Committee discusses this topic.

Should you have any questions or wish to discuss this further, please feel free to contact me or Heather Peeples, Special Projects Coordinator, at 606-5317 or PeeplesH@leoncountyfl.gov.

Sincerely,

Lee Hinkle
Chair, Leon County Citizen Charter Review Committee

Cc: Members of the Leon County Citizen Charter Review Committee
Vincent S. Long, County Administrator
Herbert W. A. Thiele, County Attorney

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 4-B

Citizen Charter Review Committee

Agenda Item #4B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Nonpartisan Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn D. Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis on the ability of Charter Review Committee to address making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

On November 16, 2017, the Charter Review Committee voted 12-0 to request legal analysis on whether the Leon County Charter may address whether or not the office of Superintendent of Schools and other Constitutional Officers may be made nonpartisan.

On December 7, 2017, County staff presented the Committee with an agenda item (Attachment #1) and the Committee voted 11-1 to approve a motion to request additional information and analysis making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.

The legal analysis presented to the Committee concluded that the office of Superintendent of Schools is regulated and governed by the respective district school boards and government at a state and not local level. Therefore, making the office nonpartisan could not legally be effectuated by a Charter amendment.

Analysis:

This item provides the Committee with the requested information and analysis as well as an update on recent litigation challenging charter counties authority to make constitutional officers nonpartisan.

The Committee requested the following data on the Leon County electorate and candidates for local offices over the last four election cycles. Attachment #2 provides the complete analysis of the Committee's request as provided the Leon County Supervisor of Elections (SOE) Office. The following provides a brief summary of the data contained in the attachment:

- Total number of registered voters in Leon County by party registration, including those with no party affiliation.
 - Democrats (52.5%), Republicans (27.7%), No Party Affiliation (19.2%), and Other (0.5%).
- Growth rates in party registration and no party affiliation over the last four election cycles.
 - Over the last four cycles, party registration have remained generally proportionate to the increase in population in Leon County. In addition, a slight increase in No Party Affiliation has occurred.
- Voter turnout by party affiliation in the primary and general elections over the last four election cycles.
 - Over the last four cycles, voter turnout rates have been consistent with the number of registered voters of each party affiliation. Subsequently, voter turnout has been highest among Democrats which is the most common party affiliation among voters in Leon County.

Title: Nonpartisan Constitutional Officers
January 11, 2018
Page 3

- Total number of partisan elections that resulted in two-party races in the last four election cycles.
 - In 2014, all local partisan incumbents in Leon County ran unopposed; however, the 2012 Sheriff and the Superintendent of Schools and all 2016 local partisan elections included two or more party affiliations.
 - Consistent with the registration majority in Leon County, each of these partisan election with two or more party affiliations included a Democratic candidate.
- Total number of minority candidates in Leon County over the last four election cycles.
 - The following chart provides the race/ethnicity of all candidates over the last four primary and general election cycles for County Commission and Constitutional Officers.

Race/Ethnicity of Candidates	2010	2012	2014	2016
Black/Non-Hispanic	2	4	3	10
White/ Hispanic	0	0	0	0
White/Non-Hispanic	5	9	3	17
Other	1	0	0	0
Total	8	13	6	27

- In addition to County Commission and Constitutional Officers candidates, Attachment #2 provides the race/ethnicity of other local election candidates including the City Commission/Mayor, Superintendent of Schools, and School Board.

The Committee also requested that County staff provide a comparison of charter counties including whether their Constitutional Officers and board of county commissioners were partisan or nonpartisan. A detailed comparison is included as Attachment #2 and is summarized below:

Partisan:

- 11 counties hold partisan elections for both Constitutional Officers and board of county commissioners.

Nonpartisan:

- Columbia, Orange, Volusia, and Wakulla County hold nonpartisan elections for both its Constitutional Officers and board of county commissioners

Mixed:

- Polk County has nonpartisan elections for Constitutional Officers and partisan elections for its board of county commissioners.
- Leon and Miami-Dade County have a mix of partisan and nonpartisan Constitutional Officers and hold nonpartisan elections for their board of county commissioners.
- Lee and Palm Beach County have a mix of partisan and nonpartisan Constitutional Officers and hold partisan elections for their board of county commissioners.

Title: Nonpartisan Constitutional Officers
January 11, 2018
Page 4

Currently, there are several challenges to charter counties' authority to make constitutional officers nonpartisan. These include ongoing litigation and proposals being considered by the Florida Constitutional Revision Commission.

On December 8, 2017 the Fifth District Court of Appeal of the State of Florida rendered an opinion in *Orange County, Florida v. Singh, et al.* in case numbers 5D16-2509 and 5D16-2511 in an appeal from the Circuit Court for Orange County (Attachment #4). In this case, Orange County appealed a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. The trial court had determined that the Amendment provision was contrary to State law. The Fifth District Court of Appeal agreed with the trial court finding that Orange County could not regulate the method and timing of its elections for County Constitutional Officers because that subject area had been preempted to the State by Article 6, Section 1 of the Florida Constitution, and the statutory provision set forth in Chapters 97 to 105 of the Florida Statutes. The Court also rejected the County's argument that Article VIII, Section 1(d) of the Florida Constitution expressly authorizes charter counties to provide for nonpartisan elections of county constitutional officers. While Leon County is not in the Fifth District Court of Appeal, and it is unknown whether Orange County will be appealing this decision, this decision would provide potential limitation on Leon County's ability to change the constitutional officers to nonpartisan status. That also leaves for additional consideration whether we must now also change the supervisor of elections, which is currently listed as nonpartisan in the County Charter back to a partisan election system.

Furthermore, the Florida Constitutional Revision Commission has before it proposal number 13 which would specifically in the Constitution, if adopted by the voters in November of 2018, prohibit charter counties from modifying the powers, duties and elections of Florida constitutional officers, thus prohibiting this amendment. Whether this all will be resolved prior to our deadline to submit charter amendments to the supervisor of elections in August of 2018 remains to be seen.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Title: Nonpartisan Constitutional Officers
January 11, 2018
Page 5

Recommendation:

Option #4: Committee direction.

Attachment:

1. December 7, 2017 Item, “Nonpartisan Superintendent of Schools and Constitutional Officers”
2. Data on Leon County Electorate and Candidates for Local Office
3. Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers and Board of County Commissioners
4. Orange County, Florida v. Singh, et al. (Fla. 5th DCA 12/8/17).

Citizen Charter Review Committee

Agenda Item D

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Nonpartisan Superintendent of Schools and Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn Riggans, Deputy County Attorney Heather Peoples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis on the ability of Charter Review Committee to address making the office of Superintendent of Schools and Constitutional Officers nonpartisan.

Staff Recommendation:

Option #4: Committee direction

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 2

Report and Discussion

Background: On November 16, 2017, the Charter Review Committee requested legal analysis on whether the Leon County Charter may address whether or not the office of Superintendent of Schools and other Constitutional Officers may be made nonpartisan.

Analysis: This item is intended to provide a brief overview and seeks additional direction from the Committee. The Florida Constitution address the subject of education in Article IX and the subject of local government in Article VIII.

Constitutional Officers

Regarding the question of changing Constitutional Officers to a nonpartisan election process you can look to Article VIII (d) County officers which states: “There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified....” There is an Attorney General opinion (Fla. AGO 2000-02) and case law that supports the position that either the Legislature or a charter amendment may make county officers electable on a nonpartisan basis.

Of the Charter Counties in Florida (Attachment #1):

- 12 hold partisan elections for its Constitutional Officers.
- Columbia, Polk, Volusia, and Wakulla County hold nonpartisan elections for its Constitutional Officers.
- Lee, Leon, Miami-Dade, and Palm Beach have both partisan and nonpartisan elections of Constitutional Officers.

It should be noted that Leon County’s Charter currently requires that the election of the Supervisor of Elections shall be nonpartisan. This provision was included in the County’s original Charter adopted by the voters in 2002.

Superintendent of Schools

To address the question of whether or not the Leon County Charter could make the election of the Superintendent of Schools nonpartisan the County Attorney’s Office reviewed Article VIII and IX of the Florida Constitution, searched Attorney General Opinions and reviewed available case law. Additionally, we looked at each of the 19 other charters of the 20 Florida Charter Counties.

It is worth noting that Article IX expressly provides for the election the Superintendent of Schools but has remained silent as to the selection process (partisan/nonpartisan) although in 1998 the Constitution was amended to provide for the nonpartisan election of school board members.

The current case law on this issue is not clear and does not provide a lot of guidance as to the legality of such a charter amendment.

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 3

Likewise, during our review of county charters it was found that only one, Columbia County, had incorporated in their charter a provision for making the Superintendent of Schools nonpartisan. Columbia County appears to have based their decision on the interplay between Articles VIII and IX of the Florida Constitution and a 1993 advisory opinion to the Governor regarding his power to suspend a school board member who had committed a crime. In the opinion, the Florida Supreme Court advised the Governor that the school board members and the superintendent were considered “county officers” within the meaning of Article IV of the Constitution which pertains to the Executive Branch. However, in our opinion this does not mean that the Superintendent falls within the meaning of “county officer” as defined in Article VIII, which expressly enumerates said officers.

Additionally, in our research of the issue we reached out to the Florida Association of District School Superintendents (FADSS). Counsel for FADSS has opined that Superintendents are separate and distinct Constitutional Officers, not county officers that would fall under the purview of local governments. It is counsel’s opinion that the Superintendents are regulated and governed by the respective district school boards and government at a state and not local level.

In conclusion, there is an argument that can be made that charter counties have the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. However, as it relates to the School Superintendents that same argument can be made but there is not a lot of information that supports that position. Moreover, most opinions are to the contrary. Taking all the gathered information in its totality we concur with the opinion of counsel representing the FADSS.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers

Data on Leon County Electorate and Candidates for Local Office

Committee Request: Total number of registered voters in Leon County by party registration, including those with no party affiliation.

Data Provided by SOE:

Table #1 - Registered voters in Leon County (As of 12/12/17)

TOTAL	DEM	REP	NPA	OTHER
206,014	108,187	57,160	39,578	1,089
	52.5%	27.7%	19.2%	0.5%

Committee Request: Growth rates in party registration and no party affiliation over the last four election cycles.

Data Provided by SOE:

Table #2 - Registration totals and party registration %, last 4 election cycles

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 Primary	194,676	104,213	54,925	31,176	4,362
		54%	28%	16%	2%
2014 Primary	184,165	99,939	51,054	28,715	4,457
		54%	28%	16%	2%
2012 Primary	174,304	95,613	49,114	23,412	6,165
		55%	28%	13%	4%
2010 Primary	165,858	93,523	46,144	19,651	6,540
		56%	28%	12%	4%

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 General	206,327	109,502	57,143	35,055	4,627
		53%	29%	18%	2%
2014 General	191,780	101,786	51,960	33,154	4,880
		53%	28%	18%	3%
2012 General	190,571	103,641	52,302	28,443	6,185
		54%	30%	16%	4%
2010 General	169,875	95,505	47,135	20,709	6,526
		56%	28%	12%	4%

Committee Request: Voter turnout by party affiliation in the primary and general elections over the last four election cycles.

Data Provided by SOE:

Table #3 - Voter Turnout by Party last 4 election cycles (of the voters that voted)

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 Primary	64,263	39,659	20,521	3,429	654
		62%	32%	5%	1%
2014 Primary	45,300	29,086	13,240	2,451	523
		64%	29%	5%	1%
2012 Primary	53,134	32,111	17,649	2,674	700
		60%	33%	5%	1%
2010 Primary	59,101	34,916	20,708	2,619	858
		59%	35%	4%	1%

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 General	155,183	83,999	46,505	21,613	3,066
		54%	30%	14%	2%
2014 General	108,972	60,174	33,106	13,266	2,426
		55%	30%	12%	2%
2012 General	148,873	82,857	42,599	19,073	4,344
		56%	29%	13%	3%
2010 General	100,797	57,987	31,642	8,608	2,560
		58%	31%	9%	3%

Committee Request: Total number of partisan elections that resulted in two-party races in the last four election cycles.

Data Provided by SOE:

Table #4 - Local Partisan Contests in General Election (Only Leon County Constitutional Offices & the Supervisor of Elections)

2016 General (75% turnout)	Party	%*	Votes
Clerk of Courts			
Gwen Marshall	DEM	68%	105,135
Franklin Ayetin	NPA	19%	29,928
Sheriff			
Charlie Strickland	REP	24%	36,862
Walt McNiel	DEM	44%	67,566
Tommy Mills	NPA	6%	9,046
Mike Wood	NPA	23%	35,120
Property Appraiser			
Akin Akinyemi	DEM	47%	72,798
Greg Lane	NPA	45%	69,084
Tax Collector			
John Paul Bailey	REP	28%	43,456
Doris Maloy	DEM	66%	102,708
Superintendent of Schools			
Forrest Van Camp	REP	9%	14,183
Jackie Pons	DEM	34%	53,162
Rocky Hanna	NPA	52%	80,059
Patricia Ann Sunday	NPA	1%	1,871
2012 General (78% turnout)	Party	%	Votes
Sheriff			
Larry Campbell	DEM	65%	96,146
Lisa Sprague	NPA	29%	43,416
Superintendent of Schools			
Jackie Pons	DEM	77%	114,907
Sabrina M. Allen	NPA	16%	23,477

* % will not equal 100% due to undervotes in contests (no voter choice in that contest on a ballot)

Note: No local partisan contests were held during the 2014 General Election.

Committee Request: Total number of minority candidates in Leon County over the last four election cycles

Data Provided by SOE:

Race/Ethnicity of Candidates	2010	2012	2014	2016
Black/Non-Hispanic	2	4	3	10
White/ Hispanic	0	0	0	0
White/Non-Hispanic	5	9	3	17
Other	1	0	0	0
Total	8	13	6	27

2010 Primary Election Candidates

School Board District 1		
	Donna C. Allocco	5, white, not hispanic
	Forrest Van Camp	5, white, not hispanic
School Board District 5		
	Georgia Joy Bowen	3, black, not hispanic
	Laymon Hicks	3, black, not hispanic
County Commission District 5		
	Kristin Dozier	5, white, not hispanic
	Bob Rackleff	5, white, not hispanic
	David E. Ward	6, other
County Commission at Large Group 2		
	Nick Maddox	3, black, not hispanic
	Rick Malphurs	5, white, not hispanic
	Scott Matteo	5, white, not hispanic
	Cliff Thael	5, white, not hispanic
Mayor		
	Larry Hendricks	5, white, not hispanic
	John Marks	3, black, not hispanic
	Steve Stewart	5, white, not hispanic
City Commission Seat 3		
	Stephen Hogge	5, white, not hispanic
	Nancy Miller	5, white, not hispanic
	Bill Rollins	3, black, not hispanic
City Commission Seat 5		
	Erwin Jackson	5, white, not hispanic
	James Moran	3, black, hot hispanic
	Gil Ziffer	5, white, not hispanic

2010 General Election Candidates

County Commission District 1		
	John Byrne	5, white, not hispanic
	Bill Proctor	3, black, not hispanic
County Commission at Large Group 2		
	Nick Maddox	3, black, not hispanic
	Cliff Thael	5, white, not hispanic
City Commission Seat 3		
	Stephen Hogge	5, white, not hispanic
	Nancy Miller	5, white, not hispanic
Elected Unopposed- County Commission - District 3		
	John E. Dailey	5, white, not hispanic

2012 Primary Election Candidates

Clerk of Courts		
	Bob Inzer	5, white, not hispanic
	Cynthia P. Turner	3, black, not hispanic
Sheriff		
	Larry Campbell	5, white, not hispanic
	Tommy Mills	3, black, not hispanic
County Commission at Large Group 1		
	Akin Akinyemi	3, black, not hispanic
	Emily Fritz	5, white, not hispanic
	Mary Ann Lindley	5, white, not hispanic
	Fred Varn	5, white, not hispanic
City Commission Seat 1		
	Eric Friall	3, black, not hispanic
	Bob Fulford	5, white, not hispanic
	Delaitre J. Hollinger	3, black, not hispanic
	Scott Maddox	7, multi-racial
	Daniel Parker	5, white, not hispanic
	Steve Stewart	5, white, not hispanic
City Commission Seat 2		
	Jacob S. Eaton	3, black, not hispanic
	Andrew Gillum	3, black, not hispanic
	Nick Halley	5, white, not hispanic
	David Riddle	5, white, not hispanic

2012 General Election Candidates

Sheriff		
	Larry Campbell	5, white, not hispanic
	Lisa Sprague	5, white, not hispanic
Superintendent of Schools		
	Jackie Pons	5, white, not hispanic
	Sabrina M. Allen	3, black, not hispanic
County Commission at Large Group 1		
	Akin Akinyemi	3, black, not hispanic
	Mary Ann Lindley	5, white, not hispanic
County Commission District 2		
	Kirk Headley-Perdue	5, white, not hispanic
	Jane G. Sauls	5, white, not hispanic
City Commission Seat 1		
	Scott Maddox	7, multi-racial
	Steve Stewart	5, white, not hispanic
Elected Unopposed-Tax Collector		
	Doris Malloy	3, black, not hispanic
Elected Unopposed-Property Apraiser		
	Bert Hartsfield	5, white, not hispanic
Elected Unopposed- Supervisor of Elections		
	Ion Sancho	4, hispanic
Elected Unopposed-County Commission District 5		
	Kristen Dozier	5, white, not hispanic

2014 Primary Election Candidates

School Board District 1		
	Alva Swafford Striplin	5, white, not hispanic
	Forrest Van Camp	5, white, not hispanic
Mayor		
	Andrew D. Gillum	5, black, not hispanic
	Larry Hendricks	5, white, not hispanic
	Zack Richardson	3, black, not hispanic
City Commission Seat 2		
	Diana Oropallo	5, white, not hispanic
	Curtis Richardson	3, black, not hispanic
	David Riddle	5, white, not hispanic
City Commission Seat 3		
	Nancy Miller	5, white, not hispanic
	Steve Stewart	5, white, not hispanic

2014 General Election Candidates

County Commission District 1		
	Weser Khufu	3, black, not hispanic
	Bill Proctor	3, black, not hispanic
County Commission at Large Group 2		
	Curtis Baynes	5, white, not hispanic
	Nick Maddox	3, black, not hispanic
Elected Unopposed- County Commission District 3		
	John Dailey	5, white, not hispanic
Elected Unopposed- County Commission District 5		
	Kristin Dozier	5, white, not hispanic
Elected Unopposed- City Commission Seat 5		
	Gil Ziffer	5, white, not hispanic
Elected Unopposed- School Board District 3		
	Maggie Lewis-Butler	3, black, not hispanic
Elected Unopposed- School Board District 5		
	Georgia Joy Brown	3, black, not hispanic

2016 Primary Election Candidates

Clerk of Court		
	Bill Bogan	3, black, not hispanic
	Barry Brooks	5, white, not hispanic
	Gwen Marshall	3, black, not hispanic
Property Appraiser		
	Akin Akinyemi	3, black, not hispanic
	Clay Ketcham	5, white, not hispanic
	Doug Will	5, white, not hispanic
Superintendent of Schools		
	Woody Hildebrandt	5, white, not hispanic
	Jackie Pons	5, white, not hispanic
Supervisor of Elections		
	Mark S. Earley	5, white, not hispanic
	Tena M. Pate	5, white, not hispanic
	Alan Williams	3, black, not hispanic
County Commission District 2		
	Jefferey W. Bullock	5, white, not hispanic
	Nancy L. Calhoun	5, white, not hispanic
	Howard Font	5, white, not hispanic
	Margaret Franklin	3, black, not hispanic
	Kirk Headley-Perdue	5, white, not hispanic
	Jimbo Jackson	5, white, not hispanic
	Manny Joanos	5, white, not hispanic
	T.J. Lewis	3, black, not hispanic
School Board District 2		
	Roger Pinholster	1, american ind/alaskan
	Rosanne Wood	5, white, not hispanic
School Board District 4		
	patrick Cannon	5, white, not hispanic
	Tallie Gainer III	3, black, not hispanic
	Dee Dee Rasmussen	5, white, not hispanic
City Commission Seat 1		
	Gary Gayle	3, black, not hispanic
	Luther Lee	5, white, not hispanic
	Scott Maddox	7, multi-racial
	Bruce W. Strouble Jr.	3, black, not hispanic
City Commission Seat 2		
	Steven Houglan	5, white, not hispanic
	Curtis Richardson	3, black, not hispanic

2016 General Election Candidates

Clerk of Court		
	Gwen Marshall	3, black, not hispanic
	Franklin Ayetin	3, black, not hispanic
Sheriff		
	Charlie Strickland	5, white, not hispanic
	Walt McNeil	3, black, not hispanic
	Tommy Mills	3, black, not hispanic
	Mike Wood	5, white, not hispanic
Property Appraiser		
	Akin Akinyemi	3, black, not hispanic
	Greg Lane	5, white, not hispanic
Tax Collector		
	John Paul Bailey	5, white, not hispanic
	Doris Maloy	3, black, not hispanic
Superintendent of Schools		
	Forrest Van Camp	5, white, not hispanic
	Jackie Pons	5, white, not hispanic
	Rocky Hanna	5, white, not hispanic
	Patricia Ann Sunday	5, white, not hispanic
Supervisor of Elections		
	Mark S. Earley	5, white, not hispanic
	Alan Williams	3, black, not hispanic
County Commission District 2		
	Jimbo Jackson	5, white, not hispanic
	Manny Joanos	5, white, not hispanic
County Commission at Large Group 1		
	David T. Hawkins	5, white, not hispanic
	Mary Ann Lindley	5, white, not hispanic
Elected Unopposed-County Commission District 4		
	Brian Desloge	5, white, not hispanic

**Comparative Analysis: Florida Charter Counties Partisan/Nonpartisan
Constitutional Officers and Board of County Commissioners**

County	Constitutional Officers	Board of County Commissioners
Alachua	Partisan	Partisan
Brevard	Partisan	Partisan
Broward	Partisan	Partisan
Charlotte	Partisan	Partisan
Clay	Partisan	Partisan
Duval	Partisan	Partisan
Hillsborough	Partisan	Partisan
Osceola	Partisan	Partisan
Pinellas	Partisan	Partisan
Sarasota	Partisan	Partisan
Seminole	Partisan	Partisan
Polk	Nonpartisan	Partisan
Columbia	Nonpartisan	Nonpartisan
Orange	Nonpartisan	Nonpartisan
Volusia	Nonpartisan	Nonpartisan
Wakulla	Nonpartisan	Nonpartisan
Leon	Both <ul style="list-style-type: none"> • Partisan: Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan: Supervisor of Elections 	Nonpartisan
Miami-Dade	Both <ul style="list-style-type: none"> • Partisan: Clerk of Courts • Non-Partisan: Property Appraiser • Appointed: Supervisor of Elections, Tax Collector, and Sheriff 	Nonpartisan
Lee	Both <ul style="list-style-type: none"> • Partisan: Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan: Supervisor of Elections 	Partisan
Palm Beach	Both <ul style="list-style-type: none"> • Partisan: Clerk of Courts and Tax Collector • Non-Partisan: Property Appraiser, Sheriff, and Supervisor of Elections 	Partisan



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

ORANGE COUNTY, FLORIDA,

Appellant/Cross-Appellee,

v.

Case Nos. 5D16-2509
5D16-2511

RICK SINGH, INDIVIDUALLY, SCOTT
RANDOLPH, INDIVIDUALLY, JERRY
DEMINGS, SHERIFF OF ORANGE
COUNTY, RICK SINGH, ORANGE
COUNTY PROPERTY APPRAISER,
SCOTT RANDOLPH, ORANGE COUNTY
TAX COLLECTOR,

Appellees/Cross-Appellants,

BILL COWLES, ORANGE COUNTY
SUPERVISOR OF ELECTIONS AND
ORANGE COUNTY CANVASSING
BOARD,

Appellees.

Opinion filed December 8, 2017

Appeal from the Circuit Court
for Orange County,
Keith F. White, Judge.

Jeffrey J. Newton, County Attorney, and
William C. Turner, Assistant County
Attorney, Orange County Attorney's
Office, Orlando, for Appellant/Cross-
Appellee, Orange County, Florida.

John H. Pelzer, of Greenspoon Marder, P.A., Fort Lauderdale, and Michael Marder, of Greenspoon Marder, P.A., Orlando, for Appellee/Cross-Appellant Rick Singh, Individually, and as Orange County Property Appraiser.

Gigi Rollini and Mark Herron, of Messer Caparello, P.A., Tallahassee, for Appellee/Cross-Appellant, Scott Randolph, Orange County Tax Collector, and Scott Randolph, Orlando, pro se.

Eric D. Dunlap, Assistant General Counsel, Orange County Sheriff's Office, Legal Services Section, Orlando, for Appellee/Cross-Appellant, Jerry Demings, Sheriff of Orange County.

Nicholas A. Shannin, of Shannin Law Firm, P.A., Orlando, for Appellee Bill Cowles, Orange County Supervisor of Elections.

No Appearance for Appellee Orange County Canvassing Board.

David H. Margolis, Orlando, Amicus Curiae, for the Orange County Clerk of Circuit Court.

Jason Vail, of Jolly, Peterson & Truckenbrod P.A., Tallahassee, Amicus Curiae, for the Florida Sheriffs Association.

PER CURIAM.

Orange County appeals a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. We affirm. The trial court properly determined that the amendment provision was contrary to state law.

On August 19, 2014, the Orange County Board of Commissioners enacted an ordinance proposing an amendment to the Orange County Charter to provide for term limits and nonpartisan elections for six county constitutional officers—clerk of the circuit court, comptroller, property appraiser, sheriff, supervisor of elections, and tax collector. The ordinance provided for the following ballot question to be presented for further approval:

CHARTER AMENDMENT PROVIDING FOR
TERM LIMITS AND NON-PARTISAN ELECTIONS
FOR COUNTY CONSTITUTIONAL OFFICERS

For the purpose of establishing term limits and non-partisan elections for the Orange County Clerk of the Circuit Court, Comptroller, Property Appraiser, Sheriff, Supervisor of Elections and Tax Collector, this amendment provides for county constitutional officers to be elected on a non-partisan basis and subject to term limits of four consecutive full 4-year terms.

_____ Yes

_____ No

The ballot question appeared on the November 4, 2014 ballot and was approved by the majority of Orange County voters. As a result, the relevant portions of section 703 of the Orange County Charter were amended (as underlined) to read:

B. Except as may be specifically set forth in the Charter, the county officers referenced under Article VIII, Section 1(d) of the Florida Constitution and Chapter 72-461, Laws of Florida, shall not be governed by the Charter but instead governed by the Constitution and laws of the State of Florida. The establishment of nonpartisan elections and term limits for county constitutional officers shall in no way affect or impugn their status as independent constitutional officers, and shall in no way imply any authority by the board whatsoever over such independent constitutional officers.

C. Elections for all county constitutional offices shall be non-partisan. No county constitutional office candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All county constitutional office candidates' names shall be placed on the ballot without reference to political party affiliation.

In the event that more than two (2) candidates have qualified for any single county constitutional office, an election shall be held at the time of the first primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.

D. Any county constitutional officer who has held the same county constitutional office for the preceding four (4) full consecutive terms is prohibited from appearing on the ballot for reelection to that office; provided, however, that the terms of office beginning before January 1, 2015 shall not be counted.

Prior to the November 4, 2014 election, three Orange County constitutional officers—the sheriff, property appraiser, and tax collector (collectively “Appellees”)—filed a suit for declaratory and injunctive relief against Orange County, challenging the underlying county ordinance as well as the ballot title and summary.¹ After the election, in ruling on competing summary judgment motions, the trial court upheld the portion of the charter amendment providing for term limits, but struck down that portion providing for nonpartisan elections. The trial court concluded that Orange County was prohibited

¹ The trial court properly determined that these constitutional officers could only sue in their individual capacity—not in their official capacity. *State ex rel. Watson v. Kirkman*, 27 So. 2d 610, 612 (Fla. 1946) (“As a general rule a public official whose rights are not adversely and injuriously affected by the operation of an Act, or the particular feature complained of, may not raise the question of its constitutionality. The mere interest of a public official as such is not sufficient to entitle him to question the validity of a statute, but to entitle the official to the right to raise such a question he must show that his rights of person or property are adversely affected by the operation of the statute.”).

from regulating nonpartisan elections for county constitutional officers because that subject matter was preempted to the Legislature. This appeal followed.

Article VIII, section 1(g) of the Florida Constitution grants broad home rule power to charter counties, but prohibits those counties from enacting ordinances that are inconsistent with general law:

CHARTER GOVERNMENT. 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 the county operating under a charter may enact county ordinances not inconsistent with general law. . . .

There are two ways in which a county will be found to have enacted an ordinance that was inconsistent with general law. First, a county cannot legislate in a field if the subject area has been preempted to the Legislature. *Phantom of Brevard, Inc. v. Brevard Cty.*, 3 So. 3d 309, 314 (Fla. 2008). Second, in a field where both the state and local government can legislate concurrently, a county cannot enact an ordinance that directly conflicts with a state statute. *Id.*

We agree with Appellees' assertion that Orange County cannot regulate the method and timing of its elections for county constitutional officers because that subject area has been preempted to the State. Article VI, section 1 of the Florida Constitution requires elections to be "regulated by law"—meaning a statute enacted by the Legislature. *Grapeland Heights Civic Ass'n v. City of Miami*, 267 So. 2d 321, 324 (Fla. 1972). The Legislature regulates elections generally in the Florida Election Code, which encompasses chapters 97 to 105 of the Florida Statutes. In 2010, the Legislature enacted section 97.0115, which expressly provided that all matters set forth in the Florida Election Code were preempted to the Legislature:

Preemption.—All matters set forth in chapters 97-105 are preempted to the state, except as otherwise specifically authorized by state or federal law. The conduct of municipal elections shall be governed by s. 100.3605.

§ 97.0115, Fla. Stat. (2010); see also *Jackson v. Leon Cty. Elections Canvassing Bd.*, 204 So. 3d 571, 575 (Fla. 1st DCA 2016) (“The Legislature has expressly preempted to the state matters involving state and local elections, with a limited exception for municipal elections.”). Chapter 105, Florida Statutes (2014), set forth provisions and procedures specific to nonpartisan elections. Significantly, chapter 105 did not authorize counties to hold nonpartisan elections for the county constitutional officers that are the subject of the charter amendment at issue.

We reject the County’s argument that article VIII, section 1(d) of the Florida Constitution expressly authorizes charter counties to provide for nonpartisan elections of county constitutional officers. That section provides that county officers are to be elected, unless the county charter specifies that they “be chosen in another manner”:

COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. . . .

Art. VIII, §1(d), Fla. Const. That provision simply authorizes a charter county to select its county constitutional officers in some other manner than by election. It does not grant a charter county the power to regulate elections for those officers. See *In re Advisory Opinion to the Governor*, 313 So. 2d 717, 721 (Fla. 1975) (interpreting article VIII, section 1(d) to mean that the sheriff, tax collector, tax assessor, supervisor of elections, and clerk

of the circuit court are to be elected by the electors of each county but containing the proviso "that alternatively another manner than election for the selection of these officers may be provided for by county charter or special law"); Op. Att'y Gen. Fla. 86-82 (1986) ("Thus, s. 1(d) of Art. VIII merely authorizes a charter providing for the selection of county officers in another manner than elections; it does not authorize the charter to regulate the manner and election of these officers.").

In conclusion, we hold that the trial court correctly struck down that portion of Orange County's charter amendment that provided for the nonpartisan election of its county constitutional officers. We affirm, without discussion, the remaining issues raised on appeal and cross-appeal.

AFFIRMED.

PALMER, TORPY and EVANDER, JJ., concur.

V.

**DRAFT CHARTER AMENDMENT LANGUAGE
FOR COMMITTEE CONSIDERATION**

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM 5-A**

Citizen Charter Review Committee

Agenda Item #5A

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* (Attachment #1). This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item (Attachment #1) and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

The Committee also requested that staff bring back additional information regarding the approval rate for the Charter amendment in the 2010 General Election, which limited campaign donations to candidates for County Commission and Constitutional Officers to \$250 per contributor, and the options for the disposition of surplus funds of candidates and campaign fund balances of individual candidates from previous elections.

Analysis:

Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Limitations to campaign contributions was proposed by the 2009-2010 Citizen Charter Review Committee and adopted by the voters in 2010. The final vote count for the amendment during the 2010 General Elections was as follows:

YES: 57,558 (65.53%)

NO: 30,275 (34.47%)

Should Article II sec. 2.2 sub. (7) and Article III sec. 3.4 be stricken from the Charter, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Florida law, Section 106.08 F.S., which sets the campaign finance limit to \$1,000.

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Analysis of Surplus Funds by Candidates

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles as reflected in Attachment #3. Campaign fund balances are the funds that remain following an election. However if a negative balance remains, it must be addressed by the campaign after an election has ended.

Attachment #3 provides the complete analysis of candidates subject to the County's \$250 campaign limit or the state limit of \$1,000. In addition, the analysis reflects the City of Tallahassee's 2014 Charter Amendment which lowered the contribution limit for City Commission Candidates from \$1,000 to \$250 beginning in 2016. The following provides a brief summary of the data contained in Attachment #3.

Candidates Subject to a \$250 Campaign Limit

- Over the last three election cycles, 30 County Commission candidates and 26 Constitutional Officer candidates were subject to the County's \$250 Campaign Limit.
- On average, 70% of these candidates ended the election cycle with a campaign surplus ranging from \$20 to \$46,765.
- Since 2012, the maximum funds raised by a candidate subject to the County's \$250 limit was \$337,078.
- In 2016, 88% of City candidates subject to the City's \$250 campaign limit ended the election cycle with a campaign surplus ranging from \$25 to \$48,547.

Candidates Subject to the \$1,000 Campaign Limit

- Over the last three election cycles, 77 candidates were subject to the State's \$1,000 Campaign Limit including County Judges, School Board, Superintendent of Schools, Soil and Water Conservation, City Candidates (2012 & 2014) and community development district candidates.
- On average, 69% of these candidates ended the election cycle with a campaign surplus ranging from \$2 to \$135,909.
- Since 2012, the maximum funds raised by a candidate subject to the \$1,000 limit was \$295,839.

Disposition of Surplus Funds by Candidates

The options available to candidates for disposing of surplus funds are outlined Section 106.141, Florida Statutes (Attachment #4), which states:

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

Unopposed candidates for a county office or any election conducted on less than a countywide basis also have the option to transfer to an office account up to \$5,000 multiplied by the number of years the candidate has served in the office he/she is being elected to. Funds transferred to an office account may be used for legitimate expenses related to the candidate's public office such as travel expenses, professional services provided by an accountant or attorney for preparation of financial disclosure filings, or fees/dues to religious, civic, or charitable organizations.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Increasing Campaign Contribution Limits for Local Elections

January 11, 2018

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Attachments:

1. Proposed Charter Amendment
2. November 30, 2017 Item, "Increasing Campaign Contributions for Local Elections"
3. Candidate Campaign Balances - 2012, 2014, 2015 Election Cycles
4. Florida Statute 106.14; Disposition of surplus funds by candidates.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Cynthia Turner	\$250	Clerk of the Court and Comptroller	\$20,280.33	(\$20,260.61)	\$19.72
Bob Inzer	\$250	Clerk of the Court and Comptroller	\$38,412.68	(\$35,208.59)	\$3,204.09
Bessie Beard	\$250	Leon County Commission, At Large Group 1	\$0.00	\$0.00	\$0.00
Mary Ann Lindley	\$250	Leon County Commission, At Large Group 1	\$112,829.00	(\$112,829.00)	\$0.00
Fred Varn	\$250	Leon County Commission, At Large Group 1	\$39,557.00	(\$39,163.70)	\$393.30
Emily Fritz	\$250	Leon County Commission, At Large Group 1	\$80,479.79	(\$79,847.16)	\$632.63
Akin Akinyemi	\$250	Leon County Commission, At Large Group 1	\$55,250.12	(\$54,455.56)	\$794.56
Harrison Arencibian	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Janes Sauls	\$250	Leon County Commission, District 2	\$29,145.00	(\$26,903.94)	\$2,241.06
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$128,492.00	(\$84,969.80)	\$43,522.20
Bryan Desloge	\$250	Leon County Commission, District 4	\$57,895.00	(\$56,053.49)	\$1,841.51
Bert Hartsfield	\$250	Property Appraiser	\$12,650.00	\$0.00	\$12,650.00
Lisa Ann Sprague	\$250	Sheriff	\$47,812.56	(\$49,267.96)	(\$1,455.40)
Tommy Mills	\$250	Sheriff	\$82,421.00	(\$81,562.80)	\$858.20
Larry Campbell	\$250	Sheriff	\$168,836.00	(\$140,772.16)	\$28,063.84
Ion Sancho	\$250	Supervisor of Elections	\$0.00	\$0.00	\$0.00
Doris Maloy	\$250	Tax Collector	\$14,575.00	(\$15,341.95)	(\$766.95)
Samuel Yozviak	\$250	Tax Collector	\$455.00	(\$119.19)	\$335.81
Barry Brooks	\$1,000	Capital Region CDD, Seat 2	\$0.00	\$0.00	\$0.00
Wayne Toothman	\$1,000	Capital Region CDD, Seat 4	\$0.00	\$0.00	\$0.00
John Ray	\$1,000	Capital Region CDD, Seat 4	\$1,855.00	(\$1,685.98)	\$169.02
Robert Wheeler	\$1,000	Leon County Judge, Seat 1	\$11,230.00	(\$71.91)	\$11,158.09
Judith Hawkins	\$1,000	Leon County Judge, Seat 2	\$8,025.00	(\$8,025.00)	\$0.00
Ronald Flury	\$1,000	Leon County Judge, Seat 3	\$5,600.00	(\$5,486.74)	\$113.26
Augustus Aikens	\$1,000	Leon County Judge, Seat 4	\$100.00	(\$10.00)	\$90.00
Dee Crumpler	\$1,000	Leon County School Board, District 2	\$1,500.00	(\$1,475.80)	\$24.20
DeeDee Rasmussen	\$1,000	Leon County School Board, District 4	\$30,302.00	(\$4,140.61)	\$26,161.39
Bobby Buccellato	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$1,000	Leon Soil and Water Conservation, District 1	\$1,425.00	(\$1,325.00)	\$100.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$2,435.00	(\$2,333.39)	\$101.61
Martha Lang	\$1,000	Leon Soil and Water Conservation, District 1	\$938.00	(\$817.01)	\$120.99
Evan Power	\$1,000	Leon Soil and Water Conservation, District 3	\$8,775.00	(\$8,727.79)	\$47.21
Pyllis Basch Smith	\$1,000	Leon Soil and Water Conservation, District 3	\$125.00	(\$55.12)	\$69.88

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation, District 3	\$2,845.00	(\$2,435.89)	\$409.11
Bill Howell	\$1,000	Leon Soil and Water Conservation, District 5	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 5	\$8,790.00	(\$8,727.79)	\$62.21
Richard Kessler	\$1,000	Piney-Z CDD, Seat 2	\$1,678.70	(\$598.54)	\$1,080.16
Sabrina M. Allen	\$1,000	Superintendent of Schools	\$15,728.00	(\$15,032.21)	\$695.79
Jackie Pons	\$1,000	Superintendent of Schools	\$295,389.00	(\$188,816.17)	\$106,572.83
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					
Robert Fulford	\$1,000	Tallahassee City Commission, Seat 1	\$370.80	(\$370.80)	\$0.00
Daniel Parker	\$1,000	Tallahassee City Commission, Seat 1	\$32,505.09	(\$32,505.09)	\$0.00
Brian Acosta	\$1,000	Tallahassee City Commission, Seat 1	\$2.00	\$0.00	\$2.00
Delaitre Hollinger	\$1,000	Tallahassee City Commission, Seat 1	\$5,806.36	(\$5,601.23)	\$205.13
Erica Friall	\$1,000	Tallahassee City Commission, Seat 1	\$28,430.00	(\$25,976.04)	\$2,453.96
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 1	\$98,360.00	(\$95,392.22)	\$2,967.78
Scott Maddox	\$1,000	Tallahassee City Commission, Seat 1	\$223,971.57	(\$210,415.85)	\$13,555.72
Jacob Eaton	\$1,000	Tallahassee City Commission, Seat 2	\$2,399.12	(\$2,942.43)	(\$543.31)
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 2	\$105,431.55	(\$105,431.55)	\$0.00
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$865.00	(\$831.22)	\$33.78
Nicholas Halley	\$1,000	Tallahassee City Commission, Seat 2	\$4,761.37	(\$1,003.14)	\$3,758.23
<p>* Negative balances for Maloy and Sprague were amended to balance out. * Reports for Eaton resulted in follow up with the Florida Elections Commission.</p>					

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Curtis Baynes	\$250	Leon County Commission, At Large Group 2	\$27,596.74	(\$23,294.28)	\$4,302.46
Nick Maddox	\$250	Leon County Commission, At Large Group 2	\$61,100.00	(\$58,596.58)	\$2,503.42
Weser Khufu	\$250	Leon County Commission, District 1	\$12,746.80	(\$14,172.24)	(\$1,425.44)
William Curtis Proctor	\$250	Leon County Commission, District 1	\$9,345.00	(\$10,126.00)	(\$781.00)
Keishann Corley	\$250	Leon County Commission, District 3	\$0.00	\$0.00	\$0.00
John Dailey	\$250	Leon County Commission, District 3	\$32,630.00	(\$29,390.65)	\$3,239.35
Kristin Dozier	\$250	Leon County Commission, District 5	\$59,220.29	(\$29,750.06)	\$29,470.23
Patrick Madden	\$1,000	Leon County School Board, District 1	\$4,050.00	(\$3,610.12)	\$439.88
Diana Oropallo	\$1,000	Leon County School Board, District 1	\$44,305.00	(\$4,546.69)	\$39,758.31
Alva Swafford Striplin	\$1,000	Leon County School Board, District 1	\$26,344.70	(\$26,228.16)	\$116.54
Patty Ball Thomas	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Forrest Van Camp	\$1,000	Leon County School Board, District 1	\$68,665.00	(\$62,864.75)	\$5,800.25
Ed Lee	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Maggie Bert Lewis-Butler	\$1,000	Leon County School Board, District 3	\$625.00	(\$223.13)	\$401.87
Georgia Bowen	\$1,000	Leon County School Board, District 5	\$3,425.00	(\$2,575.19)	\$849.81
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Stan Peacock	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Brian Lee	\$1,000	Leon Soil and Water Conservation, District 4	\$8,633.00	(\$6,598.63)	\$2,034.37
Ryan Truchelut	\$1,000	Leon Soil and Water Conservation, District 4	\$4,915.04	(\$3,799.47)	\$1,115.57
Nina Ashenafi Richardson	\$1,000	Leon County Judge, Seat 5	\$9,300.00	(\$6,211.20)	\$3,088.80
Glenda Herrera-Gray	\$1,000	Capital Region CDD, Seat 1	\$0.00	\$0.00	\$0.00
Eli Nortelus	\$1,000	Capital Region CDD, Seat 3	\$4,090.00	(\$1,921.83)	\$2,168.17
Luis K. Rojas	\$1,000	Capital Region CDD, Seat 3	\$8,802.00	(\$7,808.93)	\$993.07
David E. Ramba	\$1,000	Capital Region CDD, Seat 5	\$0.00	\$0.00	\$0.00
Hugh Hauck	\$1,000	Piney-Z CDD, Seat 1	\$49.00	(\$49.00)	\$0.00
Delores Ann Pincus	\$1,000	Piney-Z CDD, Seat 1	\$0.00	\$0.00	\$0.00
Johnny Devine	\$1,000	Piney-Z CDD, Seat 3	\$150.00	(\$58.39)	\$91.61
Cheryl Hudson	\$1,000	Piney-Z CDD, Seat 3	\$0.00	\$0.00	\$0.00
Janetta Morphew	\$1,000	Piney-Z CDD, Seat 5	\$0.00	\$0.00	\$0.00
Michael Lee	\$1,000	Piney-Z CDD, Seat 5	\$50.00	(\$35.00)	\$15.00

City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Darren Mason	\$1,000	Tallahassee City Commission, Seat 2	\$0.00	\$0.00	\$0.00
Rick Minor	\$1,000	Tallahassee City Commission, Seat 2	\$19,074.00	(\$1,077.04)	\$17,996.96
Diana Oropallo	\$1,000	Tallahassee City Commission, Seat 2	\$97,258.31	(\$92,321.60)	\$4,936.71
Curtis Richardson	\$1,000	Tallahassee City Commission, Seat 2	\$80,183.00	(\$52,928.89)	\$27,254.11
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$420.00	(\$361.10)	\$58.90
Todd Sperry	\$1,000	Tallahassee City Commission, Seat 2	\$10,500.00	(\$10,500.00)	\$0.00
Rosa Houston Autery	\$1,000	Tallahassee City Commission, Seat 3	\$125.00	\$0.00	\$125.00
Nancy Miller	\$1,000	Tallahassee City Commission, Seat 3	\$124,076.00	(\$111,588.76)	\$12,487.24
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 3	\$23,235.00	(\$17,186.65)	\$6,048.35
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$253,151.09	(\$217,876.90)	\$35,274.19
Larry Hendricks	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$1,075.00	(\$739.40)	\$335.60
Evin Matthews	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$0.00	\$0.00	\$0.00
Zachery Richardson	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$10,495.00	(\$6,290.38)	\$4,204.62
Gil Ziffer	\$1,000	Tallahassee City Commission, Seat 5	\$74,635.00	(\$20,692.56)	\$53,942.44

** Negative balances for Kufu were amended to balance out.*

** Reports for Proctor resulted in follow up with the Florida Elections Commission.*

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Franklin Ayetin	\$250	Clerk of the Court and Comptroller	\$12,007.16	(\$10,892.71)	\$1,114.45
Bill Bogan	\$250	Clerk of the Court and Comptroller	\$33,350.00	(\$22,320.77)	\$11,029.23
Barry Brooks	\$250	Clerk of the Court and Comptroller	\$36,893.83	(\$36,872.67)	\$21.16
Gwendolyn Marshall	\$250	Clerk of the Court and Comptroller	\$16,819.00	(\$16,872.84)	(\$53.84)
Akin Akinyemi	\$250	Property Appraiser	\$20,128.00	(\$16,943.97)	\$3,184.03
Clay Ketcham	\$250	Property Appraiser	\$61,932.54	(\$60,010.72)	\$1,921.82
Robert Lane	\$250	Property Appraiser	\$94,871.00	(\$86,676.82)	\$8,194.18
Doug Will	\$250	Property Appraiser	\$83,289.15	(\$81,809.27)	\$1,479.88
Walt McNeil	\$250	Sheriff	\$199,874.50	(\$192,180.86)	\$7,693.64
Tommy Mills	\$250	Sheriff	\$79,609.97	(\$63,162.71)	\$16,447.26
Charles Strickland	\$250	Sheriff	\$90,445.13	(\$78,366.13)	\$12,079.00
Mike Wood	\$250	Sheriff	\$337,078.32	(\$334,294.55)	\$2,783.77
Mark Earley	\$250	Supervisor of Elections	\$77,917.15	(\$72,554.97)	\$5,362.18
Tina Pate	\$250	Supervisor of Elections	\$18,928.00	(\$14,442.37)	\$4,485.63
Alan Williams	\$250	Supervisor of Elections	\$193,438.00	(\$177,862.57)	\$15,575.43
John Paul Bailey	\$250	Tax Collector	\$24,277.16	(\$23,137.37)	\$1,139.79
Doris Maloy	\$250	Tax Collector	\$51,879.38	(\$45,481.85)	\$6,397.53
Gary Gayle	\$250	Tallahassee City Commission, Seat 1	\$450.00	(\$376.23)	\$73.77
Luther Lee	\$250	Tallahassee City Commission, Seat 1	\$1,056.23	(\$1,056.23)	\$0.00
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$5,630.15	(\$5,360.17)	\$269.98
Rick Minor	\$250	Tallahassee City Commission, Seat 1	\$72,735.23	(\$24,188.18)	\$48,547.05
Gloria Pugh	\$250	Tallahassee City Commission, Seat 1	\$48,732.01	(\$15,151.96)	\$33,580.05
Bruce Strouble	\$250	Tallahassee City Commission, Seat 1	\$6,699.31	(\$6,059.40)	\$639.91
Steven Hougland	\$250	Tallahassee City Commission, Seat 2	\$9,475.00	(\$9,450.51)	\$24.49
Curtis Richardson	\$250	Tallahassee City Commission, Seat 2	\$70,675.00	(\$51,971.39)	\$18,703.61
David Hawkins	\$250	Leon County Commission, At Large Group 1	\$6,115.00	(\$6,086.00)	\$29.00
Mary Ann Linley	\$250	Leon County Commission, At Large Group 1	\$57,504.00	(\$52,282.39)	\$5,221.61
Jeffery Bullock	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Nancy Calhoun	\$250	Leon County Commission, District 2	\$3,130.00	(\$3,033.80)	\$96.20
Howard Font	\$250	Leon County Commission, District 2	\$3,748.00	(\$1,801.06)	\$1,946.94
Margaret Franklin	\$250	Leon County Commission, District 2	\$35,586.00	(\$35,434.11)	\$151.89
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$85,855.00	(\$39,089.11)	\$46,765.89
Jimbo Jackson	\$250	Leon County Commission, District 2	\$26,073.00	(\$25,236.12)	\$836.88

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Manny Joanos	\$250	Leon County Commission, District 2	\$115,719.00	(\$114,712.06)	\$1,006.94
T.J Lewis	\$250	Leon County Commission, District 2	\$13,291.00	(\$13,008.69)	\$282.31
Taurean Lewis	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Bradley Sherman	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$250	Leon County Commission, District 2	\$3,976.12	(\$1,969.21)	\$2,006.91
Bryan Desloge	\$250	Leon County Commission, District 4	\$33,850.00	(\$14,223.94)	\$19,626.06
Rocky Hanna	\$1,000	Leon County Superintendent of Schools	\$288,416.55	(\$275,012.77)	\$13,403.78
Woody Hildebrandt	\$1,000	Leon County Superintendent of Schools	\$22,841.61	(\$22,601.60)	\$240.01
Jackie Pons	\$1,000	Leon County Superintendent of Schools	\$371,970.23	(\$342,440.21)	\$29,530.02
Patricia Ann Sunday	\$1,000	Leon County Superintendent of Schools	\$1,156.70	(\$1,085.49)	\$71.21
Forrest Van Camp	\$1,000	Leon County Superintendent of Schools	\$11,200.00	(\$10,317.17)	\$882.83
Michael Wynn	\$1,000	Leon County Superintendent of Schools	\$0.00	\$0.00	\$0.00
Roger Pinholster	\$1,000	Leon County School Board, District 2	\$14,444.00	(\$14,406.84)	\$37.16
Rosanne Wood	\$1,000	Leon County School Board, District 2	\$71,611.43	(\$62,612.58)	\$8,998.85
Patrick Cannon	\$1,000	Leon County School Board, District 4	\$3,243.91	(\$2,779.46)	\$464.45
Tallie Lee Gainer III	\$1,000	Leon County School Board, District 4	\$3,445.00	(\$2,923.70)	\$521.30
Dee Dee Rasmussen	\$1,000	Leon County School Board, District 4	\$39,327.00	(\$35,320.75)	\$4,006.25
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Bill Helmich	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Anthony Cooper	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Delaitre Hollinger	\$1,000	Leon Soil and Water Conservation District 5	\$145.00	(\$85.00)	\$60.00
William Howell	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Monique Richardson	\$1,000	Leon County Judge, Seat 2	\$142,577.76	(\$121,274.19)	\$21,303.57
Layne Smith	\$1,000	Leon County Judge, Seat 2	\$153,773.73	(\$142,971.59)	\$10,802.14
Dorothy McPherson	\$1,000	State Committee Woman	\$1,083.56	\$0.00	\$1,083.56
Caitlin Murray	\$1,000	State Committee Woman	\$21,130.00	(\$12,073.09)	\$9,056.91
Brian Kelley	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Luis Rojas	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Carl Mikyska	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
John B Ray	\$1,000	Capital Regional CDD, Seat 4	\$3,025.00	\$480.11	\$3,505.11

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Luis Rojas	\$1,000	Capital Regional CDD, Seat 4	\$0.00	\$0.00	\$0.00
Richard Kessler	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Gerry Cashin	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Arthur Kirby	\$1,000	Piney Z CDD, Seat 4	\$200.00	(\$88.04)	\$111.96
Joseph Didier	\$1,000	Piney Z CDD, Seat 4	\$0.00	\$0.00	\$0.00
<i>Redesignated Campaigns</i>					
Scott Maddox	\$1,000	Leon County Superintendent of Schools	\$216,448.55	(\$80,539.23)	\$135,909.32
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$52,525.00	(\$52,525.00)	\$0.00

** Negative balances for Marshall were amended to balance out.*

Select Year:

The 2017 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.141 Disposition of surplus funds by candidates. –

(1) Except as provided in subsection (6), each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate may not accept any contributions, nor may any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, before such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. [106.11\(5\)\(b\)](#) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign

account to an office account any amount of the funds on deposit in such campaign account up to:

- (a) Fifty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.
- (b) Ten thousand dollars, for a candidate for multicounty office.
- (c) Ten thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- (d) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- (e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.
- (f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.
- (g) Three thousand dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member; personal taxes payable on office account funds by the candidate or elected public official; professional services provided by a certified public accountant or attorney for preparation of the elected public official's financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#); costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in s. [106.011](#); fees or dues to religious, civic, or charitable organizations of which the elected public official is a member; items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral; personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or expenses incurred in the operation of the elected public official's office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall use such funds to pay for professional services provided by a certified public accountant or attorney for preparation of the elected public official's final financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#), or give such funds to a charitable organization that meets the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6)(a) For purposes of this subsection, the term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

(b) A candidate elected to state office or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to \$20,000 in his or her campaign account, or in an interest-bearing account or certificate of deposit, for use in his or her next campaign for the same office, in addition to the disposition methods provided in subsections (4) and (5). All requirements applicable to candidate campaign accounts under this chapter, including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

(c) If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or s. [106.11\(5\)](#) within 90 days after the last day of candidate qualifying for that office. Requirements in this section applicable to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(7) Before disposing of funds pursuant to subsection (4), transferring funds into an office account pursuant to subsection (5), or retaining funds for reelection pursuant to subsection (6), any candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her shall reimburse the state or local governmental entity, whichever is applicable, for such waived fee. If there are insufficient funds in the account to pay the full amount of the fee, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund.

(8)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and, on or before the date by which such disposition is to have been made, shall file with the officer with whom reports are required to be filed pursuant to s. [106.07](#) a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor;
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank, savings and loan association, or credit union in which the office account is located; and
4. The amount of such funds retained pursuant to subsection (6), together with the name and address of the bank, savings and loan association, or credit union in which the retained funds are located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. [106.07](#).

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. [106.07](#) for submitting late termination reports.

(9) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. [106.07\(2\)](#).

(10) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(11) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 15, ch. 2013-37.

¹**Note.**—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 5-B

Citizen Charter Review Committee

Agenda Item #5B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to providing for a “Code of Ethics” in the Leon County Charter. Per the Committee’s request, this item also provides proposed charter amendment language including language for a “Code of Ethics” which applies to Constitutional Officers

Staff Recommendation:

Option #5: Committee direction.

Title: Code of Ethics
January 11, 2017
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Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request that staff provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

On November 30, following staff’s presentation of the requested agenda item (Attachment #1), the Committee voted 12-0 to request that staff prepare proposed charter amendment language for consideration at the Committee’s January 11, 2018 meeting. Additionally, the Committee requested information and analysis regarding other counties whose charter requires the adoption of a “Code of Ethics.”

Analysis:

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

Per the committee’s request, staff has attached provisions from each counties’ charter regarding the “Code of Ethics” requirement (Attachment #2). Applicability of these counties’ ethics code to elected Constitutional Officers varies.

- Broward, Clay, and Duval County’s charters specifically state that their “Code of Ethics” applies to all elected Constitutional Officers/“county officers.”
- Palm Beach and Seminole County’s “Code of Ethics” does not apply to elected Constitutional Officers.
- Miami-Dade County’s “Code of Ethics” Ordinance is not applicable to elected Constitutional Officers, with the exception of one provision regarding ethical campaign practices and associated penalties of admonition and/or fines.

Based on the Committee’s direction, staff has prepared proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the Code of Ethics as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. In support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #3) in a continuous effort to provide guidance and assistance to County employees.

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As previously stated, all local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, Florida Statutes, which is applicable to all public officials, officers, and employees in the state. Accordingly, section 112.326, Florida Statutes states:

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

Per the Committee’s direction, staff has prepared two variations of the proposed amendment one not applicable to Constitutional Officers and one applicable to Constitutional Officers.

Version #1 (**Not** Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019 and shall. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Version #2 (Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, Leon County Constitutional Officers and their employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative

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standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics” **not** applicable to Constitutional Officers.
Voting Threshold: Simple Majority Vote
2. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule for public hearing the proposed charter amendment language providing for a “Code of Ethics” that is applicable to Constitutional Officers.
3. Request additional information and analysis.
Voting Threshold: Four (4) Votes
4. Take no further action at this time.
Voting Threshold: Simple Majority Vote
5. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. November 30, 2017 Citizen Charter Review Committee “Code of Ethics” Agenda Item
2. Ethical Provisions in Florida Counties’ Charters
3. Leon County Government – Code of Ethics Guide

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
 2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
 3. Leon County Board Policy “Code of Ethics”
 4. Leon County’s Lobbyist Regulations Ordinance
- .

Florida Counties' Charter Code of Ethics References

Broward

Section 11.08 BROWARD COUNTY ETHICS COMMISSION

A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

(November 4, 2008: Section 11.08, as proposed by the Charter Review Commission, was created to establish the Broward County Ethics Commission responsible for drafting a Code of Ethics regulating the conduct of County Commissioners, to be considered for passage by the County Commission and/or the County electors.)

Section 11.10 CONSTITUTIONAL OFFICERS SUBJECT TO CODE OF ETHICS

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

(November 2, 2010: Section 11.01 C, as proposed by the County Commission, was amended to establish that a County ordinance shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees through a code of ethics. Section 11.10, as proposed by the County Commission, was created to establish that County constitutional officers are subject to the County Code of Ethics.)

Clay

SECTION 2.2 LEGISLATIVE BRANCH – CODE OF ETHICS

Before July 1, 2007, the Board of County Commissioners shall enact by ordinance a Code of Ethics. The Code of Ethics shall prescribe standards of conduct for members of the Board, the County Manager, the County Attorney, the County Auditor, all other elected or appointed County Officers including the Superintendent of Schools and members of the School Board, and the deputies and employees of all such officers. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics may include, but is not limited to, provisions defining offenses, establishing an ethics board to hear and determine charges, and prescribing penalties within the limits allowed by law. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

(Added November 7, 2006)

Duval

Chapter 2 – ETHICS

Section 1.202. - ETHICS CODE, ETHICS COMMISSION, INSPECTOR GENERAL

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority. The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office; and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

Section 1.203 - ETHICS OVERSIGHT AND COMPLIANCE OFFICE AND OFFICE OF INSPECTOR GENERAL

- (a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.
- (b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.
- (c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.

Miami-Dade

Citizens' Bill of Rights (A) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

Citizens' Bill of Rights (C) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

Orange

Section 706 – CODE OF ETHICS

A. The local code of ethics shall be construed and interpreted in such a way to protect the public's trust and to promote open and accountable government in Orange County. Preserving the public's trust shall be paramount in enforcing the local code of ethics, and it shall be interpreted consistent with the purposes and intent of the local code of ethics.

B. The citizens of Orange County are entitled to a government that embraces best ethical practices and full disclosure of conflicts of interest involving county employees or elected officials. All votes of the board, and actions of the mayor, the county commissioners and county employees, shall be made or taken in the best interests of the citizens of Orange County, free of any undisclosed conflicts of interest.

C. In order to provide a high level of transparency and ethical conduct under charter government, the board shall adopt a local code of ethics applicable to the board of county commissioners and to those employees required to file financial disclosure under state law or who participate in the county procurement process. Such code, though more stringent than general law, shall not place the board of county commissioners or county employees in conflict with the state ethics code, or any other provision of federal or state law, and at a minimum shall provide for:

1. Additional financial and business relationship disclosure;
2. Restrictions on gifts to the board of county commissioners;
3. Under the auspices of an apparent conflict of interest concerning matters involving a prior business associate of any member of the board, disclosure and abstention from voting for a reasonable period of time following termination of the business associate relationship;
4. Approval by the board on development related matters ordinarily subject to final approval by county staff where the applicant or any person having a beneficial interest in the outcome of the matter is a business associate, family member, or employer of a member of the board;
5. Reasonable post-employment restrictions for employees; and
6. Subject to the attainment of the same type of confidentiality provisions available to the state commission on ethics under general law, an enforcement process to provide for due process, penalties, and appeals, all within a reasonable timeframe.

Implementation of the provisions of this subsection shall be by ordinance adopted either prior to the effective date of this provision or by no later than January 1, 2010.

D. The board of county commissioners and those employees required to file financial disclosure under state law or who participate in the county procurement process shall be required to receive at least annual educational sessions on best ethical practices and current trends in ethics issues.

E. The state code of ethics, as provided by general law, shall have full effect on all employees and officeholders under the charter government. Penalty for violation of the state code of ethics shall be as provided by general law.

F. Any local code of ethics adopted prior to the effective date of this section shall, if necessary, be amended so as to comply with the provisions of this section.

Palm Beach

Article VIII Ethics Regulation – Section 8.1 COUNTY CODE OF ETHICS

The county shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 of this charter.

Seminole

Section 5.4 ETHICS

Ordinance Requirements. On or before January 8, 2008, the Board of County Commissioners of Seminole County, shall, by ordinance (the "Ordinance"), require compliance with the following provisions, which shall be supplemental to, but may not diminish the provisions of general law.



LEON COUNTY GOVERNMENT

People Focused. Performance Driven.

THE CODE OF ETHICS GUIDE

An Ethics “Field Manual” for Employees

► **Setting the Standard in Ethics & Public Service**

Vision

A community that is safe, healthy and vibrant.

Mission

To efficiently provide public services which serve and strengthen our community.



ADMINISTRATOR'S LETTER



Vincent S. Long

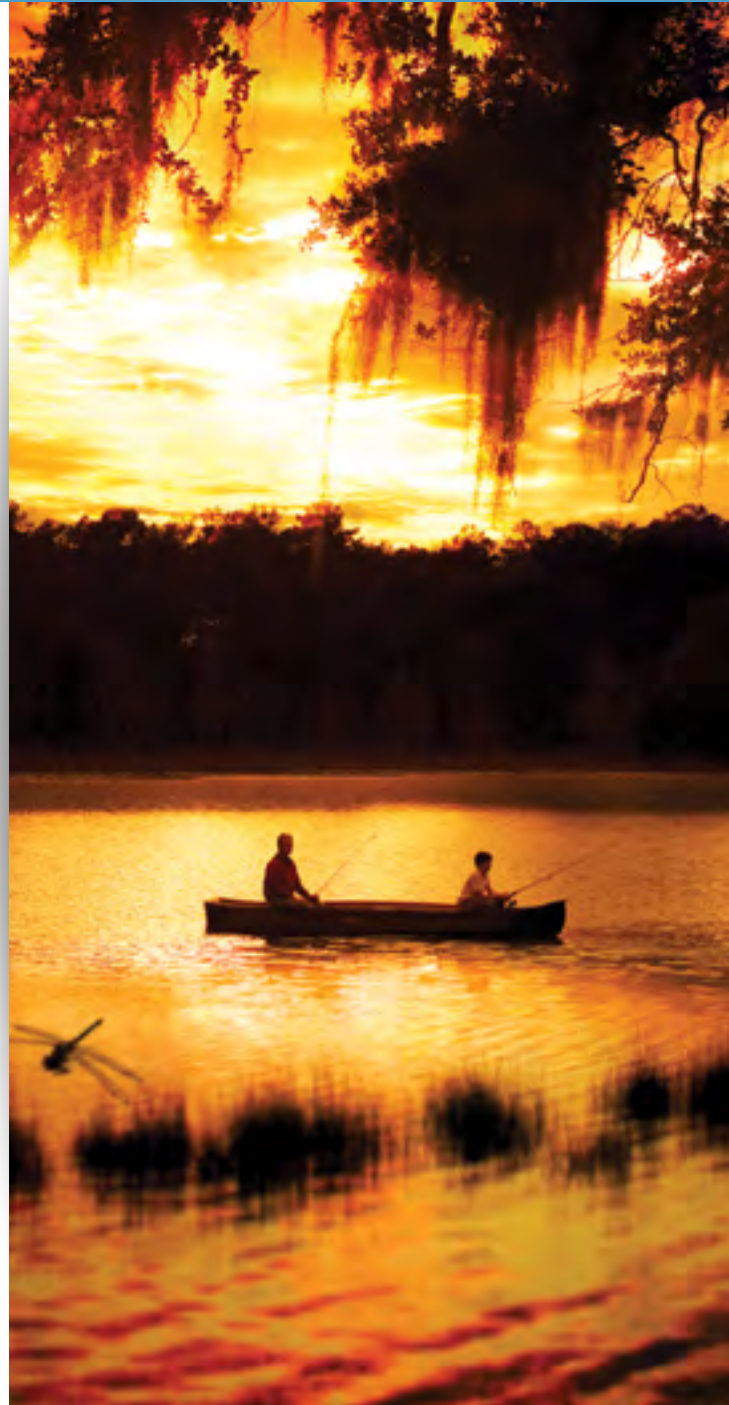
In every way that Leon County employees touch the lives of our citizens we serve, we consistently strive to set the standard in public service and to uphold the public trust.

Ethics are a core practice in Leon County Government and standards of ethical behavior are detailed in both our "Ethics Code" policy and our "Employee Standards of Conduct" contained in the Human Resources manual. While both of these documents are thorough and complete, the guide you are now holding is intended to be a user-friendly "field manual" for reference, reminders and reinforcement related to the high standards of ethical behavior required to be a Leon County employee.

Understanding that this guide may not answer every question you have now or in the future, I've designated Wanda Hunter, Assistant County Administrator to be your initial point of contact. She is just a phone call or e-mail away should you have a question or concern, require clarification or if you just need a little advice or guidance.

Leon County employees perform many different jobs and fulfill a broad range of responsibilities, but the one thing we must all do every day is practice ethics with great clarity and unwavering consistency. Thank you for all you do to make our community and our organization even better.

Vince



**Just a call
or email
away ...**

Wanda Hunter
Assistant County Administrator
(850) 606-5380
HunterW@LeonCountyFL.gov



With almost 30 years of public service, Wanda Hunter has spent her career dedicated to integrity, honesty and accountability. Beginning her career in Leon County with the Office of Equal Employment Opportunity, Wanda has since worked throughout the County in different roles and levels, giving her vast experience and a unique perspective to help you and address issues of ethics and compliance in coordination with Human Resources and the County Attorney's Office.

A PUBLIC TRUST



Leon County employees fully embrace and live by our core practices, and enhance our people focused, performance driven organizational culture; demonstrate pride in their work and their community; always strive to improve levels of service and performance; and are empowered to help the people they serve. To promote the public interest and maintain the public's trust, Leon County employees are committed to the following Core Practices:

- **Demonstrating Highest Standards of Public Service.** Employees adhere to the highest standards of ethical behavior, avoid circumstances that create even an appearance of impropriety and carry out the public's business in a manner which upholds the public trust. Citizens know that we are on their side.
- **Delivering the "Wow" factor in Customer Service.** Employees deliver exemplary service with pride, passion and determination; anticipating and solving problems in "real time" and exceeding customer expectations. Customers know that they are the reason we are here.
- **Connecting with Citizens.** Employees go beyond customer service to community relevance, engaging citizens as stakeholders in the community's success. Citizens know that they are part of the bigger cause.
- **Accepting Accountability.** Employees are individually and collectively accountable for their performance, adapt to changing conditions and relentlessly pursue excellence beyond the current standard, while maintaining our core values.
- **Exhibiting Respect.** Employees exercise respect for citizens, community partners and each other.
- **Employing Team Approach.** Employees work together to produce bigger and better ideas to seize the opportunities and to address the problems which face our community.
- **Exercising Responsible Stewardship of the Community's Resources.** Employees engage in the continuous effort to create and sustain a place which attracts talent, fosters economic opportunity and offers an unmatched quality of life, demonstrating performance, value and results for our citizenry.
- **Living our "People Focused, Performance Driven" Culture.** Employees have a structure in place to live all of this as our organizational culture and are empowered to help the people they serve.



MISUSE OF POSITION

It is prohibited for any County employee to use or attempt to use his/her position, or any property or resource, that may be within the employee's trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself, herself or others.

Employees shall not be permitted to use County facilities, meeting rooms, or conference rooms, or County equipment for other than County business, unless such facilities or equipment are available in accordance with established policy on a regular basis to the general public in which instance the use of such shall be on the same conditions as for the general public.

Perception is reality

! *Employees should avoid the appearance of inappropriate use of the County's equipment, supplies, facilities, and other resources for their own benefit.*



Q&A


- Q:** I have an outside business providing lawn care service, am I able to share my County business card with possible new clients?
- A:** No. Using your County business card, emailing County contacts and any misuse of County resources is prohibited.



UNAUTHORIZED COMPENSATION

No employee or employee's spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when the employee knows, or with the exercise of reasonable care should know that it was given to influence an employee's official actions.

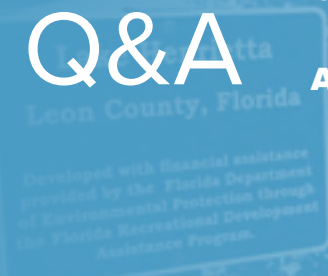
Delivering the WOW!

 *Often our citizens want to express appreciation for work done well. If you have a citizen offer you a gift or money, politely say no. You can suggest they offer appreciation by contacting your supervisor.*



Q&A

- Q:** May I take a part-time job from a contractor who currently does work with the County and whose contract I oversee?
- A:** No, you may not take the part time job even if the contractor has no intention of trying to influence how you manage their contract. Taking the job creates an appearance that you are being influenced.



GIVING AND RECEIVING GIFTS

The law prohibits the solicitation or acceptance by any County employee of any gift, loan, favor, or service that would cause a reasonably prudent person to be influenced in the discharge of official duties, or should have known, that it was given to influence an employee's official actions.

Are there gifts I can receive?

? *T-shirts, pencils, raffles, shopping bags and all other "trinkets" are okay to take, as long as it is a County-sponsored or -approved activity and as long as everyone attending the event is offered the same items.*



TIP ►

County employees are eligible for discounts from vendors as long as the same discount is available to all employees.



Q&A

Q: Am I able to accept a dinner that is being offered free at an upcoming office-related event?

A: Accepting of food and/or drinks offered at activities where your attendance is associated with your official County duties is okay.

MISUSE OF INFORMATION

An employee may not disclose or use information not available to the general public for his/her personal gain or for the gain of any other person or business entity.

You have a duty to assure confidential information remains confidential. County employees may have possession of citizen's social security, medical, or even individual financial information. It is our job to always be on guard to strictly protect the confidentiality of this information.

Q&A

? *Q: I'm aware of an upcoming County bid that a friend of mine might be qualified to bid on. In order to help my friend prepare the lowest bid, can I let her know the timing of the bid and let her know what type of contractor the County wants?*

A: No. As a County employee, you cannot use your job to benefit another business or person. Giving your friend this information provides them an unfair advantage over other possible contractors that may also want to bid.



POLITICAL ACTIVITIES

- E**very employee will have the right to express his or her views as a citizen, to cast his or her vote as he or she chooses, to hold membership in and to support a political party, or maintain political neutrality. Employees may also attend political meetings and take an active part in political campaigns during off duty hours. However, every employee is prohibited from:
- Using his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
 - Directly or indirectly coercing, attempting to coerce, commanding, or advising a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
 - Participating in political activities during scheduled work time.
 - Participating as a candidate for public elective office in a partisan primary, general, or special election, will prohibit a person from being principally employed in a federally funded program.
 - Using Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters.

TIP ▶ *Social media requires care when using*



Using your own social media accounts (Facebook, Twitter, etc.) to provide political opinions is okay – as long as it is on your own time. When acting on behalf of the County, including using the County's social media, refrain from expressing your own personal political views.



Q&A

- Q:** I've been asked by a neighbor to collect signatures on a petition opposing a neighborhood re-zoning issue. Can I help out and collect signatures?
- A:** Yes, you can address issues that are important to you and as a citizen are permitted. Remember that you must do this on your own time and must not give even the appearance that you are representing the County. And as always, do not provide any confidential information in support of your position.

OUTSIDE EMPLOYMENT

Employees shall not engage in any employment activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their County employment.

Employees may not transact business on behalf of the County with any agency in which either the employee or a member of the employee's immediate family has a "material interest."

Employees may not hold any employment or contractual relationship with any business entity or any agency, which is subject to the regulation of, or is doing business with, Leon County Government.



TIP ►

Accepting work outside of the County is acceptable as long as it doesn't conflict with your County job hours and shifts. Remember, your County job comes first.

Complete an Outside Employment Form



Employees who desire to accept outside employment in addition to their regular County position must complete an outside employment form and submit it to their respective Department/ Division Director for a determination of whether such employment conflicts with the duties and responsibilities of the employee.



Q&A

Q: I'm interested in getting a part time job a couple nights a week. Can I?

A: You may get a part-time job with the following conditions: you've completed the County's outside employment form and received the necessary approvals; your County job comes first and the new job's hours do not conflict; and you cannot use any County equipment, supplies, space, etc. when working at your part time job.

NEPOTISM

A relative of any County employee with supervisory responsibility shall not be eligible for employment in or advancement to any position which reports directly to the supervisory employee.

Likewise, a County employee shall not be eligible for advancement to any position with direct supervisory responsibility over a position in which a relative is employed.

TIP ▶ **“Relative” is a relative term...**

➔ *Leon County’s definition of “relative” includes not only father, mother, son, and daughter, but also brother, sister, uncle, and aunt as well as others – when in doubt, reach out to Human Resources for a complete list.*



Q&A

- Q:** Can my daughter apply for a job with the County?
- A:** Your daughter may apply for and be considered for a job at the County, IF, when hired you are not directly responsible for their supervision.

SOLICITATION AND FUNDRAISING



No employee or other person may solicit or be solicited during working hours or in work areas.

No employee may distribute literature in his/her work area or during work hours.

No person may distribute literature to an employee in that employee's work area or during that employee's working hours.

Charitable solicitations may be permitted upon approval of the County Administrator and subject to the following:

- Solicitation may take place only for charitable purposes and not for private gain, and only on behalf of generally recognized and reputable charitable organizations.
- The specific activities to be utilized in the charitable solicitation must be communicated to and approved by the County Administrator prior to any activity taking place.

TIP ►



As a member of a professional organization you may be subject to their specific code of ethics. As a County employee, the Leon County Code of Ethics sets a benchmark for you. If your professional organization has a more stringent code of ethics, reach out to the Assistant County Administrator to discuss which code you should follow.



REPORTING ETHICS CONCERNS



You are encouraged to report suspected ethics or compliance concerns, waste or abuse of County resources to your supervisor, or the Assistant County Administrator or both, depending on the circumstances.

- b. The Assistant County Administrator is ready and able to discuss any ethics or compliance concerns or issues of waste or abuse of County resources and will make every effort to maintain the confidentiality of the employee.
- c. Employees making a report in good faith, or cooperating in an investigation, shall not suffer any form of retaliation.
- d. Any suspicion of fraud should be reported directly to the fraud, waste, and abuse hotline, toll-free at 850-606-5304. Or, by mail to: Leon County Fraud, Waste, Abuse & Misconduct Hotline, 301 South Monroe Street, 5th Floor Leon County Courthouse, Tallahassee, Florida 32301. Reports may be made anonymously.

Additional information can be found at:
www.LeonCountyFL.gov/Fraud

- e. Any ethics and compliance concerns should be directed to 850-606-5380.



“Ethics is knowing the difference between what you have a right to do and what is right to do.”

—Supreme Court Justice Potter Stewart

AUTHORITY AND ENFORCEMENT



Leon County Policy No. 03-05 “Code of Ethics” applies to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

- b. In addition to the “Code of Ethics”, Leon County’s Human Resources Manual, Section II contains standards for “Employee Conduct”.
- c. The Code of Ethics for public officers and employees as set forth in Part III of Chapter 112, Florida Statutes, applies to all employees and sets forth a baseline of requirements. Where the County Code of Ethics has stricter requirements, employees must adhere to this code. Additionally, County employees may have professional association or licensing ethics requirements, which may impose requirements beyond the County Code of Ethics.
- d. Questions regarding compliance with the Code of Ethics are handled by the Assistant County Administrator, in consultation with the County Attorney and Human Resources as needed. In most cases, violations of the Code of Ethics will be addressed by the department director with assistance from the Assistant County Administrator and Human Resources. Where a violation has been found, discipline can range from corrective counseling to termination.



“The truth of the matter is that you always know the right thing to do. The hard part is doing it.”

—General H. Norman Schwarzkopf



ADDITIONAL RESOURCES



In our continuous efforts to be an employer of choice, Leon County Government seeks to attract and retain high performing, healthy and happy employees. This is not only good for our employees, but key to our success in setting the standard in public service. In addition to assisting our employees in navigating potential ethical situations, we have put in place policies and programs which have garnered national attention for employee well-being, domestic violence and employee assistance. Like the ethics guide, the resources below are intended to serve and support our employees and sustain a workplace where our people can thrive.

Domestic Violence, Sexual Violence and Stalking in the Workplace (Policy 13-2): Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County instituted this

Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.



Violence Prevention and Intervention (Policy 03-12):

Violence in the workplace can have a devastating effect on the productivity of organizations and the quality of life of employees. Recognizing this problem, Leon County has developed procedures to identify, report, intervene, and prevent workplace violence.

Employee Assistance Program (Policy 16-2): The

Employee Assistance Program (EAP) has been established to assist employees, who develop

alcohol, drug, behavioral or stress related problems that result in or contribute to substandard job performance, by providing confidential consultation, treatment and rehabilitation.

Leon County Wellness Program (Policy 12-4): The primary purpose of the Leon County Wellness Program shall be to offer programs and services to assist employees in making voluntary behavior changes that improve employee health and enhance individual productivity and well-being or maintaining a healthy lifestyle.





People Focused. Performance Driven.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 5-C

Citizen Charter Review Committee

Agenda Item #5C

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language modifying the County Attorney hiring/firing process to match that of the County Administrator in the Leon County Charter (Attachment #1).

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item (Attachment #2). The Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding the hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator. Strike-through represents deletions and underline represents new language to be added. Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
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Attachment:

1. Proposed Charter Amendment
2. December 7, 2017 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
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of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of the of Charter Counties do not include a provision in their charter’s related to the hiring/firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 5-D

Citizen Charter Review Committee

Agenda Item #5D

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modifying the District Composition of the Board of County Commissioners

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Herbert W.A. Thiele, County Attorney

Summary:

This item provides proposed charter amendment language modifying the composition of the Board of County Commissioners to four (4) District/three (3) At-Large from the existing five (5) District/two (2) At-Large (Attachment #1).

Staff Recommendation:

Option #4: Committee direction.

Title: Modifying the District Composition of the Board of County Commissioners
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion 12-0 to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners. On November 30, 2017, County staff presented the Committee with an agenda item (Attachment #2), and the Committee voted 11-1 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding modifying composition of the Leon County Board of County Commissioners (strike-through reflecting deletions and underline reflecting the new language):

Sec. 2.2. - Legislative branch.

(1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the ~~five (5)~~ four (4) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be ~~two (2)~~ three (3) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.

The changes to the existing charter language are also reflected in Attachment #1 using strike-through underlined format.

As provided to the Charter Review Committee at the November 30, 2017 meeting (Attachment #2), since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its "election plan," no modifications to the current election system and composition of the Leon County Board of County Commissioners could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Title: Modifying the District Composition of the Board of County Commissioners
January 11, 2018
Page 3

Regardless of the approach taken, the County will still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval. Staff is uncertain at this time if all of the necessary requirements can be met in the timeframe between the Committee's final meeting and the 2018 General Election.

During the November 30, 2017 meeting, the Charter Review Committee discussed recommending to the Board continuing to retain the "Majority Minority" and "Minority Access" Commission districts if the proposed Charter Amendment is considered. This recommendation could be included as part of the Charter Review Committee's final report to the Board.

After taking into consideration the legal matters outlined above, the Charter Review Committee may still wish to advance modifying the composition of the Leon County Board of County Commissioners as a recommended charter amendment. The Committee's process can continue to be followed and ultimately the recommended charter amendment can be proposed to the Leon County Board of County Commissioners for consideration to be placed on the November 2018 ballot.

However, all legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. The Committee, however, may recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Leon County Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Proposed Charter Amendment.

Title: Modifying the District Composition of the Board of County Commissioners
January 11, 2018
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2. November 30, 2017 Item, “Modifying the District Composition of the Board of County Commissioners”

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the ~~five (5)~~four (4) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be ~~two (2)~~three (3) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.

Citizen Charter Review Committee

Agenda Item D

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modifying the District Composition of the Board of County Commissioners

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator

Summary:

To consider a change in the composition of the Board of County Commissioners to four (4) District/three (3) At-Large from the existing five (5) District/two (2) At-Large.

Staff Recommendation:

Option #4: Committee direction.

Title: Modifying the Composition of the Board of County Commissioners
November 30, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners.

In accordance with Section 2.1 of Leon County's Charter, the Board of County Commissioners is composed of seven total members: One Commissioner elected for each of the five County Commission districts and two At-Large Commissioners. All County Commissioners serve staggered terms of four years. This composition has been in place since 1986 and was incorporated into the original Leon County Home Rule Charter adopted in 2002.

Florida's Constitution allows charter county voters to adopt a variety of structures and election processes for its board of county commissioners; however, Leon County has additional considerations. Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended.

In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and

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November 30, 2017
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before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No. 01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Amending the composition of the Leon County BOCC was previously considered by the 2009-2010 Citizen Charter Review Committee (Attachment #2); however, the Committee ultimately voted to recommend that no change be made to the Charter on this issue.

Analysis:

Charter counties vary in the composition of their board of county commissioners. Prior to 1968, all Florida counties were required to have a board of county commissioners composed of five members with one commissioner from each of five commission districts, but elected on a countywide basis. In 1968, Florida counties were constitutionally-vested with home rule, which allowed them to adopt a charter with alternative board compositions. Attachment #1 contains a summary of charter county board compositions and is summarized as follows:

- Seven (7) charter counties: All at-large commissioners;
- Eight (8) charter counties: All single-member districts; and
- Five (5) charter counties: Mix of single-member districts and at-large commissioners.

Since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its “election plan,” no modifications to the current election system and composition of the BOCC could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Regardless of the approach taken, the County will still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval. Staff is uncertain at this time if all of the necessary requirements can be met in the timeframe between the Committee’s final meeting and the 2018 General Election.

After taking into consideration the legal matters outlined above, the Charter Review Committee may still wish to advance modifying the composition of the board of county commissioners as a recommended charter amendment. The Committee’s process can continue to be followed and

Title: Modifying the Composition of the Board of County Commissioners
November 30, 2017
Page 4

ultimately the recommended charter amendment can be proposed to the Board of County Commissioners for consideration to be placed on the November 2018 ballot.

However, all legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. The Committee, however, may recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting.

Voting Threshold: Simple Majority Vote

2. Request additional information and analysis.

Voting Threshold: Four (4) Votes

3. Take no further action at this time.

Voting Threshold: Simple Majority Vote

4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Charter County Districting Scheme Comparison
2. 2009 Memo on Modifying the BOCC Structure

VI.

COMMITTEE IDEA DELIBERATION

VII.

ADJOURNMENT

Citizen Charter Review Committee

January 18, 2018

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of January 11, 2018 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Protections for Water Resources (*Vincent S. Long*)
 - b. Charter Provision Related to Constitutional Officers (*Vincent S. Long*)
- V. Adjournment

The next meeting of the Citizen Charter Review Committee will take place on Thursday, January 25, 2018 at 11:30 A.M.

I.

CALL TO ORDER

II.

APPROVAL OF JANUARY 11, 2018 MEETING MINUTES

CHARTER REVIEW COMMITTEE
January 11, 2018

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 11, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Shane Hopkins, William Graham, and Jay Revell in attendance. Committee member Ken Hart was absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peoples, and Deputy Clerk Rebecca Vause. Committee Members Kim Williams arrived at 11:30 and Gordon Thames arrived at 11:43.

I. Call to Order: Chair Hinkle called the meeting to order at 11:30 a.m. She advised that Committee member Ken Hart would not be in attendance and that a serious health issue most likely would prevent him from participating further on the Committee.

II. Approval of December 7, 2017 Meeting Minutes:
A motion to approve the December 7, 2017 minutes was offered by Michael Eurich and seconded by Reginald Ellis. The motion carried 11-0 (Kim Williams, Gordon Thames and Ken Hart absent).

III. Remarks of Interested Citizens:

- Marilynn Wills, spoke on the value of nonpartisan elections for Constitutional Offices and the Supervisor of Elections. She commented that there were over 35,000 voters in Leon County registered as no party affiliation and provided some advantages of nonpartisan elections.
- Robert Travis, Tallahassee NAACP, referenced the Consent Decree that was entered into between the County and the NAACP in the 1990's, which stipulated that the County would notify the NAACP of any proposed changes to establish partisan/nonpartisan single member districts. He advised that the NAACP opposed any changes that would be in violation of the Consent Decree.
- Commissioner Bill Proctor expressed support for the comments expressed by Mr. Travis. He asked that the CRC not make any changes to current County Commission districts. He also requested that partisan elections remain for Constitutional Officers as party affiliation represents ideals and policies of a candidate.
- Angela Hardiman appeared to speak strongly in favor of nonpartisan races for Constitutional Offices. She asserted that politics has no place in determining how well a job can be performed.
- Wilson Barnes stated that independent voters made the choice to be independent and he did not want to lose the opportunity to exercise his vote. He requested the Committee maintain partisan elections.

IV. Proposed Charter Amendments for Committee Consideration:

Chairman Hinkle reminded the Committee that a majority vote of the Committee was needed to move the proposed amendments to the next phase.

a. Standards for CRA Expenditures

County Administrator Long recalled that the CRC had been provided at its last meeting an agenda item including a legal analysis of the proposed Charter amendment. He noted that the analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but could through an amendment to the existing Interlocal Agreements. County Administrator Long recalled that the Committee had also requested a presentation from the CRA. He then introduced Wayne Tedder, Assistant City Manager of Development Services and Economic Vitality, to make the presentation to the Committee. County Administrator Long also recognized the presence of Interim City Manager Reese Goad.

Mr. Thames questioned the analysis and submitted that a Charter amendment is at a different level from an interlocal agreement. He opined that the voters of Leon County should have the authority, via Charter amendment, to stipulate that going forward, anything purchased from CRA funds would be owned by taxpayers.

County Attorney Thiele reaffirmed that because the CRA is a separate legal entity, a change to their processes and budget by Charter amendment could not be realized.

Mr. Tedder provided a thorough presentation to the Committee including, but not limited to: the makeup and processes of the CRA; criteria to establish a CRA; information on the two Tallahassee CRA Districts; CRA funding, and an overview of CRA projects (past, current and pending).

Dialogue between Mr. Thames and Mr. Tedder ensued upon the conclusion of the presentation.

Mr. Graham acknowledged the opinion of staff regarding the authority of the CRC on this issue. He mentioned that there were currently two bills pending in the legislature that address many of the concerns expressed by Mr. Thames and suggested that would be a more appropriate venue to bring these issues forward.

Ted Thomas moved, seconded by William Graham, approval of Option 3: Take no further action at this time. The motion carried 11-2 (Gordon Thames and Catherine Jones in opposition and Ken Hart absent).

b. Non Partisan Constitutional Officers

County Administrator Long introduced the item. He mentioned that the Florida Constitutional Revision Committee is considering an amendment to the Constitution that would prohibit charter counties from modifying the powers, duties and elected status of Constitutional Officers. He announced that Chris Moore, Deputy Supervisor of Elections, was in attendance to answer any questions the Committee may have.

County Attorney Thiele provided a brief update on the Fifth District Court of Appeal opinion in *Orange County Florida v. Singh, et al.*, in which Orange County appealed a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. County Attorney Thiele offered that, while Leon County is not in the Fifth District, and it is unknown whether Orange County will appeal the decision, it could provide potential limitation on Leon County's ability to change the Constitutional Offices to nonpartisan status.

Mr. Thomas offered that a precedent has been set in this district (Wakulla County) and opined that the Committee should move forward with an amendment that there be nonpartisan elections for Constitutional Officers.

Ms. Jones mentioned that while the CRC should not made decisions based on what the Constitutional Revision Committee might do, believed that consideration should be given to the ruling in the Fifth District Court. She stated that she was opposed to making Constitutional Offices nonpartisan; however, recognized the “no party affiliation” individuals have a right to vote.

Mr. Ellis opined that the CRC should not take action on this as there are too many unknowns at this time.

Reginald Ellis moved, seconded by Catherine Jones, approval of Option 3: Take no further action at this time.

Mr. Fleckenstein asked Mr. Moore to address what impact could be realized by the change. Mr. Moore responded that it would simplify the election process; however, mentioned that the County has both nonpartisan and partisan elections and both appear to work.

Mr. Thomas conveyed that when he spoke in support of nonpartisan elections, he intended that to be a motion.

Mr. Revell stated that he was a fan of nonpartisan elections and supports any option which expands the electorate to allow more voters to have a say.

The motion carried 9-4 (Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Ken Hart absent).

V. Draft Charter Amendment Language:

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced the item and noted that proposed charter amendment language is provided for the CRC’s consideration.

Kim Williams moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.

Mr. Fleckenstein pointed out that 66.5% of the electorate approved of the amendment in the 2010 General Election and based on data from the Supervisor of Elections website 165 of 166 precincts supported the amendment. He submitted that based on the success of the amendment in 2010 citizens supported a decrease in campaign contribution and he saw no reason to go in the opposite direction.

Mr. Eurich commented that when the \$250 campaign contribution limit is compared to the state’s limit of \$1,000, there is no substantive change in the percentage of candidates with a surplus at the end of the campaign cycle; thus he did not see where an increase was needed.

The motion carried 9-4 (Michael Eurich, Neil Fleckenstein, Anice Prosser and Gordon Thames in opposition and Ken Hart absent).

b. Code of Ethics

County Administrator Long introduced the item. He advised that the County currently has an ethics policy that closely follows state law; however, acknowledged that a Charter amendment requiring the County to adopt an ordinance would further elevate the importance and visibility of the County's ethics rules. He mentioned that a recently developed Ethics "Field Manual" for employees was included in the Committee's packet. County Administrator Long also advised that unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Comptroller and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney's opinion that the County cannot impose a "Code of Ethics" on Constitutional Officers.

*Neil Fleckenstein moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a "Code of Ethics" **not** applicable to Constitutional Officers.*

Ms. Jones opined that there was not a Constitutional Officer who would not support, appreciate and want the public to know that they also uphold to a code of ethics.

The motion carried 13-0 (Ken Hart absent)

c. Hiring/Firing County Attorney

County Attorney Thiele introduced the item. He referenced the proposed language and stated that it is was taken verbatim from the Charter applicable for the County Administrator.

Jay Revell moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing. The motion carried 13-0 (Ken Hart absent).

d. Modifying the District Composition of the Leon County Board of County Commissioners

County Attorney Thiele introduced the item. He stated that he had deemed it premature to contact the NAACP on the proposed change; however, as the amendment moves through the process, and when appropriate, dialogue would be initiated. He then reviewed the legal process that would be required to implement the amendment and advised that legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot.

Mr. Williams confirmed with County Attorney Thiele that the change had to be done by Charter amendment. Mr. Williams, on behalf of Mr. Hart (who initiated the amendment) conveyed that the intent was to allow all the electorate to vote for four of the seven County Commissioners. He asserted that he could not support the proposed amendment until the legal issues had been addressed.

Chairman Hinkle agreed that a court decision could not be rendered by 2018 and that it would be 2020 (or after) before the amendment could be placed on the ballot. She recommended that the CRC suggest to the County Commission that they revisit

the Federal Courts decision, as it was rendered in 1985 and much progress has been made since that time.

Mr. Revell affirmed with County Attorney Thiele that the requirements from the Federal Court order were not included in the Charter and he did recommend that they be added.

Ms. Jones recommended that the Committee not move forward with the amendment in light of the time that would be required to address the legal challenges and that the NAACP was not supportive of the change.

Catherine Jones moved, seconded by Reginald Ellis, approval of Option 3: Take no further action at this time.

Mr. Williams asked if the maker of the motion would consider adding Chairman Hinkle's recommendation to bring the matter to the Board for consideration. **Ms. Jones did not accept the friendly amendment.**

The motion carried 8-5 (Lee Hinkle, Casey Perkins, Anice Prosser, Jay Revell, and Ted Thomas opposed and Ken Hart absent).

VI. Committee Idea Deliberation

Chairman Hinkle stated that this was the last opportunity to take up any new ideas for consideration. She asked if there were any new ideas to be brought forward.

- Ms. Jones advocated for the Constitutional Offices of Supervisor of Elections, Clerk of Circuit Court and Comptroller, Property Appraiser and Tax Collector to be appointed positions. She shared that the Constitutional Offices were established by the Florida Constitution in 1885 and opined it was time to offer the citizens an opportunity to have an opinion on this issue.
 - *Catherine Jones moved, seconded by Gordon Thames, to request staff bring back an analysis on how an appointed structure would look like for the Supervisor of Elections, Clerk of Court and Comptroller, Property Appraiser and Tax Collector. The motion carried 8-5 (Reginald Ellis, Lee Hinkle, Shane Hopkins, Ted Thomas and Kim Williams in opposition and Ken Hart absent)).*

At the request of Chairman Hinkle, County Administrator Long provided an overview of the actions taken by the Committee. He informed the CRC that information on the last motion would be provided at the next meeting and the three items approved for amendment language will move to the public hearing phase. He reminded the Committee that the proposed amendments would require 10 votes to move to the Board for consideration. The three items moving forward to public hearing are:

- Increase Campaign Contribution Limits for Local Elections
- Provide a Code of Ethics Requirement in the Leon County Charter
- Modify the Hiring/Firing Process for the County Attorney

Chairman Hinkle shared that Commissioner Bill Proctor has requested an opportunity to address the Committee.

- Commissioner Proctor expressed his concerns regarding the potential relocation of the Capital from Tallahassee. He spoke of the devastating effect this would have on North Florida and the loss of 40% of jobs in Tallahassee.

- Commissioner Proctor also asked the Committee to consider the establishment of a Leon County Water Commission whose purpose would be to oversee and protect the areas water resources.

Ms. Jones was unclear how the Committee could address the relocation of the capital; however, suggested this was an issue to be addressed by the County Commission. She noted that Board Chairman Nick Maddox also chaired the Leon County Legislative Dialogue meetings and suggested that the delegation lobby to maintain the capital in Tallahassee.

- Chairman Maddox expressed his appreciation to the CRC for its work. He indicated that the issue of relocation is huge and would drastically change the character of the committee and create blight in the region. He suggested that the Committee direct Chairman Hinkle to send a letter to the County Commission expressing concerns over the possibility of relocation. He also suggested that a similar letter be sent to the legislative delegation expressing the Committee's concerns.

Gordon Thames moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter on behalf of the Committee to the Board of County Commissioners and the Legislative Delegation opposing efforts to move the state capital out of Leon County. The motion carried 13-0 (Ken Hart absent).

Ms. Jones stated that while she too was concerned about water issues she was unsure what authority the Committee has in creating a citizen advisory group.

Mr. Fleckenstein stated that Tall Timbers considers water resource protection as one of its most important functions. He spoke of the quality and quantity of water in our area and on the importance of protecting our water resource from being directed elsewhere. He stated that he would be interested in a staff analysis of how other charter counties have addressed water resource protection.

Neil Fleckenstein moved, seconded by William Graham, to direct staff to bring back additional information and analysis regarding how other county charters have address protecting water resources. The motion carried 13-0 (Ken Hart absent).

Chairman Hinkle advised that the requested information on the appointment of Constitutional Officers and the water resources issue would be on the Committee's January 18 agenda.

VII. Adjourn

The Committee adjourned at 1:44 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM A

Citizen Charter Review Committee

Agenda Item A

January 18, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Protections for Water Resources

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis regarding how other Florida county charters have addressed protecting water resources.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of January 11, 2018, the Committee voted 13-0 to request additional information and analysis regarding how other county charters have addressed protecting water resources.

As reflected in the attached memo from the County Attorney (Attachment #1), waters in the state are considered a public resource to be managed on a state and regional basis. Consequently, the State maintains exclusive authority for requiring water use permits for the consumptive use of water, such as the construction of water wells. However, as noted in the analysis, counties can establish environmental standards related to water quality protection.

Analysis:

Explained in greater detail below, Leon County's Charter is consistent with other Florida Charter County's that have environmental and water protection provisions. Leon County's Charter currently contains a countywide "Minimum Environmental Regulations" provision in Section 1.6.(2) which was an amendment recommended by the 2009/2010 Citizen Charter Review Committee and approved by 61% of the electorate (Attachment #2).

Section 1.6.(2) of the Charter requires the County to adopt minimum standards, procedures, requirements and regulations for the protection of the environment to include, but are not limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and other environmental standards the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County. The amendment does not prohibit the City from adopting more stringent environmental regulations.

In March 2011, the Board of County Commissioners adopted a minimum Countywide Environmental Standard Ordinance to provide consistency, reliability and uniformity of standards countywide, recognizing that environmental conditions are not confined by jurisdictional boundaries. For instance, to address aquifer protection, the ordinance increased the stormwater treatment standards countywide. The base minimum stormwater treatment standard for the entire County was increased to more than twice the State minimum standard (1-1/8-inches versus 1/2 inch). Stormwater is the flow of water resulting from a rainfall event, which is treated through containment in stormwater ponds. Treatment standards for stormwater specify the quantities of stormwater contained and treated in these ponds.

The Ordinance also included countywide stormwater treatment and protection standards in drainage basins and study areas that crossed both the incorporated and unincorporated areas. These areas include the Bradfordville Study Area and Lake Jackson Basin and, as a result of the Ordinance, the Bradfordville and Lake Jackson stormwater standards became applicable within the City's limits. In addition, on July 7, 2015, the Board adopted a new stormwater standard for the Lake Jackson Basin. The new standard provided improved treatment for new residential type developments. This standard ensures that the water quality of Lake Jackson will not be adversely affected by new development.

Title: Protections for Water Resources
January 18, 2018
Page 3

As a charter county, Leon County also has the power to enact ordinances regulating water so long as they are consistent with state laws. For instance, Leon County Code of Laws provides for a countywide Aquifer/Wellhead Protection Program to “protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems.” The ordinance provides criteria for regulating the use, handling, production, storage, and disposal of regulated substances such as petroleum products, solvents, etc. The County contracts with the City of Tallahassee Water Quality Division to enforce the ordinance on a countywide basis (Attachments #3 and #4). The City enforces the County’s Ordinance governing the protection of the Floridan aquifer by inspecting facilities to prevent the introduction of these substances into the groundwater in the County. The County’s Ordinance includes regulations such as a prohibition of installing new water wells within 400 feet of an available water system, as well as regulations regarding maintenance and abandonment.

Regarding other Florida Charter Counties, six contain similar provisions as the Leon County Charter:

- Alachua County – Municipal ordinances regarding environmental standards prevail, unless the County’s standards are more stringent.
- Broward County – The County is required to set minimum standards protecting the environment through the prohibition or regulation of air or water pollution, or the destruction of resources in the County belonging to the general public.
- Columbia County – The County is permitted to adopt minimum countywide standards for protecting the environment by regulating air or water pollution.
- Orange County – The County is permitted to adopt minimum countywide standards for protecting the environment by prohibiting or regulating air or water pollution.
- Palm Beach County – The County is permitted to adopt a countywide ordinance relating to the protection of wells and well fields, by providing criteria for regulating and prohibiting the use, handling, production and storage of certain deleterious substances which may impair present and future public potable water supply wells and well fields.
- Volusia – The County is required to set minimum standards, procedures, requirements and regulations for the protection of the environment.

Where not pre-empted by the State, the Leon County Charter provides for the adoption of countywide water protection ordinances or regulations. While more specific provisions could be adopted as Charter amendments, the current approach of adopting local ordinances and regulations provides flexibility to address changing local conditions. Leon County continues explore and evaluate opportunities to improve water quality protection; however, there are no specific additional regulations recommended at this time.

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Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.


Attachment:

1. Memo from the County Attorney's Office
2. 2010 Charter Amendment, "Minimum Environmental Regulations"
3. Aquifer/Wellhead Ordinance
4. Aquifer/Wellhead Protection Program Interlocal Agreement

BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

To: Alan Rosenzweig, Deputy County Administrator

From: LaShawn D. Riggans, Esq. 
Deputy County Attorney

Date: January 12, 2018

Subject: Regulation of Water Wells in Florida

As requested, the purpose of this memorandum is to provide a general review and analysis of various laws and cases pertaining to water resources in the state, and most particularly the regulation of water wells. By way of background, there have been queries concerning local regulation of pumping, deep well injections, and the depth of wellheads.

Chapter 373, Florida Statutes is known as the “Florida Water Resources Act of 1972,” and is divided into seven parts. The pertinent parts herein are: (a) Part I, the state water resource plan; (b) Part II, permitting of consumptive uses of water; and (c) Part III, the regulation of wells.

In Part I of Chapter 373, the Legislature declares that “[b]ecause water constitutes a public resource benefiting the entire state, it is the policy of the Legislature that the waters in the state be managed on a state and regional basis.” § 373.016(4)(a), Fla. Stat. (2017). Further, pursuant to Section 373.023(2), Florida Statutes, “[n]o state or local government agency may enforce, except with respect to water quality, any special act, rule, regulation, or order affecting the waters in the state controlled under the provisions of this act... until such special act, rule, regulation, or order has been filed with the department [of environmental protection].”

With regard to Part II of Chapter 373, Section 373.217(2) states that it is the intent of the Legislature for Part II to “provide the exclusive authority for requiring permits for the consumptive use of water.” Section 373.217(3) states that if any ordinance, rule or regulation of any political subdivision or municipality is in conflict with Part II, then Part II “shall govern and control, and such other law or ordinance or rule or regulation... shall be deemed superseded for the purpose of regulating the consumptive use of water.” Section 373.217(4) then sets forth that Part II “preempts the regulation of the consumptive use of water.”

Pursuant to Section 373.216, Florida Statutes, each water management district, including the Northwest Florida Water Management District (“NFWMD”), has implemented a program for the issuance of permits authorizing the consumptive use of particular quantities of water. The conditions for obtaining a permit for a consumptive use of water are set forth in Section 373.223, Florida Statutes, and the rules for the regulation and permitting of consumptive uses of water by

the respective water management districts are set forth at Chapter 40A-2, Florida Administrative Code (“F.A.C.”).

Under Part III of Chapter 373, concerning the regulation of wells, the Legislature found that, in order to protect the health of the public and the environment, it was “necessary to regulate the construction, repair, and abandonment of wells, and the persons and businesses responsible therefor.” § 373.302, Florida Statutes (2017). Accordingly, Section 373.306 provides that “[n]o person shall construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to the provisions of this part and applicable rules and regulations.”

Section 373.309(1) provides that the Department of Environmental Protection (“DEP”) shall adopt rules governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of Part III. Pursuant to Section 373.309(1)(b), DEP may delegate, via interagency agreement to the water management districts, the Department of Health, or any other political subdivision, any of DEP’s authority under Part III to administer the rules governing the location, construction, repair, and abandonment of water wells. Section 373.308(1) provides that the DEP shall authorize the water management districts to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells, and that upon such authorization, “issuance of well permits will be the sole responsibility of the water management district, delegated local government, or local county health department.”

The purpose of Chapter 40A-3, F.A.C., is to implement the duties and responsibilities of the water management districts under Part III, Chapter 373, Florida Statutes, as well as to set forth the duties and responsibilities delegated by DEP to the water management districts, relative to regulating the location, construction, repair, or abandonment of wells, and the licensing of water well contractors. Rule 40A-3.011(1), F.A.C. Pursuant to Rule 40A-3.041(1), “[u]nless expressly exempted by Statute or District rule, a permit must be obtained from the District prior to construction, repair, or abandonment of a well and the well must be constructed, repaired, or abandoned by a licensed water well contractor.” Notably, Rule 40A-3.041(14), F.A.C., does make allowance for local rules and standards, as follows:

Receipt of a permit from the District does not alleviate the responsibility of the applicant to obtain other permits that may be necessary from local, state, or federal agencies. If more stringent rules concerning construction standards for water wells are promulgated by local permitting authorities, those standards shall apply.

As a charter county, Leon County has all powers of local self-government not inconsistent with general or special law and may enact county ordinances not inconsistent with general law. Art. VIII, s. 1(g), Fla. Const.; § 125.01(1), Fla. Stat. (2017). This power includes the power to provide and regulate water and alternative water supplies, including, but not limited

to, reclaimed water and water from aquifer storage and recovery, and conservation programs. § 125.01(1)(k)1., Fla. Stat. (2017).

Section 10-10.305 of the Leon County Code of Laws provides a general prohibition against installing new water wells within 400 feet of an available community water system. In addition, Section 10-10.306 of the Code contains certain regulations concerning injection wells, heat exchange wells and drainage wells, and Section 10-10.307 contains certain regulations concerning well maintenance, well abandonment and geotechnical borings. These provisions were adopted on November 8, 2005, via Leon County Ordinance No. 05-30.

It is clear that water management districts have the exclusive authority to permit consumptive uses of water. As stated by the Fifth District Court of Appeal, “Section 373.217 of the Florida Statutes... sets forth the supremacy and exclusivity of [the water management district’s] permitting authority.” Thomas v. Southwest Florida Water Management District, 864 So. 2d 455, 456 (Fla. 5th DCA 2003). Moreover, the Fifth DCA found that Section 373.217 even “expressly preempts other statutes, including Part I of Chapter 373, that attempt to limit or qualify” the permitting authority of a water management district. Id.

In a local case, the First District Court of Appeal held that the Department of Community Affairs had exceeded its authority when it attempted to require property owners on St. George Island to obtain well drilling permits from the Department. Northwest Florida Water Management District v. Department of Community Affairs, 7 So. 3d 1129 (Fla. 1st DCA 2009). The issue in this case was a 1977 development order issued by the Department of Community Affairs. Some thirty years later, certain property owners on St. George Island submitted applications to the NFWFMD for permits to drill wells on their property, and the NFWFMD announced its intention to issue the permits. However, the Department issued notices of violation to the property owners, asserting that the proposed wells were in violation of the development order and that the Department’s approval of the wells had not been obtained. However, the NFWFMD took the matter to court, and the First District Court of Appeal agreed with the position of the NFWFMD, as follows:

We agree with petitioner that [the] expressed intention of the Florida Legislature to provide the “exclusive authority” to the water management districts of this state for permitting the consumptive use of water is clear and requires this Court to grant the petition and exclude the Department [of Community Affairs] from the process of approving the wells in question.

Id. at 1131. Furthermore, the Court stated that the “preemption language of section 373.217 does in fact mean what it says and permitting by the water management district is all that is required to obtain approval for consumptive use of water in this state.” Id.

In Marion County v. Greene, 5 So. 3d 775, 777 (Fla. 5th DCA 2009), Marion County objected to the issuance of a consumptive use permit (“CUP”) to withdraw groundwater for

Alan Rosenzweig, Deputy County Administrator
January 12, 2018
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bottling and distribution as drinking water through an existing well, contending that the proposed use was not in the public interest and was “inconsistent with Marion County’s interests, plans, and regulations.” On appeal, the Fifth DCA found that Chapter 373 grants water management districts the “exclusive authority” to approve consumptive use permit applications, and that “when a county ordinance is in conflict with the water management district’s exclusive authority, the ordinance is deemed superseded for purposes of regulating the consumptive use of water.” *Id.* at 778-79. Further, “[n]either the statutes nor the rules regarding CUPs impose any requirements on the District related to compliance with a local government’s comprehensive plan or land development regulations.” *Id.* at 779.

Also, although Section 125.01(1)(k)1., Florida Statutes does provide counties with the power to provide and regulate water and alternative water supplies, the Second District Court of Appeal has found that Section 373.223, Florida Statutes, which sets the conditions for obtaining a water use permit, controls over Section 125.01(1)(k)1., Florida Statutes. See Southwest Florida Water Management District v. Charlotte County, 774 So. 2d 903, 918 (Fla. 2d DCA 2001), rev. den., 800 So. 2d 615 (Fla. 2001).

In the case of South Florida Water Management District v. City of St. Cloud, 550 So. 2d 551 (Fla. 5th DCA 1989), the City of St. Cloud challenged the issuance of well construction permits by the South Florida Water Management District (“SFWMD”), citing that the construction of the wells would have an effect of impairing, polluting, and otherwise adversely affecting the quality and availability of water to the City. Upon appeal, the Second DCA found that the City did have standing to intervene in the matter and was entitled to a formal administrative hearing. Also, the City was also entitled to a temporary injunction to prevent the construction of the wells pending the outcome of the formal administrative hearing, as the City had presented sufficient evidence to establish irreparable injury.

In conclusion, it is clear that in this county the NFWMD has the supreme and exclusive statutory authority to issue water use permits. However, as indicated in Rule 40A-3.041(14), F.A.C., more stringent rules concerning construction standards for water wells can be promulgated by local permitting authorities. Please advise if you need additional information or research concerning this matter.

ORDINANCE NO. 2010-_____

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING
5 THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA;
6 AMENDING ARTICLE I, CREATION, POWERS AND
7 ORDINANCES OF HOME RULE CHARTER GOVERNMENT;
8 AMENDING SECTION 1.6, RELATION TO MUNICIPAL
9 ORDINANCES, BY ADDING A NEW SUBSECTION (2) TO
10 PROVIDE FOR MINIMUM ENVIRONMENTAL
11 REGULATIONS; PROVIDING FOR A BALLOT QUESTION TO
12 BE POSED TO THE LEON COUNTY ELECTORATE AT THE
13 SPECIAL ELECTION ON NOVEMBER 2, 2010; PROVIDING
14 FOR THE BALLOT QUESTION FORM; PROVIDING FOR
15 FURTHER AUTHORIZATION; PROVIDING FOR
16 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
17 DATE.
18
19

20 BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida,

21 that:

22 **Section 1.** Article I, Section 1.6 of the Home Rule Charter of Leon County, Florida,
23 is hereby amended to read as follows:

24 **Sec. 1.6. Relation to Municipal Ordinances.**

25 (1) Except as otherwise provided by law or this Charter, municipal ordinances shall
26 prevail over County ordinances to the extent of any conflict within the boundaries of the
27 municipality. To the extent that a county ordinance and a municipal ordinance shall cover the
28 same subject without conflict, then both the municipal ordinance and the county ordinance shall
29 be effective, each being deemed supplemental to the other.

30 (2) Minimum Environmental Regulations. County ordinances shall establish
31 minimum standards, procedures, requirements and regulations for the protection of the
32 environment and shall be effective within the unincorporated and incorporated areas of the
33 County. Such standards, procedures, requirements and regulations shall include, but shall not be

1 limited to, tree protection, landscaping, aquifer protection, stormwater, protection of
2 conservation and preservation features, and such other environmental standards as the Board of
3 County Commissioners determines to be necessary for the protection of the public health, safety,
4 and welfare of the citizens throughout Leon County. Standards shall be designed to place
5 emphasis on supporting healthy natural systems occurring in the environment. However, nothing
6 contained herein shall prohibit a municipality from adopting ordinances, standards, procedures,
7 requirements or regulations establishing a more stringent level of environmental protection
8 within the incorporated area of the County.

9 **Section 2. Ballot Question To Be Presented To Electorate.**

10 The proposed amendments to the Home Rule Charter of Leon County, Florida, shall be
11 presented to the qualified Leon County electorate by placing the question of whether to adopt
12 same on the ballot at the special election to be held on November 2, 2010.

13 **Section 3. Ballot Question Form.**

14 The question on the ballot shall be substantially in the following form:

15 **MINIMUM COUNTYWIDE ENVIRONMENTAL REGULATIONS AS**
16 **PROPOSED BY THE CITIZEN CHARTER REVIEW COMMITTEE**

17 Question

18
19
20 Shall the Home Rule Charter for Leon County, Florida be amended to
21 provide that County ordinances shall establish minimum regulatory
22 standards for the protection of the environment countywide, with an
23 emphasis on supporting healthy natural systems in the environment;
24 effective April 1, 2011?

25
26 Yes for Approval _____

27
28 No for Rejection _____

29
30 **Section 4. Further Authorization.**

1 The Board of County Commissioners of Leon County, Florida, is authorized to adopt all
2 resolutions and take all actions necessary in order for this Charter amendment referendum to be
3 properly placed on the ballot for the special election of November 2, 2010. Said referendum
4 shall be conducted according to the requirements of law governing referendum elections in the
5 State of Florida.

6 **Section 5. Severability.**

7 If any word, phrase, clause, section or portion of this ordinance shall be held invalid or
8 unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a
9 separate and independent provision and such holding shall not affect the validity of the
10 remaining portions thereof.

11 **Section 6. Effective Date.**

12 This ordinance shall have effect upon becoming law, but shall be of no further force or
13 effect if the proposed Charter amendments are not duly approved at the November 2, 2010,
14 special election. The amendments to the Home Rule Charter of Leon County, Florida, as
15 proposed by this Ordinance, shall become effective April 1, 2011, if the Charter amendment is
16 approved by a “yes” vote by a majority of those duly qualified electors voting on the question
17 posed at the November 2, 2010, referendum.

18 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
19 County, Florida, this 17th day of August, 2010.

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LEON COUNTY, FLORIDA

By: _____
Bob Rackleff, Chairman
Board of County Commissioners

1 ATTESTED BY:
2 BOB INZER, CLERK OF THE COURT
3 LEON COUNTY, FLORIDA

4
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9

By: _____
Clerk

10 APPROVED AS TO FORM:
11 COUNTY ATTORNEY'S OFFICE
12 LEON COUNTY, FLORIDA

13
14
15
16
17

By: _____
Herbert W. A. Thiele, Esq.
County Attorney

ARTICLE X. - AQUIFER/WELLHEAD PROTECTION

DIVISION 1. - GENERALLY

Sec. 10-10.101. - Definitions.

As stated in section 10-1.101, the definitions in section 10-1.101 apply to this article. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquifer protection coordinator shall mean a City of Tallahassee employee with co-delegated authority to enforce this article.

Discharge shall mean a nonpermitted discharge as defined by F.S. § 376.301(12), and includes but is not limited to, the spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substances which may affect the groundwater.

Drainage well shall mean any well installed for the purpose of draining water from above the earth's surface to subsurface layers.

Dry well shall mean a well lined or filled with gravel or sand that holds water until percolation into the ground.

Contaminated groundwater shall mean groundwater that does not meet the standards defined in Chapter 62-520, F.A.C.

Injection well shall mean a well into which fluids that are being or will be injected by gravity flow or under pressure, by gravity flow or under pressure.

Regulated entity shall mean any business, facility, activity, agency, or farming operation-site expanding more than three acres, that, at any time, manufactures, stores, or uses regulated substances listed in section 10-10.106, or any property that undergoes new construction, demolition, additions, alterations or repairs that requires a City of Tallahassee or Leon County building or environmental permit.

Well shall mean any excavation which has a depth greater than the diameter of the largest surface dimension that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for conveying groundwater to the surface, monitoring the groundwater level or quality, providing cathodic protection, or providing a method of injecting conveying water from above the earth's surface to subsurface layers.

Violator shall mean any person, firm, corporation, business entity, facility or organization owning, possessing, leasing, renting or having control of the subject property where prohibited activities occur and contribute to groundwater contamination.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.102. - Intent and purpose.

- (a) The intent and purpose of this article is to protect and maintain the quality and quantity of groundwater in the county by providing criteria for regulating the use, handling, production, storage, and disposal of regulated substances.
- (b) This article shall establish performance standards for the use, handling, production, storage, or disposal of regulated substances that are applicable to facilities so as to preclude the introduction of these substances into groundwater.
- (c) This article, through its provisions, is intended to protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems.

- (d) This article shall authorize the establishment of a funding mechanism for the operation and implementation of an aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.103. - Compliance with Comprehensive Plan.

The contents of this article shall meet or exceed the goals, objectives and policies established in the adopted Comprehensive Plan.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.104. - Public education and reporting requirements.

- (a) A public program shall be conducted in order to correct current practices regarding the use, storage, and disposal of regulated substances, and to provide for the protection of water resources in the county.
- (b) An annual report shall be presented to the Board of County Commissioners and to the Tallahassee City Commission detailing the extent of the public education activities, and the status of activities of the aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.105. - Territorial applicability.

The aquifer/wellhead protection area shall include all land and surface water and ground water within the county.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.106. - Regulated substances—Designated.

Regulated substances shall mean the following:

- (1) Substances, including degradation and interaction products, which because of quality, concentration, or physical/chemical characteristics (including ignitability, corrosivity, reactivity and toxicity, radioactivity, mutagenicity, bioaccumulative effect, or persistence in nature) may cause a violation of Florida Department of Environmental Protection (FDEP) ground water standards pursuant to Chapter 62-520, F.A.C.; and
- (2) Those substances set forth in the lists, as amended from time to time, entitled, "Lists of Hazardous Waste" (40 CFR 261, subpart D), "Hazardous Constituents-Appendix VIII," (40 CFR 261), and "EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA" (40 CFR 302.4); and
- (3) Substances which have known hazardous properties as listed in 40 CFR 302 by the EPA; and
- (4) Substances that are restricted-use pesticides according to F.S. ch. 487, or which are listed in F.A.C. chs. 5E-2 or 5E-9; and
- (5) Water which contains total dissolved solids (TDS) in excess of 10,000 parts per million (ppm) or chlorides in excess of 500 ppm.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.107. - Regulated entity—Exemptions.

- (a) The aquifer protection coordinator shall maintain a list of regulated entities with their associated four-digit Standard Classification Codes (SIC) and/or six-digit North American Industry Classification System (NAICS) Code, as appropriate. This list will be made available upon request.
- (b) Exemptions. This article does not apply to:
 - (1) The transportation of any regulated substance, provided that the transporting motor vehicle is in continuous transit. However, if the transporting vehicle containing regulated substances is not regulated by the U.S. Department of Transportation or the State Department of Transportation or the State Department of Highway Safety then it shall be deemed stationary (not in continuous transit) and must be registered.
 - (2) The use of any regulated substance in a vehicle or lawn maintenance equipment as a fuel or lubricant.
 - (3) Retail or wholesale establishments that store or handle regulated substances for resale in their original unopened containers, provided that no individual container of regulated substances exceeds five gallons if liquid or 50 pounds if solid.
 - (4) The use of regulated substances for cleaning, maintaining, pest control, or any other use by households that are not regulated entities.
- (c) An affected person may request a special exemption from this article. In order to obtain such an exemption, such person must demonstrate by a preponderance of competent, substantial evidence to the aquifer protection coordinator that special or unusual circumstances and adequate technology exists to isolate the facility or activity from soils, groundwater, or surface water. In granting the special exemption, the aquifer protection coordinator may prescribe any additional appropriate conditions that are necessary to protect soils, groundwater, or surface water.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.108. - Discharge causing contaminated groundwater prohibited.

It shall be unlawful to discharge any substance in a manner that may cause contaminated groundwater.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.109. - Stormwater.

Stormwater quality treatment shall be regulated through the applicable provisions of the Environmental Management Act of Leon County or the City of Tallahassee Environmental Management Ordinance, as amended, whichever is appropriate.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.110. - Program funding.

- (a) Fees may be established by resolution in accordance with the Comprehensive Plan settlement agreement requirement that user fees be collected to contribute to the cost of the inspection program.
- (b) Fees may be established by resolution to provide a funding mechanism for the operation and implementation of future aquifer protection activities and remediation.

(Ord. No. 07-20, § 2, 7-10-07)

DIVISION 2. - VIOLATIONS AND ENFORCEMENT

Sec. 10-10.201. - Generally; delegation of authority; interlocal agreement.

- (a) *Enforcement.* This article shall be strictly enforced in accordance with the enforcement procedures established by the county in addition to any established federal or state enforcement procedures.
- (b) *Delegation of authority.* Pursuant to an interlocal agreement between Leon County, Florida and the City of Tallahassee, the aquifer protection coordinator (APC) who is a City of Tallahassee employee, or his or her designee, is hereby delegated authority to enforce the provisions of this article. Such authority shall include but is not limited to the following job duties as set forth in the interlocal agreement:
 - (1) Supervise city environmental inspectors who conduct on-site inspections at regulated entities for compliance with this article.
 - (2) Oversee the scheduling of on-site inspections of regulated entities, and the maintenance of the current aquifer protection program database.
 - (3) Provide an annual report to the Board of County Commissioners and the City of Tallahassee Commissioners describing, in detail, the status of activities, including enforcement mechanisms of the aquifer protection program.
 - (4) Coordinate with other city and/or county departments, programs and employees, as needed, to implement the aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.202. - Persons held liable for violations.

For the purpose of this article both the property owner and the violator shall be held jointly liable for all activities that may contribute to groundwater contamination that occur on the subject property.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.203. - Procedures for notification of violation; procedures for remedial action.

- (a) When a violation of this article has occurred the aquifer protection coordinator or his/her designee shall issue a written notice to the person in violation, identifying the nature and location of the violation and specifying that remedial action is necessary to bring the violation into compliance. The person in violation shall commence remedial action within two weeks of the notice of violation, and shall have such time as may be specified in the notice to complete the remedial actions required to achieve compliance with this article. If a completion deadline is not specified in the notice, a timeframe shall be agreed upon by the responsible party and the aquifer protection coordinator. The following cleanup criteria shall apply to remedial action:
 - (1) *Generally.* If a facility is found to have visible signs of contamination or if a reportable discharge has occurred that may affect soil, surface water, or groundwater, the facility owner may be required to conduct an investigation which may include, but not be limited to, soil borings, soil or groundwater sampling and analysis, or monitoring well installation pursuant to the provisions of this section.
 - (2) Any affected groundwater or surface water must be remediated to drinking water standards, if possible, or to standards provided for in Rule 62-520, F.A.C.

- (3) Affected soils shall be remediated using best available technologies for the particular contaminant that has been released.
- (4) If any soil work is to be performed, all stormwater sedimentation erosion controls must be in place in accordance with all environmental management ordinances.
- (5) Applicable rules and guidance include but are not limited to:
 - a. Ch. 62-770, F.A.C., which establishes the procedures that shall be followed for petroleum and petroleum product contamination.
 - b. Chs. 62-761 and 62-762, F.A.C., which establish the procedures that shall be followed for closure of storage tanks.
 - c. Established FDEP enforcement cases shall follow FDEP's Model Orders for Corrective Action or the procedures established by consent order.
 - d. Sampling procedures and laboratory analysis shall meet the requirements of F.S. § 403.0625.
- (b) A copy of the notice of violation issued pursuant to this article shall be served upon the affected persons by either hand delivery or certified mail. Upon receipt of such notice, the property owner shall post the notice on the site. A notice of violation may be directed to the person owning the land upon which the violation has occurred or to any person who has committed the violation or both. When immediate corrective actions are warranted under the provisions of section 10-10.204, reasonable effort shall be made to provide notice as specified above, but when such notice cannot be immediately accomplished, sufficient notice may be given by physically leaving a copy of the notice or order at the address of the owner or the property.
- (c) Upon satisfactory completion of corrective action and remedial steps required by a notice of violation, the aquifer protection coordinator shall forthwith issue a notice of compliance.
- (d) In the event a violation involves a scenario in which the aquifer protection coordinator does not have adequate resources to enforce the violation, such violation shall be referred by the aquifer protection coordinator to the department of environmental protection for enforcement.
- (e) Minimization of potential groundwater contamination. All facilities with discharges of regulated substances shall take action to eliminate the discharge and minimize the possibility of groundwater contamination, and pursue remedial action.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.203. - Emergency corrective actions; imminent threat of danger; remediation activities; investigation, monitoring and cleanup of suspected or known discharges.

- (a) The aquifer protection coordinator, or his/her designee, may require emergency corrective action as described in section 10-10.203 if the discharge of regulated substances is resulting in imminent threat of contamination of surface water or groundwater, or danger to life or property. Initiation of any required clean-up activities shall commence within 24 hours of discovery of the violation by the aquifer protection coordinator or his/her designee, and shall be completed within a time specified by the aquifer protection coordinator. Failure to take such immediate corrective action when notified of the need for such action shall constitute a violation of this article. If immediate corrective measures are not taken and there is an imminent danger to the health, safety and welfare of the public, the aquifer protection coordinator or his/her designee may enter upon lands, take corrective actions, and, if necessary, refer the matter to the Leon County Code Enforcement Board in order to place a lien on the real property of such person or persons to recover the costs of the corrective measures or refer the matter to the state department of environmental protection for enforcement.
- (b) Any lien issued pursuant to this article and determined under the authority of this article shall be imposed only after notice has been given to the owner of the property upon which the lien is sought

to be imposed, has been given a reasonable opportunity to be heard. Such lien shall be recorded with the clerk of the circuit court and may be enforced under the provisions of F.S. Ch. 125.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.205. - Penalty.

- (a) Any person violating any provision of this article shall be punished according to law or in accordance with Leon County enforcement procedures. Each day any violation continues without corrective activities shall be considered as a separate offense.
- (b) If the person in violation fails to complete remedial action within the time allowed, the aquifer protection coordinator may refer the matter to the Leon County Code Enforcement Board who may initiate other enforcement actions as authorized by law.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.206. - Environmental and building permits.

No environmental or building permit shall be issued for a site on which a violation of this article exists, or until a determination is made by the aquifer protection coordinator as set forth in section 10-10.301(a) of this article. The aquifer protection coordinator shall coordinate with the Leon County and City of Tallahassee Growth Management Departments in order to prevent the issuance of environmental or building permits for a site on which a violation of this article has occurred.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.207. - Injunctions.

Affected persons may seek an injunction against any violation of the provisions of this article and recover from the violator such damages as he or she may suffer, including but not limited to, the damage to property as a result of a release of regulated substances.

(Ord. No. 07-20, § 2, 7-10-07)

DIVISION 3. - PREVENTATIVE MEASURES

Sec. 10-10.301. - Inspections of regulated entities.

- (a) The aquifer protection coordinator and designated inspectors are hereby authorized to make inspections at normal operational hours of all entities or activities regulated by this article in the county in order to determine proper compliance with the provisions of this article.
- (b) If a person who has common authority over a building, structure, or land does not permit an inspection, the inspection may be rescheduled and shall be noticed by certified mail. Failure of such person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, surveying, or examining the premises.
- (c) If a building, structure or land appears to be vacant or abandoned, and the property owner cannot be readily contacted in order to obtain consent for an inspection, the aquifer protection coordinator or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection.

- (d) The aquifer protection coordinator and inspectors shall have available and upon request present official identification when making inspections.
- (e) It shall be the duty of all city or county law enforcement officers to assist in making inspections when such assistance is requested by the aquifer protection coordinator or inspectors.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.302. - Reporting of discharges.

- (a) Any discharge of a regulated substance at the reporting thresholds established in section (b) below in the county shall be reported immediately by the regulated entity owner, operator, or responsible party to the aquifer protection coordinator or his/her designee. Such notification shall in no way alleviate the owner, operator, or responsible party from other local, state, or federal reporting obligations as required by law. If necessary, the aquifer protection coordinator or his/her designee shall inform the appropriate emergency response agency of the substance discharged, the amount, location, duration of discharge and the potential hazard to groundwater if known.
- (b) Threshold reporting quantities are as follows:
 - (1) The following substances and chemicals shall be reported if discharged in an amount equal to or greater than one gallon:
 - a. Chlorinated solvents including but not limited to:
 - 1. Carbon tetrachloride.
 - 2. Tetrachloroethylene.
 - 3. Trichloroethylene.
 - 4. 1,1,1,-trichloroethane.
 - 5. 1,2-dichloroethane.
 - 6. Methylene chloride.
 - (2) The following substances and chemicals as referenced in 40 C.F.R. 180, as amended, shall be reported immediately if discharged in an amount equal to or greater than five gallons:
 - a. The following pesticides, include, but are not limited to (specifically generic names):
 - 1. Fenuron.
 - 2. Terbacil.
 - 3. Bromacil.
 - b. Phenolic compounds.
 - (3) Petroleum or petroleum products including petroleum based solvents shall be reported if discharged in an amount equal to or greater than five gallons.
 - (4) All other regulated substances listed in section 10-10.106, shall be reported immediately if discharged in quantities greater than or equal to five gallons of liquid or 50 pounds if solid.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.303. - Reporting of sinkholes.

The aquifer protection coordinator shall establish a contact point for the reporting of newly formed sinkholes. Sinkholes shall be reported prior to backfilling. Backfill material shall be uncontaminated and of lower permeability than the surrounding soil.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.304. - Best management practices to prevent discharges of regulated substances.

- (a) Best management practices (BMPs) to prevent discharges of regulated substances shall be developed and made available to owners and operators of regulated entities.
- (b) General business practices/containment.
 - (1) *Generally.* All containers of regulated substances are subject to this section of this article. All regulated entities shall inspect, on a weekly basis, containers holding regulated substances for leaks. Visual inspection is satisfactory provided that the location of the containers can be inspected to a degree which reasonably assures that breakage or leakage can be detected by such inspection.
 - (2) *New construction containment of regulated substances.* Leakproof trays, floor curbing or other secondary containment systems shall be installed under containers of any regulated substance in liquid form. The secondary containment shall be of adequate capacity (at least 110 percent the volume of the stored containers) to handle all spills, leaks, and overflows. The specific design and selection of materials shall be appropriate to preclude any regulated substance loss to the environment. Containment systems shall be operated so that the intrusion of precipitation is effectively managed. These requirements shall apply to all production and handling areas, storage areas, loading and off-loading areas, and above ground and underground storage tank areas.
 - (3) *Retrofitting or upgrading.* All property owners who store, handle, use, or produce a regulated substance shall retrofit or upgrade to new construction containment standards whenever building improvements are planned. Storage facilities regulated by chs. 62-761 or 62-762, F.A.C. must meet the required retrofitting schedule. All retrofitting or upgrading construction provisions must be met and reviewed either during building plan review or during the inspection as required by this article.
 - (4) *Underground and above-ground petroleum product storage tanks.* All un-used residential and nonresidential underground and above-ground storage tanks must have all fuel removed by a registered petroleum or used oil transporter.
 - (5) *Activities.* Any activities involving regulated substances where spills and/or leaks are likely to occur must be conducted over an impervious surface or containment device. Any spills shall be promptly cleaned up.
 - (6) *Disposal.* All regulated substances shall be properly disposed of or recycled prior to issuance of any environmental or building permit. The Aquifer Protection Coordinator shall coordinate with the Leon County Growth Management Department in order to assure that such substances are properly disposed of.
 - (7) *Containers.* Containers of regulated substances shall be adequately protected from precipitation and water intrusion.

(Ord. No. 07-20, § 2, 7-10-07)

Sec 10-10.305. - New wells prohibited within 400 feet of available water system.

- (a) *General prohibition.* No person shall drill or reinstall any well which is located or proposed to be located on property that abuts and is within 400 feet of (1) an available community water system line or (2) an existing or planned well that is, or is intended to be, used in providing water for a community water system (as defined in F.A.C. § 62-550.200(12)).
- (b) Such prohibition shall not apply to wells constructed for a community water system, or to monitoring wells required for the investigation, remediation, or continued monitoring of contamination.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.306. - Injection wells, heat exchange wells and drainage wells.

- (a) *Injection wells.* Any well used for the purpose of injecting regulated substances or fluids that do not meet class G II water quality standards as defined in Chapter 62-520, F.A.C. to groundwater is hereby prohibited.
- (b) *Heat exchange wells.*
- (1) Any well used for the purpose of withdrawal and subsequent reinjection to the Floridian Aquifer shall not alter existing chemical, radiological, or biological water quality.
 - (2) All reinjected water from heat exchange wells shall meet all primary, secondary and ch. 62-3, F.A.C., drinking water standards and FDEP groundwater guidance standards.
 - (3) The owner of any heat exchange well operated in the county shall not discharge refrigerants to groundwater.
 - (4) All newly installed heat exchange wells shall be designed to prevent air entrainment in the reinjection process. All existing heat exchange wells must be retrofitted in order to prevent air entrainment in accordance with a schedule as determined by the aquifer protection coordinator.
 - (5) All owners of nonresidential heat exchange wells shall install a sampling tap on the withdrawal and the reinjection well that will be suitable for sample collection for both wells in accordance with a schedule as determined by the aquifer protection coordinator. The City of Tallahassee Aquifer Protection Coordinator is hereby delegated authority to conduct water quality testing pursuant to this section.
 - (6) Any owner or operator of a nonresidential heat exchange well system shall be required to have a flow measuring device and method for totaling annual flow and record the annual flow in the withdrawal and reinjection wells in accordance with a schedule determined by the aquifer protection coordinator. The flow information shall be kept on file by the owner for a period of five years.
 - (7) All owners or operators of wells used for withdrawal and subsequent reinjection for the heat exchange process that pump greater than 100,000 gallons per day shall be required to sample the withdrawal and reinjection water annually for water quality standards. The results shall be kept on file by the owner for a period of five years.
 - (8) The following governs corrective action:
 - a. In the event of a discharge to the reinjection system of any regulated substance, or if the reinjection water does not meet all primary drinking water quality standards, the well owner will be required to remediate the reinjection water and the affected withdrawal water to all primary drinking water standards at his own expense.
 - b. Remediation must be conducted using sound hydrogeologic and engineering principles and must continue until the withdrawal and reinjection water meets all primary drinking water quality standards.
 - c. The responsible party for all remediation projects is required to keep the aquifer protection coordinator informed of his progress, any problems or changes in status of the remediation process. The aquifer protection coordinator reserves the right to conduct split water sampling to verify any and all results.
- (c) *Drainage wells.*
- (1) As of February 7, 1992, the installation of any well for the purpose of surface drainage is prohibited.

- (2) All owners of property that contain drainage wells must properly abandon all such wells in accordance with a schedule determined by the aquifer protection coordinator. The appropriate abandonment permit must be obtained from the Northwest Florida Water Management District.
- (3) Any drainage well that is identified in a new development project study must be properly abandoned prior to commencement of any construction.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.307. - Well maintenance, well abandonment and geotechnical borings.

- (a) *Well maintenance.* Any owner of a well shall properly maintain the well in accordance with the standards of the Northwest Florida Water Management District (NFWFMD).
- (b) *Well abandonment.*
 - (1) Any well, injection well, dry well or drainage well that is not being used shall be properly abandoned at the property owner(s) expense following the guidelines established by the Northwest Florida Water Management District (NFWFMD).
 - (2) In instances that can be determined by the aquifer protection coordinator, the well may not need to be abandoned but the evaluation and determination of the necessity of abandonment shall be coordinated through the NFWFMD.
- (c) *Geotechnical borings.*
 - (1) All borings greater than or equal to 25 feet in depth shall be properly grouted with neat cement following the rules of the NFWFMD to the surface to prevent downward migration of surface and subsurface contaminants along the borehole to the Floridian Aquifer. All borings less than 25 feet in depth shall be backfilled with the original drilled soil or with grout to the surface.
 - (2) Where the boring is advanced through asphalt or concrete it shall be patched at the surface with a similar impervious material.
 - (3) If contamination is detected in any geotechnical boring, the contaminated soil shall not be used as replacement material and the horizontal and vertical extent of the contamination must be assessed and reported following the applicable provisions of section 10-10.203.
 - (4) Any boring less than five feet in depth, under a proposed building footprint, or in an area where excavation depth will exceed the boring depth is not required to be backfilled.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.308. - Septic tanks and drainfields.

- (a) The discharge of a regulated substance to a septic system shall be considered a violation of this article.
- (b) If upon testing, a regulated substance is identified in the septic tank or drainfield, and may cause violation of groundwater standards, the regulated entity will be required to conduct the investigation required by section 10-10.203.
- (c) Any regulated entity that is found to have discharged regulated substances to a septic system shall be required to connect to a centralized sanitary sewer system if such system is available and within 1,000 feet of the property within 120 days of notice of the violation or in accordance with a schedule approved by the aquifer protection coordinator.
- (d) Floor drains, grease traps, grease interceptors and oil/water separators shall be constructed to prevent infiltration of regulated substances to soil, groundwater, or surface water.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.309. - Inventory or proof of proper disposal; recycling of regulated substances.

- (a) *Proof of proper disposal.* It shall be considered a violation of this article if proof of proper disposal is not properly documented per this section.
- (1) Inventory or manifest documentation required by the Resource Conservation and Recovery Act (RCRA)-40 CFR 262 subpart B, shall be required to be kept by each facility that is regulated by RCRA for all substances that are used or considered waste products, to ensure that all substances are handled in an environmentally acceptable manner.
 - (2) All regulated entities that are not regulated by RCRA shall be required to keep an inventory of the types of regulated substances that are used or considered waste products, to ensure that all substances are handled in an environmentally acceptable manner. The method of record keeping may be of their own choosing, however, such records shall allow inspectors to determine if used or waste products are being disposed of in compliance with federal, state, and local laws.
 - (3) Each regulated entity shall provide documentation such as a contract or agreement with a certified waste hauler, or other documentation that shows that regulated substances or wastes are being disposed of using environmentally acceptable methods or are being recycled. Such documentation shall be maintained for a minimum of five years.
 - (4) Disposal records shall be made available during normal operational hours for the purpose of inspection.
- (b) *Recycling regulated substances.* It shall be required that regulated substances should be recycled or reused if economically and technically feasible.

(Ord. No. 07-20, § 2, 7-10-07)

ARTICLE XIII. - STORMWATER SYSTEM MANAGEMENT

Sec. 10-13.101. - Authority.

The county is authorized by the Florida Constitution and the provisions of the Florida Statutes Chapter 125, Chapter 163, and Chapter 403, to establish and administer programs for stormwater management including the control of pollution caused by stormwater.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.102. - Findings and determinations.

It is hereby found, determined and declared as follows:

- A. The contribution of pollutants through discharges from storm sewer systems has an adverse impact on receiving waters in the county and surrounding areas.
- B. Improperly treated discharges from industrial activities, interconnected municipal storm sewer systems (MS4), illicit discharges, spilling, dumping, or improper disposal of material other than stormwater to the municipal storm sewer system of the county will adversely affect the quality of water receiving such discharges.
- C. The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Register, has mandated that the county through the issuance of National Pollutant Discharge Elimination System (NPDES) Permit No. FLS000033 or successor permits,

must provide legal authority to control discharges to the municipal separate storm sewer system in order to control the quality of discharges from the county's storm sewer system to waters of the United States.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.103. - Definitions.

For the purpose of this article, the following definitions shall apply; words used in the singular shall include the plural, and the plural singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words defined herein shall be construed as defined herein whether the first letter of the defined term is capitalized or not. Words not defined herein shall be construed to have the meaning given by the common and ordinary use.

- A. *"Best management practices"* or *"BMPs"* means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters from entering the MS4 or being discharged from the MS4. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- B. *"Clean Water Act"* or *"CWA"* means Public Law (PL) 92-500, as amended PL 95-217, PL 95-576, PL 6-483 and PL 97-117, 33 U.S.C. 1251 et seq., as amended by the Water Quality Act of 1987, PL 100-4.
- C. *"Construction activities"* means the alteration of land during construction and includes such activities as clearing, grading, and excavation.
- D. *"Director"* means the Leon county administrator, or his or her designee.
- E. *"High risk facility"* means any nonresidential facility, including commercial areas, that discharge to the MS4 and meets any of the following conditions:
 - 1) Perform municipal landfill(s), hazardous waste treatment, storage, disposal, and recovery activities;
 - 2) Subject to reporting requirements of EPCRA Title III, Section 313; or
 - 3) Is determined by the county to be contributing substantial pollutant loading to the MS4.This may include any facility that: a) has a non-stormwater discharge that is not specifically exempted in section 10-13.110 of this article; or b) has material-handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery that are exposed to stormwater.
- F. *"Illicit connection"* means any manmade conveyance connecting a non-stormwater discharge to the county's MS4 or waters of the United States, unless otherwise exempt under this article or permitted.
- G. *"Illicit discharge"* means any discharge to the county's MS4 or to waters of the United States which is not composed entirely of stormwater, unless exempted pursuant to this article, or the discharge to the county's MS4 or to waters of the United States which is not in compliance with federal, state, or local permits.
- H. *"Industrial activities"* means, for the purposes of this article, activities at facilities identified by the United States Environmental Protection Agency as requiring an NPDES stormwater permit in accordance with 40 CFR Section 122.26 or amendments thereto.
- I. *"Maximum extent practicable"* or *"MEP"* means the technology-based discharge standard for municipal separate storm sewer systems established by CWA Section 402(p).

- J. *"Municipal separate storm sewer system"* or *"MS4"* means a conveyance, storage area, or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, stormwater management facilities, and other structural BMPs) owned or operated by a local government that discharges to waters of the United States or other MS4's, that is designed solely for collecting, treating, or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 Code of the Federal Register 122.2 or any amendments thereto.
- K. *"NPDES"* means national pollutant discharge elimination system under Title 40 of the United States Code of Federal Regulations.
- L. *"Pollutant"* means dredged spoil, sediment, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended 42 U.S.C. 2011 et seq.), heat, wrecked or damaged equipment, rock, sand, and industrial, municipal or agricultural waste discharged into the MS4.
- M. *"Runoff"* means the surface flow of water which results from, and occurs following, a rainfall event.
- N. *"Spill"* means temporary, unintentional illicit discharge.
- O. *"Waters of the United States"* means surface and ground waters as defined by 40 Code of the Federal Register 122.2.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.104. - Stormwater discharges to the MS4 and waters of the United States.

- A. Discharges to the county's MS4 shall not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state, or federal requirements, including, but not limited to, NPDES Permit Number FLS000033, and successor permits. Discharges to the waters of the United States shall be controlled to the maximum extent practicable as defined in the NPDES Permit Number FLS000033, and successor permits.
- B. Any person responsible for illicit connections and illicit discharges to the county's MS4 or waters of the United States within the county shall provide corrective measures as approved by the director and may be subject to paying fines and damages as provided herein.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.105. - Stormwater discharges from industrial or construction activities.

- A. Stormwater discharges from industrial or construction activities shall be treated or managed on-site, in accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the county's MS4 or to waters of the United States.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.106. - Control of pollutant contributions from interconnected MS4's.

The discharge of stormwater between interconnected state, county, city or other MS4's shall not cause the county's MS4 to be in violation of the provisions of NPDES Permit Number FLS000033, or successor permits. Owners of any section of the interconnected MS4 shall be responsible for the quality

of discharge from its portion of the MS4 in accordance with interlocal agreements controlling the discharge of pollutants in stormwater from one MS4 to another.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.107. - Prohibition of illicit discharges and illicit connections.

- A. Illicit discharges and illicit connections are prohibited.
- B. Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or discovery, initiate procedures to cease the illicit discharge or illicit connection, or obtain appropriate federal, state, or local permits for such discharge or connection.
- C. This section is retroactive and applies to any illicit discharge or illicit connection made to the county's MS4 or waters of the United States within the county prior to the effective date of this article, unless made under federal, state, or local permit or other authorization.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.108. - Inspection and monitoring for compliance.

Designated inspectors shall be granted access for inspection of facilities, structures, or properties, whether private or public, discharging or suspected of discharging to the county's MS4 or waters of the United States in order to effectuate the provisions of this article and to investigate violations or complaints of potential violations of any of the terms herein. All structures and processes which allow discharges to the county's MS4, as well as records concerning them, shall be made accessible to designated inspectors for this purpose.

Designated inspectors shall develop and maintain a high risk industrial facilities inventory of such facilities which discharge to the MS4, as defined herein, and as based on the description identified in the county's NPDES MS4 Permit (FLS000033) or any successor permit. Designated inspectors shall have the authority to conduct inspections of high risk industrial facilities. Inspections will involve visual evaluation of non-structural and structural BMPs. These inspections shall include, but may not be limited to, proper storage and containment practices for material exposed to stormwater; use of good housekeeping practices to minimize pollutant discharge and dumping; review of waste management plans, spill prevention plans or spill cleanup plans; and ensuring constructed BMPs are operational and are being maintained.

Designated inspectors shall have the authority to monitor stormwater discharges associated with high risk industrial facilities which discharge to the county's MS4. Monitoring shall be performed for those pollutants described in the county's NPDES MS4 permit. The monitoring will involve the collection of stormwater samples from a single storm event on an annual basis.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.109. - Maintenance of Best Management Practices (BMPs).

Structural controls and other BMPs used for controlling the discharge of pollutants to the county's MS4 or to waters of the United States shall be operated and maintained so as to function in accordance with permitted design or performance criteria and in compliance with federal, state, or local permit conditions and regulations.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.110. - Exemptions.

The following non-stormwater discharges to the MS4 shall be allowed where they are not identified as a source of pollutants to the waters of the United States:

- A. Discharges which have obtained appropriate federal, state, or local permits and are in compliance with the permit conditions.
- B. Discharges from:
 - 1. Water line flushing;
 - 2. Landscape irrigation;
 - 3. Diverted stream flows;
 - 4. Rising ground waters;
 - 5. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to separate storm sewers;
 - 6. Uncontaminated pumped ground water;
 - 7. Discharges from potable water sources;
 - 8. Foundation drains;
 - 9. Air conditioning condensate;
 - 10. Irrigation water;
 - 11. Springs;
 - 12. Water from crawl space pumps;
 - 13. Footing drains;
 - 14. Lawn watering;
 - 15. Individual residential car washing;
 - 16. Flows from riparian habitat and wetlands;
 - 17. Dechlorinated swimming pool discharges;
 - 18. Street wash waters; and
 - 19. Discharges or flows from emergency fire fighting activities.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.111. - Enforcement, penalties, and legal proceedings.

- A. This article shall be administered by the director. All persons in violation of this article shall address such violations immediately upon written notification by the county. Violations shall be addressed by providing a written response to the director, outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the measures. Proposals for corrective action are subject to the approval of the director.
- B. The director is authorized to issue cease and desist orders in the form of written official notices sent by certified mail, return receipt requested, or by hand delivery to the person(s) responsible for the violation. Specific activities and operations may be ordered to be ceased based upon the following criteria:
 - 1. In a situation that may have a serious effect on the health, safety, or welfare of the public or the environment, including the quality of stormwater in the county's MS4; or,

2. When irreversible or irreparable harm may result, in the reasonable opinion of the director, and immediate cessation of the activity is necessary to protect the public or the environment, including the quality of stormwater in the county's MS4.
- C. Any person who violates this article and/or fails to comply with the requirements of any provision of this article shall be subject to prosecution before the Code Enforcement Board of Leon County, pursuant to Article 11 of Chapter 6, Leon County. Each day of violation shall constitute a separate violation.
- D. In addition to any fines which may be imposed by the Leon County Code Enforcement Board, persons responsible for violation of this article shall be liable for all costs incurred by the county in correcting and/or monitoring the violation, including but not limited to sampling and analytical costs, and for all fines, whether local, state, or federal, imposed as a result of the violation.
- E. If the persons responsible for the violation fail to take action required to correct the violation, the county has the right to take remedial action and to correct the violation. All cost incurred by the county in taking such actions shall be reimbursed by the persons responsible for the violation.
- F. In addition to the remedies provided herein, the county is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any persons from violating, or continuing to violate, provisions of this article. In addition, the county may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters or request any other appropriate, applicable legal remedy, including reimbursement of court costs or other costs incurred by the county related to the violation.
- G. In accordance with section 6-34, Leon County Code, any person violating any of the provisions of this article shall upon conviction thereof, be punished by a fine not to exceed \$500.00 a day or by imprisonment not to exceed 60 days or by both such fine and imprisonment.
- H. The county may elect to take any or all of the above remedies concurrently, and the pursuance of one shall not preclude the pursuance of others.
- I. Any fines or other funds received as a result of enforcement under this article which are not used for specific purposes set forth in this article shall be deposited in the stormwater utility fund, established under Article IV of Chapter 18, section 125 of the Leon County Code.
- J. If any fines or costs which accrue under this article are not paid by the violator as ordered, the county may impose a lien as authorized in subsection 6-34(c), Leon County Code.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.112. - Notices.

Any notices required by this article shall be sent from the director by U.S. Mail or hand delivery.

(Ord. No. 07-20, § 2, 7-10-07)

ARTICLE XIV. - FERTILIZER USE

Sec. 10-14.101. - Purpose and intent.

This article regulates the proper use of fertilizers by any fertilizer applicator; requires proper training of commercial and institutional fertilizer applicators; establishes training and licensing requirements; establishes a prohibited and restricted application period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The article requires the use of best management practices that provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on the county's natural and constructed

stormwater and drainage conveyances, creeks, canals, springs, lakes, ponds, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well being of the county's residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater and drainage conveyances. Regulation of nutrients contained in fertilizer will help improve and maintain water and habitat quality.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.102. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Administrator means the county administrator, or designee.

Application or *apply* means the actual physical deposit of fertilizer to turf or landscape plants.

Applicator means any person who applies fertilizer on turf and/or landscape plants in the unincorporated areas of the county.

Best management practices under this article, means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

County means the unincorporated areas of the county.

County approved best management practices training program means a training program approved by the administrator that includes at a minimum, a) the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," as revised and, b) all of the provisions and requirements of this article; or c) an alternative training program under section 10-14.111 of this article.

Code enforcement officer, official, or inspector means any authorized agent or employee of the county whose duty it is to ensure code compliance.

Commercial fertilizer applicator means any person who applies fertilizer on turf and/or landscape plants in the county in exchange for money, goods, services or other valuable consideration.

Fertilize, fertilizing, or fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Institutional fertilizer applicator means any person, other than a non-commercial, or commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional fertilizer applicators shall include, but shall not be limited to, owners and managers of public lands, schools, parks, athletic fields, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

Landscape plant means any native or exotic tree, shrub, or groundcover (excluding turf).

Lawn has the same definition as turf.

Low maintenance zone means an area a minimum of six feet wide adjacent to watercourse, which is planted and managed in order to eliminate the need for fertilization and minimize the need for watering, mowing, etc.

Noncommercial fertilizer applicator means any person other than a commercial fertilizer applicator or institutional fertilizer applicator who applies fertilizer on turf and/or landscape plants, such as an individual owner of a single-family residential unit.

Pasture means land used for livestock grazing that is managed to provide feed value.

Person means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

Prohibited application period means the time period during which a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning, or a three-day cone of uncertainty is in effect for any portion of Leon County, issued by the National Weather Service, or if heavy rain is expected.

Readily available nitrogen means the water-soluble fraction of formulated fertilizer determined by the sum of the percentage of nitrate and ammoniacal nitrogen plus other water soluble nitrogen and/or urea nitrogen in the guaranteed analysis section of the label.

Turf, sod, or lawn means a piece of grass-covered soil held together by the roots of the grass.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.103. - Applicability.

This article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the unincorporated areas of the county, unless such applicator is specifically exempted by the terms of this article. This article shall be applicable to and shall regulate any and all application of fertilizer within the unincorporated areas of the county unless otherwise provided in article IV of chapter 10 of the Leon County Land Development Code (LDC). In case of a conflict between the requirements in article IV of chapter 10, LDC, and this article, the provisions in article IV of chapter 10, LDC, shall prevail. This article shall be prospective only, and shall not impair any existing contracts.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.104. - Timing of fertilizer application.

No applicator shall apply fertilizers to turf and/or landscape plants during the prohibited application period.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.105. - Fertilizer content and application rates; irrigation with reclaimed wastewater.

- (a) Fertilizers applied to turf and/or landscape plants within the unincorporated areas of the county shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf. Fertilizer content in reclaimed wastewater used for irrigation shall be applied in accordance with subsection 10-14.105(d).
- (b) Except as provided in subsection 10-14.105(a), fertilizers shall be applied to turf and/or landscape plants at the lowest rate necessary. Nitrogen shall not be applied at an application rate greater than 0.7 pounds of readily available nitrogen per 1,000 feet ² at any one time based on the soluble fraction of formulated fertilizer, with no more than one pound total N per 1,000 feet ² to be applied at any one time and not to exceed the annual nitrogen recommendations in the Fertilization Guidelines for Established Turfgrass Lawns set forth below for convenience:

Fertilization Guidelines for Established Turfgrass Lawns Within the Unincorporated Areas of the County:	
Species	Nitrogen recommendations (lbs N/1,000 feet ² /year)
Bahia grass	2-3
Bermuda grass	3-5
Centipede grass	1-2
St. Augustine grass	2-4
Zoysia grass	3-5

- (c) Nitrogen fertilizer may not be applied to turf or landscape plants except as provided above unless a tissue deficiency has been verified by an approved test.
- (d) The use of water from a reclaimed wastewater system must be in accordance with an approved reclaimed wastewater reuse nutrient management plan. The plan shall contain, at a minimum, the frequency and volume of application, restricted periods of application (if any), application rates and required best management practices. If fertilizer other than that contained in the reclaimed water is to be applied, the nutrient management plan shall show that the cumulative nutrient loading does not exceed those established in this article.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.106. - Impervious surfaces.

Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.107. - Fertilizer free zones.

Fertilizer shall not be applied within ten feet of any pond, stream, watercourse, lake, drainage ditch, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a retaining wall associated with any of these features. If more stringent County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations.

See article IV of chapter 10 of the Leon County Land Development Code. Newly planted turf and/or landscape plants may be fertilized in this zone only for the first 60-day establishment period.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.108. - Low maintenance zones.

A voluntary six-foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a retaining wall associated with any of these features. A properly permitted swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material should be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone. If more stringent county regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. See article IV of chapter 10 of the Leon County Land Development Code.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.109. - Mode of application.

Spreader deflector shields are required when fertilizing via rotary spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.110. - Exemptions.

The provisions set forth above in this article shall not apply to:

- (a) Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14, provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.
- (b) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.111. - Training and certification; presence on site of trained applicator during application of fertilizer.

- (a) Within 180 days of the effective date of this article and every three years thereafter, all applicators of fertilizer within the unincorporated areas of the county, other than private homeowners on their own property, shall abide by and successfully complete a county-approved best management practices training program as defined in this article. Upon successful completion and compliance with the requirements in this article, a certificate of completion and a certification card valid for a period of three years will be provided by the entity providing the training. Persons working as employees and under the direct and physical supervision of commercial applicators that hold a current certificate of

completion and certification card shall be exempt from the requirement to complete a county-approved best management practices training program.

- (b) At least one person holding a current county-approved best management practices training certificate shall be present at all times on any job site while applying fertilizer is in progress.
- (c) Homeowners, and any other applicators not otherwise required to be certified are encouraged to follow the requirements of this article as well as the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.
- (d) Persons holding a certificate of training issued in conjunction with the Florida Green Industries Best Management Practices Program for protection of water resources in Florida; or, other state-approved certificate of training or, a certification issued by another local government, that includes at a minimum "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," or newer as the basis for instruction, may obtain certification by the county after contacting the county's environmental compliance division or designee and presenting proof of the currently active status of training as described in paragraph (a) above, and attesting that he/she has received and read a copy of this article. The environmental compliance division may adopt policies related to this exception, and shall maintain a list of approved alternative training programs.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.112. - Enforcement.

It is the intent hereof that the administrative, civil, and criminal penalties imposed through execution of this article be of such amount as to ensure immediate and continued compliance with this article. This article shall be enforced by the Leon County Code Enforcement Board, as set out in Chapter 6 of the Leon County Code of Laws, if the penalties in this subsection are not collected within 14 days. A violation of this [article] ordinance is determined to be irreparable and irreversible, such that no action to cure the violation is possible and a penalty in the form of a fine is warranted. Violation of any provision of this article shall be subject to the following penalties:

- (a) *First violation.* Written notification and education.
- (b) *Second violation.* Fifty dollars for residential applicators applying fertilizer to their own property and \$100.00 for commercial or institutional fertilizer applicators.
- (c) *Third violation.* One hundred dollars for residential applicators applying fertilizer to their own property and \$200.00 for commercial or institutional fertilizer applicators.
- (d) *Fourth and subsequent violation(s).* A minimum of \$100.00 for residential applicators applying fertilizer to their own property and a minimum of \$200.00 for commercial or institutional fertilizer applicators, not to exceed \$1,000.00.
- (e) Any applicator that violates the provisions of this article may be responsible for the county's costs of prosecution of any violation, including any costs to remedy or clean up any environmental condition caused by an act, which constitutes a violation of this article.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.113. - Variances.

Any applicator of fertilizer regulated by the provisions of this article may apply to the board of adjustment and appeals for a variance from the requirements of this article.

- (1) *Standards and procedures.* The applicant must identify the specific provisions of the fertilizer regulations for which a variance is requested, and shall address the following:

- (a) Whether, as a result of soil or tissue content at the point of the proposed application or for other geographical, environmental or geological reasons or other circumstances, such person should not be required to adhere to the strict provisions of this article; and
 - (b) Whether such person is able and willing to use a less strict application method or alternative materials or methods; and
 - (c) A plan for fertilizer application, including where the fertilizer will be applied, the frequency of application, contents of fertilizer to be applied, and period of time for which the variance is requested.
- (2) Following receipt of the variance application, the board of adjustment and appeals shall, at a timely regularly scheduled meeting:
- a. Approve the variance request or any portion thereof;
 - b. Approve the variance request or any portion thereof subject to conditions;
 - c. Disapprove the variance request, specifying the reasons therefore in writing; or
 - d. Continue consideration of the variance request to a time certain.
- (3) *Criteria for granting variance.* The board of adjustment and appeals may grant the variance request if it determines that:
- a. The applicant satisfactorily demonstrates that all practical alternatives have been evaluated, and the soil or tissue content at the point of the proposed application is such that the provisions of the fertilizer regulations create a hardship for the applicant; or
 - b. The applicant satisfactorily demonstrates that all practical alternatives have been evaluated, and due to unique geographical, environmental or geological reasons or other unique circumstances, the applicant should not be required to adhere to the strict provisions of the fertilizer regulations; and
 - c. The applicant satisfactorily demonstrates that its plan for fertilizer application is consistent with the purpose and intent of the fertilizer regulations to the greatest extent feasible and that adverse impacts, if any, are appropriately mitigated.
- (4) *Time periods for variances.* Any board of adjustment and appeals order approving a variance request to the fertilizer regulations shall establish an expiration date for the variance.

(Ord. No. 09-34, § 1, 10-13-09)

**LEON COUNTY
 CONTRACT ROUTING FORM**

Original 2
 Renewal
 Amendment(#)

County Contract No. 2970C

Division Contact: Jessica M. Icerman, Assistant County Attorney Phone # 606-2500

Department/Division: Leon County Attorney's Office

Contractor: City of Tallahassee

Address 300 S. Adams Street

City, State, Zip Tallahassee, FL 32301 Phone (850) 891-5440

Contract Period: From November 1, 2016 To November 20, 2021

Renewal Periods: Number _____ Term _____

Contract Total \$ Amount: N/A or check if Unit Price Agreement

Contract Type:
 Conservation Easement
 Construction
 Continuing Supply
 Deed
 Interlocal Agreement
 Grant
 Lease
 Other Services
 Performance Agreement
 Professional Services
 Purchase
 Other (Explain below)

Procurement Method:
 Bid*
 RFP*
 Sole Source
 Gov't Entity
 Other (Explain Below)

Insurance Certificates:
 General Liability
 Professional Liability
 Workers' Compensation
 Errors & Omissions
 Automobile Coverage

Forms Required:
 Public Entity Crimes Statement
 Performance Bond
 Materials & Payment Bond
 Warranty Bond
 Certification Regarding Debarment

*Bid/RFP # _____

Awarded by:
 Purchasing Director
 County Administrator
 Board of County Commissioners
 Agenda Date 10/18/2016 Item # 3

Comments: _____

RECEIVED
 NOV 15 4 10:04 PM
 FINANCE DIVISION
 BOB INZER
 CLERK & COMPTROLLER

Routing:

Required	Initials	Date	
<input checked="" type="checkbox"/>			Originating Division <u>County Attorney's Office</u>
<input type="checkbox"/>			Group Director
<input type="checkbox"/>			Purchasing
<input type="checkbox"/>	<i>J</i>	<u>11/8/16</u>	County Attorney's Office
<input type="checkbox"/>			Deputy or Assistant County Administrator
<input type="checkbox"/>			County Administrator
<input checked="" type="checkbox"/>	<i>BP</i>	<u>11-9-16</u>	Chairman, BCC
<input checked="" type="checkbox"/>	<i>SP</i>	<u>11/14/16</u>	Clerk's Office (Finance)

RECEIVED
 NOV 15 AM 10:04
 FINANCE DIVISION
 BOB INZER
 CLERK & COMPTROLLER

Return completed documents to: ~~One original to be retained by the Finance Division~~
~~One original returned to Shawn Williams, Leon County Attorney's Office~~
 Be sure to return and file a fully executed agreement with the Finance Division

AQUIFER/WELLHEAD PROTECTION PROGRAM INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into this 1st day of November, 2016 (the "Effective Date"), pursuant to the authority of Section 163.01, Florida Statutes, by and between LEON COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida, hereinafter referred to as the "County" and the CITY OF TALLAHASSEE, a Florida municipal corporation, hereinafter referred to as the "City".

RECITALS

WHEREAS, the City, by the through its Water Quality Division, pursuant to the Aquifer/Wellhead Protection Program Interlocal Agreement approved August 23, 2011, currently enforces County ordinances governing protection of the Floridan aquifer by monitoring, inspecting and, if necessary, instituting enforcement action, for the proper use, protection and storage of groundwater in the County; and

WHEREAS, the parties hereto desire to make the most efficient use of their resources and powers to cooperate for their mutual advantages and the County wishes to delegate its enforcement authority to the City by utilizing the services of the City of Tallahassee Water Quality Division to enforce its Aquifer/Wellhead Protection Program, Chapter 10, Article X of the Leon County Code of Laws; and

WHEREAS, Section 163.01(4), Florida Statutes, provides "a public agency of this state may exercise jointly with another public agency of the state, of any other state, or of the United States Government any power, privilege or authority which such agencies share in common and which each might exercise separately."

NOW THEREFORE, in consideration of the mutual promises, covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto agree as follows:

1. Delegation of Authority. Leon County hereby delegates to the City of Tallahassee its authority to administer and enforce compliance with Chapter 10, Article X, Leon County Code of Laws. In carrying out such authority, the City's Underground Utilities Water Quality Manager or designee, shall perform the following functions in furtherance of the City's and the County's effort to protect the aquifer and groundwater in Leon County:
 - A. Supervise City environmental inspectors who conduct on-site inspections at regulated entities for compliance with Chapter 10, Article X of the Leon County Code of Laws.
 - B. Oversee the scheduling of on-site inspections of regulated entities by utilizing the current aquifer protection program database.
 - C. Provide information to the County's designated Aquifer Protection Program contract

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

Page 2 of 5

administrator and be available if needed to assist in presentation of an annual report to the Board of County Commissioners describing, in detail, the status of activities, including enforcement mechanisms carried out under the Aquifer Protection Program during the previous fiscal year.

D. Coordinate with other state, city and/or county employees, as needed, to implement the Aquifer Protection Program.

The City shall perform these duties in accordance with reasonable professional standards and in a satisfactory and proper manner as reasonably determined by the County and subject to City appropriation of funds for such purposes.

2. Employee Designation. The County and the City agree that all employees of the City involved in carrying out the obligations of the City under this Interlocal Agreement shall remain employees of the City and be subject to the City's personnel rules and regulations.

3. City Responsible for Operating Costs, Salary and Benefits. The County and the City agree that the City shall be responsible for payment of all operating costs, including, but not limited to, salaries, pension plan, health and dental benefits, and insurance, associated with City employees. Any fees, fines or penalties assessed and collected under Aquifer Protection Program, while the program is administered by the City pursuant to this Interlocal Agreement, shall be paid directly to the City to be used for payment of operating costs of the program.

4. Termination. This Interlocal Agreement shall be effective as of the Effective Date written above and shall terminate on November 30, 2021, unless terminated as hereinafter provided.

A. Termination for Cause. If, through any cause, any party to this Interlocal Agreement shall fail to fulfill in timely and proper manner its obligation under this Interlocal Agreement, or if any party shall violate any of the covenants, agreements, or stipulations of this Interlocal Agreement, the party not in violation shall thereupon have the right to terminate this Agreement in whole or part by giving written notice to the party in such violation of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

B. Termination for Convenience. Either the City or the County may terminate this Interlocal Agreement at any time by giving at least thirty (30) days notice in writing to the other party.

5. Examination of Records. The City agrees that the County or any of its duly authorized representatives shall have access to and the right to examine, audit, copy, excerpt and transcribe any directly pertinent books, documents, papers and records of the City, relating to this Interlocal Agreement.

6. Contract Administrator. The County Administrator or his designee shall be designated as the contract administrator for the purpose of acting as the County's representative with

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

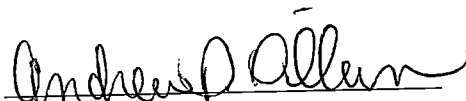
respect to questions regarding this Interlocal Agreement. The County Administrator or his designee shall have authority to transmit instructions, receive information and communicate the County's policies to the City. He shall also examine all reports and other documents presented by the City and render in writing any decision pertaining thereto within a reasonable time so as not to delay the City. The County Administrator or his designee shall provide the City ready access to all data, files, reports or other information in possession of the County or readily available to it in order to fulfill the purpose of this agreement.

7. Liability Limitation. Each party hereto agrees that it shall be responsible for the negligent or wrongful acts or omissions of its employees in accordance with Florida law. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the limitations set forth under Florida law, including Section 768.28, Florida Statutes.

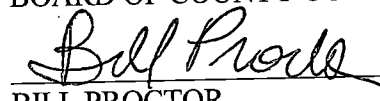
8. Dispute Resolution. Any disputes between the City and the County in respect to this Interlocal Agreement shall be resolved in accordance with the process set forth in Exhibit A of this Interlocal Agreement.

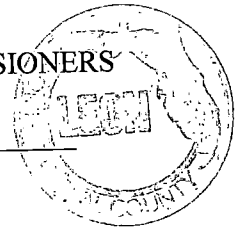
IN WITNESS WHEREOF, the parties have executed this Interlocal Agreement with the intent to be legally bound.

CITY OF TALLAHASSEE

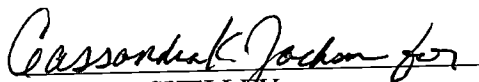

ANDREW GILLUM
MAYOR

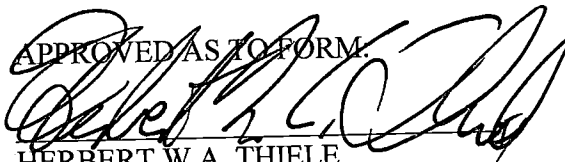
LEON COUNTY FLORIDA
BOARD OF COUNTY COMMISSIONERS


BILL PROCTOR
CHAIRMAN




APPROVED AS TO FORM:

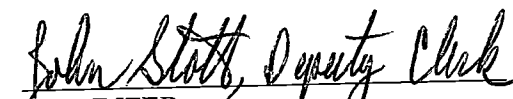

LEWIS E. SHELLEY
CITY ATTORNEY

APPROVED AS TO FORM:

HERBERT W.A. THIELE
COUNTY ATTORNEY

ATTESTED BY:


JAMES O. COOKE, IV
CITY TREASURER-CLERK

ATTESTED BY:


BOB INZER
CLERK OF THE COURT AND
COMPTROLLER

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

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**EXHIBIT A
DISPUTE RESOLUTION PROCEDURE**

- 1.0 The parties shall attempt to resolve any disputes that arise under this Interlocal Agreement in good faith and in accordance with this Section. The provisions of the "Florida Governmental Conflict Resolution Act" shall not apply to disputes under this Interlocal Agreement as an alternative dispute resolution process is hereby provided. The aggrieved party shall give written notice to the other party setting forth the nature of the dispute, date of occurrence (if known), and proposed resolution, hereinafter referred to as the "Dispute Notice".
- 2.0 The appropriate City and County department heads shall meet at the earliest opportunity, but in any event within ten (10) days from the date the Dispute Notice is received, to discuss and resolve the dispute. If the dispute is resolved to the mutual satisfaction of both, the department heads shall report their decision, in writing, to the City Manager and the County Administrator.
- 3.0 If the department heads are unable to reconcile the dispute, they shall report their impasse to the City Manager and the County Administrator who shall then convene a meeting at their earliest opportunity, but in any event within twenty (20) days following receipt of the Dispute Notice, to attempt to reconcile the dispute.
- 4.0 If a dispute is not resolved by the foregoing steps within thirty (30) days after receipt of the Dispute Notice, unless such time is extended by mutual agreement of the parties, then either party may require the dispute to be submitted to mediation by delivering written notice thereof (the "Mediation Notice") to the other party. The mediator shall meet the qualifications set forth in Rule 10.100(d), Florida Rules for Mediators, and shall be selected by the parties within ten (10) days following receipt of the Mediation Notice. If agreement on a mediator cannot be reached in that ten (10) day period, then either party can request that a mediator be selected by an independent conflict resolution organization, and such selection shall be binding on the parties. The costs of the mediator shall be borne equally by the parties.
- 5.0 If an amicable resolution of a dispute has not been reached within sixty (60) calendar days following selection of the mediator, or by such later date as may be mutually agreed upon by the Parties, then, upon the agreement of both Parties, such dispute may be referred to binding arbitration; otherwise, each Party may pursue whatever remedies may be available at law, in equity, or otherwise. If the dispute is so referred, such arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes).
 - 5.1 Such arbitration shall be initiated by delivery, from one party (the "Petitioner") to the other (the "Respondent"), of a written Arbitration Notice therefore containing a statement of the nature of the dispute and the amount, if any, involved. The Respondent, within ten (10) days following its receipt of such Arbitration Notice, shall deliver an answering statement to the Petitioner. After the delivery of such statements, either party may make new or different claims by providing the other with

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

Page 5 of 5

written notice thereof specifying the nature of such claims and the amount, if any, involved.

- 5.2 Within ten (10) days following the delivery of such Arbitration Notice, each party shall select an arbitrator and shall deliver written notice of that selection to the other. If either party fails to select an arbitrator within such time, the other party may make application to the court for such appointment in accordance with the Florida Arbitration Code. Within ten (10) days following delivery of the last of such written notices, the two arbitrators so selected shall confer and shall select a third arbitrator.
- 5.3 The arbitration hearing shall be commenced in Leon County, Florida within sixty (60) days following selection of the third arbitrator. Except as may be specifically provided herein, the arbitration shall be conducted in accordance with Rules R-23 – R-48, of the Commercial Arbitration Rules of the American Arbitration Association.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

January 18, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Consideration of Constitutional Officer Status

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides the Committee with additional information and analysis regarding changing the status of Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector from elected to appointed positions.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

On November 16, 2017 the Leon County Charter Review Committee passed a motion 12-0 requesting an agenda item related to preservation of Constitutional Officers as provided by the County Charter. Following staff's presentation of the item on November 30, 2017 (Attachment #1), a motion requesting staff to prepare additional analysis related to the duties and the process of appointing of Constitutional Officers failed 2-10.

On January 11, 2018 the Committee voted 8-5 to request that staff to prepare additional information related to the duties and potential process of appointment for the Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector.

Analysis:

Across the nation, there is great disparity among county governments related to the election and appointments of County officers, known more commonly as "row officers." The most commonly elected row offices include the Sheriff, Clerk, Assessor (i.e. Property Appraiser), and Treasurer; however, the variation of functions and titles of officers unique to some states make it difficult to equally compare. In addition, numerous County officers exist across the country which are unique to only one or two states. For instance, only two states (Florida and California) have elected elections supervisors. In summary, Attachment #2 contains a general list of row officers by state published by the National Association of Counties (NACo) in their most recent edition of "County Government Structure: A State by State Report."

For Florida, Article VIII, Section 1 (d) of the Constitution states that there shall be five County Officers, "...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office." The five constitutionally prescribed County officers, who perform a variety of constitutional and statutory duties and functions for the state and county, include the Clerk of Courts, Property Appraiser, Tax Collector, Supervisor Of Elections and Sheriff.

All of the 47 non-charter governments in Florida maintain the elected status and designation of duties of these offices as prescribed by the Constitution; however, the following overview reflects the variation among the 20 charter counties related to the method of selection and transfer of duties of these officers:

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.

- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.
- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

The Leon County's Charter, as originally approved in 2002, includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections.

As noted, the Florida Constitution states that Charter Counties have the ability to eliminate the elected status of County Constitutional Officers by transferring the duties of the individual office to an appointed position. Attachment #3 provides an overview of the statutorily prescribed duties of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector.

In Leon County, the appointed positions would be Department Directors reporting to the County Administrator. The process for appointing these new positions would be consistent with how the County currently recruits and hires for Department Directors. The County would establish the necessary skills, experience and education requirements for each of the positions. Hiring would be based on a competitive and open recruitment process. Appointments would be based on qualifications, skills, and ability to fulfill the statutory duties of the office.

However, any amendments to the County charter to alter the constitutional or statutorily prescribed functions or elected status of the constitutional officers may be later impacted by a proposal of the Florida Constitution Revision Commission (Attachment #4). The proposed amendment would mandate all constitutionally prescribed county officers to be elected by the electors of that county, as was originally prescribed prior to the authorization of county charters, and prohibit counties from abolishing, transferring the duties of, or establishing any alternate method of selection for county constitutional officers. If approved by voters during the 2018 general election, charter counties that have made changes related to prescribed functions or elected status of the constitutional officers would be required to revise their charters to conform to the change before the 2020 general election.

Additionally, while there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 25, 2018 meeting.

Voting Threshold: Simple Majority Vote

2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. November 30 Committee Agenda Item “Charter Provision Related to Constitutional Officers”
2. 2009 NACo Report, Row Officers by State
3. Requested Constitutional Officers Duties as Prescribed by Florida Statutes
4. Constitution Revision Commission Proposal #13

Citizen Charter Review Committee

Agenda Item C

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Charter Provision Related to Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

To consider any changes the committee may wish to further explore related to the current Preservation of Constitutional Officers provision in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to potential changes to the Constitutional Officers which the Charter Committee may wish to consider.

All of the 47 non-charter governments and the majority of the 20 charter counties in Florida have five constitutional officers who perform a variety of constitutional and statutory duties and functions for the state and county. The five constitutional officers include the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Each of these constitutional officers administer their own office; however, each office obtains budgets and facilities from their respective Board of County Commissioners to perform their respective duties, including :

- Sheriff: Oversees law enforcement, public safety and often corrections for the county;
- Property Appraiser: assesses the fair value of all property so that property taxes can be computed;
- Tax Collector: receives property tax and other payments for both the county and state;
- Supervisor of Elections: registers voters and organizes all elections in the county; and
- Clerk of the Courts: maintains public records and is clerk to the county commission.

The Leon County's Charter as originally approved in 2002 includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections. The 2009-2010 Citizen Charter Review Committee previously considered this issue, but chose not to recommend any changes to this provision of the County Charter.

Analysis:

Florida Charter Counties have the ability to abolish elected Constitutional Officers, as long as the duties of the individual office are provided for elsewhere. Article VIII, Section 1 (d) of the Florida Constitution states that there shall be five County Officers, "...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office."

Of the Charter Counties in Florida (Attachment #1):

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.
- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.

Title: Charter Provision Related to Constitutional Officers
November 30, 2017
Page 3

- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

In evaluating whether to propose any changes to the Constitutional Officers through a county charter, individuals in support of preserving the constitutional officers generally make the following arguments:

1. The Constitutional Officers' duties are mandated by state law and those duties must be carried out no matter what form of government exists in the county.
2. Maintaining complete independence of those offices insures a system of "checks and balances."
3. The independently elected status permits the offices to focus exclusively on the duties mandated by state law without the undue influence from the legislative body of the county. Because the people directly elect them, constitutional officials are more responsive to the electorate than are appointed officers.
4. The offices provide many services to other jurisdictions in addition to the county government and should therefore be independent of the county legislative body.

Individuals supporting revisions to the constitutional officers generally make the following arguments:

1. Changes to the Constitutional Officers through a county charter provides for a more efficient, uniform set of administrative support policies (budget, personnel, purchasing, etc.) to be implemented.
2. The entity imposing the taxes to fund a program should have ultimate control over the expenditure thereof.
3. Charter amendments provide the opportunity to prescribe additional professional qualifications for candidates seeking to run large, sophisticated operations.

If a charter amendment is considered, as noted in other Florida Charter Counties, there are two approaches to abolish an office and transfer its responsibilities to another office. One is to transfer the responsibility to an appointed position and the other is to transfer the duties to an elected charter officer. Note that all constitutional officers need not be treated in the same manner by the charter.

While there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

Title: Charter Provision Related to Constitutional Officers
November 30, 2017
Page 4

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Summary

Row Officer Overview

A discussion on this topic cannot be comprehensive because there are many variations of row officers representing infinite degrees of authority and contributions to local government operations. The following narrative and table are offered as a starting point to grasp what popularly elected officials exist throughout county government in each state. Input is encouraged to aid NACo in continued development of the data in this area. It is hoped that this summary will provide some insight into the historical elected offices that occupy the same tier as the central governing body in numerous county organization charts nationwide.

The traditional county distribution of power is characterized by a division of administrative responsibilities between the county governing board and separately elected offices. These separately elected offices are commonly known as “row offices” due to their appearance in a row on organizational chart or election ballots and the relative autonomy of each office from the central board.

This autonomy or independence is built on their legal status and accountability to the electorate. Row offices are most common in commission- and board-structured counties, but they are also found in other forms. In non-commission counties, row offices are usually fewer in number and may have less authority. In charter counties, row offices may be appointed by the board or elected executive.

Constitutional provisions for certain row offices are common. The position of sheriff is present in all but two states though not all are constitutionally required. Alaska and Hawaii (which have elected police chiefs) are the only states without sheriffs. Other offices frequently mandated by state constitutions include the county clerk, auditor, treasurer, and court clerk. Where possible, offices are designated in the table as “constitutional”.

County clerks are generally responsible for administrative support to the county board and many times for election administration details. In California there are appointed and elected registers of voters and in Florida there are election supervisors. An auditor is responsible for the accounting and auditing of county agencies and general fiscal affairs. A treasurer is specifically responsible for all county moneys and records on revenues as well as other fiscal matters related to general funds. A court clerk is responsible for: serving the county court system, including records maintenance, and may be responsible for one or more levels of court proceedings;

collection and recording of fines, penalties, and court costs; and judicial correspondence. The position of court clerk is authorized in at least 27 states including Delaware and Pennsylvania where similar responsibilities are vested in positions titled prothonotarys.

Many row offices are also established by state statutes with frequent examples including the positions of assessor, coroner, county attorney, prosecuting attorney, recorder, register of deeds, school superintendent, surveyor, and tax collector. These positions may be included in a state constitution, but are more commonly enacted through state laws.

The general responsibility of a prosecuting attorney is to prosecute suspected criminals in the name of the state. The county attorney acts as the attorney to the county governing board by providing legal opinions and representing the county in legal matters. Many states and individual counties have combined these roles into one elected county attorney position and it can be appointed in nine states. A minimum of 41 states have a prosecuting attorney and/or a county attorney including South Carolina, which calls the position “solicitor.”

The register of deeds and the recorder’s office represent similar functions involving the recording of all transfers of property and additional legal documents as deemed necessary. This function exists under either name in at least 28 states. The function may also be carried out by the county clerk in states where the register or recorder position does not exist or may be legally combined with the clerk, as in Montana and Idaho.

The position of coroner is responsible for determining the cause of death resulting from suspicious or violent circumstances. Twenty-one states authorize this position including Hawaii, which allows it to be combined with the position of police chief; Iowa, which allows an appointed or elected medical examiner; and Wisconsin, which utilizes medical examiners and coroners. The assessor position, noted in 26 states, is responsible for establishing property values subject to county property taxes and in many states the assessor is charged with collecting property taxes. A specific tax collector position is only designated in eight states including Georgia’s tax commissioners and Tennessee’s trustees. Finally, elected county school superintendents, historically common, are identified in 12 states with limited powers over school financial and program services. While historically very strong, the surveyor’s office now exists with limited duties and is noted in only 11 states.

There are numerous other row offices and variations on row offices which are unique to one or two states or lay minor roles in county government operations. For example, Michigan elects a drain commissioner, Kentucky elects county jailers, and Vermont elects commissioners of jail delivery and Minnesota appoints civil defense directors. Ohio elects county engineers, while four other states appoint them and Wisconsin allows a combined Engineer- Surveyor position. Three states utilize public administrators responsible for the man-

agement of estates and implementation of state probate laws while New Jersey counties have the position of surrogate to fulfill this need. The public administrator position is often combined with another office such as coroner and is usually appointed or elected at the discretion of the community. In addition, the offices may vary among counties within the same state. The list of unique offices could continue with many more details.

Below is a general list of the Row Officers by state and whether they are elected or appointed.

Table II: Row Officers by State

State	<u>Assessor</u>	<u>Auditor</u>	<u>Circuit Judge</u>	<u>Clerk</u>	<u>Coroner</u>	<u>County Attorney</u>	<u>Court Clerk</u>	<u>Engineer</u>	<u>Judge of the Probate</u>	<u>Prosecuting Attorney</u>	<u>Public Administrator</u>	<u>Recorder</u>	<u>Register of Deeds</u>	<u>School Superintendent</u>	<u>Sherriff</u>	<u>Surveyor</u>	<u>Tax Collector</u>	<u>Treasurer</u>
Alabama	E				E	A	E		E	E				D	E		E	E
Alaska	A			A		A									D			A
Arizona	E*					E*						E*	E*	E*				E*
Arkansas	E			E	E							E*			E	E	E	E
California		D		D	D	A						D						D
Colorado	E*			E*	E*	A									E*	E*		E*
Delaware	E			E								E			E			
Florida	E*						E*								E*		E*	
Georgia							E*		E*					D	E*		E*	
Hawaii	D			D		D				D								D
Idaho	E*				E*		E*			E*					E*			E*
Illinois	D	E		E	D		E	D		E*		E			E*			E*
Indiana	E	E*		E	E*	A	E*	A		E*		E*			E*	E*		E*
Iowa		E				E						E			E			E
Kansas	A	A		E		E				E			E		E			E
Kentucky				E	E	E	E								E	E		
Louisiana	E				E		E			E				E	E			
Maine									E	E			E		E			E
Maryland										E			E		E			E
Massachusetts													E		E			E

E = Elected A = Appointed D = Discretionary, Appointed or Elected
* = Constitutional ** = See Row Office Overview

Table II: Row Officers by State

State	<u>Assessor</u>	<u>Auditor</u>	<u>Circuit Judge</u>	<u>Clerk</u>	<u>Coroner</u>	<u>County Attorney</u>	<u>Court Clerk</u>	<u>Engineer</u>	<u>Judge of the Probate</u>	<u>Prosecuting Attorney</u>	<u>Public Administrator</u>	<u>Recorder</u>	<u>Register of Deeds</u>	<u>School Superintendent</u>	<u>Sherriff</u>	<u>Surveyor</u>	<u>Tax Collector</u>	<u>Treasurer</u>
Michigan							E*			E*			E*	A	E*			E*
Minnesota		D				E						D			E			D
Mississippi	E						E							E	E	E	E	
Missouri	E	A		E	E					E	E		E		E	E	E	E
Montana	D			E	D		E							E	E			E
Nebraska																		
Nevada	E	A		E				A		E	E	E			E	A		E
New Hampshire																		
New Jersey				E*			E*				E**			A	E*			
New Mexico	E			E					E						E			E
New York				E	E	A				E					E			E
North Carolina					E	A							E	A	E*			
North Dakota		E			E					E		E		A	E			E
Ohio		E			E			E		E		E			E			E
Oklahoma	E			E			E								E			E
Oregon	E			E						E				A	E	E		E
Pennsylvania		E			E		E	A		E		E	E		E			E
South Carolina		E			E*		E*		E				E	D	E*			E
South Dakota		E			D								E		E			E
Tennessee	E			E									E		E		E	
Texas	E			E		E									E	E		E
Utah	E	E		E						E		E			E	E		E
Vermont		A		A					E	E					E			A
Virginia				E		A				E					E		E	E
Washington	E	E		E	E					E					E			E
West Virginia	E			E			E			E					E	E		
Wisconsin					E		E			E			E		E			
Wyoming	E			E	E	E									E			E

E = Elected A = Appointed D = Discretionary, Appointed or Elected
* = Constitutional ** = See Row Office Overview

The Florida Constitution establishes the five County Offices to include the Supervisor of Elections, Property Appraiser, Tax Collector, Clerk of Courts and the Sheriff and prescribes their duties and functions to be provided in Florida Statutes. Per the Committee's direction, the statutorily assigned duties and functions of the Supervisor of Elections, Property Appraiser, Tax Collector, and Clerk of Courts are summarized below. Additional information can be found via Florida Statutes or the County offices' websites provided below.

Supervisor of Elections

The Supervisor Of Elections is the official custodian of the registration books and has the exclusive control of matters pertaining to the registration of voters, the conduct of local elections, the dissemination of election results, and the maintenance of election results. The Supervisor Of Elections must receive and preserve information, such as campaign treasurer reports, relevant to local candidates, political committees and political parties. Specific duties of the Supervisor of Elections include but are not limited to:

- Registering voters;
- Maintaining voter registration files;
- Conducting federal, state, and local elections;
- Administering the provisions of the campaign reporting laws; and
- Upholding the Elections Laws of the State of Florida.

Additional Information: <https://www.leonvotes.org/General-Information/About-Us>

Tax Collector

The Leon County Tax Collector's Office informs the public of tax obligations and available services, collects authorized taxes and fees from people and businesses in a fair and professional manner, and efficiently distributes the proceeds in accordance with law to the taxing authorities. Specific duties of the Tax Collector include but are not limited to:

- Collection of Ad Valorem, Non-Ad Valorem, sales, and tourist development taxes;
- Issuance of Motor vehicle and vessel registration and title applications; and
- Issuance of hunting and fishing licenses, driver licenses, and birth certificates.

Additional Information: <http://www.leontaxcollector.net/mission.html>

Property Appraiser

The Property Appraiser has the legal responsibility to provide a uniform assessment of property within the County to determine valuations for ad valorem tax purposes. Specific duties of the Property Appraiser include but are not limited to:

- Locating, identifying and appraising all property subject to ad valorem taxes;
- Producing and maintaining an equitable tax roll; and
- Administering all property tax exemptions in accordance with Florida Statutes and the Rules and Regulations of the Florida Department of Revenue.

Additional Information: <http://www.leonpa.org/dnn/>

Clerk of Court

The Clerk of Court County is a complex organization that performs a wide range of record keeping, information and financial management for citizens, the judicial system, and the Board of County Commissioner. Specific duties of the Clerk of Court include but are not limited to:

- Duties as the Clerk of Circuit and County Court such as collecting fines and fees and maintaining the court registry;
- Duties as the Recorder of Deeds such as processing applications and sales for deeds and maintaining a public records library;
- Duties as the Clerk to the Board of County Commissioners such as producing official meeting minutes and maintaining record of all county resolutions, ordinances, and contracts;
- Duties as the Accountant and Custodian of County Funds such as processing accounts payable and payroll of the County;
- Duties as the County Auditor review of contracts prior to adoption and conducting pre/post- financial audits; and
- Additional duties including processing marriage licenses, passport applications, and home solicitation permits.

Additional Information: <https://cvweb.clerk.leon.fl.us/public/login.asp>

**Constitution Revision Commission
Local Government Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 13

Relating to: LOCAL GOVERNMENT, Counties; Schedule to Article VIII

Introducer(s): Commissioner Timmann and others

Article/Section affected: Article VIII, Sections 1 & 6

Date: October 25, 2017

	REFERENCE	ACTION
1.	<u>LO</u>	<u>Pre-meeting</u>
2.	<u>EE</u>	<u></u>

I. SUMMARY:

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county. Additionally, the proposal will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers. The proposal would take effect January 5, 2021, but would govern the elections for county constitutional officers for the 2020 election cycle.

The 1885 Florida Constitution initially provided that county constitutional officers are to be elected and that their duties be established in Florida statute. However, through amendments, in particular the enshrinement of home rule authority in the 1968 Florida Constitution, with the authorization of county charters, the method of selection and duties of some county constitutional officers in some counties changed. The proposal revises sections 1 and 6 of Article VIII to return to having all constitutionally prescribed county officers elected by voters of that county.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Constitution calls for the state to be divided into political subdivisions called counties. Specifically, Article VIII of the Florida Constitution provides for two types of counties: charter counties and non-charter counties.

Non-Charter Counties

If a county does not operate under a charter, the county has only such power of self-government as is provided by general or special law. If the Legislature has authorized a non-charter county to govern a particular area, the board of county commissioners may enact county ordinances not inconsistent with general or special law. Currently, there are 47 non-charter counties in Florida.

Charter Counties

Pursuant to either general or special law, a county charter may be adopted, amended, or repealed by approval of the electors of the county in a special election. If a county operates under a charter, the county has all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. Therefore, even if the Legislature has not specifically authorized a charter county to govern a particular area, the Florida Constitution grants the board of county commissioners broad authority to enact county ordinances not inconsistent with general law. Currently, there are 20 charter counties in Florida.

County Officers under the Florida Constitution

The Florida Constitution creates five specific county officers: Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court (collectively, the five constitutional offices/officers). The Clerk of the Circuit Court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of four years. These officers have prescribed duties provided for in general law.

All non-charter counties have the five constitutional officers with statutorily prescribed duties. Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred the powers to another county office.

The five constitutional offices may only be altered pursuant to authority prescribed by the terms of a county charter. Specifically, Article VIII, Section 1(d) authorizes a county charter to abolish one or all of the constitutional county offices; transfer the powers to another department of the county government; or provide for a different manner of selecting a county officer. Further, Article VIII, Section 1(d) authorizes a county charter to transfer the Clerk of the Circuit Court's duties as ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds to another department of county government.

Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred their duties to another county office. The eight counties that have altered the duties of a constitutional officer, or have abolished the office and reassigned

duties through their charter are: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

Brevard County

Brevard County “expressly preserved” the offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court as departments of county government, rather than constitutional offices. The county reiterated the ability to transfer or add to the powers of each of the county officers. The county has transferred the powers of the Clerk of Circuit Court as auditor, and custodian of county funds to the county manager. Each officer remains elected for a four year term.

Miami-Dade County

Miami-Dade County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser, transferred these powers to the mayor, and granted the mayor the discretion to sub-delegate the powers. The duties of the Sheriff were transferred to the police department, the director of which is appointed by the mayor. The duties of the tax collector were transferred to the department of finance, the director of which is jointly appointed by the mayor and the clerk of court. The county Property Appraiser, although not retained as a constitutional office, remains an elected position. The duties of the Supervisor of Elections were transferred to the elections department, the director of which is appointed by the mayor. The Clerk of the Circuit Court remains a constitutional, elected officer with some changes in duties. Although the clerk is still the clerk of the county commission, the clerk’s financial recorder and custodian duties were transferred to the department of financial services, and the clerk’s auditing duties were transferred to the commission auditor.

Volusia County

Volusia County established its charter by special law in 1970, and the voters of Volusia County subsequently approved it in a special countywide election the same year. Volusia County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser. The county transferred these offices’ powers to new charter offices. The duties of the Sheriff were transferred to and divided between the department of public safety and the department of corrections. The duties of the Tax Collector were transferred to the department of finance. The duties of the Property Appraiser were transferred to the department of property appraisal. The duties of the Supervisor of Elections were transferred to the department of elections. The Sheriff, Property Appraiser, and Supervisor of Elections are elected directors of their respective offices. The Tax Collector is appointed by the county manager and confirmed by the county council. The Clerk of the Circuit Court remains a constitutionally elected officer except that the clerk’s constitutional duties as clerk of the county commission were transferred to and divided between the department of central services and the department of finance.

Broward County

Broward County has not altered the constitutionally elected offices and duties of the Sheriff, Property Appraiser, and Supervisor of Elections. However, the office of the Tax Collector was abolished and the duties were transferred to the department of finance and administrative services, headed by the finance and administrative services director appointed by the county administrator. Though the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission were transferred to the county administrator.

Clay County

Clay County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. Although the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county administrator.

Duval County

Duval County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer but the clerk's duties as clerk of the county commission were transferred to the council secretary and the constitutional duties as auditor were transferred to the council auditor.

Orange County

In 2016, Orange County abolished the constitutionally elected offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, Clerk of the Circuit Court as well as the county Comptroller and reinstated the offices as elected officials that report directly to the county commission. The 2016 charter amendments provide, however, that each new charter office shall have all rights and privileges of the corresponding constitutional offices. Two separate lawsuits are pending as to whether the county can make constitutional officers term limited and subject to non-partisan elections through their county charter provisions.

Osceola County

Osceola County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer, but the clerk's duties as clerk of the county commission, auditor, and custodian of funds were transferred to the county manager.

B. EFFECT OF PROPOSED CHANGES:

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county, as was originally prescribed prior to the authorization of county charters, and will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers.

If adopted by the Constitution Revision Commission, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election (November 6, 2018). If approved by the voters, the amendment takes effect on January 5, 2021. As a result, affected charter counties will have around 18 months to revise their charters and ordinances to conform to this amendment for the 2020 general elections.

If adopted, the proposal would have no impact on non-charter counties and those charter counties that retained the constitutional offices without any changes to its selection or authority.

From the 2020 general election cycle forward, all county, whether charter or non-charter, constitutional officers must be elected with fixed four year terms, and their offices cannot be abolished, or their duties transferred to another office or officer.

If approved during the 2018 general election, the following counties will be required to revise their charter to conform to the change before the 2020 general election; Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

C. FISCAL IMPACT:

The fiscal impact is indeterminate. The impact will be confined to the charter counties who have altered their constitutional officers. The proposal would require the affected counties to expend funds to (a) provide for election of appointed constitutional officers, and (b) reorganize their governments to accommodate the officer's office and responsibilities. The effect will be heavily dependent on the reorganization efforts at the county level and could vary greatly by county.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

Line 44 “Notwithstanding subsection 6(e)...” The word “notwithstanding” may create ambiguity; therefore, “notwithstanding” is construed to communicate that this amendment supersedes subsection 6(e).

D. Related Issues:

None.

V.

ADJOURNMENT

Citizen Charter Review Committee

January 25, 2018

6:00 p.m. - 8:00 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of January 18, 2018 Meeting Minutes
- III. Public Hearings
 - a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
- IV. Adjournment

The next public hearing of the Citizen Charter Review Committee will take place on Thursday, February 1, 2018 at 6:00 P.M.

I.

CALL TO ORDER

II.

APPROVAL OF JANUARY 18, 2018 MEETING MINUTES

**2017/2018
Citizen Charter Review Committee
January 18, 2018**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 18, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Kim Williams and William Graham present. Committee members Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

- I. **Call to Order:** Chair Hinkle called the meeting to order at 11:30 a.m.
- II. **Approval of Minutes:** *A motion to approve the January 11, 2018 minutes was offered by Michael Eurich and seconded by Anice Prosser. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).*

III. **Remarks of Interested Citizens:**

Chair Hinkle confirmed there were no citizens to address the CRC.

IV. **Proposed Charter Amendments for Committee Consideration**

Chair Hinkle reminded the Committee that a simple majority vote of the CRC was needed to move the proposed amendments to the next phase.

a. **Protections for Water Resources**

County Administrator Long introduced the item. He advised that the state has exclusive authority over water consumption; however, counties may establish environmental standards related to water quality protection. He noted that a detailed memorandum from Deputy County Attorney Riggans on responsibilities of the state and counties as they pertain to the regulation of water quality is included in the Committee's agenda packet, as well as information on the actions of the 2010 Charter Review Committee by which countywide minimum environmental standards were established. He conveyed that the County will continue to evaluate opportunities to improve water quality and staff had no specific regulations to recommend at this time for inclusion in the County Charter.

Mr. Williams asked if there were any identified water quality issues to be cited in the Charter by which to oblige the County Commission to review or make improvements routinely.

County Administrator Long provided an overview of a number of actions the Board has taken to address water quality, such as leveraging opportunities to facilitate neighborhood conversions from septic to sewer services and actively evaluating pilot programs for alternative programs septic. He submitted that he did not believe a charter amendment was needed to ensure this issue remains on the Board's radar.

Mr. Fleckenstein inquired if there are water quality issues facing the County that are not being addressed by regulations or current programs.

David McDevitt, Development Support and Environmental Management Director, responded that the implementation of minimum countywide environmental standards and recent changes to the Comprehensive Plan has enhanced the means by which the County treats residential development in the lake protection area. He advised that staff is not aware of any additional regulations needed at this time.

Mr. Fleckenstein also ascertained from Mr. McDevitt that the County is adequately protected on issues such as oil drilling or fracking, as the County does not have a land use designation that would allow such events to occur.

Mr. Thomas submitted that, while regulations against pollutants affecting water quality are needed, an ordinance would be the more appropriate and effective venue.

Ms. Jones clarified that Commissioner Bill Proctor (who brought this issue forward) had asked for the establishment of a citizen board to look at water resource issues for the region. She confirmed with County Attorney Thiele that the County has no jurisdiction that would overcome state regulations and authority of the Water Management Districts. He also relayed that the County has a very active Water Resources Committee in place.

Catherine Jones moved, seconded by Neil Fleckenstein, approval of Option 3: Take no further action at this time. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

b. Consideration of Constitutional Officer Status

County Administrator Long introduced the item. He noted, as reflected in the analysis, that there is a great deal of diversity in the manner in which constitutional officers are treated on both the national and state levels. He mentioned that a vast majority of charter counties throughout the state have preserved their Constitutional Offices, with only six having modified at least one office. Mr. Long also outlined, as requested by the CRC, a process by which the appointed positions would be filled. He shared that the Constitutional Review Commission is considering a constitutional amendment that would mandate that all constitutionally prescribed county officers be elected and that all functions and duties be restored as originally prescribed in the Constitution. Lastly, Mr. Long conveyed that the County enjoys a very good and strong working relationship with the County's Constitutional Officers.

Ms. Jones expressed her appreciation for the thorough analysis. She asserted that any potential Constitutional amendment should not control how the Committee moves forward on an issue. She submitted that the County is very fortunate to have some "incredible" Constitutional Officers and that her request for the item was not reflective of their performance. She stated that her desire to pursue this issue was threefold: 1) Elected Constitutional Officers remain until they retire; 2) Elections have a tendency to be popularity contests, and 3) Residents have no recourse if the individual does something wrong.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission. Mr. Thomas also questioned the criteria to be used to hire and evaluate the performance of constitutional offices.

Ted Thomas moved, seconded by Reggie Ellis, approval of Option 3: Take no further action at this time. The motion carried 9-1 (Catherine Jones in opposition and Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

V. **Adjournment:**

Chairman Hinkle thanked the CRC for its work thus far and reviewed the schedule going forward.

Chairman Hinkle recalled that the CRC has advanced the following proposed amendments to public hearing:

1. Increase campaign contribution limits for local elections.
2. Provide a Code of Ethics in the Leon County Charter.
3. Modify the hiring/firing of the County Attorney.

Due to the progress of the CRC, Chair Hinkle recommended that the CRC begin its public hearings on January 25, 2018. She stated that the hearings would begin at 6:00 p.m. in the Commission Chambers. She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend all three public hearings.

The Committee adjourned at 12:11 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

PUBLIC HEARINGS

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM A**

Citizen Charter Review Committee

Agenda Item A

January 25, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on the proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions*. This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #1: Conduct the first of three public hearings to consider the proposed charter amendment (Attachment #1).

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment
Language Increasing Campaign Contribution Limits for Local Elections
January 25, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (Attachment #2). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing. The three public hearings have been scheduled for January 25, February 1, and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by 65.5% the local electorate.

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals and political committees from \$500 to \$1,000. Of Florida's 67 counties, 64 follow the current state law of a \$1,000 campaign contribution limit.

The Committee's proposed charter amendment would remove Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. These provisions apply to the Leon County Board of County Commissioners and Constitutional Officers respectively, and both provisions read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

If approved by the Leon County electorate, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Section 106.08 of the Florida Statutes which states that, except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of \$1,000 for candidates for county office.

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment
Language Increasing Campaign Contribution Limits for Local Elections
January 25, 2018
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Options:

1. Conduct the first of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. Proposed Charter Amendment
2. January 11, 2018 Item, “Increasing Campaign Contributions for Local Elections”

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item #5A

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* (Attachment #1). This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item (Attachment #1) and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

The Committee also requested that staff bring back additional information regarding the approval rate for the Charter amendment in the 2010 General Election, which limited campaign donations to candidates for County Commission and Constitutional Officers to \$250 per contributor, and the options for the disposition of surplus funds of candidates and campaign fund balances of individual candidates from previous elections.

Analysis:

Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Limitations to campaign contributions was proposed by the 2009-2010 Citizen Charter Review Committee and adopted by the voters in 2010. The final vote count for the amendment during the 2010 General Elections was as follows:

YES: 57,558 (65.53%)

NO: 30,275 (34.47%)

Should Article II sec. 2.2 sub. (7) and Article III sec. 3.4 be stricken from the Charter, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Florida law, Section 106.08 F.S., which sets the campaign finance limit to \$1,000.

Analysis of Surplus Funds by Candidates

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles as reflected in Attachment #3. Campaign fund balances are the funds that remain following an election. However if a negative balance remains, it must be addressed by the campaign after an election has ended.

Attachment #3 provides the complete analysis of candidates subject to the County's \$250 campaign limit or the state limit of \$1,000. In addition, the analysis reflects the City of Tallahassee's 2014 Charter Amendment which lowered the contribution limit for City Commission Candidates from \$1,000 to \$250 beginning in 2016. The following provides a brief summary of the data contained in Attachment #3.

Candidates Subject to a \$250 Campaign Limit

- Over the last three election cycles, 30 County Commission candidates and 26 Constitutional Officer candidates were subject to the County's \$250 Campaign Limit.
- On average, 70% of these candidates ended the election cycle with a campaign surplus ranging from \$20 to \$46,765.
- Since 2012, the maximum funds raised by a candidate subject to the County's \$250 limit was \$337,078.
- In 2016, 88% of City candidates subject to the City's \$250 campaign limit ended the election cycle with a campaign surplus ranging from \$25 to \$48,547.

Candidates Subject to the \$1,000 Campaign Limit

- Over the last three election cycles, 77 candidates were subject to the State's \$1,000 Campaign Limit including County Judges, School Board, Superintendent of Schools, Soil and Water Conservation, City Candidates (2012 & 2014) and community development district candidates.
- On average, 69% of these candidates ended the election cycle with a campaign surplus ranging from \$2 to \$135,909.
- Since 2012, the maximum funds raised by a candidate subject to the \$1,000 limit was \$295,839.

Disposition of Surplus Funds by Candidates

The options available to candidates for disposing of surplus funds are outlined Section 106.141, Florida Statutes (Attachment #4), which states:

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

Unopposed candidates for a county office or any election conducted on less than a countywide basis also have the option to transfer to an office account up to \$5,000 multiplied by the number of years the candidate has served in the office he/she is being elected to. Funds transferred to an office account may be used for legitimate expenses related to the candidate's public office such as travel expenses, professional services provided by an accountant or attorney for preparation of financial disclosure filings, or fees/dues to religious, civic, or charitable organizations.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Increasing Campaign Contribution Limits for Local Elections

January 11, 2018

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Attachments:

1. Proposed Charter Amendment
2. November 30, 2017 Item, "Increasing Campaign Contributions for Local Elections"
3. Candidate Campaign Balances - 2012, 2014, 2015 Election Cycles
4. Florida Statute 106.14; Disposition of surplus funds by candidates.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Title: Campaign Contributions for Local Elections
November 30, 2017
Page 3

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

Candidate Campaign Balances-2012 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Cynthia Turner	\$250	Clerk of the Court and Comptroller	\$20,280.33	(\$20,260.61)	\$19.72
Bob Inzer	\$250	Clerk of the Court and Comptroller	\$38,412.68	(\$35,208.59)	\$3,204.09
Bessie Beard	\$250	Leon County Commission, At Large Group 1	\$0.00	\$0.00	\$0.00
Mary Ann Lindley	\$250	Leon County Commission, At Large Group 1	\$112,829.00	(\$112,829.00)	\$0.00
Fred Varn	\$250	Leon County Commission, At Large Group 1	\$39,557.00	(\$39,163.70)	\$393.30
Emily Fritz	\$250	Leon County Commission, At Large Group 1	\$80,479.79	(\$79,847.16)	\$632.63
Akin Akinyemi	\$250	Leon County Commission, At Large Group 1	\$55,250.12	(\$54,455.56)	\$794.56
Harrison Arencibian	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Janes Sauls	\$250	Leon County Commission, District 2	\$29,145.00	(\$26,903.94)	\$2,241.06
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$128,492.00	(\$84,969.80)	\$43,522.20
Bryan Desloge	\$250	Leon County Commission, District 4	\$57,895.00	(\$56,053.49)	\$1,841.51
Bert Hartsfield	\$250	Property Appraiser	\$12,650.00	\$0.00	\$12,650.00
Lisa Ann Sprague	\$250	Sheriff	\$47,812.56	(\$49,267.96)	(\$1,455.40)
Tommy Mills	\$250	Sheriff	\$82,421.00	(\$81,562.80)	\$858.20
Larry Campbell	\$250	Sheriff	\$168,836.00	(\$140,772.16)	\$28,063.84
Ion Sancho	\$250	Supervisor of Elections	\$0.00	\$0.00	\$0.00
Doris Maloy	\$250	Tax Collector	\$14,575.00	(\$15,341.95)	(\$766.95)
Samuel Yozviak	\$250	Tax Collector	\$455.00	(\$119.19)	\$335.81
Barry Brooks	\$1,000	Capital Region CDD, Seat 2	\$0.00	\$0.00	\$0.00
Wayne Toothman	\$1,000	Capital Region CDD, Seat 4	\$0.00	\$0.00	\$0.00
John Ray	\$1,000	Capital Region CDD, Seat 4	\$1,855.00	(\$1,685.98)	\$169.02
Robert Wheeler	\$1,000	Leon County Judge, Seat 1	\$11,230.00	(\$71.91)	\$11,158.09
Judith Hawkins	\$1,000	Leon County Judge, Seat 2	\$8,025.00	(\$8,025.00)	\$0.00
Ronald Flury	\$1,000	Leon County Judge, Seat 3	\$5,600.00	(\$5,486.74)	\$113.26
Augustus Aikens	\$1,000	Leon County Judge, Seat 4	\$100.00	(\$10.00)	\$90.00
Dee Crumpler	\$1,000	Leon County School Board, District 2	\$1,500.00	(\$1,475.80)	\$24.20
DeeDee Rasmussen	\$1,000	Leon County School Board, District 4	\$30,302.00	(\$4,140.61)	\$26,161.39
Bobby Buccellato	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$1,000	Leon Soil and Water Conservation, District 1	\$1,425.00	(\$1,325.00)	\$100.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$2,435.00	(\$2,333.39)	\$101.61
Martha Lang	\$1,000	Leon Soil and Water Conservation, District 1	\$938.00	(\$817.01)	\$120.99
Evan Power	\$1,000	Leon Soil and Water Conservation, District 3	\$8,775.00	(\$8,727.79)	\$47.21
Pyllis Basch Smith	\$1,000	Leon Soil and Water Conservation, District 3	\$125.00	(\$55.12)	\$69.88

Candidate Campaign Balances-2012 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation, District 3	\$2,845.00	(\$2,435.89)	\$409.11
Bill Howell	\$1,000	Leon Soil and Water Conservation, District 5	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 5	\$8,790.00	(\$8,727.79)	\$62.21
Richard Kessler	\$1,000	Piney-Z CDD, Seat 2	\$1,678.70	(\$598.54)	\$1,080.16
Sabrina M. Allen	\$1,000	Superintendent of Schools	\$15,728.00	(\$15,032.21)	\$695.79
Jackie Pons	\$1,000	Superintendent of Schools	\$295,389.00	(\$188,816.17)	\$106,572.83
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					
Robert Fulford	\$1,000	Tallahassee City Commission, Seat 1	\$370.80	(\$370.80)	\$0.00
Daniel Parker	\$1,000	Tallahassee City Commission, Seat 1	\$32,505.09	(\$32,505.09)	\$0.00
Brian Acosta	\$1,000	Tallahassee City Commission, Seat 1	\$2.00	\$0.00	\$2.00
Delaitre Hollinger	\$1,000	Tallahassee City Commission, Seat 1	\$5,806.36	(\$5,601.23)	\$205.13
Erica Friall	\$1,000	Tallahassee City Commission, Seat 1	\$28,430.00	(\$25,976.04)	\$2,453.96
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 1	\$98,360.00	(\$95,392.22)	\$2,967.78
Scott Maddox	\$1,000	Tallahassee City Commission, Seat 1	\$223,971.57	(\$210,415.85)	\$13,555.72
Jacob Eaton	\$1,000	Tallahassee City Commission, Seat 2	\$2,399.12	(\$2,942.43)	(\$543.31)
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 2	\$105,431.55	(\$105,431.55)	\$0.00
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$865.00	(\$831.22)	\$33.78
Nicholas Halley	\$1,000	Tallahassee City Commission, Seat 2	\$4,761.37	(\$1,003.14)	\$3,758.23
* Negative balances for Maloy and Sprague were amended to balance out.					
* Reports for Eaton resulted in follow up with the Florida Elections Commission.					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Curtis Baynes	\$250	Leon County Commission, At Large Group 2	\$27,596.74	(\$23,294.28)	\$4,302.46
Nick Maddox	\$250	Leon County Commission, At Large Group 2	\$61,100.00	(\$58,596.58)	\$2,503.42
Weser Khufu	\$250	Leon County Commission, District 1	\$12,746.80	(\$14,172.24)	(\$1,425.44)
William Curtis Proctor	\$250	Leon County Commission, District 1	\$9,345.00	(\$10,126.00)	(\$781.00)
Keishann Corley	\$250	Leon County Commission, District 3	\$0.00	\$0.00	\$0.00
John Dailey	\$250	Leon County Commission, District 3	\$32,630.00	(\$29,390.65)	\$3,239.35
Kristin Dozier	\$250	Leon County Commission, District 5	\$59,220.29	(\$29,750.06)	\$29,470.23
Patrick Madden	\$1,000	Leon County School Board, District 1	\$4,050.00	(\$3,610.12)	\$439.88
Diana Oropallo	\$1,000	Leon County School Board, District 1	\$44,305.00	(\$4,546.69)	\$39,758.31
Alva Swafford Striplin	\$1,000	Leon County School Board, District 1	\$26,344.70	(\$26,228.16)	\$116.54
Patty Ball Thomas	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Forrest Van Camp	\$1,000	Leon County School Board, District 1	\$68,665.00	(\$62,864.75)	\$5,800.25
Ed Lee	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Maggie Bert Lewis-Butler	\$1,000	Leon County School Board, District 3	\$625.00	(\$223.13)	\$401.87
Georgia Bowen	\$1,000	Leon County School Board, District 5	\$3,425.00	(\$2,575.19)	\$849.81
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Stan Peacock	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Brian Lee	\$1,000	Leon Soil and Water Conservation, District 4	\$8,633.00	(\$6,598.63)	\$2,034.37
Ryan Truchelut	\$1,000	Leon Soil and Water Conservation, District 4	\$4,915.04	(\$3,799.47)	\$1,115.57
Nina Ashenafi Richardson	\$1,000	Leon County Judge, Seat 5	\$9,300.00	(\$6,211.20)	\$3,088.80
Glenda Herrera-Gray	\$1,000	Capital Region CDD, Seat 1	\$0.00	\$0.00	\$0.00
Eli Nortelus	\$1,000	Capital Region CDD, Seat 3	\$4,090.00	(\$1,921.83)	\$2,168.17
Luis K. Rojas	\$1,000	Capital Region CDD, Seat 3	\$8,802.00	(\$7,808.93)	\$993.07
David E. Ramba	\$1,000	Capital Region CDD, Seat 5	\$0.00	\$0.00	\$0.00
Hugh Hauck	\$1,000	Piney-Z CDD, Seat 1	\$49.00	(\$49.00)	\$0.00
Delores Ann Pincus	\$1,000	Piney-Z CDD, Seat 1	\$0.00	\$0.00	\$0.00
Johnny Devine	\$1,000	Piney-Z CDD, Seat 3	\$150.00	(\$58.39)	\$91.61
Cheryl Hudson	\$1,000	Piney-Z CDD, Seat 3	\$0.00	\$0.00	\$0.00
Janetta Morphew	\$1,000	Piney-Z CDD, Seat 5	\$0.00	\$0.00	\$0.00
Michael Lee	\$1,000	Piney-Z CDD, Seat 5	\$50.00	(\$35.00)	\$15.00
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Darren Mason	\$1,000	Tallahassee City Commission, Seat 2	\$0.00	\$0.00	\$0.00
Rick Minor	\$1,000	Tallahassee City Commission, Seat 2	\$19,074.00	(\$1,077.04)	\$17,996.96
Diana Oropallo	\$1,000	Tallahassee City Commission, Seat 2	\$97,258.31	(\$92,321.60)	\$4,936.71
Curtis Richardson	\$1,000	Tallahassee City Commission, Seat 2	\$80,183.00	(\$52,928.89)	\$27,254.11
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$420.00	(\$361.10)	\$58.90
Todd Sperry	\$1,000	Tallahassee City Commission, Seat 2	\$10,500.00	(\$10,500.00)	\$0.00
Rosa Houston Autery	\$1,000	Tallahassee City Commission, Seat 3	\$125.00	\$0.00	\$125.00
Nancy Miller	\$1,000	Tallahassee City Commission, Seat 3	\$124,076.00	(\$111,588.76)	\$12,487.24
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 3	\$23,235.00	(\$17,186.65)	\$6,048.35
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$253,151.09	(\$217,876.90)	\$35,274.19
Larry Hendricks	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$1,075.00	(\$739.40)	\$335.60
Evin Matthews	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$0.00	\$0.00	\$0.00
Zachery Richardson	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$10,495.00	(\$6,290.38)	\$4,204.62
Gil Ziffer	\$1,000	Tallahassee City Commission, Seat 5	\$74,635.00	(\$20,692.56)	\$53,942.44

* Negative balances for Kufu were amended to balance out.

* Reports for Proctor resulted in follow up with the Florida Elections Commission.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Franklin Ayetin	\$250	Clerk of the Court and Comptroller	\$12,007.16	(\$10,892.71)	\$1,114.45
Bill Bogan	\$250	Clerk of the Court and Comptroller	\$33,350.00	(\$22,320.77)	\$11,029.23
Barry Brooks	\$250	Clerk of the Court and Comptroller	\$36,893.83	(\$36,872.67)	\$21.16
Gwendolyn Marshall	\$250	Clerk of the Court and Comptroller	\$16,819.00	(\$16,872.84)	(\$53.84)
Akin Akinyemi	\$250	Property Appraiser	\$20,128.00	(\$16,943.97)	\$3,184.03
Clay Ketcham	\$250	Property Appraiser	\$61,932.54	(\$60,010.72)	\$1,921.82
Robert Lane	\$250	Property Appraiser	\$94,871.00	(\$86,676.82)	\$8,194.18
Doug Will	\$250	Property Appraiser	\$83,289.15	(\$81,809.27)	\$1,479.88
Walt McNeil	\$250	Sheriff	\$199,874.50	(\$192,180.86)	\$7,693.64
Tommy Mills	\$250	Sheriff	\$79,609.97	(\$63,162.71)	\$16,447.26
Charles Strickland	\$250	Sheriff	\$90,445.13	(\$78,366.13)	\$12,079.00
Mike Wood	\$250	Sheriff	\$337,078.32	(\$334,294.55)	\$2,783.77
Mark Earley	\$250	Supervisor of Elections	\$77,917.15	(\$72,554.97)	\$5,362.18
Tina Pate	\$250	Supervisor of Elections	\$18,928.00	(\$14,442.37)	\$4,485.63
Alan Williams	\$250	Supervisor of Elections	\$193,438.00	(\$177,862.57)	\$15,575.43
John Paul Bailey	\$250	Tax Collector	\$24,277.16	(\$23,137.37)	\$1,139.79
Doris Maloy	\$250	Tax Collector	\$51,879.38	(\$45,481.85)	\$6,397.53
Gary Gayle	\$250	Tallahassee City Commission, Seat 1	\$450.00	(\$376.23)	\$73.77
Luther Lee	\$250	Tallahassee City Commission, Seat 1	\$1,056.23	(\$1,056.23)	\$0.00
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$5,630.15	(\$5,360.17)	\$269.98
Rick Minor	\$250	Tallahassee City Commission, Seat 1	\$72,735.23	(\$24,188.18)	\$48,547.05
Gloria Pugh	\$250	Tallahassee City Commission, Seat 1	\$48,732.01	(\$15,151.96)	\$33,580.05
Bruce Strouble	\$250	Tallahassee City Commission, Seat 1	\$6,699.31	(\$6,059.40)	\$639.91
Steven Hougland	\$250	Tallahassee City Commission, Seat 2	\$9,475.00	(\$9,450.51)	\$24.49
Curtis Richardson	\$250	Tallahassee City Commission, Seat 2	\$70,675.00	(\$51,971.39)	\$18,703.61
David Hawkins	\$250	Leon County Commission, At Large Group 1	\$6,115.00	(\$6,086.00)	\$29.00
Mary Ann Linley	\$250	Leon County Commission, At Large Group 1	\$57,504.00	(\$52,282.39)	\$5,221.61
Jeffery Bullock	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Nancy Calhoun	\$250	Leon County Commission, District 2	\$3,130.00	(\$3,033.80)	\$96.20
Howard Font	\$250	Leon County Commission, District 2	\$3,748.00	(\$1,801.06)	\$1,946.94
Margaret Franklin	\$250	Leon County Commission, District 2	\$35,586.00	(\$35,434.11)	\$151.89
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$85,855.00	(\$39,089.11)	\$46,765.89
Jimbo Jackson	\$250	Leon County Commission, District 2	\$26,073.00	(\$25,236.12)	\$836.88

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Manny Joanos	\$250	Leon County Commission, District 2	\$115,719.00	(\$114,712.06)	\$1,006.94
T.J Lewis	\$250	Leon County Commission, District 2	\$13,291.00	(\$13,008.69)	\$282.31
Taurean Lewis	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Bradley Sherman	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$250	Leon County Commission, District 2	\$3,976.12	(\$1,969.21)	\$2,006.91
Bryan Desloge	\$250	Leon County Commission, District 4	\$33,850.00	(\$14,223.94)	\$19,626.06
Rocky Hanna	\$1,000	Leon County Superintendent of Schools	\$288,416.55	(\$275,012.77)	\$13,403.78
Woody Hildebrandt	\$1,000	Leon County Superintendent of Schools	\$22,841.61	(\$22,601.60)	\$240.01
Jackie Pons	\$1,000	Leon County Superintendent of Schools	\$371,970.23	(\$342,440.21)	\$29,530.02
Patricia Ann Sunday	\$1,000	Leon County Superintendent of Schools	\$1,156.70	(\$1,085.49)	\$71.21
Forrest Van Camp	\$1,000	Leon County Superintendent of Schools	\$11,200.00	(\$10,317.17)	\$882.83
Michael Wynn	\$1,000	Leon County Superintendent of Schools	\$0.00	\$0.00	\$0.00
Roger Pinholster	\$1,000	Leon County School Board, District 2	\$14,444.00	(\$14,406.84)	\$37.16
Rosanne Wood	\$1,000	Leon County School Board, District 2	\$71,611.43	(\$62,612.58)	\$8,998.85
Patrick Cannon	\$1,000	Leon County School Board, District 4	\$3,243.91	(\$2,779.46)	\$464.45
Tallie Lee Gainer III	\$1,000	Leon County School Board, District 4	\$3,445.00	(\$2,923.70)	\$521.30
Dee Dee Rasmussen	\$1,000	Leon County School Board, District 4	\$39,327.00	(\$35,320.75)	\$4,006.25
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Bill Helmich	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Anthony Cooper	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Delaitre Hollinger	\$1,000	Leon Soil and Water Conservation District 5	\$145.00	(\$85.00)	\$60.00
William Howell	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Monique Richardson	\$1,000	Leon County Judge, Seat 2	\$142,577.76	(\$121,274.19)	\$21,303.57
Layne Smith	\$1,000	Leon County Judge, Seat 2	\$153,773.73	(\$142,971.59)	\$10,802.14
Dorothy McPherson	\$1,000	State Committee Woman	\$1,083.56	\$0.00	\$1,083.56
Caitlin Murray	\$1,000	State Committee Woman	\$21,130.00	(\$12,073.09)	\$9,056.91
Brian Kelley	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Luis Rojas	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Carl Mikyska	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
John B Ray	\$1,000	Capital Regional CDD, Seat 4	\$3,025.00	\$480.11	\$3,505.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Luis Rojas	\$1,000	Capital Regional CDD, Seat 4	\$0.00	\$0.00	\$0.00
Richard Kessler	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Gerry Cashin	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Arthur Kirby	\$1,000	Piney Z CDD, Seat 4	\$200.00	(\$88.04)	\$111.96
Joseph Didier	\$1,000	Piney Z CDD, Seat 4	\$0.00	\$0.00	\$0.00
<i>Redesignated Campaigns</i>					
Scott Maddox	\$1,000	Leon County Superintendent of Schools	\$216,448.55	(\$80,539.23)	\$135,909.32
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$52,525.00	(\$52,525.00)	\$0.00

* Negative balances for Marshall were amended to balance out.

Select Year:

The 2017 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.141 Disposition of surplus funds by candidates. –

(1) Except as provided in subsection (6), each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate may not accept any contributions, nor may any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, before such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. [106.11\(5\)\(b\)](#) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign

account to an office account any amount of the funds on deposit in such campaign account up to:

- (a) Fifty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.
- (b) Ten thousand dollars, for a candidate for multicounty office.
- (c) Ten thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- (d) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- (e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.
- (f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.
- (g) Three thousand dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member; personal taxes payable on office account funds by the candidate or elected public official; professional services provided by a certified public accountant or attorney for preparation of the elected public official's financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#); costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in s. [106.011](#); fees or dues to religious, civic, or charitable organizations of which the elected public official is a member; items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral; personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or expenses incurred in the operation of the elected public official's office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall use such funds to pay for professional services provided by a certified public accountant or attorney for preparation of the elected public official's final financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#), or give such funds to a charitable organization that meets the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6)(a) For purposes of this subsection, the term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

(b) A candidate elected to state office or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to \$20,000 in his or her campaign account, or in an interest-bearing account or certificate of deposit, for use in his or her next campaign for the same office, in addition to the disposition methods provided in subsections (4) and (5). All requirements applicable to candidate campaign accounts under this chapter, including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

(c) If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or s. [106.11\(5\)](#) within 90 days after the last day of candidate qualifying for that office. Requirements in this section applicable to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(7) Before disposing of funds pursuant to subsection (4), transferring funds into an office account pursuant to subsection (5), or retaining funds for reelection pursuant to subsection (6), any candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her shall reimburse the state or local governmental entity, whichever is applicable, for such waived fee. If there are insufficient funds in the account to pay the full amount of the fee, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund.

(8)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and, on or before the date by which such disposition is to have been made, shall file with the officer with whom reports are required to be filed pursuant to s. [106.07](#) a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor;
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank, savings and loan association, or credit union in which the office account is located; and
4. The amount of such funds retained pursuant to subsection (6), together with the name and address of the bank, savings and loan association, or credit union in which the retained funds are located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. [106.07](#).

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. [106.07](#) for submitting late termination reports.

(9) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. [106.07\(2\)](#).

(10) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(11) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 15, ch. 2013-37.

¹**Note.**—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution. Page 3 of 3

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

January 25, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This is a public hearing on the proposed charter amendment to provide a “Code of Ethics” requirement in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the first of three public hearings to consider the proposed charter amendment.

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment Language
Providing a “Code of Ethics” in the Leon County Charter
January 25, 2018
Page 2

Report and Discussion

Background:

On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

Following staff’s presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties’ ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a “Code of Ethics” ordinance, with and without applicability to Constitutional Officers.

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance *not* applicable to Constitutional Officers (Attachment #1). The three public hearings have been scheduled for January 25, February 1, and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code.” The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s “Ethics Code” is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven have provisions in their charter that require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

If approved by the Leon County electorate, the Committee’s proposed amendment would require the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the “Code of Ethics” as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments.

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment Language
Providing a “Code of Ethics” in the Leon County Charter
January 25, 2018
Page 3

The proposed charter amendment language is included below.

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Conduct the first of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Citizens Charter Review Committee “Code of Ethics” Agenda Item

Citizen Charter Review Committee

Agenda Item #5B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to providing for a “Code of Ethics” in the Leon County Charter. Per the Committee’s request, this item also provides proposed charter amendment language including language for a “Code of Ethics” which applies to Constitutional Officers

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request that staff provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

On November 30, following staff’s presentation of the requested agenda item (Attachment #1), the Committee voted 12-0 to request that staff prepare proposed charter amendment language for consideration at the Committee’s January 11, 2018 meeting. Additionally, the Committee requested information and analysis regarding other counties whose charter requires the adoption of a “Code of Ethics.”

Analysis:

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

Per the committee’s request, staff has attached provisions from each counties’ charter regarding the “Code of Ethics” requirement (Attachment #2). Applicability of these counties’ ethics code to elected Constitutional Officers varies.

- Broward, Clay, and Duval County’s charters specifically state that their “Code of Ethics” applies to all elected Constitutional Officers/“county officers.”
- Palm Beach and Seminole County’s “Code of Ethics” does not apply to elected Constitutional Officers.
- Miami-Dade County’s “Code of Ethics” Ordinance is not applicable to elected Constitutional Officers, with the exception of one provision regarding ethical campaign practices and associated penalties of admonition and/or fines.

Based on the Committee’s direction, staff has prepared proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the Code of Ethics as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. In support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #3) in a continuous effort to provide guidance and assistance to County employees.

Title: Code of Ethics
January 11, 2017
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As previously stated, all local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, Florida Statutes, which is applicable to all public officials, officers, and employees in the state. Accordingly, section 112.326, Florida Statutes states:

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

Per the Committee’s direction, staff has prepared two variations of the proposed amendment one not applicable to Constitutional Officers and one applicable to Constitutional Officers.

Version #1 (**Not** Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019 and shall. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Version #2 (Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, Leon County Constitutional Officers and their employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative

Title: Code of Ethics
January 11, 2017
Page 4

standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics” **not** applicable to Constitutional Officers.
Voting Threshold: Simple Majority Vote
2. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule for public hearing the proposed charter amendment language providing for a “Code of Ethics” that is applicable to Constitutional Officers.
3. Request additional information and analysis.
Voting Threshold: Four (4) Votes
4. Take no further action at this time.
Voting Threshold: Simple Majority Vote
5. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. November 30, 2017 Citizen Charter Review Committee “Code of Ethics” Agenda Item
2. Ethical Provisions in Florida Counties’ Charters
3. Leon County Government – Code of Ethics Guide

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Title: Code of Ethics
November 30, 2017
Page 4

Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
3. Leon County Board Policy “Code of Ethics”
4. Leon County’s Lobbyist Regulations Ordinance

Florida Counties' Charter Code of Ethics References

Broward

Section 11.08 BROWARD COUNTY ETHICS COMMISSION

A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

(November 4, 2008: Section 11.08, as proposed by the Charter Review Commission, was created to establish the Broward County Ethics Commission responsible for drafting a Code of Ethics regulating the conduct of County Commissioners, to be considered for passage by the County Commission and/or the County electors.)

Section 11.10 CONSTITUTIONAL OFFICERS SUBJECT TO CODE OF ETHICS

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

(November 2, 2010: Section 11.01 C, as proposed by the County Commission, was amended to establish that a County ordinance shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees through a code of ethics. Section 11.10, as proposed by the County Commission, was created to establish that County constitutional officers are subject to the County Code of Ethics.)

Clay

SECTION 2.2 LEGISLATIVE BRANCH – CODE OF ETHICS

Before July 1, 2007, the Board of County Commissioners shall enact by ordinance a Code of Ethics. The Code of Ethics shall prescribe standards of conduct for members of the Board, the County Manager, the County Attorney, the County Auditor, all other elected or appointed County Officers including the Superintendent of Schools and members of the School Board, and the deputies and employees of all such officers. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics may include, but is not limited to, provisions defining offenses, establishing an ethics board to hear and determine charges, and prescribing penalties within the limits allowed by law. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

(Added November 7, 2006)

Duval

Chapter 2 – ETHICS

Section 1.202. - ETHICS CODE, ETHICS COMMISSION, INSPECTOR GENERAL

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority. The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office; and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

Section 1.203 - ETHICS OVERSIGHT AND COMPLIANCE OFFICE AND OFFICE OF INSPECTOR GENERAL

(a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.

(b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.

(c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.

Miami-Dade

Citizens' Bill of Rights (A) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

Citizens' Bill of Rights (C) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

Orange

Section 706 – CODE OF ETHICS

A. The local code of ethics shall be construed and interpreted in such a way to protect the public's trust and to promote open and accountable government in Orange County. Preserving the public's trust shall be paramount in enforcing the local code of ethics, and it shall be interpreted consistent with the purposes and intent of the local code of ethics.

B. The citizens of Orange County are entitled to a government that embraces best ethical practices and full disclosure of conflicts of interest involving county employees or elected officials. All votes of the board, and actions of the mayor, the county commissioners and county employees, shall be made or taken in the best interests of the citizens of Orange County, free of any undisclosed conflicts of interest.

C. In order to provide a high level of transparency and ethical conduct under charter government, the board shall adopt a local code of ethics applicable to the board of county commissioners and to those employees required to file financial disclosure under state law or who participate in the county procurement process. Such code, though more stringent than general law, shall not place the board of county commissioners or county employees in conflict with the state ethics code, or any other provision of federal or state law, and at a minimum shall provide for:

1. Additional financial and business relationship disclosure;
2. Restrictions on gifts to the board of county commissioners;
3. Under the auspices of an apparent conflict of interest concerning matters involving a prior business associate of any member of the board, disclosure and abstention from voting for a reasonable period of time following termination of the business associate relationship;
4. Approval by the board on development related matters ordinarily subject to final approval by county staff where the applicant or any person having a beneficial interest in the outcome of the matter is a business associate, family member, or employer of a member of the board;
5. Reasonable post-employment restrictions for employees; and
6. Subject to the attainment of the same type of confidentiality provisions available to the state commission on ethics under general law, an enforcement process to provide for due process, penalties, and appeals, all within a reasonable timeframe.

Implementation of the provisions of this subsection shall be by ordinance adopted either prior to the effective date of this provision or by no later than January 1, 2010.

D. The board of county commissioners and those employees required to file financial disclosure under state law or who participate in the county procurement process shall be required to receive at least annual educational sessions on best ethical practices and current trends in ethics issues.

E. The state code of ethics, as provided by general law, shall have full effect on all employees and officeholders under the charter government. Penalty for violation of the state code of ethics shall be as provided by general law.

F. Any local code of ethics adopted prior to the effective date of this section shall, if necessary, be amended so as to comply with the provisions of this section.

Palm Beach

Article VIII Ethics Regulation – Section 8.1 COUNTY CODE OF ETHICS

The county shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 of this charter.

Seminole

Section 5.4 ETHICS

Ordinance Requirements. On or before January 8, 2008, the Board of County Commissioners of Seminole County, shall, by ordinance (the "Ordinance"), require compliance with the following provisions, which shall be supplemental to, but may not diminish the provisions of general law.



LEON COUNTY GOVERNMENT

People Focused. Performance Driven.

THE CODE OF ETHICS GUIDE

An Ethics “Field Manual” for Employees

► **Setting the Standard in Ethics & Public Service**

Vision

A community that is safe, healthy and vibrant.

Mission

To efficiently provide public services which serve and strengthen our community.



ADMINISTRATOR'S LETTER



Vincent S. Long

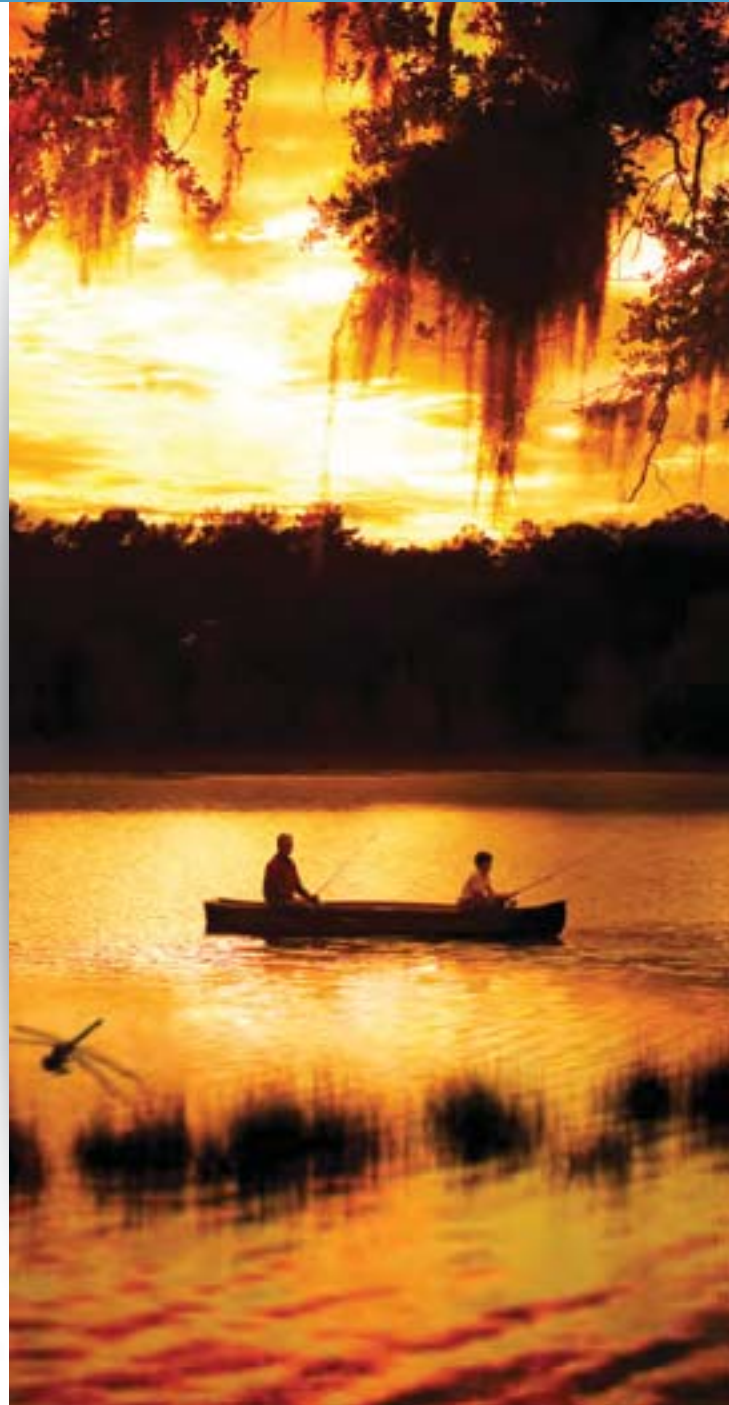
In every way that Leon County employees touch the lives of our citizens we serve, we consistently strive to set the standard in public service and to uphold the public trust.

Ethics are a core practice in Leon County Government and standards of ethical behavior are detailed in both our "Ethics Code" policy and our "Employee Standards of Conduct" contained in the Human Resources manual. While both of these documents are thorough and complete, the guide you are now holding is intended to be a user-friendly "field manual" for reference, reminders and reinforcement related to the high standards of ethical behavior required to be a Leon County employee.

Understanding that this guide may not answer every question you have now or in the future, I've designated Wanda Hunter, Assistant County Administrator to be your initial point of contact. She is just a phone call or e-mail away should you have a question or concern, require clarification or if you just need a little advice or guidance.

Leon County employees perform many different jobs and fulfill a broad range of responsibilities, but the one thing we must all do every day is practice ethics with great clarity and unwavering consistency. Thank you for all you do to make our community and our organization even better.

Vince



**Just a call
or email
away ...**

Wanda Hunter
Assistant County Administrator
(850) 606-5380
HunterW@LeonCountyFL.gov



With almost 30 years of public service, Wanda Hunter has spent her career dedicated to integrity, honesty and accountability. Beginning her career in Leon County with the Office of Equal Employment Opportunity, Wanda has since worked throughout the County in different roles and levels, giving her vast experience and a unique perspective to help you and address issues of ethics and compliance in coordination with Human Resources and the County Attorney's Office.

A PUBLIC TRUST



Leon County employees fully embrace and live by our core practices, and enhance our people focused, performance driven organizational culture; demonstrate pride in their work and their community; always strive to improve levels of service and performance; and are empowered to help the people they serve. To promote the public interest and maintain the public's trust, Leon County employees are committed to the following Core Practices:

- **Demonstrating Highest Standards of Public Service.** Employees adhere to the highest standards of ethical behavior, avoid circumstances that create even an appearance of impropriety and carry out the public's business in a manner which upholds the public trust. Citizens know that we are on their side.
- **Delivering the "Wow" factor in Customer Service.** Employees deliver exemplary service with pride, passion and determination; anticipating and solving problems in "real time" and exceeding customer expectations. Customers know that they are the reason we are here.
- **Connecting with Citizens.** Employees go beyond customer service to community relevance, engaging citizens as stakeholders in the community's success. Citizens know that they are part of the bigger cause.
- **Accepting Accountability.** Employees are individually and collectively accountable for their performance, adapt to changing conditions and relentlessly pursue excellence beyond the current standard, while maintaining our core values.
- **Exhibiting Respect.** Employees exercise respect for citizens, community partners and each other.
- **Employing Team Approach.** Employees work together to produce bigger and better ideas to seize the opportunities and to address the problems which face our community.
- **Exercising Responsible Stewardship of the Community's Resources.** Employees engage in the continuous effort to create and sustain a place which attracts talent, fosters economic opportunity and offers an unmatched quality of life, demonstrating performance, value and results for our citizenry.
- **Living our "People Focused, Performance Driven" Culture.** Employees have a structure in place to live all of this as our organizational culture and are empowered to help the people they serve.



MISUSE OF POSITION

It is prohibited for any County employee to use or attempt to use his/her position, or any property or resource, that may be within the employee's trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself, herself or others.

Employees shall not be permitted to use County facilities, meeting rooms, or conference rooms, or County equipment for other than County business, unless such facilities or equipment are available in accordance with established policy on a regular basis to the general public in which instance the use of such shall be on the same conditions as for the general public.

Perception is reality

! *Employees should avoid the appearance of inappropriate use of the County's equipment, supplies, facilities, and other resources for their own benefit.*




Q&A

- Q:** I have an outside business providing lawn care service, am I able to share my County business card with possible new clients?
- A:** No. Using your County business card, emailing County contacts and any misuse of County resources is prohibited.

UNAUTHORIZED COMPENSATION

No employee or employee's spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when the employee knows, or with the exercise of reasonable care should know that it was given to influence an employee's official actions.

Delivering the WOW!

 Often our citizens want to express appreciation for work done well. If you have a citizen offer you a gift or money, politely say no. You can suggest they offer appreciation by contacting your supervisor.



Q&A

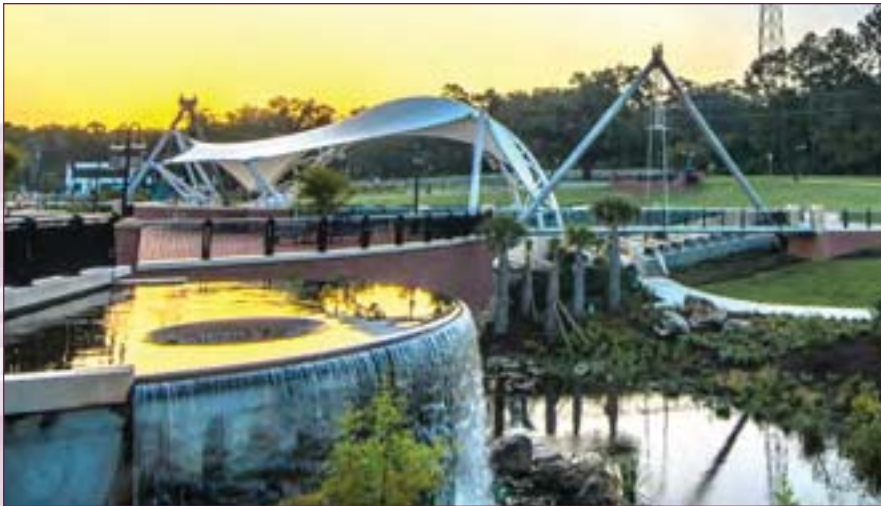
- Q:** May I take a part-time job from a contractor who currently does work with the County and whose contract I oversee?
- A:** No, you may not take the part time job even if the contractor has no intention of trying to influence how you manage their contract. Taking the job creates an appearance that you are being influenced.

GIVING AND RECEIVING GIFTS

The law prohibits the solicitation or acceptance by any County employee of any gift, loan, favor, or service that would cause a reasonably prudent person to be influenced in the discharge of official duties, or should have known, that it was given to influence an employee's official actions.

Are there gifts I can receive?

? *T-shirts, pencils, raffles, shopping bags and all other "trinkets" are okay to take, as long as it is a County-sponsored or -approved activity and as long as everyone attending the event is offered the same items.*



TIP ►

County employees are eligible for discounts from vendors as long as the same discount is available to all employees.



Q&A

Q: Am I able to accept a dinner that is being offered free at an upcoming office-related event?

A: Accepting of food and/or drinks offered at activities where your attendance is associated with your official County duties is okay.

MISUSE OF INFORMATION



n employee may not disclose or use information not available to the general public for his/her personal gain or for the gain of any other person or business entity.

You have a duty to assure confidential information remains confidential. County employees may have possession of citizen's social security, medical, or even individual financial information. It is our job to always be on guard to strictly protect the confidentiality of this information.

Q&A



Q: *I'm aware of an upcoming County bid that a friend of mine might be qualified to bid on. In order to help my friend prepare the lowest bid, can I let her know the timing of the bid and let her know what type of contractor the County wants?*

A: *No. As a County employee, you cannot use your job to benefit another business or person. Giving your friend this information provides them an unfair advantage over other possible contractors that may also want to bid.*



POLITICAL ACTIVITIES

Every employee will have the right to express his or her views as a citizen, to cast his or her vote as he or she chooses, to hold membership in and to support a political party, or maintain political neutrality. Employees may also attend political meetings and take an active part in political campaigns during off duty hours. However, every employee is prohibited from:

- a. Using his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
- b. Directly or indirectly coercing, attempting to coerce, commanding, or advising a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
- c. Participating in political activities during scheduled work time.
- d. Participating as a candidate for public elective office in a partisan primary, general, or special election, will prohibit a person from being principally employed in a federally funded program.
- e. Using Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters.

TIP ► Social media requires care when using



Using your own social media accounts (Facebook, Twitter, etc.) to provide political opinions is okay – as long as it is on your own time. When acting on behalf of the County, including using the County’s social media, refrain from expressing your own personal political views.



Q&A

Q: I’ve been asked by a neighbor to collect signatures on a petition opposing a neighborhood re-zoning issue. Can I help out and collect signatures?

A: Yes, you can address issues that are important to you and as a citizen are permitted. Remember that you must do this on your own time and must not give even the appearance that you are representing the County. And as always, do not provide any confidential information in support of your position.

OUTSIDE EMPLOYMENT



Employees shall not engage in any employment activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their County employment.

Employees may not transact business on behalf of the County with any agency in which either the employee or a member of the employee's immediate family has a "material interest."

Employees may not hold any employment or contractual relationship with any business entity or any agency, which is subject to the regulation of, or is doing business with, Leon County Government.



TIP ►

Accepting work outside of the County is acceptable as long as it doesn't conflict with your County job hours and shifts. Remember, your County job comes first.

Complete an Outside Employment Form



Employees who desire to accept outside employment in addition to their regular County position must complete an outside employment form and submit it to their respective Department/ Division Director for a determination of whether such employment conflicts with the duties and responsibilities of the employee.



Q&A

Q: I'm interested in getting a part time job a couple nights a week. Can I?

A: You may get a part-time job with the following conditions: you've completed the County's outside employment form and received the necessary approvals; your County job comes first and the new job's hours do not conflict; and you cannot use any County equipment, supplies, space, etc. when working at your part time job.

NEPOTISM

A relative of any County employee with supervisory responsibility shall not be eligible for employment in or advancement to any position which reports directly to the supervisory employee.

Likewise, a County employee shall not be eligible for advancement to any position with direct supervisory responsibility over a position in which a relative is employed.

TIP ▶ “Relative” is a relative term...

➔ *Leon County’s definition of “relative” includes not only father, mother, son, and daughter, but also brother, sister, uncle, and aunt as well as others – when in doubt, reach out to Human Resources for a complete list.*



Q&A

- Q:** Can my daughter apply for a job with the County?
- A:** Your daughter may apply for and be considered for a job at the County, IF, when hired you are not directly responsible for their supervision.

SOLICITATION AND FUNDRAISING



No employee or other person may solicit or be solicited during working hours or in work areas.

No employee may distribute literature in his/her work area or during work hours.

No person may distribute literature to an employee in that employee's work area or during that employee's working hours.

Charitable solicitations may be permitted upon approval of the County Administrator and subject to the following:

- Solicitation may take place only for charitable purposes and not for private gain, and only on behalf of generally recognized and reputable charitable organizations.
- The specific activities to be utilized in the charitable solicitation must be communicated to and approved by the County Administrator prior to any activity taking place.

TIP ►



As a member of a professional organization you may be subject to their specific code of ethics. As a County employee, the Leon County Code of Ethics sets a benchmark for you. If your professional organization has a more stringent code of ethics, reach out to the Assistant County Administrator to discuss which code you should follow.



REPORTING ETHICS CONCERNS



You are encouraged to report suspected ethics or compliance concerns, waste or abuse of County resources to your supervisor, or the Assistant County Administrator or both, depending on the circumstances.

- b. The Assistant County Administrator is ready and able to discuss any ethics or compliance concerns or issues of waste or abuse of County resources and will make every effort to maintain the confidentiality of the employee.
- c. Employees making a report in good faith, or cooperating in an investigation, shall not suffer any form of retaliation.
- d. Any suspicion of fraud should be reported directly to the fraud, waste, and abuse hotline, toll-free at 850-606-5304. Or, by mail to: Leon County Fraud, Waste, Abuse & Misconduct Hotline, 301 South Monroe Street, 5th Floor Leon County Courthouse, Tallahassee, Florida 32301. Reports may be made anonymously.

Additional information can be found at:
www.LeonCountyFL.gov/Fraud

- e. Any ethics and compliance concerns should be directed to 850-606-5380.



“Ethics is knowing the difference between what you have a right to do and what is right to do.”

—Supreme Court Justice Potter Stewart

AUTHORITY AND ENFORCEMENT



Leon County Policy No. 03-05 “Code of Ethics” applies to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

- b. In addition to the “Code of Ethics”, Leon County’s Human Resources Manual, Section II contains standards for “Employee Conduct”.
- c. The Code of Ethics for public officers and employees as set forth in Part III of Chapter 112, Florida Statutes, applies to all employees and sets forth a baseline of requirements. Where the County Code of Ethics has stricter requirements, employees must adhere to this code. Additionally, County employees may have professional association or licensing ethics requirements, which may impose requirements beyond the County Code of Ethics.
- d. Questions regarding compliance with the Code of Ethics are handled by the Assistant County Administrator, in consultation with the County Attorney and Human Resources as needed. In most cases, violations of the Code of Ethics will be addressed by the department director with assistance from the Assistant County Administrator and Human Resources. Where a violation has been found, discipline can range from corrective counseling to termination.



“The truth of the matter is that you always know the right thing to do. The hard part is doing it.”

—General H. Norman Schwarzkopf



ADDITIONAL RESOURCES



In our continuous efforts to be an employer of choice, Leon County Government seeks to attract and retain high performing, healthy and happy employees. This is not only good for our employees, but key to our success in setting the standard in public service. In addition to assisting our employees in navigating potential ethical situations, we have put in place policies and programs which have garnered national attention for employee well-being, domestic violence and employee assistance. Like the ethics guide, the resources below are intended to serve and support our employees and sustain a workplace where our people can thrive.

Domestic Violence, Sexual Violence and Stalking in the Workplace (Policy 13-2): Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County instituted this

Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.



Violence Prevention and Intervention (Policy 03-12):

Violence in the workplace can have a devastating effect on the productivity of organizations and the quality of life of employees. Recognizing this problem, Leon County has developed procedures to identify, report, intervene, and prevent workplace violence.

Employee Assistance Program (Policy 16-2): The Employee Assistance Program (EAP) has been established to assist employees, who develop

alcohol, drug, behavioral or stress related problems that result in or contribute to substandard job performance, by providing confidential consultation, treatment and rehabilitation.

Leon County Wellness Program (Policy 12-4): The primary purpose of the Leon County Wellness Program shall be to offer programs and services to assist employees in making voluntary behavior changes that improve employee health and enhance individual productivity and well-being or maintaining a healthy lifestyle.





People Focused. Performance Driven.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

January 25, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on a proposed charter amendment to provide a hiring/firing process for County Attorney to match that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the first of three public hearings to consider the proposed charter amendment (Attachment #1).

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (Attachment #2) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing. The three public hearings have been scheduled for January 25, February 1, and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

If approved by the Leon County electorate, the Committee's proposed charter amendment would provide for a hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator.

The proposed charter amendment language is included below, and Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format. Strike-through represents deletions and underline represents new language to be added.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

The majority of Florida's charter counties (17 of 20) outline the hiring and firing process for the county administrator within their charter. Only eight (8) counties include provisions for the county attorney in their charter and, of these, the following six (6) counties provide the same hiring/firing process for both positions: (1) Brevard County; (2) Clay County; (3) Hillsborough County; (4) Lee County; (5) Seminole County; and (6) Volusia County. As is the case in Leon County, termination provisions for the county attorney are more commonly included as part of a negotiated contract between the county attorney and the board of county commissioners.

Title: Hiring/Firing Process for the County Attorney
January 25, 2018
Page 3

Options:

1. Conduct the first of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. Proposed Charter Amendment
2. January 11, 2018 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item #5C

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language modifying the County Attorney hiring/firing process to match that of the County Administrator in the Leon County Charter (Attachment #1).

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item (Attachment #2). The Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding the hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator. Strike-through represents deletions and underline represents new language to be added. Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 3

Attachment:

1. Proposed Charter Amendment
2. December 7, 2017 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of the of Charter Counties do not include a provision in their charter’s related to the hiring/firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

IV.

ADJOURNMENT

Citizen Charter Review Committee

February 1, 2018

6:00 p.m. - 8:00 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of January 25, 2018 Meeting Minutes
- III. Public Hearings
 - a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
- IV. Adjournment

The final public hearing of the Citizen Charter Review Committee will take place on Thursday, February 8, 2018 at 6:00 P.M.

I.

CALL TO ORDER

II.

APPROVAL OF JANUARY 25, 2018 MEETING MINUTES

**2017/2018
Citizen Charter Review Committee
January 25, 2018
First Public Hearing**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) conducted the first of three public hearings on January 25, 2018 at 6:00 p.m. in the Commission Chambers with Committee members Lee Hinkle, Kim Williams, Ted Thomas, Catherine Jones, Neil Fleckenstein, Michael Eurich, Anice Prosser, Casey Perkins, and Shane Hopkins in attendance. Committee members Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order: Chairman Hinkle called the first Public Hearing to order at 6:00 p.m. She conveyed that the Committee had over the past three months made significant progress and has reviewed numerous issues. She stated that the Committee will hold three public hearings to receive citizen input on three proposed Charter amendments:

1. Increasing Campaign Contribution Limits for Local Elections
2. Providing a Code of Ethics
3. Modifying the Hiring/Firing Process for the County Attorney

She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend the public hearings.

II. Approval of Minutes: *A motion to approve the January 18, 2018 minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).*

III. Public Hearings:

- a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment proposes that the provision on the limitation on campaign contributions be stricken from the Charter. This change would increase local campaign contributions to the State limit of \$1000. He advised that the current \$250 limit was approved through a Charter amendment in 2010. He noted that the State limit at that time was \$500; however, was increased by the Florida Legislature to \$1,000 in 2013. He noted that Leon County is one of only three County Charters that have a local limit on campaign contributions.

County Administrator Long confirmed that there were no speakers on this issue.

Michael Eurich moved, seconded by Lee Hinkle, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the policy would apply to all County Commissioners, employees and members of appointed boards and committees. He advised the County's current Ethics Policy exceeds state law in promoting transparency and addressing potential conflicts of interest; however, to elevate the importance and visibility of the County's current Ethics Policy, the Charter amendment would require the County Commission to adopt a Code of Ethics by ordinance. He noted that there are currently six County Charters which require a Code of Ethics by ordinance.

County Administrator Long confirmed that there were no speakers on this issue.

Kim Williams moved, seconded by Michael Eurich, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment provides for the hiring/firing process of the County Attorney to be consistent with that of the County Administrator, as is provided in the County Charter.

County Administrator Long confirmed that there were no speakers on this issue.

Shane Hopkins moved, seconded by Anice Prosser, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

IV. Adjournment

Chairman Hinkle thanked the Committee for its work and reminded members that the second of three public hearing would be held Thursday, February 1, 2018 at 6:00 p.m. in the County Commission Charters.

Chairman Hinkle adjourned the public hearing at 6:07 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

PUBLIC HEARINGS

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM A**

Citizen Charter Review Committee

Agenda Item A

February 1, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on the proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions*. This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #1: Conduct the second of three public hearings to consider the proposed charter amendment (Attachment #1).

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the
Citizen Charter Review Committee
February 1, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (Attachment #2). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing. The first public hearing was conducted on January 25 and the remaining two public hearings have been scheduled for February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by 65.5% the local electorate.

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals and political committees from \$500 to \$1,000. Of Florida's 67 counties, 64 follow the current state law of a \$1,000 campaign contribution limit.

The Committee's proposed charter amendment would remove Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. These provisions apply to the Leon County Board of County Commissioners and Constitutional Officers respectively, and both provisions read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

If approved by the Leon County electorate, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Section 106.08 of the Florida Statutes which states that, except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of \$1,000 for candidates for county office.

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the
Citizen Charter Review Committee
February 1, 2018
Page 3

Options:

1. Conduct the second of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Item, “Increasing Campaign Contributions for Local Elections”

Citizen Charter Review Committee

Agenda Item #5A

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* (Attachment #1). This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item (Attachment #1) and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

The Committee also requested that staff bring back additional information regarding the approval rate for the Charter amendment in the 2010 General Election, which limited campaign donations to candidates for County Commission and Constitutional Officers to \$250 per contributor, and the options for the disposition of surplus funds of candidates and campaign fund balances of individual candidates from previous elections.

Analysis:

Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Limitations to campaign contributions was proposed by the 2009-2010 Citizen Charter Review Committee and adopted by the voters in 2010. The final vote count for the amendment during the 2010 General Elections was as follows:

YES: 57,558 (65.53%)

NO: 30,275 (34.47%)

Should Article II sec. 2.2 sub. (7) and Article III sec. 3.4 be stricken from the Charter, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Florida law, Section 106.08 F.S., which sets the campaign finance limit to \$1,000.

Title: Increasing Campaign Contribution Limits for Local Elections
January 11, 2018
Page 3

Analysis of Surplus Funds by Candidates

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles as reflected in Attachment #3. Campaign fund balances are the funds that remain following an election. However if a negative balance remains, it must be addressed by the campaign after an election has ended.

Attachment #3 provides the complete analysis of candidates subject to the County's \$250 campaign limit or the state limit of \$1,000. In addition, the analysis reflects the City of Tallahassee's 2014 Charter Amendment which lowered the contribution limit for City Commission Candidates from \$1,000 to \$250 beginning in 2016. The following provides a brief summary of the data contained in Attachment #3.

Candidates Subject to a \$250 Campaign Limit

- Over the last three election cycles, 30 County Commission candidates and 26 Constitutional Officer candidates were subject to the County's \$250 Campaign Limit.
- On average, 70% of these candidates ended the election cycle with a campaign surplus ranging from \$20 to \$46,765.
- Since 2012, the maximum funds raised by a candidate subject to the County's \$250 limit was \$337,078.
- In 2016, 88% of City candidates subject to the City's \$250 campaign limit ended the election cycle with a campaign surplus ranging from \$25 to \$48,547.

Candidates Subject to the \$1,000 Campaign Limit

- Over the last three election cycles, 77 candidates were subject to the State's \$1,000 Campaign Limit including County Judges, School Board, Superintendent of Schools, Soil and Water Conservation, City Candidates (2012 & 2014) and community development district candidates.
- On average, 69% of these candidates ended the election cycle with a campaign surplus ranging from \$2 to \$135,909.
- Since 2012, the maximum funds raised by a candidate subject to the \$1,000 limit was \$295,839.

Disposition of Surplus Funds by Candidates

The options available to candidates for disposing of surplus funds are outlined Section 106.141, Florida Statutes (Attachment #4), which states:

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

Unopposed candidates for a county office or any election conducted on less than a countywide basis also have the option to transfer to an office account up to \$5,000 multiplied by the number of years the candidate has served in the office he/she is being elected to. Funds transferred to an office account may be used for legitimate expenses related to the candidate's public office such as travel expenses, professional services provided by an accountant or attorney for preparation of financial disclosure filings, or fees/dues to religious, civic, or charitable organizations.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Increasing Campaign Contribution Limits for Local Elections

January 11, 2018

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Attachments:

1. Proposed Charter Amendment
2. November 30, 2017 Item, "Increasing Campaign Contributions for Local Elections"
3. Candidate Campaign Balances - 2012, 2014, 2015 Election Cycles
4. Florida Statute 106.14; Disposition of surplus funds by candidates.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Title: Campaign Contributions for Local Elections
November 30, 2017
Page 3

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

Candidate Campaign Balances-2012 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Cynthia Turner	\$250	Clerk of the Court and Comptroller	\$20,280.33	(\$20,260.61)	\$19.72
Bob Inzer	\$250	Clerk of the Court and Comptroller	\$38,412.68	(\$35,208.59)	\$3,204.09
Bessie Beard	\$250	Leon County Commission, At Large Group 1	\$0.00	\$0.00	\$0.00
Mary Ann Lindley	\$250	Leon County Commission, At Large Group 1	\$112,829.00	(\$112,829.00)	\$0.00
Fred Varn	\$250	Leon County Commission, At Large Group 1	\$39,557.00	(\$39,163.70)	\$393.30
Emily Fritz	\$250	Leon County Commission, At Large Group 1	\$80,479.79	(\$79,847.16)	\$632.63
Akin Akinyemi	\$250	Leon County Commission, At Large Group 1	\$55,250.12	(\$54,455.56)	\$794.56
Harrison Arencibian	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Janes Sauls	\$250	Leon County Commission, District 2	\$29,145.00	(\$26,903.94)	\$2,241.06
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$128,492.00	(\$84,969.80)	\$43,522.20
Bryan Desloge	\$250	Leon County Commission, District 4	\$57,895.00	(\$56,053.49)	\$1,841.51
Bert Hartsfield	\$250	Property Appraiser	\$12,650.00	\$0.00	\$12,650.00
Lisa Ann Sprague	\$250	Sheriff	\$47,812.56	(\$49,267.96)	(\$1,455.40)
Tommy Mills	\$250	Sheriff	\$82,421.00	(\$81,562.80)	\$858.20
Larry Campbell	\$250	Sheriff	\$168,836.00	(\$140,772.16)	\$28,063.84
Ion Sancho	\$250	Supervisor of Elections	\$0.00	\$0.00	\$0.00
Doris Maloy	\$250	Tax Collector	\$14,575.00	(\$15,341.95)	(\$766.95)
Samuel Yozviak	\$250	Tax Collector	\$455.00	(\$119.19)	\$335.81
Barry Brooks	\$1,000	Capital Region CDD, Seat 2	\$0.00	\$0.00	\$0.00
Wayne Toothman	\$1,000	Capital Region CDD, Seat 4	\$0.00	\$0.00	\$0.00
John Ray	\$1,000	Capital Region CDD, Seat 4	\$1,855.00	(\$1,685.98)	\$169.02
Robert Wheeler	\$1,000	Leon County Judge, Seat 1	\$11,230.00	(\$71.91)	\$11,158.09
Judith Hawkins	\$1,000	Leon County Judge, Seat 2	\$8,025.00	(\$8,025.00)	\$0.00
Ronald Flury	\$1,000	Leon County Judge, Seat 3	\$5,600.00	(\$5,486.74)	\$113.26
Augustus Aikens	\$1,000	Leon County Judge, Seat 4	\$100.00	(\$10.00)	\$90.00
Dee Crumpler	\$1,000	Leon County School Board, District 2	\$1,500.00	(\$1,475.80)	\$24.20
DeeDee Rasmussen	\$1,000	Leon County School Board, District 4	\$30,302.00	(\$4,140.61)	\$26,161.39
Bobby Buccellato	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$1,000	Leon Soil and Water Conservation, District 1	\$1,425.00	(\$1,325.00)	\$100.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$2,435.00	(\$2,333.39)	\$101.61
Martha Lang	\$1,000	Leon Soil and Water Conservation, District 1	\$938.00	(\$817.01)	\$120.99
Evan Power	\$1,000	Leon Soil and Water Conservation, District 3	\$8,775.00	(\$8,727.79)	\$47.21
Pyllis Basch Smith	\$1,000	Leon Soil and Water Conservation, District 3	\$125.00	(\$55.12)	\$69.88

Candidate Campaign Balances-2012 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation, District 3	\$2,845.00	(\$2,435.89)	\$409.11
Bill Howell	\$1,000	Leon Soil and Water Conservation, District 5	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 5	\$8,790.00	(\$8,727.79)	\$62.21
Richard Kessler	\$1,000	Piney-Z CDD, Seat 2	\$1,678.70	(\$598.54)	\$1,080.16
Sabrina M. Allen	\$1,000	Superintendent of Schools	\$15,728.00	(\$15,032.21)	\$695.79
Jackie Pons	\$1,000	Superintendent of Schools	\$295,389.00	(\$188,816.17)	\$106,572.83
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					
Robert Fulford	\$1,000	Tallahassee City Commission, Seat 1	\$370.80	(\$370.80)	\$0.00
Daniel Parker	\$1,000	Tallahassee City Commission, Seat 1	\$32,505.09	(\$32,505.09)	\$0.00
Brian Acosta	\$1,000	Tallahassee City Commission, Seat 1	\$2.00	\$0.00	\$2.00
Delaitre Hollinger	\$1,000	Tallahassee City Commission, Seat 1	\$5,806.36	(\$5,601.23)	\$205.13
Erica Friall	\$1,000	Tallahassee City Commission, Seat 1	\$28,430.00	(\$25,976.04)	\$2,453.96
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 1	\$98,360.00	(\$95,392.22)	\$2,967.78
Scott Maddox	\$1,000	Tallahassee City Commission, Seat 1	\$223,971.57	(\$210,415.85)	\$13,555.72
Jacob Eaton	\$1,000	Tallahassee City Commission, Seat 2	\$2,399.12	(\$2,942.43)	(\$543.31)
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 2	\$105,431.55	(\$105,431.55)	\$0.00
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$865.00	(\$831.22)	\$33.78
Nicholas Halley	\$1,000	Tallahassee City Commission, Seat 2	\$4,761.37	(\$1,003.14)	\$3,758.23
* Negative balances for Maloy and Sprague were amended to balance out.					
* Reports for Eaton resulted in follow up with the Florida Elections Commission.					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Curtis Baynes	\$250	Leon County Commission, At Large Group 2	\$27,596.74	(\$23,294.28)	\$4,302.46
Nick Maddox	\$250	Leon County Commission, At Large Group 2	\$61,100.00	(\$58,596.58)	\$2,503.42
Weser Khufu	\$250	Leon County Commission, District 1	\$12,746.80	(\$14,172.24)	(\$1,425.44)
William Curtis Proctor	\$250	Leon County Commission, District 1	\$9,345.00	(\$10,126.00)	(\$781.00)
Keishann Corley	\$250	Leon County Commission, District 3	\$0.00	\$0.00	\$0.00
John Dailey	\$250	Leon County Commission, District 3	\$32,630.00	(\$29,390.65)	\$3,239.35
Kristin Dozier	\$250	Leon County Commission, District 5	\$59,220.29	(\$29,750.06)	\$29,470.23
Patrick Madden	\$1,000	Leon County School Board, District 1	\$4,050.00	(\$3,610.12)	\$439.88
Diana Oropallo	\$1,000	Leon County School Board, District 1	\$44,305.00	(\$4,546.69)	\$39,758.31
Alva Swafford Striplin	\$1,000	Leon County School Board, District 1	\$26,344.70	(\$26,228.16)	\$116.54
Patty Ball Thomas	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Forrest Van Camp	\$1,000	Leon County School Board, District 1	\$68,665.00	(\$62,864.75)	\$5,800.25
Ed Lee	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Maggie Bert Lewis-Butler	\$1,000	Leon County School Board, District 3	\$625.00	(\$223.13)	\$401.87
Georgia Bowen	\$1,000	Leon County School Board, District 5	\$3,425.00	(\$2,575.19)	\$849.81
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Stan Peacock	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Brian Lee	\$1,000	Leon Soil and Water Conservation, District 4	\$8,633.00	(\$6,598.63)	\$2,034.37
Ryan Truchelut	\$1,000	Leon Soil and Water Conservation, District 4	\$4,915.04	(\$3,799.47)	\$1,115.57
Nina Ashenafi Richardson	\$1,000	Leon County Judge, Seat 5	\$9,300.00	(\$6,211.20)	\$3,088.80
Glenda Herrera-Gray	\$1,000	Capital Region CDD, Seat 1	\$0.00	\$0.00	\$0.00
Eli Nortelus	\$1,000	Capital Region CDD, Seat 3	\$4,090.00	(\$1,921.83)	\$2,168.17
Luis K. Rojas	\$1,000	Capital Region CDD, Seat 3	\$8,802.00	(\$7,808.93)	\$993.07
David E. Ramba	\$1,000	Capital Region CDD, Seat 5	\$0.00	\$0.00	\$0.00
Hugh Hauck	\$1,000	Piney-Z CDD, Seat 1	\$49.00	(\$49.00)	\$0.00
Delores Ann Pincus	\$1,000	Piney-Z CDD, Seat 1	\$0.00	\$0.00	\$0.00
Johnny Devine	\$1,000	Piney-Z CDD, Seat 3	\$150.00	(\$58.39)	\$91.61
Cheryl Hudson	\$1,000	Piney-Z CDD, Seat 3	\$0.00	\$0.00	\$0.00
Janetta Morphew	\$1,000	Piney-Z CDD, Seat 5	\$0.00	\$0.00	\$0.00
Michael Lee	\$1,000	Piney-Z CDD, Seat 5	\$50.00	(\$35.00)	\$15.00
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Darren Mason	\$1,000	Tallahassee City Commission, Seat 2	\$0.00	\$0.00	\$0.00
Rick Minor	\$1,000	Tallahassee City Commission, Seat 2	\$19,074.00	(\$1,077.04)	\$17,996.96
Diana Oropallo	\$1,000	Tallahassee City Commission, Seat 2	\$97,258.31	(\$92,321.60)	\$4,936.71
Curtis Richardson	\$1,000	Tallahassee City Commission, Seat 2	\$80,183.00	(\$52,928.89)	\$27,254.11
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$420.00	(\$361.10)	\$58.90
Todd Sperry	\$1,000	Tallahassee City Commission, Seat 2	\$10,500.00	(\$10,500.00)	\$0.00
Rosa Houston Autery	\$1,000	Tallahassee City Commission, Seat 3	\$125.00	\$0.00	\$125.00
Nancy Miller	\$1,000	Tallahassee City Commission, Seat 3	\$124,076.00	(\$111,588.76)	\$12,487.24
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 3	\$23,235.00	(\$17,186.65)	\$6,048.35
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$253,151.09	(\$217,876.90)	\$35,274.19
Larry Hendricks	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$1,075.00	(\$739.40)	\$335.60
Evin Matthews	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$0.00	\$0.00	\$0.00
Zachery Richardson	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$10,495.00	(\$6,290.38)	\$4,204.62
Gil Ziffer	\$1,000	Tallahassee City Commission, Seat 5	\$74,635.00	(\$20,692.56)	\$53,942.44
<p>* Negative balances for Kufu were amended to balance out. * Reports for Proctor resulted in follow up with the Florida Elections Commission.</p>					

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Franklin Ayetin	\$250	Clerk of the Court and Comptroller	\$12,007.16	(\$10,892.71)	\$1,114.45
Bill Bogan	\$250	Clerk of the Court and Comptroller	\$33,350.00	(\$22,320.77)	\$11,029.23
Barry Brooks	\$250	Clerk of the Court and Comptroller	\$36,893.83	(\$36,872.67)	\$21.16
Gwendolyn Marshall	\$250	Clerk of the Court and Comptroller	\$16,819.00	(\$16,872.84)	(\$53.84)
Akin Akinyemi	\$250	Property Appraiser	\$20,128.00	(\$16,943.97)	\$3,184.03
Clay Ketcham	\$250	Property Appraiser	\$61,932.54	(\$60,010.72)	\$1,921.82
Robert Lane	\$250	Property Appraiser	\$94,871.00	(\$86,676.82)	\$8,194.18
Doug Will	\$250	Property Appraiser	\$83,289.15	(\$81,809.27)	\$1,479.88
Walt McNeil	\$250	Sheriff	\$199,874.50	(\$192,180.86)	\$7,693.64
Tommy Mills	\$250	Sheriff	\$79,609.97	(\$63,162.71)	\$16,447.26
Charles Strickland	\$250	Sheriff	\$90,445.13	(\$78,366.13)	\$12,079.00
Mike Wood	\$250	Sheriff	\$337,078.32	(\$334,294.55)	\$2,783.77
Mark Earley	\$250	Supervisor of Elections	\$77,917.15	(\$72,554.97)	\$5,362.18
Tina Pate	\$250	Supervisor of Elections	\$18,928.00	(\$14,442.37)	\$4,485.63
Alan Williams	\$250	Supervisor of Elections	\$193,438.00	(\$177,862.57)	\$15,575.43
John Paul Bailey	\$250	Tax Collector	\$24,277.16	(\$23,137.37)	\$1,139.79
Doris Maloy	\$250	Tax Collector	\$51,879.38	(\$45,481.85)	\$6,397.53
Gary Gayle	\$250	Tallahassee City Commission, Seat 1	\$450.00	(\$376.23)	\$73.77
Luther Lee	\$250	Tallahassee City Commission, Seat 1	\$1,056.23	(\$1,056.23)	\$0.00
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$5,630.15	(\$5,360.17)	\$269.98
Rick Minor	\$250	Tallahassee City Commission, Seat 1	\$72,735.23	(\$24,188.18)	\$48,547.05
Gloria Pugh	\$250	Tallahassee City Commission, Seat 1	\$48,732.01	(\$15,151.96)	\$33,580.05
Bruce Strouble	\$250	Tallahassee City Commission, Seat 1	\$6,699.31	(\$6,059.40)	\$639.91
Steven Hougland	\$250	Tallahassee City Commission, Seat 2	\$9,475.00	(\$9,450.51)	\$24.49
Curtis Richardson	\$250	Tallahassee City Commission, Seat 2	\$70,675.00	(\$51,971.39)	\$18,703.61
David Hawkins	\$250	Leon County Commission, At Large Group 1	\$6,115.00	(\$6,086.00)	\$29.00
Mary Ann Linley	\$250	Leon County Commission, At Large Group 1	\$57,504.00	(\$52,282.39)	\$5,221.61
Jeffery Bullock	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Nancy Calhoun	\$250	Leon County Commission, District 2	\$3,130.00	(\$3,033.80)	\$96.20
Howard Font	\$250	Leon County Commission, District 2	\$3,748.00	(\$1,801.06)	\$1,946.94
Margaret Franklin	\$250	Leon County Commission, District 2	\$35,586.00	(\$35,434.11)	\$151.89
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$85,855.00	(\$39,089.11)	\$46,765.89
Jimbo Jackson	\$250	Leon County Commission, District 2	\$26,073.00	(\$25,236.12)	\$836.88

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Manny Joanos	\$250	Leon County Commission, District 2	\$115,719.00	(\$114,712.06)	\$1,006.94
T.J Lewis	\$250	Leon County Commission, District 2	\$13,291.00	(\$13,008.69)	\$282.31
Taurean Lewis	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Bradley Sherman	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$250	Leon County Commission, District 2	\$3,976.12	(\$1,969.21)	\$2,006.91
Bryan Desloge	\$250	Leon County Commission, District 4	\$33,850.00	(\$14,223.94)	\$19,626.06
Rocky Hanna	\$1,000	Leon County Superintendent of Schools	\$288,416.55	(\$275,012.77)	\$13,403.78
Woody Hildebrandt	\$1,000	Leon County Superintendent of Schools	\$22,841.61	(\$22,601.60)	\$240.01
Jackie Pons	\$1,000	Leon County Superintendent of Schools	\$371,970.23	(\$342,440.21)	\$29,530.02
Patricia Ann Sunday	\$1,000	Leon County Superintendent of Schools	\$1,156.70	(\$1,085.49)	\$71.21
Forrest Van Camp	\$1,000	Leon County Superintendent of Schools	\$11,200.00	(\$10,317.17)	\$882.83
Michael Wynn	\$1,000	Leon County Superintendent of Schools	\$0.00	\$0.00	\$0.00
Roger Pinholster	\$1,000	Leon County School Board, District 2	\$14,444.00	(\$14,406.84)	\$37.16
Rosanne Wood	\$1,000	Leon County School Board, District 2	\$71,611.43	(\$62,612.58)	\$8,998.85
Patrick Cannon	\$1,000	Leon County School Board, District 4	\$3,243.91	(\$2,779.46)	\$464.45
Tallie Lee Gainer III	\$1,000	Leon County School Board, District 4	\$3,445.00	(\$2,923.70)	\$521.30
Dee Dee Rasmussen	\$1,000	Leon County School Board, District 4	\$39,327.00	(\$35,320.75)	\$4,006.25
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Bill Helmich	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Anthony Cooper	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Delaitre Hollinger	\$1,000	Leon Soil and Water Conservation District 5	\$145.00	(\$85.00)	\$60.00
William Howell	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Monique Richardson	\$1,000	Leon County Judge, Seat 2	\$142,577.76	(\$121,274.19)	\$21,303.57
Layne Smith	\$1,000	Leon County Judge, Seat 2	\$153,773.73	(\$142,971.59)	\$10,802.14
Dorothy McPherson	\$1,000	State Committee Woman	\$1,083.56	\$0.00	\$1,083.56
Caitlin Murray	\$1,000	State Committee Woman	\$21,130.00	(\$12,073.09)	\$9,056.91
Brian Kelley	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Luis Rojas	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Carl Mikyska	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
John B Ray	\$1,000	Capital Regional CDD, Seat 4	\$3,025.00	\$480.11	\$3,505.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Luis Rojas	\$1,000	Capital Regional CDD, Seat 4	\$0.00	\$0.00	\$0.00
Richard Kessler	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Gerry Cashin	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Arthur Kirby	\$1,000	Piney Z CDD, Seat 4	\$200.00	(\$88.04)	\$111.96
Joseph Didier	\$1,000	Piney Z CDD, Seat 4	\$0.00	\$0.00	\$0.00
<i>Redesignated Campaigns</i>					
Scott Maddox	\$1,000	Leon County Superintendent of Schools	\$216,448.55	(\$80,539.23)	\$135,909.32
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$52,525.00	(\$52,525.00)	\$0.00
* Negative balances for Marshall were amended to balance out.					

Select Year:

The 2017 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.141 Disposition of surplus funds by candidates. –

(1) Except as provided in subsection (6), each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate may not accept any contributions, nor may any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, before such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. [106.11\(5\)\(b\)](#) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign

account to an office account any amount of the funds on deposit in such campaign account up to:

- (a) Fifty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.
- (b) Ten thousand dollars, for a candidate for multicounty office.
- (c) Ten thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- (d) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- (e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.
- (f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.
- (g) Three thousand dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member; personal taxes payable on office account funds by the candidate or elected public official; professional services provided by a certified public accountant or attorney for preparation of the elected public official's financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#); costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in s. [106.011](#); fees or dues to religious, civic, or charitable organizations of which the elected public official is a member; items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral; personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or expenses incurred in the operation of the elected public official's office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall use such funds to pay for professional services provided by a certified public accountant or attorney for preparation of the elected public official's final financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#), or give such funds to a charitable organization that meets the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6)(a) For purposes of this subsection, the term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

(b) A candidate elected to state office or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to \$20,000 in his or her campaign account, or in an interest-bearing account or certificate of deposit, for use in his or her next campaign for the same office, in addition to the disposition methods provided in subsections (4) and (5). All requirements applicable to candidate campaign accounts under this chapter, including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

(c) If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or s. [106.11\(5\)](#) within 90 days after the last day of candidate qualifying for that office. Requirements in this section applicable to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(7) Before disposing of funds pursuant to subsection (4), transferring funds into an office account pursuant to subsection (5), or retaining funds for reelection pursuant to subsection (6), any candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her shall reimburse the state or local governmental entity, whichever is applicable, for such waived fee. If there are insufficient funds in the account to pay the full amount of the fee, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund.

(8)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and, on or before the date by which such disposition is to have been made, shall file with the officer with whom reports are required to be filed pursuant to s. [106.07](#) a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor;
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank, savings and loan association, or credit union in which the office account is located; and
4. The amount of such funds retained pursuant to subsection (6), together with the name and address of the bank, savings and loan association, or credit union in which the retained funds are located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. [106.07](#).

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. [106.07](#) for submitting late termination reports.

(9) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. [106.07\(2\)](#).

(10) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(11) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 15, ch. 2013-37.

¹**Note.**—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution. Page 3 of 3

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

February 1, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This is a public hearing on the proposed charter amendment to provide a “Code of Ethics” requirement in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the second of three public hearings to consider the proposed charter amendment.

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
February 1, 2018
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Report and Discussion

Background:

On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

Following staff’s presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties’ ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a “Code of Ethics” ordinance, with and without applicability to Constitutional Officers.

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance *not* applicable to Constitutional Officers (Attachment #1). The first public hearing was conducted on January 25 and the remaining two public hearings have been scheduled for February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code.” The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s “Ethics Code” is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven have provisions in their charter that require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

If approved by the Leon County electorate, the Committee’s proposed amendment would require the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the “Code of Ethics” as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments.

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
February 1, 2018
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The proposed charter amendment language is included below.

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Conduct the second of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Citizens Charter Review Committee “Code of Ethics” Agenda Item

Citizen Charter Review Committee

Agenda Item #5B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to providing for a “Code of Ethics” in the Leon County Charter. Per the Committee’s request, this item also provides proposed charter amendment language including language for a “Code of Ethics” which applies to Constitutional Officers

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request that staff provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

On November 30, following staff’s presentation of the requested agenda item (Attachment #1), the Committee voted 12-0 to request that staff prepare proposed charter amendment language for consideration at the Committee’s January 11, 2018 meeting. Additionally, the Committee requested information and analysis regarding other counties whose charter requires the adoption of a “Code of Ethics.”

Analysis:

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

Per the committee’s request, staff has attached provisions from each counties’ charter regarding the “Code of Ethics” requirement (Attachment #2). Applicability of these counties’ ethics code to elected Constitutional Officers varies.

- Broward, Clay, and Duval County’s charters specifically state that their “Code of Ethics” applies to all elected Constitutional Officers/“county officers.”
- Palm Beach and Seminole County’s “Code of Ethics” does not apply to elected Constitutional Officers.
- Miami-Dade County’s “Code of Ethics” Ordinance is not applicable to elected Constitutional Officers, with the exception of one provision regarding ethical campaign practices and associated penalties of admonition and/or fines.

Based on the Committee’s direction, staff has prepared proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the Code of Ethics as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. In support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #3) in a continuous effort to provide guidance and assistance to County employees.

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January 11, 2017
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As previously stated, all local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, Florida Statutes, which is applicable to all public officials, officers, and employees in the state. Accordingly, section 112.326, Florida Statutes states:

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

Per the Committee’s direction, staff has prepared two variations of the proposed amendment one not applicable to Constitutional Officers and one applicable to Constitutional Officers.

Version #1 (**Not** Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019 and shall. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Version #2 (Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, Leon County Constitutional Officers and their employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative

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January 11, 2017
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standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics” **not** applicable to Constitutional Officers.
Voting Threshold: Simple Majority Vote
2. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule for public hearing the proposed charter amendment language providing for a “Code of Ethics” that is applicable to Constitutional Officers.
3. Request additional information and analysis.
Voting Threshold: Four (4) Votes
4. Take no further action at this time.
Voting Threshold: Simple Majority Vote
5. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. November 30, 2017 Citizen Charter Review Committee “Code of Ethics” Agenda Item
2. Ethical Provisions in Florida Counties’ Charters
3. Leon County Government – Code of Ethics Guide

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

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- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

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Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
3. Leon County Board Policy “Code of Ethics”
4. Leon County’s Lobbyist Regulations Ordinance

Florida Counties' Charter Code of Ethics References

Broward

Section 11.08 BROWARD COUNTY ETHICS COMMISSION

A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

(November 4, 2008: Section 11.08, as proposed by the Charter Review Commission, was created to establish the Broward County Ethics Commission responsible for drafting a Code of Ethics regulating the conduct of County Commissioners, to be considered for passage by the County Commission and/or the County electors.)

Section 11.10 CONSTITUTIONAL OFFICERS SUBJECT TO CODE OF ETHICS

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

(November 2, 2010: Section 11.01 C, as proposed by the County Commission, was amended to establish that a County ordinance shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees through a code of ethics. Section 11.10, as proposed by the County Commission, was created to establish that County constitutional officers are subject to the County Code of Ethics.)

Clay

SECTION 2.2 LEGISLATIVE BRANCH – CODE OF ETHICS

Before July 1, 2007, the Board of County Commissioners shall enact by ordinance a Code of Ethics. The Code of Ethics shall prescribe standards of conduct for members of the Board, the County Manager, the County Attorney, the County Auditor, all other elected or appointed County Officers including the Superintendent of Schools and members of the School Board, and the deputies and employees of all such officers. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics may include, but is not limited to, provisions defining offenses, establishing an ethics board to hear and determine charges, and prescribing penalties within the limits allowed by law. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

(Added November 7, 2006)

Duval

Chapter 2 – ETHICS

Section 1.202. - ETHICS CODE, ETHICS COMMISSION, INSPECTOR GENERAL

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority. The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office; and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

Section 1.203 - ETHICS OVERSIGHT AND COMPLIANCE OFFICE AND OFFICE OF INSPECTOR GENERAL

(a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.

(b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.

(c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.

Miami-Dade

Citizens' Bill of Rights (A) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

Citizens' Bill of Rights (C) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

Orange

Section 706 – CODE OF ETHICS

A. The local code of ethics shall be construed and interpreted in such a way to protect the public's trust and to promote open and accountable government in Orange County. Preserving the public's trust shall be paramount in enforcing the local code of ethics, and it shall be interpreted consistent with the purposes and intent of the local code of ethics.

B. The citizens of Orange County are entitled to a government that embraces best ethical practices and full disclosure of conflicts of interest involving county employees or elected officials. All votes of the board, and actions of the mayor, the county commissioners and county employees, shall be made or taken in the best interests of the citizens of Orange County, free of any undisclosed conflicts of interest.

C. In order to provide a high level of transparency and ethical conduct under charter government, the board shall adopt a local code of ethics applicable to the board of county commissioners and to those employees required to file financial disclosure under state law or who participate in the county procurement process. Such code, though more stringent than general law, shall not place the board of county commissioners or county employees in conflict with the state ethics code, or any other provision of federal or state law, and at a minimum shall provide for:

1. Additional financial and business relationship disclosure;
2. Restrictions on gifts to the board of county commissioners;
3. Under the auspices of an apparent conflict of interest concerning matters involving a prior business associate of any member of the board, disclosure and abstention from voting for a reasonable period of time following termination of the business associate relationship;
4. Approval by the board on development related matters ordinarily subject to final approval by county staff where the applicant or any person having a beneficial interest in the outcome of the matter is a business associate, family member, or employer of a member of the board;
5. Reasonable post-employment restrictions for employees; and
6. Subject to the attainment of the same type of confidentiality provisions available to the state commission on ethics under general law, an enforcement process to provide for due process, penalties, and appeals, all within a reasonable timeframe.

Implementation of the provisions of this subsection shall be by ordinance adopted either prior to the effective date of this provision or by no later than January 1, 2010.

D. The board of county commissioners and those employees required to file financial disclosure under state law or who participate in the county procurement process shall be required to receive at least annual educational sessions on best ethical practices and current trends in ethics issues.

E. The state code of ethics, as provided by general law, shall have full effect on all employees and officeholders under the charter government. Penalty for violation of the state code of ethics shall be as provided by general law.

F. Any local code of ethics adopted prior to the effective date of this section shall, if necessary, be amended so as to comply with the provisions of this section.

Palm Beach

Article VIII Ethics Regulation – Section 8.1 COUNTY CODE OF ETHICS

The county shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 of this charter.

Seminole

Section 5.4 ETHICS

Ordinance Requirements. On or before January 8, 2008, the Board of County Commissioners of Seminole County, shall, by ordinance (the "Ordinance"), require compliance with the following provisions, which shall be supplemental to, but may not diminish the provisions of general law.



LEON COUNTY GOVERNMENT

People Focused. Performance Driven.

THE CODE OF ETHICS GUIDE

An Ethics “Field Manual” for Employees

► **Setting the Standard in Ethics & Public Service**

Vision

A community that is safe, healthy and vibrant.

Mission

To efficiently provide public services which serve and strengthen our community.



ADMINISTRATOR'S LETTER



Vincent S. Long

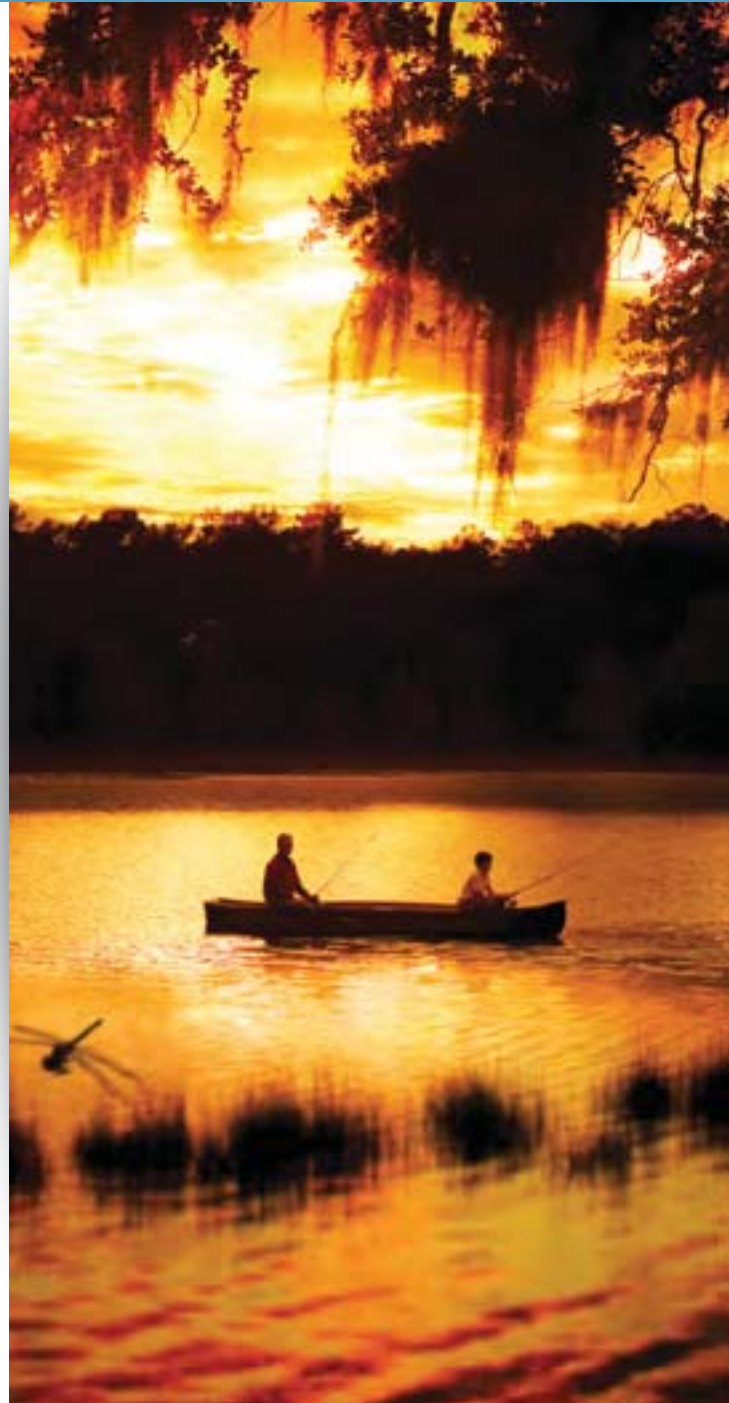
In every way that Leon County employees touch the lives of our citizens we serve, we consistently strive to set the standard in public service and to uphold the public trust.

Ethics are a core practice in Leon County Government and standards of ethical behavior are detailed in both our "Ethics Code" policy and our "Employee Standards of Conduct" contained in the Human Resources manual. While both of these documents are thorough and complete, the guide you are now holding is intended to be a user-friendly "field manual" for reference, reminders and reinforcement related to the high standards of ethical behavior required to be a Leon County employee.

Understanding that this guide may not answer every question you have now or in the future, I've designated Wanda Hunter, Assistant County Administrator to be your initial point of contact. She is just a phone call or e-mail away should you have a question or concern, require clarification or if you just need a little advice or guidance.

Leon County employees perform many different jobs and fulfill a broad range of responsibilities, but the one thing we must all do every day is practice ethics with great clarity and unwavering consistency. Thank you for all you do to make our community and our organization even better.

Vince



**Just a call
or email
away ...**

Wanda Hunter
Assistant County Administrator
(850) 606-5380
HunterW@LeonCountyFL.gov



With almost 30 years of public service, Wanda Hunter has spent her career dedicated to integrity, honesty and accountability. Beginning her career in Leon County with the Office of Equal Employment Opportunity, Wanda has since worked throughout the County in different roles and levels, giving her vast experience and a unique perspective to help you and address issues of ethics and compliance in coordination with Human Resources and the County Attorney's Office.

A PUBLIC TRUST



Leon County employees fully embrace and live by our core practices, and enhance our people focused, performance driven organizational culture; demonstrate pride in their work and their community; always strive to improve levels of service and performance; and are empowered to help the people they serve. To promote the public interest and maintain the public's trust, Leon County employees are committed to the following Core Practices:

- **Demonstrating Highest Standards of Public Service.** Employees adhere to the highest standards of ethical behavior, avoid circumstances that create even an appearance of impropriety and carry out the public's business in a manner which upholds the public trust. Citizens know that we are on their side.
- **Delivering the "Wow" factor in Customer Service.** Employees deliver exemplary service with pride, passion and determination; anticipating and solving problems in "real time" and exceeding customer expectations. Customers know that they are the reason we are here.
- **Connecting with Citizens.** Employees go beyond customer service to community relevance, engaging citizens as stakeholders in the community's success. Citizens know that they are part of the bigger cause.
- **Accepting Accountability.** Employees are individually and collectively accountable for their performance, adapt to changing conditions and relentlessly pursue excellence beyond the current standard, while maintaining our core values.
- **Exhibiting Respect.** Employees exercise respect for citizens, community partners and each other.
- **Employing Team Approach.** Employees work together to produce bigger and better ideas to seize the opportunities and to address the problems which face our community.
- **Exercising Responsible Stewardship of the Community's Resources.** Employees engage in the continuous effort to create and sustain a place which attracts talent, fosters economic opportunity and offers an unmatched quality of life, demonstrating performance, value and results for our citizenry.
- **Living our "People Focused, Performance Driven" Culture.** Employees have a structure in place to live all of this as our organizational culture and are empowered to help the people they serve.

MISUSE OF POSITION

It is prohibited for any County employee to use or attempt to use his/her position, or any property or resource, that may be within the employee's trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself, herself or others.

Employees shall not be permitted to use County facilities, meeting rooms, or conference rooms, or County equipment for other than County business, unless such facilities or equipment are available in accordance with established policy on a regular basis to the general public in which instance the use of such shall be on the same conditions as for the general public.

Perception is reality

! *Employees should avoid the appearance of inappropriate use of the County's equipment, supplies, facilities, and other resources for their own benefit.*




Q&A

- Q:** I have an outside business providing lawn care service, am I able to share my County business card with possible new clients?
- A:** No. Using your County business card, emailing County contacts and any misuse of County resources is prohibited.

UNAUTHORIZED COMPENSATION

No employee or employee's spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when the employee knows, or with the exercise of reasonable care should know that it was given to influence an employee's official actions.

Delivering the WOW!

 *Often our citizens want to express appreciation for work done well. If you have a citizen offer you a gift or money, politely say no. You can suggest they offer appreciation by contacting your supervisor.*



Q&A

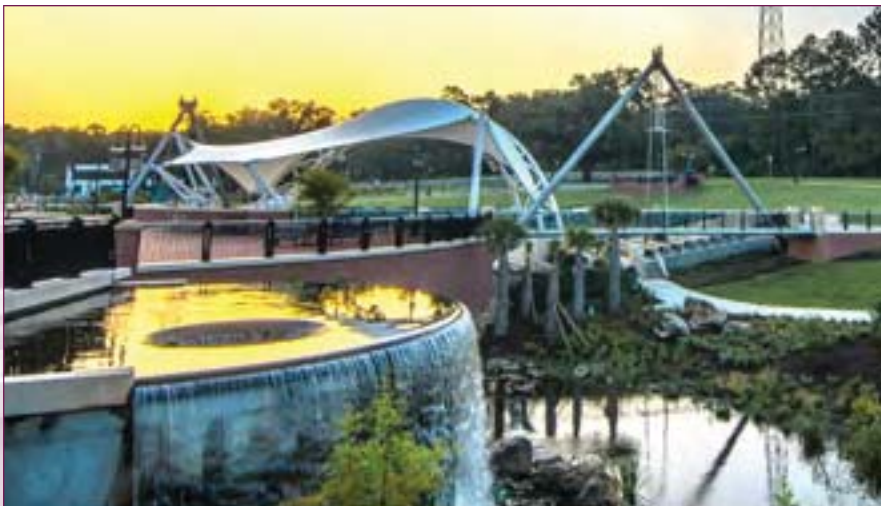
- Q:** May I take a part-time job from a contractor who currently does work with the County and whose contract I oversee?
- A:** No, you may not take the part time job even if the contractor has no intention of trying to influence how you manage their contract. Taking the job creates an appearance that you are being influenced.

GIVING AND RECEIVING GIFTS

The law prohibits the solicitation or acceptance by any County employee of any gift, loan, favor, or service that would cause a reasonably prudent person to be influenced in the discharge of official duties, or should have known, that it was given to influence an employee's official actions.

Are there gifts I can receive?

? *T-shirts, pencils, raffles, shopping bags and all other "trinkets" are okay to take, as long as it is a County-sponsored or -approved activity and as long as everyone attending the event is offered the same items.*



TIP ►

County employees are eligible for discounts from vendors as long as the same discount is available to all employees.



Q&A

- Q:** Am I able to accept a dinner that is being offered free at an upcoming office-related event?
- A:** Accepting of food and/or drinks offered at activities where your attendance is associated with your official County duties is okay.

MISUSE OF INFORMATION



n employee may not disclose or use information not available to the general public for his/her personal gain or for the gain of any other person or business entity.

You have a duty to assure confidential information remains confidential. County employees may have possession of citizen's social security, medical, or even individual financial information. It is our job to always be on guard to strictly protect the confidentiality of this information.

Q&A



Q: *I'm aware of an upcoming County bid that a friend of mine might be qualified to bid on. In order to help my friend prepare the lowest bid, can I let her know the timing of the bid and let her know what type of contractor the County wants?*

A: *No. As a County employee, you cannot use your job to benefit another business or person. Giving your friend this information provides them an unfair advantage over other possible contractors that may also want to bid.*



POLITICAL ACTIVITIES

- E**very employee will have the right to express his or her views as a citizen, to cast his or her vote as he or she chooses, to hold membership in and to support a political party, or maintain political neutrality. Employees may also attend political meetings and take an active part in political campaigns during off duty hours. However, every employee is prohibited from:
- Using his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
 - Directly or indirectly coercing, attempting to coerce, commanding, or advising a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
 - Participating in political activities during scheduled work time.
 - Participating as a candidate for public elective office in a partisan primary, general, or special election, will prohibit a person from being principally employed in a federally funded program.
 - Using Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters.

TIP ► Social media requires care when using



Using your own social media accounts (Facebook, Twitter, etc.) to provide political opinions is okay – as long as it is on your own time. When acting on behalf of the County, including using the County’s social media, refrain from expressing your own personal political views.



Q&A

- Q:** I’ve been asked by a neighbor to collect signatures on a petition opposing a neighborhood re-zoning issue. Can I help out and collect signatures?
- A:** Yes, you can address issues that are important to you and as a citizen are permitted. Remember that you must do this on your own time and must not give even the appearance that you are representing the County. And as always, do not provide any confidential information in support of your position.

OUTSIDE EMPLOYMENT



Employees shall not engage in any employment activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their County employment.

Employees may not transact business on behalf of the County with any agency in which either the employee or a member of the employee's immediate family has a "material interest."

Employees may not hold any employment or contractual relationship with any business entity or any agency, which is subject to the regulation of, or is doing business with, Leon County Government.



TIP ►

Accepting work outside of the County is acceptable as long as it doesn't conflict with your County job hours and shifts. Remember, your County job comes first.

Complete an Outside Employment Form



Employees who desire to accept outside employment in addition to their regular County position must complete an outside employment form and submit it to their respective Department/ Division Director for a determination of whether such employment conflicts with the duties and responsibilities of the employee.



Q&A

Q: I'm interested in getting a part time job a couple nights a week. Can I?

A: You may get a part-time job with the following conditions: you've completed the County's outside employment form and received the necessary approvals; your County job comes first and the new job's hours do not conflict; and you cannot use any County equipment, supplies, space, etc. when working at your part time job.

NEPOTISM



relative of any County employee with supervisory responsibility shall not be eligible for employment in or advancement to any position which reports directly to the supervisory employee.

Likewise, a County employee shall not be eligible for advancement to any position with direct supervisory responsibility over a position in which a relative is employed.

TIP ▶ “Relative” is a relative term...



Leon County’s definition of “relative” includes not only father, mother, son, and daughter, but also brother, sister, uncle, and aunt as well as others – when in doubt, reach out to Human Resources for a complete list.



Q&A

- Q:** Can my daughter apply for a job with the County?
- A:** Your daughter may apply for and be considered for a job at the County, IF, when hired you are not directly responsible for their supervision.

SOLICITATION AND FUNDRAISING



No employee or other person may solicit or be solicited during working hours or in work areas.

No employee may distribute literature in his/her work area or during work hours.

No person may distribute literature to an employee in that employee's work area or during that employee's working hours.

Charitable solicitations may be permitted upon approval of the County Administrator and subject to the following:

- Solicitation may take place only for charitable purposes and not for private gain, and only on behalf of generally recognized and reputable charitable organizations.
- The specific activities to be utilized in the charitable solicitation must be communicated to and approved by the County Administrator prior to any activity taking place.

TIP ►



As a member of a professional organization you may be subject to their specific code of ethics. As a County employee, the Leon County Code of Ethics sets a benchmark for you. If your professional organization has a more stringent code of ethics, reach out to the Assistant County Administrator to discuss which code you should follow.



REPORTING ETHICS CONCERNS



You are encouraged to report suspected ethics or compliance concerns, waste or abuse of County resources to your supervisor, or the Assistant County Administrator or both, depending on the circumstances.

- b. The Assistant County Administrator is ready and able to discuss any ethics or compliance concerns or issues of waste or abuse of County resources and will make every effort to maintain the confidentiality of the employee.
- c. Employees making a report in good faith, or cooperating in an investigation, shall not suffer any form of retaliation.
- d. Any suspicion of fraud should be reported directly to the fraud, waste, and abuse hotline, toll-free at 850-606-5304. Or, by mail to: Leon County Fraud, Waste, Abuse & Misconduct Hotline, 301 South Monroe Street, 5th Floor Leon County Courthouse, Tallahassee, Florida 32301. Reports may be made anonymously.

Additional information can be found at:
www.LeonCountyFL.gov/Fraud

- e. Any ethics and compliance concerns should be directed to 850-606-5380.



“Ethics is knowing the difference between what you have a right to do and what is right to do.”

—Supreme Court Justice Potter Stewart

AUTHORITY AND ENFORCEMENT



Leon County Policy No. 03-05 “Code of Ethics” applies to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

- b. In addition to the “Code of Ethics”, Leon County’s Human Resources Manual, Section II contains standards for “Employee Conduct”.
- c. The Code of Ethics for public officers and employees as set forth in Part III of Chapter 112, Florida Statutes, applies to all employees and sets forth a baseline of requirements. Where the County Code of Ethics has stricter requirements, employees must adhere to this code. Additionally, County employees may have professional association or licensing ethics requirements, which may impose requirements beyond the County Code of Ethics.
- d. Questions regarding compliance with the Code of Ethics are handled by the Assistant County Administrator, in consultation with the County Attorney and Human Resources as needed. In most cases, violations of the Code of Ethics will be addressed by the department director with assistance from the Assistant County Administrator and Human Resources. Where a violation has been found, discipline can range from corrective counseling to termination.



“The truth of the matter is that you always know the right thing to do. The hard part is doing it.”

—General H. Norman Schwarzkopf



ADDITIONAL RESOURCES



In our continuous efforts to be an employer of choice, Leon County Government seeks to attract and retain high performing, healthy and happy employees. This is not only good for our employees, but key to our success in setting the standard in public service. In addition to assisting our employees in navigating potential ethical situations, we have put in place policies and programs which have garnered national attention for employee well-being, domestic violence and employee assistance. Like the ethics guide, the resources below are intended to serve and support our employees and sustain a workplace where our people can thrive.

Domestic Violence, Sexual Violence and Stalking in the Workplace (Policy 13-2): Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County instituted this

Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.



Violence Prevention and Intervention (Policy 03-12):

Violence in the workplace can have a devastating effect on the productivity of organizations and the quality of life of employees. Recognizing this problem, Leon County has developed procedures to identify, report, intervene, and prevent workplace violence.

Employee Assistance Program (Policy 16-2): The Employee Assistance Program (EAP) has been established to assist employees, who develop

alcohol, drug, behavioral or stress related problems that result in or contribute to substandard job performance, by providing confidential consultation, treatment and rehabilitation.

Leon County Wellness Program (Policy 12-4): The primary purpose of the Leon County Wellness Program shall be to offer programs and services to assist employees in making voluntary behavior changes that improve employee health and enhance individual productivity and well-being or maintaining a healthy lifestyle.





People Focused. Performance Driven.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

February 1, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on a proposed charter amendment to provide a hiring/firing process for County Attorney to match that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the second of three public hearings to consider the proposed charter amendment (Attachment #1).

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
February 1, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (Attachment #2) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing. The first public hearing was conducted on January 25 and the remaining two public hearings have been scheduled for February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

If approved by the Leon County electorate, the Committee's proposed charter amendment would provide for a hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator.

The proposed charter amendment language is included below, and Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format. Strike-through represents deletions and underline represents new language to be added.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

The majority of Florida's charter counties (17 of 20) outline the hiring and firing process for the county administrator within their charter. Only eight (8) counties include provisions for the county attorney in their charter and, of these, the following six (6) counties provide the same hiring/firing process for both positions: (1) Brevard County; (2) Clay County; (3) Hillsborough County; (4) Lee County; (5) Seminole County; and (6) Volusia County. As is the case in Leon County, termination provisions for the county attorney are more commonly included as part of a negotiated contract between the county attorney and the board of county commissioners.

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
February 1, 2018
Page 3

Options:

1. Conduct the second of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Item, "Hiring/Process for the County Attorney"

Citizen Charter Review Committee

Agenda Item #5C

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language modifying the County Attorney hiring/firing process to match that of the County Administrator in the Leon County Charter (Attachment #1).

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item (Attachment #2). The Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding the hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator. Strike-through represents deletions and underline represents new language to be added. Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 3

Attachment:

1. Proposed Charter Amendment
2. December 7, 2017 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of the of Charter Counties do not include a provision in their charter’s related to the hiring/firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

IV.

ADJOURNMENT

Citizen Charter Review Committee

February 8, 2018

6:00 p.m. - 8:00 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of February 1, 2018 Meeting Minutes
- III. Public Hearings
 - a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee (*Vincent S. Long*)
 - b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee (*Vincent S. Long*)
 - c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee (*Vincent S. Long*)
- IV. Consideration of Proposed Charter Amendments for Recommendation to the Board of County Commissioners
 - a. Increase Campaign Contribution Limits for Local Elections
 - b. Code of Ethics Requirement
 - c. Employment of the County Attorney
- V. 2017-2018 Citizen Charter Review Committee Final Report (*Vincent S. Long*)
- VI. Adjournment

I.

CALL TO ORDER

II.

APPROVAL OF FEBRUARY 1, 2018 MEETING MINUTES

**2017/2018
Citizen Charter Review Committee
February 1, 2018
Second Public Hearing**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on February 1, 2018 at 6:00 p.m. in the Commission Chambers with Committee members Lee Hinkle, Kim Williams, Ted Thomas, Neil Fleckenstein, Michael Eurich, Anice Prosser, Casey Perkins, Reginald Ellis, William Graham, and Jay Revell in attendance. Committee members Catherine Jones, Shane Hopkins, Gordon Thames, and Kenneth Hart were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order: Chairman Hinkle called the second Public Hearing to order at 6:00 p.m. She conveyed that the Committee had over the past three months made significant progress and had reviewed numerous issues. She stated that the Committee will hold three public hearings to receive citizen input on three proposed Charter amendments:

1. Increasing Campaign Contribution Limits for Local Elections
2. Providing a Code of Ethics
3. Modifying the Hiring/Firing Process for the County Attorney

She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend the public hearings.

II. Approval of Minutes: *A motion to approve the January 25, 2018 minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 10-0 (Catherine Jones, Shane Hopkins, Gordon Thames, and Kenneth Hart absent).*

III. Public Hearings:

- a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment proposes that the provision on the limitation on campaign contributions be stricken from the Charter. This change would increase local campaign contributions to the State limit of \$1000. He advised that the current \$250 limit was approved through a Charter amendment in 2010. He noted that the State limit at that time was \$500; however, was increased by the Florida Legislature to \$1,000 in 2013. He noted that Leon County is one of only three County Charters that have a local limit on campaign contributions.

County Administrator Long confirmed that there were no speakers on this issue.

Kim Williams moved, seconded by Michael Eurich, approval of Option 1: Conduct the second of three public hearings to consider the proposed charter amendment. The motion carried 10-0 (Catherine Jones, Shane Hopkins, Gordon Thames, and Kenneth Hart absent).

- b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the policy would apply to all County Commissioners, employees and members of appointed boards and committees. He advised the County's current Ethics Policy exceeds state law in promoting transparency and addressing potential conflicts of interest; however, to elevate the importance and visibility of the County's current Ethics Policy, the Charter amendment would require the County Commission to adopt a Code of Ethics by ordinance. He noted that there are currently six County Charters which require a Code of Ethics by ordinance.

County Administrator Long confirmed that there were no speakers on this issue.

Neil Fleckenstein moved, seconded by Michael Eurich, approval of Option 1: Conduct the second of three public hearings to consider the proposed charter amendment. The motion carried 10-0 (Catherine Jones, Shane Hopkins, Gordon Thames, and Kenneth Hart absent).

- c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment provides for the hiring/firing process of the County Attorney to be consistent with that of the County Administrator, as is provided in the County Charter.

County Administrator Long confirmed that there were no speakers on this issue.

Michael Eurich moved, seconded by Reginald Ellis, approval of Option 1: Conduct the second of three public hearings to consider the proposed charter amendment. The motion carried 10-0 (Catherine Jones, Shane Hopkins, Gordon Thames, and Kenneth Hart absent).

IV. Adjournment

Chairman Hinkle thanked the Committee for its work and it was reminded that the third and final public hearing would be held Thursday, 8, 2018 at 6:00 p.m. in the County Commission Charters. She reiterated that at the conclusion of that meeting the Committee would take its final vote on each of the proposed amendments and that transmittal of the items to the County Commission would require 10 affirmative votes.

Chairman Hinkle adjourned the public hearing at 6:07 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

PUBLIC HEARINGS

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM A

Citizen Charter Review Committee

Agenda Item #3A

February 8, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on the proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions*. This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #1: Conduct the third and final public hearing to consider the proposed charter amendment (Attachment #1).

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the
Citizen Charter Review Committee
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Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (Attachment #2). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing. Public hearing were conducted on January 25 and February 1. The final public hearing has been scheduled for February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by 65.5% the local electorate.

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals and political committees from \$500 to \$1,000. Of Florida's 67 counties, 64 follow the current state law of a \$1,000 campaign contribution limit.

The Committee's proposed charter amendment would remove Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. These provisions apply to the Leon County Board of County Commissioners and Constructional Officers respectively, and both provisions read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

If approved by the Leon County electorate, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Section 106.08 of the Florida Statutes which states that, except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of \$1,000 for candidates for county office.

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the
Citizen Charter Review Committee
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Options:

1. Conduct the third and final public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachment:

1. January 11, 2018 Item, “Increasing Campaign Contributions for Local Elections”

Citizen Charter Review Committee

Agenda Item #5A

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* (Attachment #1). This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item (Attachment #1) and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

The Committee also requested that staff bring back additional information regarding the approval rate for the Charter amendment in the 2010 General Election, which limited campaign donations to candidates for County Commission and Constitutional Officers to \$250 per contributor, and the options for the disposition of surplus funds of candidates and campaign fund balances of individual candidates from previous elections.

Analysis:

Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Limitations to campaign contributions was proposed by the 2009-2010 Citizen Charter Review Committee and adopted by the voters in 2010. The final vote count for the amendment during the 2010 General Elections was as follows:

YES: 57,558 (65.53%)

NO: 30,275 (34.47%)

Should Article II sec. 2.2 sub. (7) and Article III sec. 3.4 be stricken from the Charter, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Florida law, Section 106.08 F.S., which sets the campaign finance limit to \$1,000.

Title: Increasing Campaign Contribution Limits for Local Elections
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Analysis of Surplus Funds by Candidates

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles as reflected in Attachment #3. Campaign fund balances are the funds that remain following an election. However if a negative balance remains, it must be addressed by the campaign after an election has ended.

Attachment #3 provides the complete analysis of candidates subject to the County's \$250 campaign limit or the state limit of \$1,000. In addition, the analysis reflects the City of Tallahassee's 2014 Charter Amendment which lowered the contribution limit for City Commission Candidates from \$1,000 to \$250 beginning in 2016. The following provides a brief summary of the data contained in Attachment #3.

Candidates Subject to a \$250 Campaign Limit

- Over the last three election cycles, 30 County Commission candidates and 26 Constitutional Officer candidates were subject to the County's \$250 Campaign Limit.
- On average, 70% of these candidates ended the election cycle with a campaign surplus ranging from \$20 to \$46,765.
- Since 2012, the maximum funds raised by a candidate subject to the County's \$250 limit was \$337,078.
- In 2016, 88% of City candidates subject to the City's \$250 campaign limit ended the election cycle with a campaign surplus ranging from \$25 to \$48,547.

Candidates Subject to the \$1,000 Campaign Limit

- Over the last three election cycles, 77 candidates were subject to the State's \$1,000 Campaign Limit including County Judges, School Board, Superintendent of Schools, Soil and Water Conservation, City Candidates (2012 & 2014) and community development district candidates.
- On average, 69% of these candidates ended the election cycle with a campaign surplus ranging from \$2 to \$135,909.
- Since 2012, the maximum funds raised by a candidate subject to the \$1,000 limit was \$295,839.

Disposition of Surplus Funds by Candidates

The options available to candidates for disposing of surplus funds are outlined Section 106.141, Florida Statutes (Attachment #4), which states:

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

Unopposed candidates for a county office or any election conducted on less than a countywide basis also have the option to transfer to an office account up to \$5,000 multiplied by the number of years the candidate has served in the office he/she is being elected to. Funds transferred to an office account may be used for legitimate expenses related to the candidate's public office such as travel expenses, professional services provided by an accountant or attorney for preparation of financial disclosure filings, or fees/dues to religious, civic, or charitable organizations.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Increasing Campaign Contribution Limits for Local Elections

January 11, 2018

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Attachments:

1. Proposed Charter Amendment
2. November 30, 2017 Item, "Increasing Campaign Contributions for Local Elections"
3. Candidate Campaign Balances - 2012, 2014, 2015 Election Cycles
4. Florida Statute 106.14; Disposition of surplus funds by candidates.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Title: Campaign Contributions for Local Elections
November 30, 2017
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Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

Candidate Campaign Balances-2012 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Cynthia Turner	\$250	Clerk of the Court and Comptroller	\$20,280.33	(\$20,260.61)	\$19.72
Bob Inzer	\$250	Clerk of the Court and Comptroller	\$38,412.68	(\$35,208.59)	\$3,204.09
Bessie Beard	\$250	Leon County Commission, At Large Group 1	\$0.00	\$0.00	\$0.00
Mary Ann Lindley	\$250	Leon County Commission, At Large Group 1	\$112,829.00	(\$112,829.00)	\$0.00
Fred Varn	\$250	Leon County Commission, At Large Group 1	\$39,557.00	(\$39,163.70)	\$393.30
Emily Fritz	\$250	Leon County Commission, At Large Group 1	\$80,479.79	(\$79,847.16)	\$632.63
Akin Akinyemi	\$250	Leon County Commission, At Large Group 1	\$55,250.12	(\$54,455.56)	\$794.56
Harrison Arencibian	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Janes Sauls	\$250	Leon County Commission, District 2	\$29,145.00	(\$26,903.94)	\$2,241.06
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$128,492.00	(\$84,969.80)	\$43,522.20
Bryan Desloge	\$250	Leon County Commission, District 4	\$57,895.00	(\$56,053.49)	\$1,841.51
Bert Hartsfield	\$250	Property Appraiser	\$12,650.00	\$0.00	\$12,650.00
Lisa Ann Sprague	\$250	Sheriff	\$47,812.56	(\$49,267.96)	(\$1,455.40)
Tommy Mills	\$250	Sheriff	\$82,421.00	(\$81,562.80)	\$858.20
Larry Campbell	\$250	Sheriff	\$168,836.00	(\$140,772.16)	\$28,063.84
Ion Sancho	\$250	Supervisor of Elections	\$0.00	\$0.00	\$0.00
Doris Maloy	\$250	Tax Collector	\$14,575.00	(\$15,341.95)	(\$766.95)
Samuel Yozviak	\$250	Tax Collector	\$455.00	(\$119.19)	\$335.81
Barry Brooks	\$1,000	Capital Region CDD, Seat 2	\$0.00	\$0.00	\$0.00
Wayne Toothman	\$1,000	Capital Region CDD, Seat 4	\$0.00	\$0.00	\$0.00
John Ray	\$1,000	Capital Region CDD, Seat 4	\$1,855.00	(\$1,685.98)	\$169.02
Robert Wheeler	\$1,000	Leon County Judge, Seat 1	\$11,230.00	(\$71.91)	\$11,158.09
Judith Hawkins	\$1,000	Leon County Judge, Seat 2	\$8,025.00	(\$8,025.00)	\$0.00
Ronald Flury	\$1,000	Leon County Judge, Seat 3	\$5,600.00	(\$5,486.74)	\$113.26
Augustus Aikens	\$1,000	Leon County Judge, Seat 4	\$100.00	(\$10.00)	\$90.00
Dee Crumpler	\$1,000	Leon County School Board, District 2	\$1,500.00	(\$1,475.80)	\$24.20
DeeDee Rasmussen	\$1,000	Leon County School Board, District 4	\$30,302.00	(\$4,140.61)	\$26,161.39
Bobby Buccellato	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$1,000	Leon Soil and Water Conservation, District 1	\$1,425.00	(\$1,325.00)	\$100.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$2,435.00	(\$2,333.39)	\$101.61
Martha Lang	\$1,000	Leon Soil and Water Conservation, District 1	\$938.00	(\$817.01)	\$120.99
Evan Power	\$1,000	Leon Soil and Water Conservation, District 3	\$8,775.00	(\$8,727.79)	\$47.21
Pyllis Basch Smith	\$1,000	Leon Soil and Water Conservation, District 3	\$125.00	(\$55.12)	\$69.88

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation, District 3	\$2,845.00	(\$2,435.89)	\$409.11
Bill Howell	\$1,000	Leon Soil and Water Conservation, District 5	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 5	\$8,790.00	(\$8,727.79)	\$62.21
Richard Kessler	\$1,000	Piney-Z CDD, Seat 2	\$1,678.70	(\$598.54)	\$1,080.16
Sabrina M. Allen	\$1,000	Superintendent of Schools	\$15,728.00	(\$15,032.21)	\$695.79
Jackie Pons	\$1,000	Superintendent of Schools	\$295,389.00	(\$188,816.17)	\$106,572.83
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					
Robert Fulford	\$1,000	Tallahassee City Commission, Seat 1	\$370.80	(\$370.80)	\$0.00
Daniel Parker	\$1,000	Tallahassee City Commission, Seat 1	\$32,505.09	(\$32,505.09)	\$0.00
Brian Acosta	\$1,000	Tallahassee City Commission, Seat 1	\$2.00	\$0.00	\$2.00
Delaitre Hollinger	\$1,000	Tallahassee City Commission, Seat 1	\$5,806.36	(\$5,601.23)	\$205.13
Erica Friall	\$1,000	Tallahassee City Commission, Seat 1	\$28,430.00	(\$25,976.04)	\$2,453.96
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 1	\$98,360.00	(\$95,392.22)	\$2,967.78
Scott Maddox	\$1,000	Tallahassee City Commission, Seat 1	\$223,971.57	(\$210,415.85)	\$13,555.72
Jacob Eaton	\$1,000	Tallahassee City Commission, Seat 2	\$2,399.12	(\$2,942.43)	(\$543.31)
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 2	\$105,431.55	(\$105,431.55)	\$0.00
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$865.00	(\$831.22)	\$33.78
Nicholas Halley	\$1,000	Tallahassee City Commission, Seat 2	\$4,761.37	(\$1,003.14)	\$3,758.23
* Negative balances for Maloy and Sprague were amended to balance out.					
* Reports for Eaton resulted in follow up with the Florida Elections Commission.					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Curtis Baynes	\$250	Leon County Commission, At Large Group 2	\$27,596.74	(\$23,294.28)	\$4,302.46
Nick Maddox	\$250	Leon County Commission, At Large Group 2	\$61,100.00	(\$58,596.58)	\$2,503.42
Weser Khufu	\$250	Leon County Commission, District 1	\$12,746.80	(\$14,172.24)	(\$1,425.44)
William Curtis Proctor	\$250	Leon County Commission, District 1	\$9,345.00	(\$10,126.00)	(\$781.00)
Keishann Corley	\$250	Leon County Commission, District 3	\$0.00	\$0.00	\$0.00
John Dailey	\$250	Leon County Commission, District 3	\$32,630.00	(\$29,390.65)	\$3,239.35
Kristin Dozier	\$250	Leon County Commission, District 5	\$59,220.29	(\$29,750.06)	\$29,470.23
Patrick Madden	\$1,000	Leon County School Board, District 1	\$4,050.00	(\$3,610.12)	\$439.88
Diana Oropallo	\$1,000	Leon County School Board, District 1	\$44,305.00	(\$4,546.69)	\$39,758.31
Alva Swafford Striplin	\$1,000	Leon County School Board, District 1	\$26,344.70	(\$26,228.16)	\$116.54
Patty Ball Thomas	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Forrest Van Camp	\$1,000	Leon County School Board, District 1	\$68,665.00	(\$62,864.75)	\$5,800.25
Ed Lee	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Maggie Bert Lewis-Butler	\$1,000	Leon County School Board, District 3	\$625.00	(\$223.13)	\$401.87
Georgia Bowen	\$1,000	Leon County School Board, District 5	\$3,425.00	(\$2,575.19)	\$849.81
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Stan Peacock	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Brian Lee	\$1,000	Leon Soil and Water Conservation, District 4	\$8,633.00	(\$6,598.63)	\$2,034.37
Ryan Truchelut	\$1,000	Leon Soil and Water Conservation, District 4	\$4,915.04	(\$3,799.47)	\$1,115.57
Nina Ashenafi Richardson	\$1,000	Leon County Judge, Seat 5	\$9,300.00	(\$6,211.20)	\$3,088.80
Glenda Herrera-Gray	\$1,000	Capital Region CDD, Seat 1	\$0.00	\$0.00	\$0.00
Eli Nortelus	\$1,000	Capital Region CDD, Seat 3	\$4,090.00	(\$1,921.83)	\$2,168.17
Luis K. Rojas	\$1,000	Capital Region CDD, Seat 3	\$8,802.00	(\$7,808.93)	\$993.07
David E. Ramba	\$1,000	Capital Region CDD, Seat 5	\$0.00	\$0.00	\$0.00
Hugh Hauck	\$1,000	Piney-Z CDD, Seat 1	\$49.00	(\$49.00)	\$0.00
Delores Ann Pincus	\$1,000	Piney-Z CDD, Seat 1	\$0.00	\$0.00	\$0.00
Johnny Devine	\$1,000	Piney-Z CDD, Seat 3	\$150.00	(\$58.39)	\$91.61
Cheryl Hudson	\$1,000	Piney-Z CDD, Seat 3	\$0.00	\$0.00	\$0.00
Janetta Morphew	\$1,000	Piney-Z CDD, Seat 5	\$0.00	\$0.00	\$0.00
Michael Lee	\$1,000	Piney-Z CDD, Seat 5	\$50.00	(\$35.00)	\$15.00
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Darren Mason	\$1,000	Tallahassee City Commission, Seat 2	\$0.00	\$0.00	\$0.00
Rick Minor	\$1,000	Tallahassee City Commission, Seat 2	\$19,074.00	(\$1,077.04)	\$17,996.96
Diana Oropallo	\$1,000	Tallahassee City Commission, Seat 2	\$97,258.31	(\$92,321.60)	\$4,936.71
Curtis Richardson	\$1,000	Tallahassee City Commission, Seat 2	\$80,183.00	(\$52,928.89)	\$27,254.11
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$420.00	(\$361.10)	\$58.90
Todd Sperry	\$1,000	Tallahassee City Commission, Seat 2	\$10,500.00	(\$10,500.00)	\$0.00
Rosa Houston Autery	\$1,000	Tallahassee City Commission, Seat 3	\$125.00	\$0.00	\$125.00
Nancy Miller	\$1,000	Tallahassee City Commission, Seat 3	\$124,076.00	(\$111,588.76)	\$12,487.24
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 3	\$23,235.00	(\$17,186.65)	\$6,048.35
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$253,151.09	(\$217,876.90)	\$35,274.19
Larry Hendricks	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$1,075.00	(\$739.40)	\$335.60
Evin Matthews	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$0.00	\$0.00	\$0.00
Zachery Richardson	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$10,495.00	(\$6,290.38)	\$4,204.62
Gil Ziffer	\$1,000	Tallahassee City Commission, Seat 5	\$74,635.00	(\$20,692.56)	\$53,942.44
<p>* Negative balances for Kufu were amended to balance out. * Reports for Proctor resulted in follow up with the Florida Elections Commission.</p>					

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Franklin Ayetin	\$250	Clerk of the Court and Comptroller	\$12,007.16	(\$10,892.71)	\$1,114.45
Bill Bogan	\$250	Clerk of the Court and Comptroller	\$33,350.00	(\$22,320.77)	\$11,029.23
Barry Brooks	\$250	Clerk of the Court and Comptroller	\$36,893.83	(\$36,872.67)	\$21.16
Gwendolyn Marshall	\$250	Clerk of the Court and Comptroller	\$16,819.00	(\$16,872.84)	(\$53.84)
Akin Akinyemi	\$250	Property Appraiser	\$20,128.00	(\$16,943.97)	\$3,184.03
Clay Ketcham	\$250	Property Appraiser	\$61,932.54	(\$60,010.72)	\$1,921.82
Robert Lane	\$250	Property Appraiser	\$94,871.00	(\$86,676.82)	\$8,194.18
Doug Will	\$250	Property Appraiser	\$83,289.15	(\$81,809.27)	\$1,479.88
Walt McNeil	\$250	Sheriff	\$199,874.50	(\$192,180.86)	\$7,693.64
Tommy Mills	\$250	Sheriff	\$79,609.97	(\$63,162.71)	\$16,447.26
Charles Strickland	\$250	Sheriff	\$90,445.13	(\$78,366.13)	\$12,079.00
Mike Wood	\$250	Sheriff	\$337,078.32	(\$334,294.55)	\$2,783.77
Mark Earley	\$250	Supervisor of Elections	\$77,917.15	(\$72,554.97)	\$5,362.18
Tina Pate	\$250	Supervisor of Elections	\$18,928.00	(\$14,442.37)	\$4,485.63
Alan Williams	\$250	Supervisor of Elections	\$193,438.00	(\$177,862.57)	\$15,575.43
John Paul Bailey	\$250	Tax Collector	\$24,277.16	(\$23,137.37)	\$1,139.79
Doris Maloy	\$250	Tax Collector	\$51,879.38	(\$45,481.85)	\$6,397.53
Gary Gayle	\$250	Tallahassee City Commission, Seat 1	\$450.00	(\$376.23)	\$73.77
Luther Lee	\$250	Tallahassee City Commission, Seat 1	\$1,056.23	(\$1,056.23)	\$0.00
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$5,630.15	(\$5,360.17)	\$269.98
Rick Minor	\$250	Tallahassee City Commission, Seat 1	\$72,735.23	(\$24,188.18)	\$48,547.05
Gloria Pugh	\$250	Tallahassee City Commission, Seat 1	\$48,732.01	(\$15,151.96)	\$33,580.05
Bruce Strouble	\$250	Tallahassee City Commission, Seat 1	\$6,699.31	(\$6,059.40)	\$639.91
Steven Hougland	\$250	Tallahassee City Commission, Seat 2	\$9,475.00	(\$9,450.51)	\$24.49
Curtis Richardson	\$250	Tallahassee City Commission, Seat 2	\$70,675.00	(\$51,971.39)	\$18,703.61
David Hawkins	\$250	Leon County Commission, At Large Group 1	\$6,115.00	(\$6,086.00)	\$29.00
Mary Ann Linley	\$250	Leon County Commission, At Large Group 1	\$57,504.00	(\$52,282.39)	\$5,221.61
Jeffery Bullock	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Nancy Calhoun	\$250	Leon County Commission, District 2	\$3,130.00	(\$3,033.80)	\$96.20
Howard Font	\$250	Leon County Commission, District 2	\$3,748.00	(\$1,801.06)	\$1,946.94
Margaret Franklin	\$250	Leon County Commission, District 2	\$35,586.00	(\$35,434.11)	\$151.89
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$85,855.00	(\$39,089.11)	\$46,765.89
Jimbo Jackson	\$250	Leon County Commission, District 2	\$26,073.00	(\$25,236.12)	\$836.88

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Manny Joanos	\$250	Leon County Commission, District 2	\$115,719.00	(\$114,712.06)	\$1,006.94
T.J Lewis	\$250	Leon County Commission, District 2	\$13,291.00	(\$13,008.69)	\$282.31
Taurean Lewis	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Bradley Sherman	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$250	Leon County Commission, District 2	\$3,976.12	(\$1,969.21)	\$2,006.91
Bryan Desloge	\$250	Leon County Commission, District 4	\$33,850.00	(\$14,223.94)	\$19,626.06
Rocky Hanna	\$1,000	Leon County Superintendent of Schools	\$288,416.55	(\$275,012.77)	\$13,403.78
Woody Hildebrandt	\$1,000	Leon County Superintendent of Schools	\$22,841.61	(\$22,601.60)	\$240.01
Jackie Pons	\$1,000	Leon County Superintendent of Schools	\$371,970.23	(\$342,440.21)	\$29,530.02
Patricia Ann Sunday	\$1,000	Leon County Superintendent of Schools	\$1,156.70	(\$1,085.49)	\$71.21
Forrest Van Camp	\$1,000	Leon County Superintendent of Schools	\$11,200.00	(\$10,317.17)	\$882.83
Michael Wynn	\$1,000	Leon County Superintendent of Schools	\$0.00	\$0.00	\$0.00
Roger Pinholster	\$1,000	Leon County School Board, District 2	\$14,444.00	(\$14,406.84)	\$37.16
Rosanne Wood	\$1,000	Leon County School Board, District 2	\$71,611.43	(\$62,612.58)	\$8,998.85
Patrick Cannon	\$1,000	Leon County School Board, District 4	\$3,243.91	(\$2,779.46)	\$464.45
Tallie Lee Gainer III	\$1,000	Leon County School Board, District 4	\$3,445.00	(\$2,923.70)	\$521.30
Dee Dee Rasmussen	\$1,000	Leon County School Board, District 4	\$39,327.00	(\$35,320.75)	\$4,006.25
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Bill Helmich	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Anthony Cooper	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Delaitre Hollinger	\$1,000	Leon Soil and Water Conservation District 5	\$145.00	(\$85.00)	\$60.00
William Howell	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Monique Richardson	\$1,000	Leon County Judge, Seat 2	\$142,577.76	(\$121,274.19)	\$21,303.57
Layne Smith	\$1,000	Leon County Judge, Seat 2	\$153,773.73	(\$142,971.59)	\$10,802.14
Dorothy McPherson	\$1,000	State Committee Woman	\$1,083.56	\$0.00	\$1,083.56
Caitlin Murray	\$1,000	State Committee Woman	\$21,130.00	(\$12,073.09)	\$9,056.91
Brian Kelley	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Luis Rojas	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Carl Mikyska	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
John B Ray	\$1,000	Capital Regional CDD, Seat 4	\$3,025.00	\$480.11	\$3,505.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Luis Rojas	\$1,000	Capital Regional CDD, Seat 4	\$0.00	\$0.00	\$0.00
Richard Kessler	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Gerry Cashin	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Arthur Kirby	\$1,000	Piney Z CDD, Seat 4	\$200.00	(\$88.04)	\$111.96
Joseph Didier	\$1,000	Piney Z CDD, Seat 4	\$0.00	\$0.00	\$0.00
<i>Redesignated Campaigns</i>					
Scott Maddox	\$1,000	Leon County Superintendent of Schools	\$216,448.55	(\$80,539.23)	\$135,909.32
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$52,525.00	(\$52,525.00)	\$0.00
* Negative balances for Marshall were amended to balance out.					

Select Year:

The 2017 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.141 Disposition of surplus funds by candidates. –

(1) Except as provided in subsection (6), each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate may not accept any contributions, nor may any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, before such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. [106.11\(5\)\(b\)](#) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign

account to an office account any amount of the funds on deposit in such campaign account up to:

- (a) Fifty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.
- (b) Ten thousand dollars, for a candidate for multicounty office.
- (c) Ten thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- (d) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- (e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.
- (f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.
- (g) Three thousand dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member; personal taxes payable on office account funds by the candidate or elected public official; professional services provided by a certified public accountant or attorney for preparation of the elected public official's financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#); costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in s. [106.011](#); fees or dues to religious, civic, or charitable organizations of which the elected public official is a member; items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral; personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or expenses incurred in the operation of the elected public official's office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall use such funds to pay for professional services provided by a certified public accountant or attorney for preparation of the elected public official's final financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#), or give such funds to a charitable organization that meets the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6)(a) For purposes of this subsection, the term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

(b) A candidate elected to state office or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to \$20,000 in his or her campaign account, or in an interest-bearing account or certificate of deposit, for use in his or her next campaign for the same office, in addition to the disposition methods provided in subsections (4) and (5). All requirements applicable to candidate campaign accounts under this chapter, including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

(c) If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or s. [106.11\(5\)](#) within 90 days after the last day of candidate qualifying for that office. Requirements in this section applicable to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(7) Before disposing of funds pursuant to subsection (4), transferring funds into an office account pursuant to subsection (5), or retaining funds for reelection pursuant to subsection (6), any candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her shall reimburse the state or local governmental entity, whichever is applicable, for such waived fee. If there are insufficient funds in the account to pay the full amount of the fee, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund.

(8)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and, on or before the date by which such disposition is to have been made, shall file with the officer with whom reports are required to be filed pursuant to s. [106.07](#) a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor;
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank, savings and loan association, or credit union in which the office account is located; and
4. The amount of such funds retained pursuant to subsection (6), together with the name and address of the bank, savings and loan association, or credit union in which the retained funds are located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. [106.07](#).

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. [106.07](#) for submitting late termination reports.

(9) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. [106.07\(2\)](#).

(10) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(11) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 15, ch. 2013-37.

¹**Note.**—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution. Page 3 of 3

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM B

Citizen Charter Review Committee

Agenda Item #3B

February 8, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This is a public hearing on the proposed charter amendment to provide a “Code of Ethics” requirement in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the third and final public hearing to consider the proposed charter amendment.

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
February 8, 2018
Page 2

Report and Discussion

Background:

On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

Following staff’s presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties’ ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a “Code of Ethics” ordinance, with and without applicability to Constitutional Officers.

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance *not* applicable to Constitutional Officers (Attachment #1). Public hearing were conducted on January 25 and February 1. The final public hearing has been scheduled for February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code.” The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s “Ethics Code” is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven have provisions in their charter that require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

If approved by the Leon County electorate, the Committee’s proposed amendment would require the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the “Code of Ethics” as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments.

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February 8, 2018
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The proposed charter amendment language is included below.

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Conduct the third and final public hearing to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachment:

1. January 11, 2018 Citizens Charter Review Committee “Code of Ethics” Agenda Item

Citizen Charter Review Committee

Agenda Item #5B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to providing for a “Code of Ethics” in the Leon County Charter. Per the Committee’s request, this item also provides proposed charter amendment language including language for a “Code of Ethics” which applies to Constitutional Officers

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request that staff provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

On November 30, following staff’s presentation of the requested agenda item (Attachment #1), the Committee voted 12-0 to request that staff prepare proposed charter amendment language for consideration at the Committee’s January 11, 2018 meeting. Additionally, the Committee requested information and analysis regarding other counties whose charter requires the adoption of a “Code of Ethics.”

Analysis:

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

Per the committee’s request, staff has attached provisions from each counties’ charter regarding the “Code of Ethics” requirement (Attachment #2). Applicability of these counties’ ethics code to elected Constitutional Officers varies.

- Broward, Clay, and Duval County’s charters specifically state that their “Code of Ethics” applies to all elected Constitutional Officers/“county officers.”
- Palm Beach and Seminole County’s “Code of Ethics” does not apply to elected Constitutional Officers.
- Miami-Dade County’s “Code of Ethics” Ordinance is not applicable to elected Constitutional Officers, with the exception of one provision regarding ethical campaign practices and associated penalties of admonition and/or fines.

Based on the Committee’s direction, staff has prepared proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the Code of Ethics as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. In support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #3) in a continuous effort to provide guidance and assistance to County employees.

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As previously stated, all local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, Florida Statutes, which is applicable to all public officials, officers, and employees in the state. Accordingly, section 112.326, Florida Statutes states:

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

Per the Committee’s direction, staff has prepared two variations of the proposed amendment one not applicable to Constitutional Officers and one applicable to Constitutional Officers.

Version #1 (**Not** Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019 and shall. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Version #2 (Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, Leon County Constitutional Officers and their employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative

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standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics” **not** applicable to Constitutional Officers.
Voting Threshold: Simple Majority Vote
2. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule for public hearing the proposed charter amendment language providing for a “Code of Ethics” that is applicable to Constitutional Officers.
3. Request additional information and analysis.
Voting Threshold: Four (4) Votes
4. Take no further action at this time.
Voting Threshold: Simple Majority Vote
5. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. November 30, 2017 Citizen Charter Review Committee “Code of Ethics” Agenda Item
2. Ethical Provisions in Florida Counties’ Charters
3. Leon County Government – Code of Ethics Guide

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

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- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

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Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
 2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
 3. Leon County Board Policy “Code of Ethics”
 4. Leon County’s Lobbyist Regulations Ordinance
- .

Florida Counties' Charter Code of Ethics References

Broward

Section 11.08 BROWARD COUNTY ETHICS COMMISSION

A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

(November 4, 2008: Section 11.08, as proposed by the Charter Review Commission, was created to establish the Broward County Ethics Commission responsible for drafting a Code of Ethics regulating the conduct of County Commissioners, to be considered for passage by the County Commission and/or the County electors.)

Section 11.10 CONSTITUTIONAL OFFICERS SUBJECT TO CODE OF ETHICS

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

(November 2, 2010: Section 11.01 C, as proposed by the County Commission, was amended to establish that a County ordinance shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees through a code of ethics. Section 11.10, as proposed by the County Commission, was created to establish that County constitutional officers are subject to the County Code of Ethics.)

Clay

SECTION 2.2 LEGISLATIVE BRANCH – CODE OF ETHICS

Before July 1, 2007, the Board of County Commissioners shall enact by ordinance a Code of Ethics. The Code of Ethics shall prescribe standards of conduct for members of the Board, the County Manager, the County Attorney, the County Auditor, all other elected or appointed County Officers including the Superintendent of Schools and members of the School Board, and the deputies and employees of all such officers. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics may include, but is not limited to, provisions defining offenses, establishing an ethics board to hear and determine charges, and prescribing penalties within the limits allowed by law. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

(Added November 7, 2006)

Duval

Chapter 2 – ETHICS

Section 1.202. - ETHICS CODE, ETHICS COMMISSION, INSPECTOR GENERAL

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority. The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office; and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

Section 1.203 - ETHICS OVERSIGHT AND COMPLIANCE OFFICE AND OFFICE OF INSPECTOR GENERAL

(a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.

(b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.

(c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.

Miami-Dade

Citizens' Bill of Rights (A) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

Citizens' Bill of Rights (C) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

Orange

Section 706 – CODE OF ETHICS

A. The local code of ethics shall be construed and interpreted in such a way to protect the public's trust and to promote open and accountable government in Orange County. Preserving the public's trust shall be paramount in enforcing the local code of ethics, and it shall be interpreted consistent with the purposes and intent of the local code of ethics.

B. The citizens of Orange County are entitled to a government that embraces best ethical practices and full disclosure of conflicts of interest involving county employees or elected officials. All votes of the board, and actions of the mayor, the county commissioners and county employees, shall be made or taken in the best interests of the citizens of Orange County, free of any undisclosed conflicts of interest.

C. In order to provide a high level of transparency and ethical conduct under charter government, the board shall adopt a local code of ethics applicable to the board of county commissioners and to those employees required to file financial disclosure under state law or who participate in the county procurement process. Such code, though more stringent than general law, shall not place the board of county commissioners or county employees in conflict with the state ethics code, or any other provision of federal or state law, and at a minimum shall provide for:

1. Additional financial and business relationship disclosure;
2. Restrictions on gifts to the board of county commissioners;
3. Under the auspices of an apparent conflict of interest concerning matters involving a prior business associate of any member of the board, disclosure and abstention from voting for a reasonable period of time following termination of the business associate relationship;
4. Approval by the board on development related matters ordinarily subject to final approval by county staff where the applicant or any person having a beneficial interest in the outcome of the matter is a business associate, family member, or employer of a member of the board;
5. Reasonable post-employment restrictions for employees; and
6. Subject to the attainment of the same type of confidentiality provisions available to the state commission on ethics under general law, an enforcement process to provide for due process, penalties, and appeals, all within a reasonable timeframe.

Implementation of the provisions of this subsection shall be by ordinance adopted either prior to the effective date of this provision or by no later than January 1, 2010.

D. The board of county commissioners and those employees required to file financial disclosure under state law or who participate in the county procurement process shall be required to receive at least annual educational sessions on best ethical practices and current trends in ethics issues.

E. The state code of ethics, as provided by general law, shall have full effect on all employees and officeholders under the charter government. Penalty for violation of the state code of ethics shall be as provided by general law.

F. Any local code of ethics adopted prior to the effective date of this section shall, if necessary, be amended so as to comply with the provisions of this section.

Palm Beach

Article VIII Ethics Regulation – Section 8.1 COUNTY CODE OF ETHICS

The county shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 of this charter.

Seminole

Section 5.4 ETHICS

Ordinance Requirements. On or before January 8, 2008, the Board of County Commissioners of Seminole County, shall, by ordinance (the "Ordinance"), require compliance with the following provisions, which shall be supplemental to, but may not diminish the provisions of general law.



LEON COUNTY GOVERNMENT

People Focused. Performance Driven.

THE CODE OF ETHICS GUIDE

An Ethics “Field Manual” for Employees

► **Setting the Standard in Ethics & Public Service**

Vision

A community that is safe, healthy and vibrant.

Mission

To efficiently provide public services which serve and strengthen our community.



ADMINISTRATOR'S LETTER



Vincent S. Long

In every way that Leon County employees touch the lives of our citizens we serve, we consistently strive to set the standard in public service and to uphold the public trust.

Ethics are a core practice in Leon County Government and standards of ethical behavior are detailed in both our "Ethics Code" policy and our "Employee Standards of Conduct" contained in the Human Resources manual. While both of these documents are thorough and complete, the guide you are now holding is intended to be a user-friendly "field manual" for reference, reminders and reinforcement related to the high standards of ethical behavior required to be a Leon County employee.

Understanding that this guide may not answer every question you have now or in the future, I've designated Wanda Hunter, Assistant County Administrator to be your initial point of contact. She is just a phone call or e-mail away should you have a question or concern, require clarification or if you just need a little advice or guidance.

Leon County employees perform many different jobs and fulfill a broad range of responsibilities, but the one thing we must all do every day is practice ethics with great clarity and unwavering consistency. Thank you for all you do to make our community and our organization even better.

Vince



**Just a call
or email
away ...**

Wanda Hunter
Assistant County Administrator
(850) 606-5380
HunterW@LeonCountyFL.gov



With almost 30 years of public service, Wanda Hunter has spent her career dedicated to integrity, honesty and accountability. Beginning her career in Leon County with the Office of Equal Employment Opportunity, Wanda has since worked throughout the County in different roles and levels, giving her vast experience and a unique perspective to help you and address issues of ethics and compliance in coordination with Human Resources and the County Attorney's Office.

A PUBLIC TRUST



Leon County employees fully embrace and live by our core practices, and enhance our people focused, performance driven organizational culture; demonstrate pride in their work and their community; always strive to improve levels of service and performance; and are empowered to help the people they serve. To promote the public interest and maintain the public's trust, Leon County employees are committed to the following Core Practices:

- **Demonstrating Highest Standards of Public Service.** Employees adhere to the highest standards of ethical behavior, avoid circumstances that create even an appearance of impropriety and carry out the public's business in a manner which upholds the public trust. Citizens know that we are on their side.
- **Delivering the "Wow" factor in Customer Service.** Employees deliver exemplary service with pride, passion and determination; anticipating and solving problems in "real time" and exceeding customer expectations. Customers know that they are the reason we are here.
- **Connecting with Citizens.** Employees go beyond customer service to community relevance, engaging citizens as stakeholders in the community's success. Citizens know that they are part of the bigger cause.
- **Accepting Accountability.** Employees are individually and collectively accountable for their performance, adapt to changing conditions and relentlessly pursue excellence beyond the current standard, while maintaining our core values.
- **Exhibiting Respect.** Employees exercise respect for citizens, community partners and each other.
- **Employing Team Approach.** Employees work together to produce bigger and better ideas to seize the opportunities and to address the problems which face our community.
- **Exercising Responsible Stewardship of the Community's Resources.** Employees engage in the continuous effort to create and sustain a place which attracts talent, fosters economic opportunity and offers an unmatched quality of life, demonstrating performance, value and results for our citizenry.
- **Living our "People Focused, Performance Driven" Culture.** Employees have a structure in place to live all of this as our organizational culture and are empowered to help the people they serve.

MISUSE OF POSITION

It is prohibited for any County employee to use or attempt to use his/her position, or any property or resource, that may be within the employee's trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself, herself or others.

Employees shall not be permitted to use County facilities, meeting rooms, or conference rooms, or County equipment for other than County business, unless such facilities or equipment are available in accordance with established policy on a regular basis to the general public in which instance the use of such shall be on the same conditions as for the general public.

Perception is reality

! *Employees should avoid the appearance of inappropriate use of the County's equipment, supplies, facilities, and other resources for their own benefit.*




Q&A

- Q:** I have an outside business providing lawn care service, am I able to share my County business card with possible new clients?
- A:** No. Using your County business card, emailing County contacts and any misuse of County resources is prohibited.

UNAUTHORIZED COMPENSATION

No employee or employee's spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when the employee knows, or with the exercise of reasonable care should know that it was given to influence an employee's official actions.

Delivering the WOW!

 Often our citizens want to express appreciation for work done well. If you have a citizen offer you a gift or money, politely say no. You can suggest they offer appreciation by contacting your supervisor.



Q&A

- Q:** May I take a part-time job from a contractor who currently does work with the County and whose contract I oversee?
- A:** No, you may not take the part time job even if the contractor has no intention of trying to influence how you manage their contract. Taking the job creates an appearance that you are being influenced.

GIVING AND RECEIVING GIFTS

The law prohibits the solicitation or acceptance by any County employee of any gift, loan, favor, or service that would cause a reasonably prudent person to be influenced in the discharge of official duties, or should have known, that it was given to influence an employee's official actions.

Are there gifts I can receive?

? *T-shirts, pencils, raffles, shopping bags and all other "trinkets" are okay to take, as long as it is a County-sponsored or -approved activity and as long as everyone attending the event is offered the same items.*



TIP ►

County employees are eligible for discounts from vendors as long as the same discount is available to all employees.



Q&A

Q: Am I able to accept a dinner that is being offered free at an upcoming office-related event?

A: Accepting of food and/or drinks offered at activities where your attendance is associated with your official County duties is okay.

MISUSE OF INFORMATION

An employee may not disclose or use information not available to the general public for his/her personal gain or for the gain of any other person or business entity.

You have a duty to assure confidential information remains confidential. County employees may have possession of citizen's social security, medical, or even individual financial information. It is our job to always be on guard to strictly protect the confidentiality of this information.

Q&A

? *Q: I'm aware of an upcoming County bid that a friend of mine might be qualified to bid on. In order to help my friend prepare the lowest bid, can I let her know the timing of the bid and let her know what type of contractor the County wants?*

A: No. As a County employee, you cannot use your job to benefit another business or person. Giving your friend this information provides them an unfair advantage over other possible contractors that may also want to bid.



POLITICAL ACTIVITIES

- E**very employee will have the right to express his or her views as a citizen, to cast his or her vote as he or she chooses, to hold membership in and to support a political party, or maintain political neutrality. Employees may also attend political meetings and take an active part in political campaigns during off duty hours. However, every employee is prohibited from:
- Using his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
 - Directly or indirectly coercing, attempting to coerce, commanding, or advising a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
 - Participating in political activities during scheduled work time.
 - Participating as a candidate for public elective office in a partisan primary, general, or special election, will prohibit a person from being principally employed in a federally funded program.
 - Using Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters.

TIP ▶ *Social media requires care when using*



Using your own social media accounts (Facebook, Twitter, etc.) to provide political opinions is okay – as long as it is on your own time. When acting on behalf of the County, including using the County’s social media, refrain from expressing your own personal political views.



Q&A

- Q:** I’ve been asked by a neighbor to collect signatures on a petition opposing a neighborhood re-zoning issue. Can I help out and collect signatures?
- A:** Yes, you can address issues that are important to you and as a citizen are permitted. Remember that you must do this on your own time and must not give even the appearance that you are representing the County. And as always, do not provide any confidential information in support of your position.

OUTSIDE EMPLOYMENT

Employees shall not engage in any employment activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their County employment.

Employees may not transact business on behalf of the County with any agency in which either the employee or a member of the employee's immediate family has a "material interest."

Employees may not hold any employment or contractual relationship with any business entity or any agency, which is subject to the regulation of, or is doing business with, Leon County Government.



TIP ►

Accepting work outside of the County is acceptable as long as it doesn't conflict with your County job hours and shifts. Remember, your County job comes first.

Complete an Outside Employment Form



Employees who desire to accept outside employment in addition to their regular County position must complete an outside employment form and submit it to their respective Department/ Division Director for a determination of whether such employment conflicts with the duties and responsibilities of the employee.



Q&A

Q: I'm interested in getting a part time job a couple nights a week. Can I?

A: You may get a part-time job with the following conditions: you've completed the County's outside employment form and received the necessary approvals; your County job comes first and the new job's hours do not conflict; and you cannot use any County equipment, supplies, space, etc. when working at your part time job.

NEPOTISM

A relative of any County employee with supervisory responsibility shall not be eligible for employment in or advancement to any position which reports directly to the supervisory employee.

Likewise, a County employee shall not be eligible for advancement to any position with direct supervisory responsibility over a position in which a relative is employed.

TIP ▶ “Relative” is a relative term...

➔ *Leon County’s definition of “relative” includes not only father, mother, son, and daughter, but also brother, sister, uncle, and aunt as well as others – when in doubt, reach out to Human Resources for a complete list.*



Q&A

- Q:** Can my daughter apply for a job with the County?
- A:** Your daughter may apply for and be considered for a job at the County, IF, when hired you are not directly responsible for their supervision.

SOLICITATION AND FUNDRAISING



No employee or other person may solicit or be solicited during working hours or in work areas.

No employee may distribute literature in his/her work area or during work hours.

No person may distribute literature to an employee in that employee's work area or during that employee's working hours.

Charitable solicitations may be permitted upon approval of the County Administrator and subject to the following:

- Solicitation may take place only for charitable purposes and not for private gain, and only on behalf of generally recognized and reputable charitable organizations.
- The specific activities to be utilized in the charitable solicitation must be communicated to and approved by the County Administrator prior to any activity taking place.

TIP ►



As a member of a professional organization you may be subject to their specific code of ethics. As a County employee, the Leon County Code of Ethics sets a benchmark for you. If your professional organization has a more stringent code of ethics, reach out to the Assistant County Administrator to discuss which code you should follow.



REPORTING ETHICS CONCERNS



You are encouraged to report suspected ethics or compliance concerns, waste or abuse of County resources to your supervisor, or the Assistant County Administrator or both, depending on the circumstances.

- b. The Assistant County Administrator is ready and able to discuss any ethics or compliance concerns or issues of waste or abuse of County resources and will make every effort to maintain the confidentiality of the employee.
- c. Employees making a report in good faith, or cooperating in an investigation, shall not suffer any form of retaliation.
- d. Any suspicion of fraud should be reported directly to the fraud, waste, and abuse hotline, toll-free at 850-606-5304. Or, by mail to: Leon County Fraud, Waste, Abuse & Misconduct Hotline, 301 South Monroe Street, 5th Floor Leon County Courthouse, Tallahassee, Florida 32301. Reports may be made anonymously.

Additional information can be found at:
www.LeonCountyFL.gov/Fraud

- e. Any ethics and compliance concerns should be directed to 850-606-5380.



“Ethics is knowing the difference between what you have a right to do and what is right to do.”

—Supreme Court Justice Potter Stewart

AUTHORITY AND ENFORCEMENT



Leon County Policy No. 03-05 “Code of Ethics” applies to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

- b. In addition to the “Code of Ethics”, Leon County’s Human Resources Manual, Section II contains standards for “Employee Conduct”.
- c. The Code of Ethics for public officers and employees as set forth in Part III of Chapter 112, Florida Statutes, applies to all employees and sets forth a baseline of requirements. Where the County Code of Ethics has stricter requirements, employees must adhere to this code. Additionally, County employees may have professional association or licensing ethics requirements, which may impose requirements beyond the County Code of Ethics.
- d. Questions regarding compliance with the Code of Ethics are handled by the Assistant County Administrator, in consultation with the County Attorney and Human Resources as needed. In most cases, violations of the Code of Ethics will be addressed by the department director with assistance from the Assistant County Administrator and Human Resources. Where a violation has been found, discipline can range from corrective counseling to termination.



“The truth of the matter is that you always know the right thing to do. The hard part is doing it.”

—General H. Norman Schwarzkopf



ADDITIONAL RESOURCES



In our continuous efforts to be an employer of choice, Leon County Government seeks to attract and retain high performing, healthy and happy employees. This is not only good for our employees, but key to our success in setting the standard in public service. In addition to assisting our employees in navigating potential ethical situations, we have put in place policies and programs which have garnered national attention for employee well-being, domestic violence and employee assistance. Like the ethics guide, the resources below are intended to serve and support our employees and sustain a workplace where our people can thrive.

Domestic Violence, Sexual Violence and Stalking in the Workplace (Policy 13-2): Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County instituted this

Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.



Violence Prevention and Intervention (Policy 03-12):

Violence in the workplace can have a devastating effect on the productivity of organizations and the quality of life of employees. Recognizing this problem, Leon County has developed procedures to identify, report, intervene, and prevent workplace violence.

Employee Assistance Program (Policy 16-2): The Employee Assistance Program (EAP) has been established to assist employees, who develop

alcohol, drug, behavioral or stress related problems that result in or contribute to substandard job performance, by providing confidential consultation, treatment and rehabilitation.

Leon County Wellness Program (Policy 12-4): The primary purpose of the Leon County Wellness Program shall be to offer programs and services to assist employees in making voluntary behavior changes that improve employee health and enhance individual productivity and well-being or maintaining a healthy lifestyle.



SMALL CHOICES. BIG CHANGE.





People Focused. Performance Driven.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM C

Citizen Charter Review Committee

Agenda Item #3C

February 8, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on a proposed charter amendment to provide a hiring/firing process for County Attorney to match that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the third and final public hearing to consider the proposed charter amendment (Attachment #1).

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
February 8, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (Attachment #2) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing. Public hearing were conducted on January 25 and February 1. The final public hearing has been scheduled for February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

If approved by the Leon County electorate, the Committee's proposed charter amendment would provide for a hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator.

The proposed charter amendment language is included below, and Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format. Strike-through represents deletions and underline represents new language to be added.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

The majority of Florida's charter counties (17 of 20) outline the hiring and firing process for the county administrator within their charter. Only eight (8) counties include provisions for the county attorney in their charter and, of these, the following six (6) counties provide the same hiring/firing process for both positions: (1) Brevard County; (2) Clay County; (3) Hillsborough County; (4) Lee County; (5) Seminole County; and (6) Volusia County. As is the case in Leon County, termination provisions for the county attorney are more commonly included as part of a negotiated contract between the county attorney and the board of county commissioners.

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
February 8, 2018
Page 3

Options:

1. Conduct the third and final public hearing to consider the proposed charter amendment (Attachment #1).

Voting Threshold: Simple Majority Vote

2. Provide staff with additional direction.

Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachment:

1. January 11, 2018 Item, "Hiring/Process for the County Attorney"

Citizen Charter Review Committee

Agenda Item #5C

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language modifying the County Attorney hiring/firing process to match that of the County Administrator in the Leon County Charter (Attachment #1).

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item (Attachment #2). The Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding the hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator. Strike-through represents deletions and underline represents new language to be added. Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 3

Attachment:

1. Proposed Charter Amendment
2. December 7, 2017 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of the of Charter Counties do not include a provision in their charter’s related to the hiring/firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

IV.

CONSIDERATION OF PROPOSED CHARTER AMENDMENTS FOR RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM A

Citizen Charter Review Committee

Agenda Item #4A

February 8, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Increase Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator

Summary:

This item considers recommending to the Leon County Board of County Commissioners a proposed charter amendment striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions*.

Staff Recommendation:

Committee direction.

Title: Increase Campaign Contribution Limits for Local Elections
February 8, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (Attachment #2). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing.

At the time of the presentation of this item, the Committee will have conducted three public hearings for the proposed charter amendment.

Analysis:

The Committee's proposed charter amendment would remove Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. These provisions apply to the Leon County Board of County Commissioners and Constructional Officers respectively, and both provisions read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Attachment #1 shows Article II sec. 2.2 sub. (7) and Article III sec. 3.4 stricken from the Charter.

To recommend this proposed charter amendment to the Board of County Commissioners a vote of at least ten (10) members of the Committee is needed. If approved, the proposed charter amendment language will be included in the Committee's final report. The Board of County Commissioners will review the Committee's final report and determine which proposed charter amendments to advance to public hearing. Following the Board's public hearing, a majority vote of the Board is needed to place the proposed charter amendment on the 2018 General Election ballot. If approved by the Leon County electorate, this proposed charter amendment will go into effect on January 1, 2019.

Title: Increase Campaign Contribution Limits for Local Elections

February 8, 2018

Page 3

Options:

1. Approve the proposed charter amendment to increase campaign contribution limits for local elections for recommendation to the Board of County Commissioners for placement on the 2018 General Election ballot.

Voting Threshold: Ten (10) Votes

2. Take no further action.

Voting Threshold: Simple Majority Vote

Recommendation:

Committee direction.

Attachment:

1. Proposed Charter Amendment

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM B

Citizen Charter Review Committee

Agenda Item #4B

February 8, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Code of Ethics Requirement

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator

Summary:

This item considers recommending to the Leon County Board of County Commissioners a proposed charter amendment to provide a “Code of Ethics” requirement in the Leon County Charter.

Staff Recommendation:

Committee direction.

Title: Recommendation of Charter Amendment to Provide a Code of Ethics Requirement
February 8, 2018
Page 2

Report and Discussion

Background:

On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

Following staff’s presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties’ ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a “Code of Ethics” ordinance, with and without applicability to Constitutional Officers.

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance *not* applicable to Constitutional Officers (Attachment #1).

At the time of the presentation of this item, the Committee will have conducted three public hearings for the proposed charter amendment.

Analysis:

The Committee’s proposed charter amendment language is included below.

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

To recommend this proposed charter amendment to the Board of County Commissioners a vote of at least ten (10) members of the Committee is needed. If approved, the proposed charter amendment language will be included in the Committee’s final report. The Board of County Commissioners will review the Committee’s final report and determine which proposed charter amendments to advance to public hearing. Following the Board’s public hearing, a majority vote of the Board is needed to place the proposed charter amendment on the 2018 General Election

Title: Recommendation of Charter Amendment to Provide a Code of Ethics Requirement
February 8, 2018
Page 3

ballot. If approved by the Leon County electorate, this proposed charter amendment will go into effect on January 1, 2019.

Options:

1. Approve the proposed charter amendment to provide a “Code of Ethics” requirement in the Leon County Charter for recommendation to the Board of County Commissioners for placement on the 2018 General Election ballot.

Voting Threshold: Ten (10) Votes

2. Take no further action.

Voting Threshold: Simple Majority Vote

Recommendation:

Committee direction.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM C

Citizen Charter Review Committee

Agenda Item #4C

February 8, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Employment of the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator

Summary:

This item considers recommending to the Leon County Board of County Commissioners a proposed charter amendment providing a hiring/firing process for County Attorney to match that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Committee direction.

Title: Employment of the County Attorney
February 8, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (Attachment #2) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing.

At the time of the presentation of this item, the Committee will have conducted three public hearings for the proposed charter amendment.

Analysis:

The Committee's proposed charter amendment language is included below, and Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format. Strike-through represents deletions and underline represents new language to be added.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

To recommend this proposed charter amendment to the Board of County Commissioners a vote of at least ten (10) members of the Committee is needed. If approved, the proposed charter amendment language will be included in the Committee's final report. The Board of County Commissioners will review the Committee's final report and determine which proposed charter amendments to advance to public hearing. Following the Board's public hearing, a majority vote of the Board is needed to place the proposed charter amendment on the 2018 General Election ballot. If approved by the Leon County electorate, this proposed charter amendment will go into effect on January 1, 2019.

Title: Employment of the County Attorney
February 8, 2018
Page 3

Options:

1. Approve the proposed charter amendment regarding employment of the County Attorney for recommendation to the Board of County Commissioners for placement on the 2018 General Election ballot.
Voting Threshold: Ten (10) Votes
2. Take no further no action.
Voting Threshold: Simple Majority Vote

Recommendation:

Committee direction.

Attachment:

1. Proposed Charter Amendment

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

V.

**2017-2018 Leon County Citizen Charter
Review Committee Final Report**

Citizen Charter Review Committee

Agenda Item #5

February 8, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: 2017-2018 Leon County Citizen Charter Review Committee Final Report

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator

Summary:

This item presents a draft of the *2017-2018 Leon County Citizen Charter Review Committee Final Report* for the Committee's approval and subsequent transmittal to the Leon County Board of County Commissioners.

Staff Recommendation:

Option #1: Authorize the Chairman to transmit the *2017-2018 Leon County Citizen Charter Review Committee Final Report* inclusive of the actions taken during the Committee's February 8, 2018 meeting to the Leon County Board of County Commissioners (Attachment #1).

Title: 2017-2018 Leon County Citizen Charter Review Committee Final Report
February 8, 2018
Page 2

Report and Discussion

Background:

On October 10, 2017, the Board of County Commissioners appointed 14 citizens to the 2017-2018 Leon County Citizens Charter Review Committee. All members were appointed to a term of 120 days (four months), to review the County's Home Rule Charter and propose any amendments or revisions for consideration by the Board for placement on the 2018 general election ballot. At the completion of this term, the Committee is required to submit any recommendations to the Board of County Commissioners as part of a final report.

Analysis:

A draft of the *2017-2018 Leon County Citizen Charter Review Committee Final Report* (the "Report") is included as Attachment #1. The Report provides an overview of the Committee membership, staff, and deliberation process, as well as an analysis of proposed charter amendments and the additional topics considered for charter amendments. The Report concludes with a section for the final proposed charter amendment language for recommendation to the Board of County Commissioners.

Where appropriate, staff has highlighted sections where the final actions taken by the Committee on February 8, 2018 will be added. Staff is seeking approval of the *2017-2018 Leon County Citizen Charter Review Committee Final Report* and authorization to incorporate the Committee's final actions into the report. Per the Committee's bylaws, this item also seeks authorization for the Chairman to transmit the Report to the Leon County Board of County Commissioners. Approval and transmittal of the *2017-2018 Leon County Citizen Charter Review Committee Final Report* requires at least 10 votes of the Committee.

The Board of County Commissioners will review the Committee's final report and determine which proposed charter amendments to advance to public hearing. Following the Board's public hearing, a majority vote of the Board is needed to place a proposed charter amendment on the 2018 General Election ballot. If approved by the Leon County electorate, proposed charter amendments will go into effect on January 1, 2019.

Options:

1. Authorize the Chairman to transmit the 2017-2018 Leon County Citizen Charter Review Committee Final Report inclusive of the actions taken during the Committee's February 8, 2018 meeting to the Leon County Board of County Commissioners (Attachment #1).
Voting Threshold: Ten (10) Votes

Recommendation:

Option #1.

Attachment:

1. Draft *2017-2018 Leon County Citizen Charter Review Committee Final Report*

**2017-2018 Leon County Citizens
Charter Review Committee**

FINAL REPORT

March 2018

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INTRODUCTION and OVERVIEW

As part of the 1968 Florida Constitutional Revision, the state's voters approved an amendment which constitutionally-vested all 67 Florida counties with home rule and provided citizens with the ability to adopt a county charter. Prior to the 1968 Constitutional Revision, Florida counties only had those powers expressly granted to them by the state.

Charters are formal documents which confer certain powers, duties, and privileges to the county. Charters resemble state constitutions in that they must be approved by the voters within the county. Charter governments recognize that a "one-size-fits-all" approach does not work for all counties, reflect community preferences, provide flexibility in fulfilling state-mandated functions, and provide an increased ability to address local concerns. Through a charter, counties have the power of self-government and the authority to tailor structures, service delivery mechanisms, and intergovernmental relationships to address local issues.

On November 5, 2002, the citizens of Leon County voted to adopt a home rule charter making Leon County the 19th charter county in Florida. Currently, there are 20 charter counties in the state, which represent over 75% of the state's population. All county charters have a process by which charter revisions and amendments are submitted to the local electorate; however, only 18 counties including Leon County require a regularly-scheduled review of the charter by a citizen committee. The purpose of a charter review process is to ensure that the county government continues to reflect the preferences of its citizens.

According to the Leon County Charter, a Citizen Charter Review Committee must be convened every eight years and charged with reviewing the County Charter and proposing any amendments or revisions for consideration by the Board of County Commissioners which may be advisable for placement on the general election ballot. The first Citizen Charter Review Committee was convened in 2009.

Eight years later, on October 10, 2017, the Board of County Commissioners appointed 14 citizens to the 2017-2018 Leon County Citizens Charter Review Committee (the "Committee"). All members were appointed to a term of 120 days (four months), after which a final report was to be presented to the Board of County Commissioners.

The Board charged the Committee with the broad purview to recommend any proposed charter amendments they deemed advisable and to seek public input in their deliberations.

COMMITTEE MEMBERSHIP AND STAFF

As established by the Leon County Board of County Commissioners, the 2017-2018 Leon County Charter Review Committee consists of 14 Leon County residents with two appointments per Commissioner. Members of the Committee are listed herein. They served without compensation.

Citizens Charter Review Committee Members:	Commissioner:
Lee Hinkle, Chair	Kristen Dozier
Kim Williams, Vice Chair	Nick Maddox
Reginald Ellis	Bill Proctor
Michael Eurich	Mary Ann Lindley
Neil Fleckenstein	Kristen Dozier
William Graham	Bryan Desloge
Kenneth Hart	Mary Ann Lindley
Shane Hopkins	Jimbo Jackson
Catherine Jones	Bill Proctor
Casey Perkins	Bryan Desloge
Anice Prosser	Jimbo Jackson
Jay Revell	John Dailey
Gordon Thames	Nick Maddox
Ted Thomas	John Dailey

Vincent S. Long, County Administrator, Alan Rosenzweig, Deputy County Administrator, Heather Peeples, Special Projects Coordinator, Nicki Paden, Management Analyst and Sara Pratt, Management Intern provided staff support and analysis to the committee. Herbert W. A. Thiele, County Attorney and LaShawn Riggans, Deputy County Attorney provided legal support and analysis. The Board Secretary, Rebecca Vause, under the Clerk of Courts, recorded and maintained the minutes of the Committee's meetings.

COMMITTEE PROCESS

The Committee was provided with by-laws to assist in guiding the charter review process; however, the Board of County Commissioners did not wish to limit the scope of the review and granted the Committee full discretion to review any and all relevant issues.

Pursuant to the Leon County Charter Review Committee By-Laws, the Committee conducted six meetings and three public hearings between November 9, 2017 and February 8, 2018. All meetings were publicly noticed and the opportunity for citizen testimony was provided at every meeting. The meetings were divided among three phases in which charter amendment proposals were subject to increasingly higher voting thresholds in order to proceed through the committee's process (**Attachment #1**). During the first phase, the Committee identified charter amendment proposals for additional analysis and deliberation. Following Committee discussion and approval, the proposal could proceed to the second phase for Committee consideration, a review of proposed charter amendment language. Upon review and approval, the amendment would enter the final phase which consisted of proposed amendments being considered for review and discussion at three public hearings.

The Committee conducted the three public hearings on the proposed charter amendments on January 26, February 1, and February 8, 2018. At the conclusion of the final public hearing, 10 Committee votes were needed to advance the proposed amendment to the Board of County Commissioners for consideration. Subsequent to this submission, the proposed amendments must then be approved by a majority vote of the Board prior to being placed on the general election ballot. A comprehensive review of the Committee process including the Charter amendment proposals, Committee By-Laws, meeting minutes, and meeting agendas are included as **Appendix A-D**.

PROPOSED CHARTER AMENDMENTS

While the Board of County Commissioners provided the Committee with by-laws to help guide the charter review process, the Committee was not limited in its purview and had full discretion to review any and all relevant issues. The Committee considered eleven issues during the course of its work and following three public hearings recommends the following **XX** Charter Amendments to be advanced to the Board of County Commissioners for consideration for placement on the November 2018 general election ballot:

[The titles of the specific charter amendments that receive 10 votes by the Committee at the February 8 meeting will be included in this section]

The following information is provided for each proposed amendment:

- A summary of the Committee's action on the specific subject
- The proposed charter amendment language
- A summary of the analysis considered by the committee

[The detailed analysis of the specific charter amendments that receive 10 votes by the Committee at the February 8 meeting will be included in this section]

ADDITIONAL TOPICS CONSIDERED FOR CHARTER AMENDMENTS

The Citizens Charter Review Committee considered the following topics as possible charter amendments but voted at various phases of the Committee process to not advance them as recommended amendments.

1. Increase Campaign Contributions Limits for Local Elections
2. Provide a Code of Ethics Requirement in the Leon County Charter
3. Modify the Hiring/Firing Process for the County Attorney
4. Proposal to Modify the District Commission Election Process
5. Proposal to Consider the Consolidation of Law Enforcement Services
6. Proposal to Explore Changes related to the Current Preservation of Constitutional Officers in the County Charter
7. Proposal to Consider Making the Superintendent of Schools Nonpartisan
8. Proposal to Impose Standards for CRA Expenditures
9. Proposal to Consider Nonpartisan Constitutional Officers
10. Proposal to Modify the District Composition of the BOCC
11. Protections for Water Resources

[The specific charter amendments that receive 10 votes by the Committee at the February 8 meeting will be moved to the preceding section of this report]

Increasing Campaign Contribution Limits for Local Elections

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter (**Attachments #3**). On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (**Attachments #6**). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing. The Committee conducted public hearings on January 25, February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

[Final action on February 8]

Proposed Charter Language: Proposed charter amendment language **striking** Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. Article II sec. 2.2 sub. (7) and Article III sec. 3.4 applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter that would be stricken read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Summary Analysis: Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers. The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by 65.5% the local electorate.

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals and political committees from \$500 to \$1,000. Of Florida's 67 counties, 64 follow the current state law of a \$1,000 campaign contribution limit. Only Alachua, Leon, and Sarasota County have local campaign contribution limits.

Most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles. Campaign fund balances are the funds that remain following an election. However if a negative balances remains, it must be addressed by the campaign after an election has ended.

Code of Ethics Requirement

Summary of Committee Action: On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a "Code of Ethics" in the County Charter (**Attachments #3**).

Following staff's presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties' ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a "Code of Ethics" ordinance, with and without applicability to Constitutional Officers (**Attachments #4**).

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a "Code of Ethics" ordinance *not* applicable to Constitutional Officers. The Committee conducted public hearings on January 25, February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

[Final action on February 8]

Proposed Charter Amendment language:

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Summary Analysis: A "Code of Ethics" sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 "Ethics Code."

The County's "Ethics Code" is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees. The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. Additionally, in support of the County's existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics "Field Manual for Employees (Attachment #6)* in a continuous effort to provide guidance and assistance to County employees.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law.

Of the 20 charter counties in Florida, seven have provisions in their charter that require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their "Code of Ethics" within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees.

However, unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney's Office opinion that the County can only impose a "Code of Ethics" on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the County's existing Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law.

Hiring/Firing Process for the County Attorney

Summary of Committee Action: At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter (**Attachments #4**).

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft

Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (**Attachments #6**) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing. The Committee conducted public hearings on January 25, February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

[Final action on February 8]

Proposed Charter Amendment language:

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of,~~ and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Summary Analysis: The County Administrator and County Attorney are the only positions that are directly appointed by and report to Leon County Board of County Commissioners. The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator which the Board of County Commissioners placed on the November 2010 General Elections ballot and was approved by 58.4% of the local electorate. However, the process for the appointment or removal of the County Attorney is not specified in Leon County's Charter.

The majority of Florida's charter counties (17 of 20) outline the hiring and firing process for the county administrator within their charter. Only eight (8) counties include provisions for the county attorney in their charter and, of these, six (6) counties provide the same hiring/firing process for both positions (Brevard County, Clay County, Hillsborough County, Lee County, Seminole County and Volusia County). As is the case in Leon County, termination provisions for the county attorney are more commonly included as part of a negotiated contract between the county attorney and the board of county commissioners.

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting. If approved by the Leon County electorate, the Committee's proposed charter amendment would provide for a hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator.

Modifying the District Composition of the Board of County Commissioners

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion 12-0 to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners. On November 30, 2017, the Committee received additional information and analysis (**Attachment #3**) and voted 11-1 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language for consideration. On January 11, 2018, following consideration of the proposed charter amendment language (**Attachments #6**), the Committee voted 8-5 to take no further action on this issue.

Summary Analysis: In accordance with Section 2.1 of Leon County's Charter, the Board of County Commissioners is composed of seven total members: One Commissioner elected for each of the five County Commission districts and two At-Large Commissioners. All County Commissioners serve staggered terms of four years. This composition has been in place since 1986 and was incorporated into the original Leon County Home Rule Charter adopted in 2002.

Florida's Constitution allows charter county voters to adopt a variety of structures and election processes for its board of county commissioners; however, Leon County has additional considerations. Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended.

In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved

of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No. 01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its “election plan,” no modifications to the current election system and composition of the BOCC could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Regardless of the approach taken, the County would still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval.

Staff was uncertain that all legal matters could be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. As an alternative, staff offered that the Committee could recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Charter Provisions Related to Constitutional Officers

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion 12-0 requesting an agenda item related to potential changes to the Constitutional Officers which the Charter Committee may wish to consider. Following staff’s presentation of the item on November 30, 2017 (**Attachment #4**), a motion requesting staff to prepare additional analysis related to the duties and the process of appointing of Constitutional Officers failed 2-10.

On January 11, 2018 the Committee voted 8-5 to request that staff prepare additional information related to the duties and potential process of appointment for the Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector

(Attachment #6). After discussion during the January 18, 2018 meeting, the Committee voted 9-1 to take no further action on this issue.

Summary Analysis: Across the nation, there is great disparity among county governments related to the election and appointments of County officers, known more commonly as “row officers.” The most commonly elected row offices include the Sheriff, Clerk, Assessor (i.e. Property Appraiser), and Treasurer; however, the variation of functions and titles of officers unique to some states make it difficult to equally compare. In addition, numerous County officers exist across the country which are unique to only one or two states. For instance, only two states (Florida and California) have elected elections supervisors.

All of the 47 non-charter governments and the majority of the 20 charter counties in Florida have five constitutional officers who perform a variety of constitutional and statutory duties and functions for the state and county. The five constitutional officers include the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Each of these constitutional officers administer their own office; however, each office obtains budgets and facilities from their respective Board of County Commissioners to perform their respective duties.

The Leon County’s Charter, as originally approved in 2002, includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections. The 2009-2010 Citizen Charter Review Committee previously considered changes to Constitutional Officers; however, the Committee did not recommend amending this provision of the County Charter.

Florida Charter Counties have the ability to abolish elected Constitutional Officers, as long as the duties of the individual office are provided for elsewhere. Article VIII, Section 1 (d) of the Florida Constitution states that there shall be five County Officers, “...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office.” There are two approaches to abolish an office and transfer its responsibilities to another office. One is to transfer the responsibility to an appointed position and the other is to transfer the duties to an elected charter officer. Variation among Florida’s Charter Counties related to the method of selection and transfer of duties of Constitutional Officers include:

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.
- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.
- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.

- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

Per the Committee's request, staff provided a potential process for appointment of these positions, which is consistent with how the County currently recruits and hires for Department Directors. The appointed positions would become Department Directors reporting to the County Administrator. The County would establish the necessary skills, experience and education requirements for each of the positions. Hiring would be based on a competitive and open recruitment process. Appointments would be based on qualifications, skills, and ability to fulfill the statutory duties of the office.

Staff also noted that, while there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

Consolidation of Law Enforcement Offices

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 30, 2017, the Committee passed a motion 9-2 requesting additional information and analysis related to consolidation of law enforcement services (Attachment #4). On December 7, staff provided an analysis of the requested information (Attachment #5) and the Committee voted 10-2 to take no further action on this issue.

Summary Analysis: Currently, the City of Tallahassee Police Department (TPD) provides law enforcement services to citizens within the incorporated area of the County, while the Leon County Sheriff's Office (LCSO) provides countywide services and patrol services to the unincorporated area. In addition to patrol, LCSO is also responsible for school resource deputies, judicial services (warrants, civil process, bailiffs, inmate transportation, etc.), and the operation of the Leon County Detention Center. TPD and LCSO have mutual aid and other agreements to ensure cooperation for the provision of law enforcement services throughout the County.

The consolidation of law enforcement services cannot be effectuated through a charter amendment or unilaterally by any one government. Consolidation requires the mutual agreement of all parties through one of the two methods for consolidation as provided by Florida law which include:

(1) Transfer of Powers

As outlined in Article VIII, Section 3 of the Florida Constitution, the powers and functions of a county or municipality may be permanently transferred to and performed by another county or municipality. This transfer of power requires a special law or resolution of the governing bodies of each of the affected governments followed by approval from the electors of both governments through a dual referendum. A "dual referendum" requires the residents of the City and unincorporated each to separately approve the referendum.

(2) Interlocal Agreement

Section 166.0495, Florida Statutes, authorizes a municipality to enter into an interlocal agreement to obtain law enforcement services from an adjoining municipality within the same county, without requiring dual referenda for approval. An interlocal agreement allows

governments to set their terms when contracting for services and/or transferring certain functions such as the duration of time that one government will provide services for the other.

Subsequently, consolidation of law enforcement services in Leon County would require either the transfer of the City's law enforcement authority to LCSO by resolution and dual referendum or through an interlocal agreement between the City and the Sheriff. As the funding entity for the Sheriff's Office, the Leon County Board of County Commissioners would also need to support the consolidation and work collaboratively with the City and LCSO.

Additionally, prior to implementing a consolidation of law enforcement services, the Board of County Commissioners, the City Commission, and the Sheriff would need to conduct a broad review to address several issues including but not limited to impacts to services and/or crime rates, variations in organizational structure and leadership, and development of consistent policies and training. Potential costs associated with implementation such as modifications to salaries and benefits packages, increased pensions, and issuing standard equipment/materials (uniforms, vehicles, branding, etc.) would also need to be identified and budgeted for. Addressing these and other issues related to implementation, may require the respective entities to hire a consultant to perform an in-depth analysis.

Standards for CRA Expenditures

Summary of Committee Action: At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency (CRA).

On December 7, 2017, County staff presented the Committee with an agenda item (**Attachments #5**) including a legal analysis of the proposed Charter amendment. The analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to existing Interlocal Agreements. The Committee passed a motion 12-0 to request a presentation from the Community Redevelopment Agency. During the January 11, 2018 Charter Review Committee Meeting, the Committee voted 11-2 to take no further action on this issue.

Summary Analysis: The Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) governs the creation of community redevelopment agencies and the exercise of powers in carrying out community redevelopment. In 1998, pursuant to and in accordance with the provisions of the Community Redevelopment Act, the City of Tallahassee adopted Ordinance No. 98-O-0046, which created the Tallahassee Community Redevelopment Agency (the "CRA").

The CRA is governed by the CRA Board, which is presently composed of nine members, including the Mayor of the City of Tallahassee, four City Commissioners, and four members of the Leon County Board of County Commissioners. The CRA presently employs five full-time employees and one part-time employee, all of whom are considered to be City employees. Per the Charter Review Committee's request, the Committee received a presentation from Wayne Tedder, Tallahassee Assistant City Manager, on January 11th. The presentation provided an

overview of the establishment, scope, and successes of the CRA as well as the collection and expenditure of CRA funds.

The County does not have any ordinances or Charter provisions concerning the CRA and community redevelopment, but has entered into Interlocal Agreements pertaining to same. Existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA beyond the allowable uses of CRA funds as articulated in Florida Statute. Imposing standards for these expenditures would require amendments to existing Interlocal Agreements and cannot be effectuated by a Charter amendment. Furthermore, amendments to the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County.

Modification of the District Commission Election Process

Summary of Committee Action: At the November 16 Leon County Charter Review Committee meeting, the Committee voted 7-5 to request an agenda item related to modifying the district commission election process for the Leon County Board of County Commissioners (**Attachment #3**). At the meeting on November 30, 2017 staff provided an analysis of the requested information (**Attachment #4**) and the Committee voted 11-1 to take no further action on this issue.

Summary Analysis: When the Leon County Home Rule Charter was adopted in 2002, the drafters of the proposed Charter and the Board of County Commissioners elected not to try to modify the existing composition of the Board of County Commissioners. In 2002, the composition included five (5) County Commission Districts, elected by the electors of that District, and two (2) At-large Commissioners elected on a County-wide basis by the electors of the County.

The Committee was provided with additional information and analysis on the proposal that only electors within each of the Commission single member Districts would vote in a primary election for candidates for each single member District office. However, after such a primary election, the two (2) highest vote getters (assuming there are more than one candidate) would be put on the General Election ballot for a vote by all of the electors of Leon County. No Counties in Florida (either Charter or non-Charter) currently utilize this election process.

Compliance with the Voting Right Acts of 1965 as amended would be necessary in order to make such a modification of the district commission election process. Because the United States District Court for the Northern District of Florida has retained jurisdiction, a petition for a modification to the election plan contained in the Court's Final Judgment of 1986 or seeking dissolution of the Court's continuing jurisdiction over Leon County and its election plan would be required. No significant research has been performed as to whether or not such an election system would comply with all Federal Laws, especially the Voting Rights Act of 1965, as amended; however, serious issues exist concerning significant dissolution of minority electors' voting impact, and thus will not comply with the Voting Rights Act.

Nonpartisan Superintendent of Schools and Constitutional Officers

Summary of Committee Action: On November 16, 2017, the Charter Review Committee voted 12-0 to request legal analysis on making the office of Superintendent of Schools and

Constitutional Officers nonpartisan (**Attachment #3**). On December 7, 2017, the requested analysis was presented which conveyed that charter counties have the authority to make Constitutional Officers, that are also considered “county officers”, nonpartisan. However, charter counties cannot effectuate this change for Superintendents of Schools as these positions are regulated and governed by the respective school district boards. Subsequently, the Committee voted 11-1 to receive additional information and analysis related to making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan (**Attachment #5**). On January 11, staff provided an analysis of the requested information (**Attachment #6**) and the Committee voted 9-4 to take no further action on this item. Summary of Analysis: Leon County’s Charter currently requires that the election of the Supervisor of Elections shall be nonpartisan, a provision that was included in the County’s original Charter adopted by the voters in 2002.

The legal analysis presented to the Committee concluded that the office of Superintendent of Schools is regulated and governed by the respective district school boards and government at a state and not local level. Therefore, making the office nonpartisan could not legally be effectuated by a Charter amendment. In coming to this conclusion, the County Attorney’s Office reviewed Article VIII and IX of the Florida Constitution, searched Attorney General Opinions, and reviewed available case law. Additionally, staff looked at each of the 19 other charters of the 20 Florida Charter Counties. Staff provided the Committee with information and analysis on this issue as well as data on the Leon County electorate and candidates for local offices over the last four election cycles. Staff concluded that currently there are several challenges to charter counties’ authority to make constitutional officers nonpartisan. These include ongoing litigation and proposals being considered by the Florida Constitutional Revision Commission.

Protections for Water Resources

Summary of Committee Action: At the Leon County Charter Review Committee meeting of January 11, 2018, the Committee voted 13-0 to request additional information and analysis regarding how other county charters have addressed protecting water resources (**Attachments #6**). On January 18, staff provided an analysis of the requested information (**Attachment #7**) and the Committee voted 10-0 to take no further action on this issue.

Summary of Analysis: Waters in the state are considered a public resource to be managed on a state and regional basis. Consequently, the State maintains exclusive authority for requiring water use permits for the consumptive use of water, such as the construction of water wells. However, counties can establish environmental standards related to water quality protection.

Leon County, consistent with other Florida charter counties, has in its charter a countywide “Minimum Environmental Regulations” provision in Section 1.6.(2) which was an amendment recommended by the 2009/2010 Citizen Charter Review Committee and approved by 61% of the electorate. Section 1.6.(2) of the Charter requires the County to adopt minimum standards, procedures, requirements, and regulations for the protection of the environment to include, but are not limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and other environmental standards the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and

welfare of the citizens throughout Leon County. The amendment does not prohibit the City from adopting more stringent environmental regulations. In March 2011, the Board of County Commissioners also adopted a minimum Countywide Environmental Standard Ordinance to provide consistency, reliability, and uniformity of standards countywide, recognizing that environmental conditions are not confined by jurisdictional boundaries.

Where not pre-empted by the State, the Leon County Charter provides for the adoption of countywide water protection ordinances or regulations. As a charter county, Leon County has taken advantage of its ability to enact ordinances regulating water so long as they are consistent with state laws such as inclusion of a countywide Aquifer/Wellhead Protection Program to “protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems” in its Code of Laws. The ordinance provides criteria for regulating the use, handling, production, storage, and disposal of regulated substances such as petroleum products, solvents, etc. While more specific provisions could be adopted as Charter amendments, the current approach of adopting local ordinances and regulations provides flexibility to address changing local conditions. Leon County continues explore and evaluate opportunities to improve water quality protection; however, there are no specific additional regulations recommended at this time.

SUMMARY OF RECOMMENDED AMENDMENTS to the CHARTER

Of the three tentative recommendations that were identified for review and discussion during the public hearing process, the Committee adopted ____ by the necessary 10 vote minimum to send the proposals to the Board of County Commissioners.

[PENDING FINAL COMMITTEE ACTION, FINAL LANGUAGE WILL BE PLACED HERE]

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APPENDIX A: CURRENT LEON COUNTY CHARTER

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LEON COUNTY FLORIDA - CHARTER

Footnotes:

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Editor's note— The Leon County Home Rule Charter was originally enacted by Ord. No. 2002-07 adopted May 28, 2002; to be presented at special election of Nov. 5, 2002. Ord. No. 2002-16, adopted Sept. 10, 2002, repealed Ord. No. 2002-07 in its entirety. Subsequently, Ord. No. 2002-17, adopted Sept. 10, 2002, special election of Nov. 5, 2002; effective Nov. 12, 2002, enacted the Home Rule Charter to read as set out herein.

SECTION 1. - HOME RULE CHARTER

The proposed Home Rule Charter of Leon County, Florida, shall read as follows:

PREAMBLE

We, the citizens of Leon County, Florida, united in the belief that governmental decisions affecting local interests should be made locally, rather than by the State, and that County government should be reflective of the people of the County and should serve them in achieving a more responsive and efficient form of government and in order to empower the people of this County to make changes in their own government, do ordain and establish this Home Rule Charter for Leon County, Florida.

ARTICLE I. - CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT

Sec. 1.1. - Creation and general powers of Home Rule Charter government.

The County shall have all powers of self- government not inconsistent with general law, with special law approved by vote of the electors, or with this Charter. The County shall have all county and municipal powers of self-government granted now or in the future by the Constitution and laws of the State of Florida.

Sec. 1.2. - Body corporate, name and boundaries.

Leon County shall be a body corporate and politic. The corporate name shall be Leon County, Florida. The County seat and boundaries shall be those designated by law on the effective date of this Home Rule Charter.

Sec. 1.3. - Construction.

The powers granted by this Home Rule Charter shall be construed broadly in favor of the charter government. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific power of the government as stated in this article. It is the intent of this article to grant to the charter government full power and authority to exercise all governmental powers necessary for the effective operation and conduct of the affairs of the charter government.

Sec. 1.4. - County purposes.

The County, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.

Sec. 1.5. - Municipal purposes.

The County shall have all necessary municipal powers to accomplish municipal purposes within the County.

In the event the board of county commissioners levies the municipal public services tax on utilities, any additional recurring or non-recurring fee or charge imposed on a utility relating to the use or occupation of the public rights-of-way shall not exceed what is reasonably necessary to properly monitor and enforce compliance with the county's rules and regulations concerning placement and maintenance of utility facilities in the public rights-of-way.

Sec. 1.6. - Relation to municipal ordinances.

- (1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances to the extent of any conflict within the boundaries of the municipality. To the extent that a county ordinance and a municipal ordinance shall cover the same subject without conflict, then both the municipal ordinance and the county ordinance shall be effective, each being deemed supplemental to the other.
- (2) *Minimum Environmental Regulations.* County ordinances shall establish minimum standards, procedures, requirements and regulations for the protection of the environment and shall be effective within the unincorporated and incorporated areas of the County. Such standards, procedures, requirements and regulations shall include, but shall not be limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and such other environmental standards as the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County. Standards shall be designed to place emphasis on supporting healthy natural systems occurring in the environment. However, nothing contained herein shall prohibit a municipality from adopting ordinances, standards, procedures, requirements or regulations establishing a more stringent level of environmental protection within the incorporated area of the County.

(Ord. No. 2010-22, § 1, 8-17-10)

Sec. 1.7. - Transfer of power.

Whenever a municipality, special district or agency shall request by a majority vote of the governing body the performance or transfer of a function to the County, the County is so authorized by a majority vote of the Board of County Commissioners to have the power and authority to assume and perform such functions and obligations. This section does not authorize a transfer in violation of Article VIII, § 4 of the Constitution of Florida.

Sec. 1.8. - Division of powers.

This Charter establishes the separation between legislative and administrative functions of this government. The establishment and adoption of policy shall be the responsibility of the Board of County Commissioners and the execution of that policy shall be the responsibility of the County Administrator.

Sec. 1.9. - Relation to state law.

Special laws of the state legislature relating to or affecting Leon County and general laws of local application which apply only to Leon County, except those laws relating exclusively to a municipality, the school board, or a special district, shall be subject to approval by local referendum to the extent that they are not in conflict with this Charter. All special laws so approved shall become ordinances, and may be subject to amendment or repeal by the Board of County Commissioners.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.1. - Elected Commission and appointed County Administrator form of government.

Leon County shall operate under an elected County Commission and an appointed County Administrator form of government with separation of legislative and executive functions in accordance with the provisions of this Home Rule Charter. The legislative responsibilities and powers of the County shall be assigned to, and vested in, the Board of County Commissioners. The executive responsibilities and power of the County shall be assigned to, and vested in, the County Administrator, who shall carry out the directives and policies of the Board of County Commissioners and enforce all orders, resolutions, ordinances and regulations of the Board, the Charter and all applicable general law to assure that they be faithfully executed.

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- (7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

(Ord. No. 2010-21, § 1, 8-17-10)

Sec. 2.3. - Executive branch.

- (1) *The County Administrator.*
 - (A) The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled

meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.

- (B) The County Administrator shall be chosen on the basis of his/her professional qualifications, administrative and executive experience, and ability to serve as the chief administrator of the County. The County Administrator shall reside within the County during his/her tenure as County Administrator.
- (C) The compensation of the County Administrator shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position, with performance appraisals conducted by the Board of County Commissioners at least annually.
- (D) A vacancy in the office shall be filled in the same manner as the original appointment. The County Administrator may appoint an Acting County Administrator in the case of his/her temporary vacancy.

(2) *Senior Management.*

The County's senior management employees, with the exception of the County Attorney's Staff, shall serve at the pleasure of the County Administrator, who may suspend or discharge senior management personnel with or without cause.

- (3) *Non-interference by Board of County Commissioners.* Except for the purpose of inquiry and information, members of the Board of County Commissioners are expressly prohibited from interfering with the performance of the duties of any employee of the county government who is under the direct or indirect supervision of the County Administrator or County Attorney by giving said employees instructions or directives. Such action shall constitute malfeasance within the meaning of Article IV, Section 7(a) of the Florida Constitution. However, nothing contained herein shall prevent a County Commissioner from discussing any county policy or program with a citizen or referring a citizen complaint or request for information to the County Administrator or County Attorney.

(Ord. No. 2010-23, § 1, 8-17-10; Ord. No. 2010-24, § 1, 8-17-10; Ord. No. 2010-25, § 1, 8-17-10)

Sec. 2.4. - County attorney.

- (1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

- (1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.
 - (A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.
 - (B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

- (1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.
- (2) *Audit Committee.* There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

Sec. 3.4. - Limitation on campaign contributions.

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

(Ord. No. 2010-21, § 2, 8-17-10)

ARTICLE IV. - POWERS RESERVED TO THE PEOPLE: INITIATIVE AND RECALL

Sec. 4.1. - Citizen initiative.

- (1) *Right to Initiate.* The electors of Leon County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances, not in conflict with the

Florida Constitution, general law or this Charter, upon petition signed by at least ten percent (10%) of the total number of electors qualified to vote in the County reflecting ten percent (10%) of the total number of electors qualified to vote within each of the five (5) commission districts. The total number of electors qualified shall mean the total number of electors qualified to vote in the last preceding general election.

- (2) *Procedure for Petition.* The sponsor of an initiative shall, prior to obtaining any signatures, submit the text of a proposed ordinance to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed and obtain a dated receipt therefor. Any such ordinances shall embrace but one (1) subject and matter directly connected therewith. The sponsor shall cause a notice of such submission to be published within fourteen (14) days thereof in a newspaper of general circulation in the County. The allowable period for obtaining signatures on the petition shall be completed not later than one (1) year after initial receipt of the petition by the Supervisor of Elections. The sponsor shall comply with all requirements of general law for political committees, and shall file quarterly reports with the Supervisor of Elections stating, to the best of the sponsor's information and belief, the number of signatures procured. The time and form of such reports may be prescribed by ordinance. When a sufficient number of signatures is obtained, the sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections, and upon submission, shall pay all fees required by general law. The Supervisor of Elections shall, within sixty (60) days after submission of signatures, verify the signatures thereon, or specify a reason for the invalidity of each rejected signature, if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days of submission of additional signatures, verify the additional signatures. In the event sufficient signatures are still not acquired, the Supervisor of Elections shall declare the petition null and void and none of the signatures may be carried over onto another identical or similar petition.
- (3) *Consideration by Board of County Commissioners.* Within sixty (60) days after the requisite number of signatures has been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall give notice and hold public hearing(s) as required by general law on the proposed ordinance and vote on it. If the Board fails to enact the proposed ordinance it shall, by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered electors voting on the question, the proposed ordinance shall be declared, by resolution of the Board of County Commissioners, to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative prior to the next succeeding general election, without the approval of a majority of the electors voting at a referendum called for that purpose.
- (4) *Limitation on Ordinances by Initiative.* The power to enact, amend or repeal an ordinance by initiative shall not include ordinances or provisions related to County budget, debt obligations, capital improvement programs, salaries of County officers and employees, the assessment or collection of taxes, or the zoning of land.

Sec. 4.2. - Recall.

All members of the Board of County Commissioners shall be subject to recall as provided by general law.

ARTICLE V. - HOME RULE CHARTER TRANSITION, AMENDMENTS, REVIEW, SEVERANCE, EFFECTIVE DATE

Sec. 5.1. - Home Rule Charter Transition.

- (1) *General Provisions.* Unless expressly provided otherwise in this Home Rule Charter, the adoption of this Charter shall not affect any existing contracts or obligations of Leon County; the validity of any of its laws, ordinances, regulations, and resolutions; or the term of office of any elected County officer, whose term shall continue as if this charter had not been adopted.
- (2) *Initial County Commissioners.* The persons comprising the Leon County Board of County Commissioners on the effective date of this Charter shall become the initial members of the Board of County Commissioners of the Charter government and shall perform the functions thereof until the normal expiration of their terms or until the election and qualification of their successors as provided by law.
- (3) *Outstanding Bonds.* All outstanding bonds, revenue certificates, and other financial obligations of the County outstanding on the effective date of this Charter shall be obligations of the Charter government. All actions taken by the former government relating to the issuance of such obligations are hereby ratified and confirmed. Payment of such obligations and the interest thereon shall be made solely from, and charged solely against, funds derived from the same sources from which such payment would have been made had this Charter not taken effect.
- (4) *Employees Continuation.* All employees of the former County government shall, on the effective date of this Charter, become employees of the County government created by this Charter. All existing wages, benefits, and agreements, and conditions of employment shall continue, until modified by lawful action of the County Commission.

Sec. 5.2. - Home rule charter amendments.

- (1) *Amendments Proposed by Petition.*
 - (A) The electors of Leon County shall have the right to amend this Home Rule Charter in accordance with Sec. 4.1 of this Charter.
 - (B) Each proposed amendment shall embrace but one (1) subject and matter directly connected therewith. Each Charter amendment proposed by petition shall be placed on the ballot by resolution of the Board of County Commissioners for the general election occurring in excess of ninety (90) days from the certification by the Supervisor of Elections that the requisite number of signatures has been verified. If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.
- (2) *Amendments and Revisions by Citizen Charter Review Committee.*
 - (A) A Citizen Charter Review Committee shall be appointed by the Board of County Commissioners at least twelve (12) months before the general election occurring every eight (8) years thereafter, to be composed and organized in a manner to be determined by the Board of County Commissioners, to review the Home Rule Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. Public hearings shall be conducted as provided by F.S. § 125.63.
 - (B) No later than ninety (90) days prior to the general election, the Citizen Charter Review Committee shall deliver to the Board of County Commissioners the proposed amendments or revisions, if any, to the Home Rule Charter, and the Board of County Commissioners shall consider such amendments or revisions to be placed on the general election ballot, in accordance with F.S. § 125.64.
 - (C) If the Citizen Charter Review Committee does not submit any proposed Charter amendments or revisions to the Board of County Commissioners at least ninety (90) days prior to the general election, the Citizen Charter Review Committee shall be automatically dissolved.
- (3) *Amendments Proposed by the Board of County Commissioners.*
 - (A) Amendments to this Home Rule Charter may be proposed by ordinance adopted by the Board of County Commissioners by an affirmative vote of a majority plus one (1) of the membership of

the Board. Each proposed amendment shall embrace but one (1) subject and matter directly connected therewith. Each proposed amendment shall only become effective upon approval by a majority of the electors of Leon County voting in a referendum at the next general election. The Board of County Commissioners shall give public notice of such referendum election at least ninety (90) days prior to the general election referendum date.

- (B) If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.

Sec. 5.3. - Severance.

If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Charter which can be given effect without the invalid provision or application, and to this end the provisions of the Charter are declared severable.

Sec. 5.4. - Home rule charter effective date.

This Charter shall become effective November 12, 2002.

SECTION 2. - BALLOT QUESTION TO BE PRESENTED TO ELECTORATE

The proposed Charter of Leon County, Florida, shall be presented to the qualified Leon County electorate by placing the question of whether to adopt same on the ballot at the special election to be held on November 5, 2002.

SECTION 3. - BALLOT QUESTION FORM

The question on the ballot shall be substantially in the following form:

CHARTER FOR LEON COUNTY, FLORIDA
AS PROPOSED BY LEON COUNTY ORDINANCE NO. 2002- _____

Question

Shall there be a Home Rule Charter for Leon County, Florida, establishing all rights and powers of local self government; authorizing the proposal and adoption of ordinances by voter initiative and referendum; preserving elected constitutional county officers; providing a non-partisan Supervisor of Elections; providing for non-partisan elections of county commissioners; allowing recall of commissioners by citizen referendum; and providing a method of amendment, which shall take effect November 12, 2002?

Yes for Approval _____

No for Rejection _____

SECTION 4. - FURTHER AUTHORIZATION

The Board of County Commissioners of Leon County, Florida, is authorized to adopt all resolutions and take all actions necessary in order for this Charter referendum proposition and those propositions referenced in the Preamble and Articles of the proposed Charter herein to be properly placed on the ballot for the special election of November 5, 2002. Said referendum shall be conducted according to the requirements of law governing referendum elections in the State of Florida.

SECTION 5. - SEVERABILITY

If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. - EFFECTIVE DATE

This ordinance shall have effect upon becoming law, but shall be of no further force or effect if the proposed Charter is not duly approved at the November 5, 2002, special election. The Charter of Leon County, Florida, as proposed by this Ordinance, shall become effective November 12, 2002, if the Charter is approved by a "yes" vote by a majority of those duly qualified electors voting on the question posed at the November 5, 2002, referendum.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 9th day of September, 2002.

LEON COUNTY, FLORIDA

BY:

/s/ DAN WINCHESTER
CHAIRMAN
BOARD OF COUNTY
COMMISSIONERS

ATTESTED BY:

/s/ BOB INZER
CLERK OF THE COURT

BY:

CLERK

APPROVED AS TO FORM:

COUNTY ATTORNEY'S OFFICE

LEON COUNTY, FLORIDA

BY:

/s/ HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY

CHARTER DISPOSITION TABLE—ORDINANCES

This table shows the disposition of legislation which amended the Charter.

Ordinance Number	Adoption Date	Election Date	Section	Disposition
2002-07	5-28-02	11- 5-02	1 Added	Char. §§ 1—6
2002-16	9-10-02		1 Rpld	Char. §§ 1—6
2002-17	9-10-02	11- 5-02	1 Added	Char. §§ 1—6
2010-21	8-17-10	11- 2-10	1 Added	Char. § 2.2(7)
			2 Added	Char. § 3.4
2010-22	8-17-10	11- 2-10	1	Char. § 1.6
2010-23	8-17-10	11- 2-10	1	Char. § 2.3(2)
2010-24	8-17-10	11- 2-10	1	Char. § 2.3
2010-25	8-17-10	11- 2-10	1 Added	Char. § 2.3(3)

APPENDIX B: COMMITTEE BY-LAWS

DRAFT

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

In order to govern its function and operation in a manner consistent with the Home Rule Charter of Leon County, Florida approved by the electorate of Leon County on the 5th day of November 2002 and subsequently amended on the 2nd day of November 2010, the Leon County Citizens Charter Review Committee (hereinafter the "Committee") hereby adopts the following Bylaws.

It shall be the duty of the Citizen Charter Review Committee to carry out the following charge: To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners (BCC) which may be advisable for placement on the general election ballot.

ARTICLE I. APPLICABLE FLORIDA LAWS AND BCC POLICIES

Section 1.1 Public Records Law and E-Mails: Each member of the Committee shall comply with the Florida's Public Records Law, Chapter 119, Florida Statutes, and Leon County BCC Policy 96-4, "Policy on Public Records Law and E-Mail", as may be amended from time to time, and each member of the Committee shall be provided a copy of BCC Policy 96-4.

Section 1.2 Government In the Sunshine Law: Each member of the Committee shall comply with the Florida Government in the Sunshine Law, Chapter 286, Florida Statutes, as may be amended from time to time.

Section 1.3 Code of Ethics: The Committee shall comply with the following state laws and BCC Policies with regard to the Florida Code of Ethics for Public Officers and Employees:

Clause 1.3.1 Each member of the Committee shall comply with Section 112.3143, Florida Statutes, "Voting Conflicts", as may be amended from time to time, and shall be provided a copy of Section 112.3143.

Clause 1.3.2 Each member of the Committee shall abide by the Standards of Conduct set forth in Section 112.313, Florida Statutes, as may be amended from time to time, and shall be provided a copy of Section 112.313, Florida Statutes.

ARTICLE II. OFFICERS AND DUTIES

Section 2.1 The Chairperson and Vice-Chairperson shall serve until the dissolution of the Committee and assume the following powers and duties:

Clause 2.1.1 The Chairperson shall preside at all regular and special meetings of the Committee.

Clause 2.1.2 The Chairperson shall represent the Committee at all functions and activities so requiring (but without authority to state any position of the Committee not previously approved).

Clause 2.1.3 The Chairperson shall call special meetings when necessary;

Clause 2.1.4 The Chairperson shall set meeting agendas in coordination with County staff.

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

Section 2.2 In the event of the Chairperson's absence, or at the direction of the Chairperson, the Vice-Chairperson shall assume the powers and duties of the Chairperson.

Section 2.3 In the event that either the Chairperson or the Vice-Chairperson is unable to complete their terms, a replacement from among its members should be appointed as soon as reasonably possible.

ARTICLE III. TERM OF MEMBERS

Section 3.1 Each member shall serve on the Committee for 120 days or upon the completion of the Committee's work.

ARTICLE IV. ATTENDANCE AND REPLACEMENT OF MEMBERS

Section 4.1 **Attendance at Meetings:** Regular attendance and attention to the business of the Committee is expected. The seat of any member who fails to attend three consecutive regular meetings, without previous notification, shall be presumed vacant, and the Chairperson shall report that fact to the County Commissioner who appointed the member, for confirmation that a vacancy exists. Vacancies shall be filled in the same manner as initial appointments.

ARTICLE V. MEETINGS

Section 5.1 **Regular Meetings:** The Committee shall hold weekly meetings on Thursdays. Such regular meetings shall be held at the **Leon County Courthouse**. The duration of meetings shall not exceed **two** hours unless extended by a majority vote of the Committee. In order to expedite meetings, the Chairperson may place time limits on discussion of agenda items.

Section 5.2 **Special Meetings:** The Chairperson or any seven (7) members of the Committee may call a special meeting of the Committee to discuss any issue properly before the Committee. Such special meeting may be convened only after notification is given to each member of the Committee and after public notice is given no later than forty-eight (48) hours before the special meeting is scheduled to begin.

Section 5.3 **Public Participation:** The Committee will consider public comment on all substantive agenda items. Under the agenda item of "Remarks of Interested Citizens", interested citizens shall be afforded an opportunity to comment on matters before the Committee. The remarks of any citizen should be germane to the agenda or matters to come before the Committee. Each agenda shall include a point during the meeting at which "Remarks of Interested Citizens" may be made. Each citizen addressing the Committee is asked to observe the general rules of courtesy and civility, and to avoid repetition of other speakers. Citizens are asked to limit their comments to five minutes in the interest of fairness to all citizens desiring to be heard, although this requirement may be waived at the discretion of the Chairman for good cause.

Section 5.4 **Meeting Agendas:** County staff shall assist the Chairperson of the Committee in developing an agenda for each meeting of the Committee. The agenda for regular meetings of the Committee shall be generally as follows, subject to amendment or revision by the Committee Chairperson or a majority of the members present:

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

- I. Call to Order
- II. Pledge
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
- V. Reports of Chairperson (if any)
- VI. Presentations by Invited Guests
- VII. Remarks of Interested Citizens
- VIII. Unfinished Business
- IX. New Business
- X. Adjournment with Day Fixed for Next Meeting

Section 5.5 Official Acts and Quorum: Any and all official acts by the Committee shall require a majority vote of the members present and voting except as otherwise set forth in these bylaws. However, the Committee shall take no such action unless a quorum is present at the meeting. In order to constitute a quorum, there must be a majority of the Committee's current membership present at the meeting. The minutes of the meeting shall reflect the number of affirmative votes on a motion and shall specify the names of any members voting against the motion.

No member of the Committee shall have the power to vote by proxy. Only those members physically present shall be entitled to vote. Telephonic participation is not permitted.

Section 5.6 Meeting Minutes: Minutes shall be taken at all regular and special meetings of the Committee. Minutes of committee proceedings shall be filed with the County in accordance with BCC Policy No. 03-15, "Board-Appointed Advisory Committees."

Section 5.7 Procedure: Roberts' Rules of Order Revised shall govern the procedure of all meetings.

ARTICLE VI. DELIBERATIONS

Section 6.1 The Committee shall conduct meetings in three phases: (1) Issues Agendas, (2) Decision Agendas, and (3) Public Hearings and Transmittal.

Clause 6.1.1 Issues Agenda: During the first phase of meetings, the Committee shall, identify policy issues for discussion and potential recommendations to the BCC for placement on the general election ballot. By simple majority vote, the Committee shall approve policy issues to be considered and schedule Issues Agenda meetings at which the approved issues shall be discussed. Prior to completion of Issues Agenda meetings, additional policy issues may be added and scheduled upon the request of four or more members.

After completion of the scheduled Issues Agenda meetings but not later than January 11, 2018, additional issues may be scheduled with the concurrence of a majority of the Committee.

Any issue may be stricken from further consideration at Issues Agenda meetings by a majority of those members present, but not less than seven members.

Clause 6.1.2 Decision Agenda: By a simple majority vote, the Committee shall approve those issues to be discussed during the second phase of meetings and schedule Decision

BYLAWS OF THE LEON COUNTY CITIZEN CHARTER REVIEW COMMITTEE

Agenda meetings at which sample text of proposed amendments shall be considered. After a proposed amendment has been discussed, the Committee may, by a majority of those members present, direct County staff to prepare proposed amendments for review and discussion at public hearings.

Clause 6.1.3 Public Hearings and Transmittal: The Charter requires the Committee to hold at least three public hearings prior to submitting amendments to the BCC in accordance with Section 125.63, F.S. After all necessary hearings, the Committee shall amend (if necessary) and approve, the proposed Charter amendments, ballot titles, and summaries for recommendation to the BCC with the concurrence of two-thirds of those present but not less than 10 members.

By two-thirds of those present but not less than 10 members, the Committee shall direct the Chairperson to transmit the proposed amendments, ballot titles, and summaries to the BCC ninety (90) days prior to the general election in order for the special election on the proposed Charter amendments to be held simultaneously with the general election.

**ARTICLE VII.
POLICY ON PUBLICITY**

Section 7.1 Public statements by the Committee shall be coordinated through the Chairperson and County staff. Members of the Committee may make public or private statements of their personal feelings, attitudes or beliefs at any time. In making such statements, however, members of the Committee shall on every occasion make an affirmative statement that their views are not represented as the views of the Committee as a whole. The Chairperson of the Committee shall be responsible for announcing the adopted positions of the Committee.

**ARTICLE VIII.
AMENDMENTS TO BYLAWS**

Section 8.1 Amendments: These rules and policies shall be presented by staff and adopted as the bylaws of the Committee at their first meeting. The Bylaws may be amended by an affirmative vote of two-thirds of the entire Committee.

Section 8.2 Approval: The Amended Bylaws shall become effective upon the approval of the County Attorney as to the legality of the form and content of such amendment.


Approved As To Legality of Form and Content:

County Administrator's Office

BY: 

Vincent S. Long
County Administrator

County Attorney's Office

BY: 

Herbert W. A. Thiele
County Attorney

APPENDIX C: MEETING MINUTES

DRAFT

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 9, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 9, 2017 in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, and Kim Williams in attendance. Committee members Shane Hopkins, James Revell and Bill Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order at 9:00 a.m. He welcomed the Committee and provided staff introductions. He advised that staff would be available to guide the Committee throughout the charter review process. Mr. Long advised that all meetings would be televised on Comcast Channel 16 and streamed live via the web.

Opening remarks were provided by Mr. Long. He advised that the County's Charter was initially adopted in 2002 and its first review was done in 2010. He conveyed that Board was clear in its intent that the Committee not be restricted in issues they wished to address.

CRC members were then provided an opportunity to introduce themselves and provide brief comments. Ms. Jones stated for the record that while she was aide to County Commissioner Nick Maddox, was not appointed by Commissioner Maddox.

Mr. Long utilized a power point presentation to provide an Overview of Charter Government, which included:

- What is a Charter?
 - Local "Home Rule" Constitution.
 - "Living document" which reflects the preferences of the local electorate as to the powers, structure and authority of county government.
 - Only voters can approve and amend a county charter.
- Why Charter Government?
 - "One size fits all" government doesn't work.
 - Citizen determination to reflect community preferences.
 - Flexibility in fulfilling state-mandated functions.
 - Increases ability to address local concerns.
 - Like city governments (all charters) "bottom-up" approach to government.
- Florida's Charter Counties
 - Twenty Florida counties are currently charter counties, representing over 75% of the population;
- Florida History
- 1968 Florida Constitution
 - Dillon's Rule replaced by Home Rule
- Leon County History
 - In 2002 Leon County voters adopted a "starter charter" which included:
 - Roles and responsibilities of the County's constitutional officers.
 - The County's relationship with its municipalities.
 - A separate executive and legislative branch under the council-manager form of government.
 - Charter Amendment Process.

- Citizen Petition
- Board of County Commissioners
- Citizen Charter Reviews Committee
- 2009/2010 Charter Review Committee Proposed Amendments
- 2010 General Election Charter Amendments
 - Tourist Development Council Structure
 - Minimum County-wide Environmental Regulations
 - Employment of the County Administrator
 - Non-Interference Policy
 - Limitation on Campaign Contributions
 - Petition Thresholds
 - Future Charter Review Committees

Mr. Long noted the Committee's Charge *"To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners which may be advisable for placement on the general election ballot."*

The CRC then engaged in roundtable discussion with Mr. Long and County Attorney Thiele on a variety of topics. These included: composition of other charter counties, municipal powers, establishment of CRA's, consolidation, and districting. It was established that while there were no pressing topics that the County had identified for the CRC to deliberate on, the CRC has the authority to discuss and bring forward any topic it deemed appropriate for Board consideration.

Mr. Thiele provided an overview of the Florida Public Records and Sunshine Laws. He advised that Public Records and Florida Sunshine Laws apply to CRC members, and to a certain extent, the Statewide Ethics Code.

- Sunshine Law: Requires that all public meetings be noticed, are open to the public and minutes are kept. A meeting is defined as two or more members of the same decision making body talking about substantive matters that may come before the committee. CRC members should not discuss any matters that may or may not be recommended to the Board.
- Public Records Law – Any written communications, i.e., texts, e-mails, Facebook posts or tweets received relating to the CRC or potential issues brought forth by citizens for CRC consideration are considered public record and should be retained and brought to the attention of staff for inclusion in the official CRC file.
- Florida Code of Ethics: Any potential voting conflicts should be brought to the attention of the County Attorney to determine if a conflict exists. CRC members are not permitted to accept gifts which may be given to persuade a member to advocate for a particular issue of interest to the giver. The County Attorney should be contacted if a CRC member has any concerns or questions about a particular gift.

In response to inquiries on the types of topics deliberated on by the 2010 CRC, Ms. Peeples shared that copies of the final report of the 2010 CRC was included in the binder provided. She then reviewed the proposed draft Bylaws of the CRC and noted that a vote to adopt would be done at the next CRC meeting.

Ms. Peeples discussed the process by which the CRC will deliberate potential amendments, sharing that a written copy of the process was included in the binder packet. The seven steps of this process are:

- **Step 1: Initial Committee Idea Deliberations.**
Requires four votes of the committee to formally agenda an idea for committee consideration.

- **Step 2: Proposed Charter Amendment Agendaed for Committee Consideration:**
A simple majority vote of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.
- **Step 3: Proposed Charter Amendment Agendaed for Committee Consideration with Draft Charter Amendment Language:**
A simple majority vote of the committee is required to advance the proposal to a public hearing.
- **Step 4: Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendment to the County Commission:**
Ten votes of the committee are required to recommend a proposed charter amendment to the Board of County Commissioners.
- **Step 5: Board of County Commissioners Workshop**
- **Step 6: Board of County Commissioners Public Hearings**
- **Step 7: 2018 General Election (November 6, 2018)**


Ms. Peeples then referenced the proposed Committee schedule, noting that future meetings would be held on Thursdays from 11:30 a.m. – 1:30 p.m. (unless specified otherwise) and lunch would be provided. She mentioned that public hearing would be held at 6:00 p.m. to allow for public participation. She added that the Committee will elect its chair and vice chair at next week's meeting.

County Administrator Long concluded the meeting by expressing appreciation for the Committee's time and dedication to this effort.

There being no further business, the meeting was adjourned at 11:05 a.m.



Chair, Leon County Charter Review Committee



Deputy Clerk

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 16, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 16, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and Bill Graham were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order and thanked members for their participation in this important process. He reminded the CRC that all meeting were recorded and streamed live.

Mr. Long introduced CRC member Jay Revell, who provided brief introductory remarks.

Overview of Leon County Government

Mr. Long noted that a copy of the County's 2017 Annual Report and the Impact and Progress Report had been provided to the Committee. He then shared information on 1) the County (population, median age, County budget, etc.); 2) the County's organization chart; 3) the County's budget, and 4) how the County compares to other like size counties. He gave the CRC an overview of the accomplishments over the last five years and targets and "bold goals" for the next five years in the areas of the Economy, Environment, Quality of Life and Governance. He concluded his overview with a video summarizing the 2017 Annual Report.

Review of County Charter:

Mr. Long reviewed the current County Charter; which he pointed out contains five Articles:

1. Article I – Creation, Powers and Ordinances of Home Rule Charter Government
2. Article II – Organization of County Government
3. Article III – Elected Constitutional Officers
4. Article IV – Powers Reserved to the People: Initiative & Recall
5. Article V – Home Rule Transition, Amendments, Review, Severance, Effective Date

Approval of Committee Bylaws:

Mr. Long stated that should it be deemed that the Bylaws are not adequately serving the Committee, they can be amended by a two-thirds vote of the Committee.

A motion to approve the Committee Bylaws was offered by Gordon Thames and seconded by Michael Eurich. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Election of Chair and Vice Chair:

Mr. Long called for nominations for Chairman of the CRC.

A motion to nominate Lee Hinkle as Chairman of the Charter Review Committee was offered by Kim Williams and seconded by Jay Revell. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Long called for nomination for Vice-Chairman of the CRC.

A motion to nominate Kim Williams as Vice-Chairman of the Charter Review Committee was offered by Catherine Jones and seconded by Anice Prosser. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

At this point the meeting was turned over to Chair Hinkle to facilitate.

Approval of November 9, 2017 Meeting Minutes

A motion to approve the November 9, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Gordon Thames. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Initial Committee Ideas:

Chairman Hinkle stated that it was time for members to offer ideas for a proposed charter amendment for consideration by the committee. She explained that any idea that received four votes of support would be submitted to staff to prepare an analysis and returned to the CRC for further consideration.

The following topics were offered for CRC consideration:

1. Offered by Ken Hart:

Ken Hart moved, seconded by Ted Thomas, to provide for a change in the composition of the Board of County Commissioners to four districts/three at-large from the existing five district/two at-Large. The motion carried 12-0 (William Graham and Shane Hopkins absent).

Mr. Hart submitted that the proposal would allow all citizens to vote for a majority of the Commission.

2. Offered by Kim Williams:

Kim Williams moved, seconded by Ted Thomas, to provide for a change in the Charter that increases the current \$250 limitation on campaign contributions. The motion carried 8-4 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, and Anice Prosser in opposition and Bill Graham and Shane Hopkins absent).

Mr. Williams recalled that the Charter was amended in 2009 to restrict the allowable contributions in local campaigns to \$250. He suggested that it is difficult for individuals (particularly non incumbents) to raise enough funds to reach the county at large. He also mentioned that the State has increased its allowable contribution from \$500 to \$1,000.

3. Offered by Casey Perkins:

Casey Perkins moved, seconded by Gordon Thames, that the CRC deliver a resolution to the County Commission suggesting it consider the issue of consolidation. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Perkins offered that consolidation is a much discussed topic throughout community and in the media and suggested that it be decided by the voters.

County Administrator Long clarified that the Charter cannot effectuate a consolidation; however, the CRC could offer this as a recommendation to the County Commission for its consideration.

Ms. Jones stated that while she appreciated the sentiment, could not support bringing forward a resolution to the County Commission, especially in light of the County Administrator's comment that the Charter cannot effectuate this action.

4. **Offered by Gordon Thames:**

Gordon Thames moved, seconded by Anice Prosser, to provide for a change in the Charter that restricts Community Redevelopment Agency (CRA) funding to public infrastructure projects and requiring all CRA projects to follow open and competitive procurement processes. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thames proposed that CRA investment of County monies be limited to infrastructures which benefits the public and that higher standards be implemented over what is required by state statute.

Ms. Jones established with County Administrator Long that additional restrictions could be placed on the CRA within County boundaries.

5. **Offered by Neil Fleckenstein**

Neil Fleckenstein moved, seconded by Catherine Jones, to provide for a Code of Ethics and integrity for elected officials, appointed officials, County employees, and lobbyist in the Charter. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Fleckenstein opined that the Charter should identify the importance of adhering to standards of ethics and integrity for elected officials, appointed officials and County employees.

In response to inquiry from Mr. Thomas, County Administrator Long conveyed that a standard of ethics is included as a County policy. Mr. Long also stated that penalties are not currently included in the policy; however, could be included in the Charter.

Ms. Jones agreed that this should be codified in the Charter and suggested that the same be included in the County's lobbying policy. Mr. Fleckenstein agreed to include the recommendation in the motion.

6. **Offered by Catherine Jones**

Catherine Jones moved, seconded by Michael Eurich, to consider amending the Charter to change Constitutional Officers from elected to appointed officials. The motion carried 12-0 (Bill Graham and Shane Hopkins absent)

Ms. Jones emphasized that this is not a statement against any Constitutional Officer, but is a discussion that should be held by every CRC. She suggested that all Constitutional Offices be looked individually to determine if the office should be filled by the electorate or by the County Commission. She asked that pros and cons of each position be provided in the analysis.

7. **Offered by Ted Thomas**

Ted Thomas moved, seconded by Jay Revell, to provide for a change in the Charter that establishes non-partisan elections for Superintendent of Schools and all Constitutional Officers. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thomas disclosed that his son is the current Superintendent of Schools Rocky Hanna. He indicated that he had shared with County Attorney Thiele his intention to bring this issue forward and was advised that by Mr. Thiele that no conflict of interest existed.

Office races. He acknowledged that while there may be some legal questions on whether this could be included in the Charter, a precedent for doing this has been set in Columbia County.

Chairman Hinkle advised that the Committee had time to take up one more item and suggested that the two remaining issues be tabled until the next meeting. She also reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

8. Offered by Jay Revell

Jay Revell moved, seconded by Michael Eurich, to provide for a change in the voting process for electing District Commissioners. Requiring that candidates are selected initially through a primary election by district residents only and the top two candidates would then advance to a general election to be voted upon by the entire County electorate. The motion carried 7-5 (Reginald Ellis, Catherine Jones, Anice Prosser, Gordon Thames and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Revell mentioned that currently district commissioners are elected by residents only within the district boundary. He suggested that the process be amended to allow primary elections to continue to be district specific, but the top two candidates from that election be placed on a ballot to be voted on by the entire County. He opined that this would be another mechanism to get more people involved in the electoral process. Mr. Revell noted that district commissioners serve the entire county, not just a district.

Mr. Williams confirmed that a district commissioner candidate must reside within that district.

Mr. Thames brought up the legality of implementing such a change, since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district. Deputy County Attorney Riggins stated that staff would include information on the legal implications of this in the analysis brought back to the CRC.

Mr. Ellis expressed concerns that this change could reduce the power and voice of a district commissioner.

Ms. Jones maintained the importance of residents to have a district commissioner who first and foremost advocates for the citizens of that district.

Pending Committee Ideas

The following topics were tabled until the November 28, 2017 CRC meeting.

- Make the provisions for the hiring/firing of the County Attorney consistent with the County Administrator. (Offered by Jay Revell)
- Law Enforcement Consolidation (Offered by Ken Hart)

Remarks of Interested Citizens

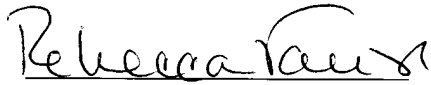
Chairman Hinkle confirmed there were no public speakers.

Adjourn

The Committee adjourned at 1:35 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 30, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 30, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Bill Graham, Michael Eurich, Gordon Thames, Shane Hopkins, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Reginald Ellis and Anice Prosser were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, County Attorney Herb Thiele, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order

Chairman Hinkle called the meeting to order. She introduced CRC members Shane Hopkins and Bill Graham, who provided brief introductory remarks.

She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated ideas.

II. Approval of November 16, 2017 Minutes

A motion to approve the November 16, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 12-0 (Reggie Ellis and Anice Prosser absent).

III. Remarks of Interested Citizens

- Sheriff Walt McNeil appeared before the CRC to advocate that the election of Constitutional Officers remain partisan elections. He opined that citizens have a right to know the political ideology of a candidate.
- Doris Maloy, Tax Collector, reminded the CRC that when the Charter was established in 2002, Constitutional Officers were assured that the document would not negatively affect the status of Constitutional Officers. She too urged the Committee to retain partisan elections for Constitutional Officers.

IV. Proposed Charter Amendments for Committee Consideration

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced and provided a brief summary of the item.

Mr. Fleckenstein asked by what percentage of the electorate voted in favor of the 2010 amendment. Mr. Long indicated that staff did not include that in their analysis; however, it would be included in staff's further analysis.

Mr. Williams advocated for the limit to be set at the established State limit of \$1,000. He suggested that limiting the amount of contributions makes it more difficult for individuals running against incumbents.

Mr. Thames established that the City has a campaign contribution limit of \$250 and submitted that consistency with the City may be something to consider.

Kim Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language increasing campaign

contributions to the state level of \$1,000 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

As there was some misunderstanding on the intent of the motion, Chairman Hinkle asked Mr. Williams to restate his motion and that the vote be revisited.

Mr. Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language which strikes from the Charter language the limitation of campaign contributions to \$250 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

After the vote was taken, Mr. Eurich asked that campaign fund balances for individual candidates from previous elections be included in the information brought back to the Committee. (Approved without objection)

b. Code of Ethics

County Administrator Long introduced and provided a brief overview of the item.

Mr. Fleckenstein remarked that his intent was to adopt a code of ethics ordinance to elevate the importance of ethical behavior and accountability in all elected and appointed officials and County staff. He agreed that the amendment should require a date certain for an ordinance to be enacted and to include prescribed requirements.

Ms. Jones asked how many charter counties with a Code of Ethics provision include constitutional officers. Ms. Peeples did not have an exact number, but indicated that many county charters have a provision to include constitutional officers, as well as committees appointed by the Board of County Commissioners and County staff. Ms. Jones inquired about enforcement of an Ethics ordinance. County Attorney Thiele responded that provisions of the ordinance would be enforced as a law.

Mr. Graham commented that ordinance language would need to be thoroughly vetted, as it can be difficult to properly define those provisions to ensure they are suitable for prosecution.

Mr. Thiele discussed Chapter 112 of the Florida Statutes and conveyed that, where applicable, language from there would be incorporated into a County ordinance.

There continued to be discussion amongst the CRC and staff, with Ms. Jones ascertaining that the ordinance would specify to whom it would apply and Mr. Long sharing that there are a number of existing County documents pertaining to this topic that would be utilized in the development of an ordinance.

Mr. Thiele reminded the Committee that an ethics ordinance would be brought forward to the Board as a recommendation by the CRC; only the Board of County Commissioners can adopt an ordinance.

Mr. Eurich confirmed with Mr. Thiele that if an Ethics Ordinance was adopted by the Board, it would be Mr. Thiele's recommendation that any duplication of language be removed from County documents, so as to ensure there is no duplicity.

There was discussion regarding authority to include Constitutional Officers in an Ethics Ordinance; however, Mr. Thiele opined that the CRC, should it wish to do so, could include constitutionals in its recommendation.

Mr. Eurich cited Section 3.1 of the current Charter, which states that constitutional officers should remain as independently elected constitutional offices whose status, powers, duties and function shall not be altered by the Charter. He submitted that this portion of the Charter would have to be amended to alter the status of constitutional officers.

Mr. Fleckenstein requested that further analysis include a legal prospective on the ramifications of applying a Code of Ethics to Constitutional Officers.

Mr. Hart agreed that constitutionals should be included and that enforcement issues, whatever they may be, would be addressed by the County Attorney in development of the ordinance.

The following motion was offered by Ms. Jones, seconded by Mr. Thames and amended by Mr. Hart.

Ms. Jones moved Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting, which includes language for a "Code of Ethics" which applies to Constitutional Officers.

The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

c. Charter Provision Related to Constitutional Officers

County Administrator Long introduced and provided a brief overview of the item.

Ms. Jones clarified that her intent for bringing this forward was to review and discuss each constitutional office to determine if it should be filled by the electorate or be an appointed position.

Ms. Jones reiterated that this was not a statement against any Constitutional Officer, but was a discussion that should be held by every CRC. She suggested that constitutional offices have become politicized and it was time to look at other options.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission.

Ms. Jones requested that an analysis include a breakdown of the role of constitutional officers and how the appointments would be made for each office.

Ms. Jones moved, seconded by Casey Perkins, to approve Option 2, as amended: Request additional information and analysis to include a summary of each

Ms. Jones moved, seconded by Casey Perkins, to approve Option 2, as amended: Request additional information and analysis to include a summary of each Constitutional Officer's job duties and potential process for making appointments to constitutional offices.

The motion failed 2-10 (Michael Eurich, Neil Fleckenstein, William Graham, Lee Hinkle, Shane Hopkins, Kenneth Hart, Jay Revell, Gordon Thames, Ted Thomas, and Kim Williams in opposition and Reginald Ellis and Anice Prosser absent).

d. Modifying the District Composition of the Board of County Commissioners

County Attorney Thiele introduced and provided a brief overview of the item, which included how to implement such a change since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district.

Mr. Hart clarified that his intent for bring this item forward is to allow citizens to elect a majority of the Board of County Commissioners. He suggested that most issues brought before the County Commission are countywide and voters should have a voice in electing a majority of the Commissioners.

Mr. Revell recommended that the County maintain its minority-majority and minority access districts. Mr. Thiele confirmed that would be his intent.

Mr. Hart moved, seconded by Mr. Revell to approve Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting. The motion carried 11-1 (Catherine Jones in opposition and Reginald Ellis and Anice Prosser absent).

e. Modifying the District Commissioner Election Process

Mr. Revell, as the originator of the item, asked that it be removed from consideration.

Mr. Revell moved, seconded by Neil Fleckenstein, to approve Option 3: Take no further action at this time regarding modification of the District Commissioner election process. The motion carried 11-1 (Bill Graham in opposition and Reginald Ellis and Anice Prosser absent).

V. Committee Idea Deliberation

a. County Attorney Hiring/Firing Process (Offered by Jay Revell)

Mr. Revell provided that his intent was to have hiring/firing requirements for the County Attorney match the hiring/firing requirements of the County Administrator.

Jay Revell moved, seconded by Neil Fleckenstein, to consider providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter. The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

b. Law Enforcement Consolidation (Offered by Ken Hart)

Mr. Hart indicated that he was unsure if this could be done; however, countywide consolidation has been a big topic of discussion within the community and he believed it a good idea to explore and discuss the feasibility of law enforcement consolidation. He confirmed with Mr. Thiele that law enforcement consolidation could not be realized through a Charter amendment; but also established that it could be done through an interlocal agreement between the Sheriff and the City of Tallahassee or by a transfer of power (which would require a City referendum). Mr. Thiele offered that a lot of "behind the scene" details would have to be worked out.

Ken Hart moved, seconded by Neil Fleckenstein to request additional information and analysis related to consolidation of law enforcement services.

Mr. Williams stated that he would not be in support of law enforcement consolidation and offered that the current system has worked well.

Mr. Hart submitted that consolidation could result in a more efficient, streamlined and coordinated approach.

Mr. Fleckenstein indicated that he was interested in learning the pros and cons of such an endeavor and asked that these be included in staff's analysis.

Mr. Thomas conveyed that he could not support the motion as he deemed it appropriate to look at total consolidation, not just in one area.

Chairman Hinkle mentioned functional consolidation that has occurred between the County and City, such as animal control, environmental standards, joint dispatch, etc. Mr. Long affirmed the extensive functional consolidation between the County and City and commented that there are not many more areas that could be considered.

Mr. Williams expressed his support for the motion and was interested in the potential financial savings that could be gained.

The motion carried 9-2 (Catherine Jones and Kim Williams in opposition and Reginald Ellis, Anice Prosser and Jay Revell absent).

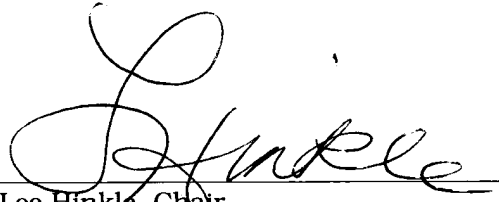
c. New Ideas for Committee Consideration

There were no additional ideas offered.

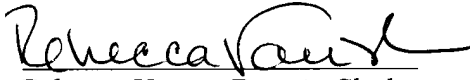
Ms. Peeples reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

VI. Adjournment

The Committee adjourned at 1:35 pm.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

**CHARTER REVIEW COMMITTEE
DECEMBER 7, 2017**

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on December 7, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and William Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggins, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

Chairman Hinkle convened the meeting. She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated issues at today's meeting.

II. Approval or Meeting Minutes. Chairman Hinkle advised that amended minutes had been distributed. The original minutes incorrectly listed Reginald Ellis and Anice Prosser as in opposition to the motion offered in Section IV, Item c. Mr. Ellis and Ms. Prosser should have been recorded as absent.

A motion to approve the amended November 30, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Ted Thomas. The motion carried 12-0 (Shane Hopkins and William Graham absent).

III. Remarks of Interested Citizens.

- Wilson Barnes addressed the CRC on behalf of the Tallahassee Branch of the NAACP. He spoke of their opposition to proposed charter amendments which would 1) alter the district composition of the County Commission and 2) establish non-partisan elections for all Constitutional Officers. He asked that the NAACP be a partner in potential changes and that it be offered an opportunity to review and make comment on proposed amendments.

Chairman Hinkle advised that the Committee would be holding three public hearing to provide an opportunity for the public to comment on proposed amendments and encouraged Mr. Barnes and others to attend.

IV. Proposed Charter Amendments for Committee Consideration

a. Consolidation of Law Enforcement

County Administrator Long provided an overview of the analysis. He relayed that consolidation of law enforcement services cannot be effectuated through a charter amendment. However, Florida law provides two methods for consolidating law enforcement services: 1) transfer of powers and 2) interlocal agreement. He articulated that should the CRC wish to further consider the issue, it may by a simple majority vote to direct staff to prepare language for inclusion in the Committee's Final Report recommending that the Board coordinate with the Sheriff's Office and the City to explore law enforcement consolidation after a thorough analysis of the costs/benefits to the community.

Mr. Perkins confirmed that the County could not place consolidation on the ballot without the City.

Ms. Jones submitted that the proposal is out of the purview of the CRC.

Catherine Jones moved, seconded by Michael Eurich, approval of Option 3: Take no further action at this time. The motion carried 10-2 (Ken Hart and Gordon Thames in opposition; William Graham and Shane Hopkins absent).

b. Hiring/Firing Process for County Attorney

County Attorney Thiele provided an overview of the analysis. The existing employment contract with the County Attorney includes a process for termination whereby the County Attorney may be removed at any time by a majority vote of the Board. He indicated that he is ambivalent on this issue; however, there is merit that the two employees reporting to the Board should have the same termination process.

Mr. Revell stated his intent for the amendment was consistency within the Charter.

Jay Revell moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting. The motion carried 12-0 (William Graham and Shane Hopkins absent).

c. Standards for Community Redevelopment Agency (CRA) Expenditures

County Attorney Thiele provided an overview of the analysis. He indicated that a review to determine if the Charter could bind the CRA to expend funds in a certain manner resulted in an opinion that the Charter cannot bind another properly constituted legal entity's expenditures.

Mr. Thames, while respecting the opinion of staff, did not believe the analysis addressed the intent of his recommendation. He clarified that his intent was that, going forward, anything purchased from CRA funds would be owned by the citizens of Leon County, i.e., parking garage, roads, etc.

Mr. Long, in response to a request from Mr. Revell, provided the CRC with an update on the County's decision to no longer participate in the Downtown CRA. He indicated that staff is working to facilitate the County's withdrawal from the Downtown CRA and will bring back options to both the City and County Commissions on the County's participation and the process going forward.

Mr. Williams provided his insight on the function and value of the CRA and submitted that a number of good projects have come from public funding of private structures (understanding that these structures must meet certain requirements.) He also mentioned that the only way the CRA can be effective is to create value within the boundaries where the CRA collects its funding. He stated that this was a very complex issue and suggested that CRA staff be invited to make presentation to the Committee.

Mr. Thames again advocated for placing this before the voters and allowing them to decide if they want to own what is bought with tax money.

Mr. Thomas pointed out that that the extra dollars going into the CRA are not going toward the general revenue, which places an extra burden on the rest of the community.

Gordon Thames moved, seconded by Catherine Jones, to limit, going forward, the expenditure of prospective County funding for the Community Redevelopment Agency to public infrastructure projects.

There continued to be much discussion among the Committee on the motion, including multiple suggestions for additional information and presentation from CRA staff.

Mr. Thomas Called the Question.

The motion failed 5-7 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Casey Perkins, Ted Thomas and Kim Williams in opposition and William Graham and Shane Hopkins absent).

Ted Thomas moved, duly seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis including a presentation from the Community Redevelopment Agency. The motion carried 12-0 (William Graham and Shane Hopkins absent).

d. Nonpartisan Superintendent of Schools and Constitutional Officers

Deputy County Attorney LaShawn Riggins provided an overview of the analysis. She conveyed that statute provides that a Charter County has the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. Regarding the Superintendent of Schools, staff concurred with the Florida Association of District School Superintendents (FADSS) Council that superintendents are regulated and governed by the respective district school boards and government at the state and not local level; thus the County Charter could not effectuate this change.

Mr. Thomas reviewed his rationale for bringing this issue forward. He submitted that 19% of voters in Leon County and 20% of the voters in the City are registered as nonpartisan. He submitted that this was a significant number of disenfranchised voters and the opportunity for all registered voters to vote for Constitutional positions was important. He acknowledged that the change to make Superintendent of Schools nonpartisan could not be accomplished through the Charter, but suggested that the Chairman of the CRC send a letter on behalf of the Committee to the School Board requesting they move to make the Superintendent of Schools a nonpartisan election to be placed on the November 2018 ballot.

Ms. Riggins reiterated that it was the opinion of the FADSS that the Superintendent of Schools, while overseen by the local School Board, was governed by state law.

Mr. Thomas offered that there is a nexus between the fact that the School Board has the authority to change the School Superintendent to an appointed position and the authority to also make it a nonpartisan race.

Mr. Fleckenstein suggested a “robust” analysis of the pros and cons of making constitutional nonpartisan would be helpful.

Mr. Ellis indicated that he had some concerns about changing the election of constitutional officers to nonpartisan, as it would alter the manner in which African American voters have historically voted.

Mr. Eurich and Ms. Jones both commented that a proposed change to nonpartisan elections for the Superintendent of Schools was unlike a proposed change for the Constitutional Officers as it cannot be accomplished through the Charter and was outside of the Committee's purview.

Mr. Revell indicated that he had a number of issues that he would like staff to bring back more information on.

Jay Revell moved, seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis to include:

- *Total number of registered voters in Leon County.*
- *Number of voters in Leon County by party registration, including those with no party affiliation.*
- *Growth rates in party registration and no party affiliation over the last four election cycles.*
- *The number of partisan elections that resulted in two-party races in the last four election cycles.*
- *Voter turnout by party affiliation in the primary and general elections over the last four election cycles.*
- *The number of minority candidates in Leon County over the last four election cycles.*
- *Include County Commission in chart of partisan elections.*

The motion carried 11-1 (Catherine Jones in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle clarified that the information coming back to the Committee pertained to Constitutional Offices only.

Ted Thomas moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter to the Leon County School Board requesting a referendum on the November 6, 2018 General Election ballot to make the Superintendent of School nonpartisan. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Ken Hart, Casey Perkins, Anice Prosser and Jay Revell in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle suggested that Mr. Thomas take this issue up directly with the School Board.

V. Committee Idea Deliberation

Chairman Hinkle confirmed there were no additional items to be brought forward by the Committee for consideration.

VI. Review of Committee Schedule

Chairman Hinkle commented that the Committee had conducted all the necessary action up to this point and recommended that the meeting scheduled for December 14, 2017 be cancelled. The next meeting of the Committee is scheduled for January 11, 2018 at 11:30 a.m.

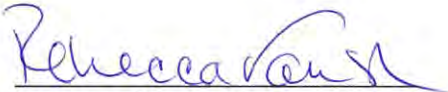
Ms. Jones clarified that Committee members could bring items forward at the January 11th meeting.

VI. Adjournment

The meeting was adjourned at 1:15 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

CHARTER REVIEW COMMITTEE
January 11, 2018

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 11, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Shane Hopkins, William Graham, and Jay Revell in attendance. Committee member Ken Hart was absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause. Committee Members Kim Williams arrived at 11:30 and Gordon Thames arrived at 11:43.

I. Call to Order: Chair Hinkle called the meeting to order at 11:30 a.m. She advised that Committee member Ken Hart would not be in attendance and that a serious health issue most likely would prevent him from participating further on the Committee.

II. Approval of December 7, 2017 Meeting Minutes:

A motion to approve the December 7, 2017 minutes was offered by Michael Eurich and seconded by Reginald Ellis. The motion carried 11-0 (Kim Williams, Gordon Thames and Ken Hart absent).

III. Remarks of Interested Citizens:

- Marilyn Wills, spoke on the value of nonpartisan elections for Constitutional Offices and the Supervisor of Elections. She commented that there were over 35,000 voters in Leon County registered as no party affiliation and provided some advantages of nonpartisan elections.
- Robert Travis, Tallahassee NAACP, referenced the Consent Decree that was entered into between the County and the NAACP in the 1990's, which stipulated that the County would notify the NAACP of any proposed changes to establish partisan/nonpartisan single member districts. He advised that the NAACP opposed any changes that would be in violation of the Consent Decree.
- Commissioner Bill Proctor expressed support for the comments expressed by Mr. Travis. He asked that the CRC not make any changes to current County Commission districts. He also requested that partisan elections remain for Constitutional Officers as party affiliation represents ideals and policies of a candidate.
- Angela Hardiman appeared to speak strongly in favor of nonpartisan races for Constitutional Offices. She asserted that politics has no place in determining how well a job can be performed.
- Wilson Barnes stated that independent voters made the choice to be independent and he did not want to lose the opportunity to exercise his vote. He requested the Committee maintain partisan elections.

IV. Proposed Charter Amendments for Committee Consideration:

Chairman Hinkle reminded the Committee that a majority vote of the Committee was needed to move the proposed amendments to the next phase.

a. Standards for CRA Expenditures

County Administrator Long recalled that the CRC had been provided at its last meeting an agenda item including a legal analysis of the proposed Charter amendment. He noted that the analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but could through an amendment to the existing Interlocal Agreements. County Administrator Long recalled that the Committee had also requested a presentation from the CRA. He then introduced Wayne Tedder, Assistant City Manager of Development Services and Economic Vitality, to make the presentation to the Committee. County Administrator Long also recognized the presence of Interim City Manager Reese Goad.

Mr. Thames questioned the analysis and submitted that a Charter amendment is at a different level from an interlocal agreement. He opined that the voters of Leon County should have the authority, via Charter amendment, to stipulate that going forward, anything purchased from CRA funds would be owned by taxpayers.

County Attorney Thiele reaffirmed that because the CRA is a separate legal entity, a change to their processes and budget by Charter amendment could not be realized.

Mr. Tedder provided a thorough presentation to the Committee including, but not limited to: the makeup and processes of the CRA; criteria to establish a CRA; information on the two Tallahassee CRA Districts; CRA funding, and an overview of CRA projects (past, current and pending).

Dialogue between Mr. Thames and Mr. Tedder ensued upon the conclusion of the presentation.

Mr. Graham acknowledged the opinion of staff regarding the authority of the CRC on this issue. He mentioned that there were currently two bills pending in the legislature that address many of the concerns expressed by Mr. Thames and suggested that would be a more appropriate venue to bring these issues forward.

Ted Thomas moved, seconded by William Graham, approval of Option 3: Take no further action at this time. The motion carried 11-2 (Gordon Thames and Catherine Jones in opposition and Ken Hart absent).

b. Non Partisan Constitutional Officers

County Administrator Long introduced the item. He mentioned that the Florida Constitutional Revision Committee is considering an amendment to the Constitution that would prohibit charter counties from modifying the powers, duties and elected status of Constitutional Officers. He announced that Chris Moore, Deputy Supervisor of Elections, was in attendance to answer any questions the Committee may have.

County Attorney Thiele provided a brief update on the Fifth District Court of Appeal opinion in *Orange County Florida v. Singh, et al.*, in which Orange County appealed a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. County Attorney Thiele offered that, while Leon County is not in the Fifth District, and it is unknown whether Orange County will appeal the decision, it could provide potential limitation on Leon County's ability to change the Constitutional Offices to nonpartisan status.

Mr. Thomas offered that a precedent has been set in this district (Wakulla County) and opined that the Committee should move forward with an amendment that there be nonpartisan elections for Constitutional Officers.

Ms. Jones mentioned that while the CRC should not made decisions based on what the Constitutional Revision Committee might do, believed that consideration should be given to the ruling in the Fifth District Court. She stated that she was opposed to making Constitutional Offices nonpartisan; however, recognized the “no party affiliation” individuals have a right to vote.

Mr. Ellis opined that the CRC should not take action on this as there are too many unknowns at this time.

Reginald Ellis moved, seconded by Catherine Jones, approval of Option 3: Take no further action at this time.

Mr. Fleckenstein asked Mr. Moore to address what impact could be realized by the change. Mr. Moore responded that it would simplify the election process; however, mentioned that the County has both nonpartisan and partisan elections and both appear to work.

Mr. Thomas conveyed that when he spoke in support of nonpartisan elections, he intended that to be a motion.

Mr. Revell stated that he was a fan of nonpartisan elections and supports any option which expands the electorate to allow more voters to have a say.

The motion carried 9-4 (Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Ken Hart absent).

V. Draft Charter Amendment Language:

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced the item and noted that proposed charter amendment language is provided for the CRC’s consideration.

Kim Williams moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.

Mr. Fleckenstein pointed out that 66.5% of the electorate approved of the amendment in the 2010 General Election and based on data from the Supervisor of Elections website 165 of 166 precincts supported the amendment. He submitted that based on the success of the amendment in 2010 citizens supported a decrease in campaign contribution and he saw no reason to go in the opposite direction.

Mr. Eurich commented that when the \$250 campaign contribution limit is compared to the state’s limit of \$1,000, there is no substantive change in the percentage of candidates with a surplus at the end of the campaign cycle; thus he did not see where an increase was needed.

The motion carried 9-4 (Michael Eurich, Neil Fleckenstein, Anice Prosser and Gordon Thames in opposition and Ken Hart absent).

b. Code of Ethics

County Administrator Long introduced the item. He advised that the County currently has an ethics policy that closely follows state law; however, acknowledged that a Charter amendment requiring the County to adopt an ordinance would further elevate the importance and visibility of the County's ethics rules. He mentioned that a recently developed Ethics "Field Manual" for employees was included in the Committee's packet. County Administrator Long also advised that unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Comptroller and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney's opinion that the County cannot impose a "Code of Ethics" on Constitutional Officers.

*Neil Fleckenstein moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a "Code of Ethics" **not** applicable to Constitutional Officers.*

Ms. Jones opined that there was not a Constitutional Officer who would not support, appreciate and want the public to know that they also uphold to a code of ethics.

The motion carried 13-0 (Ken Hart absent)

c. Hiring/Firing County Attorney

County Attorney Thiele introduced the item. He referenced the proposed language and stated that it is was taken verbatim from the Charter applicable for the County Administrator.

Jay Revell moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing. The motion carried 13-0 (Ken Hart absent).

d. Modifying the District Composition of the Leon County Board of County Commissioners

County Attorney Thiele introduced the item. He stated that he had deemed it premature to contact the NAACP on the proposed change; however, as the amendment moves through the process, and when appropriate, dialogue would be initiated. He then reviewed the legal process that would be required to implement the amendment and advised that legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot.

Mr. Williams confirmed with County Attorney Thiele that the change had to be done by Charter amendment. Mr. Williams, on behalf of Mr. Hart (who initiated the amendment) conveyed that the intent was to allow all the electorate to vote for four of the seven County Commissioners. He asserted that he could not support the proposed amendment until the legal issues had been addressed.

Chairman Hinkle agreed that a court decision could not be rendered by 2018 and that it would be 2020 (or after) before the amendment could be placed on the ballot. She recommended that the CRC suggest to the County Commission that they revisit

the Federal Courts decision, as it was rendered in 1985 and much progress has been made since that time.

Mr. Revell affirmed with County Attorney Thiele that the requirements from the Federal Court order were not included in the Charter and he did recommend that they be added.

Ms. Jones recommended that the Committee not move forward with the amendment in light of the time that would be required to address the legal challenges and that the NAACP was not supportive of the change.

Catherine Jones moved, seconded by Reginald Ellis, approval of Option 3: Take no further action at this time.

Mr. Williams asked if the maker of the motion would consider adding Chairman Hinkle's recommendation to bring the matter to the Board for consideration. **Ms. Jones did not accept the friendly amendment.**

The motion carried 8-5 (Lee Hinkle, Casey Perkins, Anice Prosser, Jay Revell, and Ted Thomas opposed and Ken Hart absent).

VI. Committee Idea Deliberation

Chairman Hinkle stated that this was the last opportunity to take up any new ideas for consideration. She asked if there were any new ideas to be brought forward.

- Ms. Jones advocated for the Constitutional Offices of Supervisor of Elections, Clerk of Circuit Court and Comptroller, Property Appraiser and Tax Collector to be appointed positions. She shared that the Constitutional Offices were established by the Florida Constitution in 1885 and opined it was time to offer the citizens an opportunity to have an opinion on this issue.
 - *Catherine Jones moved, seconded by Gordon Thames, to request staff bring back an analysis on how an appointed structure would look like for the Supervisor of Elections, Clerk of Court and Comptroller, Property Appraiser and Tax Collector. The motion carried 8-5 (Reginald Ellis, Lee Hinkle, Shane Hopkins, Ted Thomas and Kim Williams in opposition and Ken Hart absent).*

At the request of Chairman Hinkle, County Administrator Long provided an overview of the actions taken by the Committee. He informed the CRC that information on the last motion would be provided at the next meeting and the three items approved for amendment language will move to the public hearing phase. He reminded the Committee that the proposed amendments would require 10 votes to move to the Board for consideration. The three items moving forward to public hearing are:

- Increase Campaign Contribution Limits for Local Elections
- Provide a Code of Ethics Requirement in the Leon County Charter
- Modify the Hiring/Firing Process for the County Attorney

Chairman Hinkle shared that Commissioner Bill Proctor has requested an opportunity to address the Committee.

- Commissioner Proctor expressed his concerns regarding the potential relocation of the Capital from Tallahassee. He spoke of the devastating effect this would have on North Florida and the loss of 40% of jobs in Tallahassee.

- Commissioner Proctor also asked the Committee to consider the establishment of a Leon County Water Commission who's purpose would be to oversee and protect the areas water resources.

Ms. Jones was unclear how the Committee could address the relocation of the capital; however, suggested this was an issue to be addressed by the County Commission. She noted that Board Chairman Nick Maddox also chaired the Leon County Legislative Dialogue meetings and suggested that the delegation lobby to maintain the capital in Tallahassee.

- Chairman Maddox expressed his appreciation to the CRC for its work. He indicated that the issue of relocation is huge and would drastically change the character of the committee and create blight in the region. He suggested that the Committee direct Chairman Hinkle to send a letter to the County Commission expressing concerns over the possibility of relocation. He also suggested that a similar letter be sent to the legislative delegation expressing the Committee's concerns.

Gordon Thames moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter on behalf of the Committee to the Board of County Commissioners and the Legislative Delegation opposing efforts to move the state capital out of Leon County. The motion carried 13-0 (Ken Hart absent).

Ms. Jones stated that while she too was concerned about water issues she was unsure what authority the Committee has in creating a citizen advisory group.

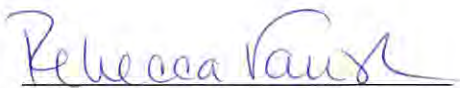
Mr. Fleckenstein stated that Tall Timbers considers water resource protection as one of its most important functions. He spoke of the quality and quantity of water in our area and on the importance of protecting our water resource from being directed elsewhere. He stated that he would be interested in a staff analysis of how other charter counties have addressed water resource protection.

Neil Fleckenstein moved, seconded by William Graham, to direct staff to bring back additional information and analysis regarding how other county charters have address protecting water resources. The motion carried 13-0 (Ken Hart absent).

Chairman Hinkle advised that the requested information on the appointment of Constitutional Officers and the water resources issue would be on the Committee's January 18 agenda.

VII. Adjourn

The Committee adjourned at 1:44 p.m.


Rebecca Vause, Deputy Clerk


Lee Hinkle, Chair
Leon County Charter Review Committee

2017/2018
Citizen Charter Review Committee
January 18, 2018

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 18, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Kim Williams and William Graham present. Committee members Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

- I. Call to Order: Chair Hinkle called the meeting to order at 11:30 a.m.
- II. Approval of Minutes: *A motion to approve the January 11, 2018 minutes was offered by Michael Eurich and seconded by Anice Prosser. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).*

III. Remarks of Interested Citizens:

Chair Hinkle confirmed there were no citizens to address the CRC.

IV. Proposed Charter Amendments for Committee Consideration

Chair Hinkle reminded the Committee that a simple majority vote of the CRC was needed to move the proposed amendments to the next phase.

a. Protections for Water Resources

County Administrator Long introduced the item. He advised that the state has exclusive authority over water consumption; however, counties may establish environmental standards related to water quality protection. He noted that a detailed memorandum from Deputy County Attorney Riggans on responsibilities of the state and counties as they pertain to the regulation of water quality is included in the Committee's agenda packet, as well as information on the actions of the 2010 Charter Review Committee by which countywide minimum environmental standards were established. He conveyed that the County will continue to evaluate opportunities to improve water quality and staff had no specific regulations to recommend at this time for inclusion in the County Charter.

Mr. Williams asked if there were any identified water quality issues to be cited in the Charter by which to oblige the County Commission to review or make improvements routinely.

County Administrator Long provided an overview of a number of actions the Board has taken to address water quality, such as leveraging opportunities to facilitate neighborhood conversions from septic to sewer services and actively evaluating pilot programs for alternative programs septic. He submitted that he did not believe a charter amendment was needed to ensure this issue remains on the Board's radar.

Mr. Fleckenstein inquired if there are water quality issues facing the County that are not being addressed by regulations or current programs.

David McDevitt, Development Support and Environmental Management Director, responded that the implementation of minimum countywide environmental standards and recent changes to the Comprehensive Plan has enhanced the means by which the County treats residential development in the lake protection area. He advised that staff is not aware of any additional regulations needed at this time.

Mr. Fleckenstein also ascertained from Mr. McDevitt that the County is adequately protected on issues such as oil drilling or fracking, as the County does not have a land use designation that would allow such events to occur.

Mr. Thomas submitted that, while regulations against pollutants affecting water quality are needed, an ordinance would be the more appropriate and effective venue.

Ms. Jones clarified that Commissioner Bill Proctor (who brought this issue forward) had asked for the establishment of a citizen board to look at water resource issues for the region. She confirmed with County Attorney Thiele that the County has no jurisdiction that would overcome state regulations and authority of the Water Management Districts. He also relayed that the County has a very active Water Resources Committee in place.

Catherine Jones moved, seconded by Neil Fleckenstein, approval of Option 3: Take no further action at this time. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

b. Consideration of Constitutional Officer Status

County Administrator Long introduced the item. He noted, as reflected in the analysis, that there is a great deal of diversity in the manner in which constitutional officers are treated on both the national and state levels. He mentioned that a vast majority of charter counties throughout the state have preserved their Constitutional Offices, with only six having modified at least one office. Mr. Long also outlined, as requested by the CRC, a process by which the appointed positions would be filled. He shared that the Constitutional Review Commission is considering a constitutional amendment that would mandate that all constitutionally prescribed county officers be elected and that all functions and duties be restored as originally prescribed in the Constitution. Lastly, Mr. Long conveyed that the County enjoys a very good and strong working relationship with the County's Constitutional Officers.

Ms. Jones expressed her appreciation for the thorough analysis. She asserted that any potential Constitutional amendment should not control how the Committee moves forward on an issue. She submitted that the County is very fortunate to have some "incredible" Constitutional Officers and that her request for the item was not reflective of their performance. She stated that her desire to pursue this issue was threefold: 1) Elected Constitutional Officers remain until they retire; 2) Elections have a tendency to be popularity contests, and 3) Residents have no recourse if the individual does something wrong.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission. Mr. Thomas also questioned the criteria to be used to hire and evaluate the performance of constitutional offices.

Ted Thomas moved, seconded by Reggie Ellis, approval of Option 3: Take no further action at this time. The motion carried 9-1 (Catherine Jones in opposition and Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

V. Adjournment:

Chairman Hinkle thanked the CRC for its work thus far and reviewed the schedule going forward.

Chairman Hinkle recalled that the CRC has advanced the following proposed amendments to public hearing:

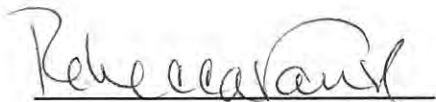
1. Increase campaign contribution limits for local elections.
2. Provide a Code of Ethics in the Leon County Charter.
3. Modify the hiring/firing of the County Attorney.

Due to the progress of the CRC, Chair Hinkle recommended that the CRC begin its public hearings on January 25, 2018. She stated that the hearings would begin at 6:00 p.m. in the Commission Chambers. She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend all three public hearings.

The Committee adjourned at 12:11 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

**2017/2018
Citizen Charter Review Committee
January 25, 2018
First Public Hearing**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) conducted the first of three public hearings on January 25, 2018 at 6:00 p.m. in the Commission Chambers with Committee members Lee Hinkle, Kim Williams, Ted Thomas, Catherine Jones, Neil Fleckenstein, Michael Eurich, Anice Prosser, Casey Perkins, and Shane Hopkins in attendance. Committee members Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order: Chairman Hinkle called the first Public Hearing to order at 6:00 p.m. She conveyed that the Committee had over the past three months made significant progress and has reviewed numerous issues. She stated that the Committee will hold three public hearings to receive citizen input on three proposed Charter amendments:

1. Increasing Campaign Contribution Limits for Local Elections
2. Providing a Code of Ethics
3. Modifying the Hiring/Firing Process for the County Attorney

She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend the public hearings.

II. Approval of Minutes: *A motion to approve the January 18, 2018 minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).*

III. Public Hearings:

- a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment proposes that the provision on the limitation on campaign contributions be stricken from the Charter. This change would increase local campaign contributions to the State limit of \$1000. He advised that the current \$250 limit was approved through a Charter amendment in 2010. He noted that the State limit at that time was \$500; however, was increased by the Florida Legislature to \$1,000 in 2013. He noted that Leon County is one of only three County Charters that have a local limit on campaign contributions.

County Administrator Long confirmed that there were no speakers on this issue.

Michael Eurich moved, seconded by Lee Hinkle, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the policy would apply to all County Commissioners, employees and members of appointed boards and committees. He advised the County's current Ethics Policy exceeds state law in promoting transparency and addressing potential conflicts of interest; however, to elevate the importance and visibility of the County's current Ethics Policy, the Charter amendment would require the County Commission to adopt a Code of Ethics by ordinance. He noted that there are currently six County Charters which require a Code of Ethics by ordinance.

County Administrator Long confirmed that there were no speakers on this issue.

Kim Williams moved, seconded by Michael Eurich, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment provides for the hiring/firing process of the County Attorney to be consistent with that of the County Administrator, as is provided in the County Charter.

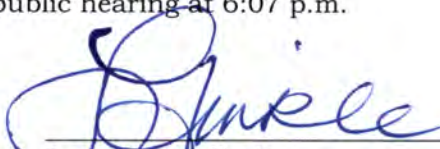
County Administrator Long confirmed that there were no speakers on this issue.

Shane Hopkins moved, seconded by Anice Prosser, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

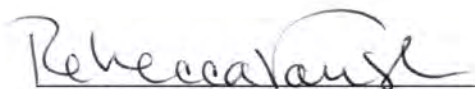
IV. Adjournment

Chairman Hinkle thanked the Committee for its work and reminded members that the second of three public hearing would be held Thursday, February 1, 2018 at 6:00 p.m. in the County Commission Charters.

Chairman Hinkle adjourned the public hearing at 6:07 p.m.



Lee Hinkle, Chair
Leon County Charter Review Committee



Rebecca Vause, Deputy Clerk

APPENDIX C: ATTACHMENTS (MEETING AGENDAS)

Attachment #1: “Charter Committee Amendment Consideration Process”

Attachment #2: November 9, 2017 Meeting Agenda

Attachment #3: November 16, 2017 Meeting Agenda

Attachment #4: November 30, 2017 Meeting Agenda

Attachment #5: December 7, 2017 Meeting Agenda

Attachment #6: January 11, 2018 Meeting Agenda

Attachment #7: January 18, 2018 Meeting Agenda

Attachment #8: January 25, 2018 Public Hearing Agenda

Attachment #9: February 1, 2018 Public Hearing Agenda

Attachment #10: February 8, 2018 Public Hearing Agenda

Charter Committee Amendment Consideration Process

“How An Idea Becomes a Charter Amendment”

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Nov. 16th - Jan. 11th Issues/Discussion Meetings</p>	<ul style="list-style-type: none"> ❖ Step 1 - Initial Committee Idea Deliberations: Any idea for a proposed charter amendment may be requested by any committee member to be agendaed for formal consideration by the committee. <p style="margin-left: 40px;">Voting Threshold: <u>4 votes of the committee</u> is required to formally agenda an idea for formal committee consideration for a proposed charter amendment. Ideas which do not receive that level of interest will not be considered further.</p> ❖ Step 2 - Proposed Charter Amendment Agendaed For Committee Consideration: For proposals receiving 4 votes by the committee (per Step 1), staff places an analysis of the proposal on the committee agenda for further consideration. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 3: <u>A simple majority vote</u> of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.</p> 	
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Jan. 18th & 25th Decision Meetings</p>	<ul style="list-style-type: none"> ❖ Step 3 - Proposed Charter Amendment Agendaed For Committee Consideration with Draft Charter Amendment Language: Upon a simple majority vote for the committee to consider the proposal for the second time (per Step 2), staff agendas the proposal with draft charter amendment language and seeks a committee decision on whether to advance the proposed charter amendment to public hearing. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 4: <u>A simple majority vote</u> of the committee is required to advance the proposal to a public hearing.</p> 	
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Feb. 1st, 8th, & 15th Public Hearings</p>	<ul style="list-style-type: none"> ❖ Step 4 - Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendments to the Board of County Commissioners: Upon a simple majority vote to advance the proposal to a public hearing (per Step 3), a public hearing is advertised and conducted by the committee to receive public comment on proposed charter amendment. Upon conclusion of the public hearing, the committee considers the proposed charter amendment (for a third time) and decides whether or not to recommend the proposed charter amendment to the Board of County Commissioners. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 5: <u>10 votes of the committee</u> are required to recommend a proposed charter amendment to the Board of County Commissioners.</p> 	
<p style="text-align: center;">Step 5 - Board of County Commissioners Workshop</p>	<p style="text-align: center;">Step 6 - Board of County Commissioners Public Hearings</p>	<p style="text-align: center;">Step 7 - 2018 General Election November 6, 2018</p>

Citizen Charter Review Committee

November 9, 2017

9:00 a.m.-11:00 a.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- | | | |
|------|----------------------------------|-------------------------------------|
| I. | Opening Remarks | Vince Long
County Administrator |
| II. | Committee Introductions | Citizen Charter Review
Committee |
| III. | Overview of Charter Government | Vince Long
County Administrator |
| IV. | Overview of Florida Sunshine Law | Herb Thiele
County Attorney |
| V. | Review of Committee Bylaws | Heather Peeples |
| VI. | Review of Committee Schedule | Heather Peeples |
| VII. | Adjournment | |

*The next meeting of the Citizen Charter Review Committee will take place
on Thursday, November 16, 2017.*

I.


OPENING REMARKS

II.

COMMITTEE INTRODUCTIONS

III.


OVERVIEW OF CHARTER GOVERNMENT



2017-2018 Leon County Citizens Charter Review Committee


November 9, 2017

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Overview of Charter Government

People Focused. Performance Driven.



What is a Charter?

- Local "Home Rule" Constitution
- "Living document" which reflects the preferences of the local electorate as to the powers, structure and authority of county government.
- Only voters can approve and amend a county charter.



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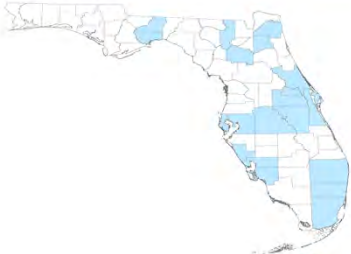
LEON Why Charter Government?

- "One size fits all" government doesn't work.
- Citizen determination to reflect community preferences.
- Flexibility in fulfilling state-mandated functions.
- Increases ability to address local concerns.
- Like city governments (all charters) "bottom-up" approach to government.

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LEON Florida's Charter Counties

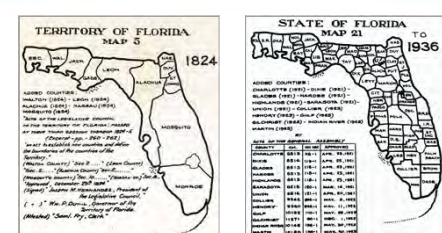
- Of Florida's 67 counties, 20 are currently charter counties.
- These 20 counties represent over 75% of the state's population.



LEON Florida History


TERRITORY OF FLORIDA MAP 5 1824

STATE OF FLORIDA MAP 21 TO 1936



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LEON **Dillon's Rule**




John F. Dillon.

- **Dillon's Rule:** Local governments only have those powers which are specifically granted by the State.
- **John Forrest Dillon**
 - Born December 25, 1831 in Northampton, New York
 - Served on the Iowa Supreme Court until 1864
 - Appointed by President Ulysses Grant to the U.S. Circuit Court for the Eighth Circuit

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LEON **Dillon's Rule**



John F. Dillon.


"The true view is this: Municipal corporations owe their origin to, and derive their powers and rights wholly from the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so may it destroy... They are, so to phrase it, the mere tenants at will of the legislature"

(City of Clinton v. Cedar Rapids and Missouri Railroad Company)

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LEON **Florida History 1960s**

- The Florida Legislature is inundated with local bills and special acts seeking to address local issues.
 - 1965 Legislative Session: 2,107 Local Bills
 - 2016 Legislative Session: 35 Local Bills



FLORIDA HOUSE OF REPRESENTATIVES 1965

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1968 Florida Constitution & "Home Rule"


- In 1968, voters amended the state constitution to:
 - Constitutionally-vest counties with "home rule."
 - Allow citizens to enact a local charter.
- Home Rule:** Municipalities have all powers of self-government, except those that are specifically prohibited or pre-empted by the State.

ARTICLE I
DECLARATION OF RIGHTS

Section 1. **FUNDAMENTAL RIGHTS.**— All political power is inherent in the people. The enumeration herein of certain rights shall not be construed to deny or disparage others retained by the people.

Section 2. **RIGHT TO SUE.**— All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend their lives and liberty, to secure happiness, to be secured the industry, and to acquire, possess and protect property, except that the necessity, execution, disposition and possession of real property be subject to taxation and regulation as provided by law. No person shall be deprived of any right because of race or religion.


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Leon County History

- In 2002, Leon County voters adopted a "Starter Charter," which included:
 - Roles and responsibilities of the County's constitutional officers
 - The County's relationship with its municipalities
 - A separate executive and legislative branch under the council-manager form of government
 - Charter Amendment Process

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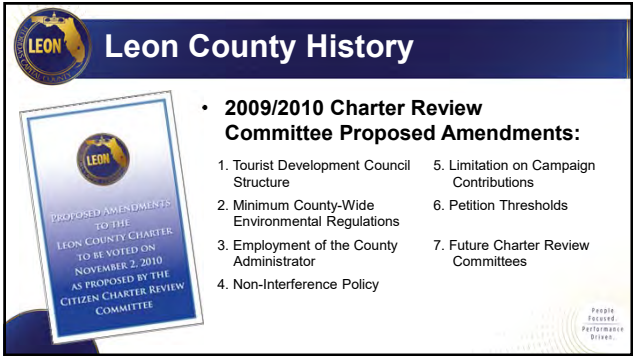


Charter Amendment Process

- Citizen Petition
- Board of County Commissioners
- Citizen Charter Review Committee

(2) **Amendments and Revisions by Citizen Charter Review Committee.**
(A) A Citizen Charter Review Committee shall be appointed by the Board of County Commissioners at least twelve (12) months before the general election occurring every eight (8) years thereafter, to be composed and organized in a manner to be determined by the Board of County Commissioners, to review the Home Rule Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. Public hearings shall be conducted as provided by F.S. § 125.63.
(B) No later than ninety (90) days prior to the general election, the Citizen Charter Review Committee shall deliver to the Board of County Commissioners the proposed amendments or revisions, if any, to the Home Rule Charter, and the Board of County Commissioners shall consider such amendments or revisions to be placed on the general election ballot, as accordance with F.S. § 125.64.
(C) If the Citizen Charter Review Committee does not submit any proposed Charter amendments or revisions to the Board of County Commissioners at least ninety (90) days prior to the general election, the Citizen Charter Review Committee shall be automatically dissolved.

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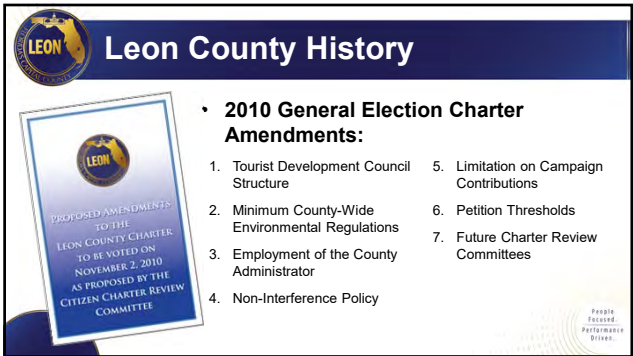
Leon County History

2009/2010 Charter Review Committee Proposed Amendments:

1. Tourist Development Council Structure
2. Minimum County-Wide Environmental Regulations
3. Employment of the County Administrator
4. Non-Interference Policy
5. Limitation on Campaign Contributions
6. Petition Thresholds
7. Future Charter Review Committees

PROPOSED AMENDMENTS TO THE LEON COUNTY CHARTER TO BE VOTED ON NOVEMBER 2, 2010 AS PROPOSED BY THE CITIZEN CHARTER REVIEW COMMITTEE

People Focused Performance Driven



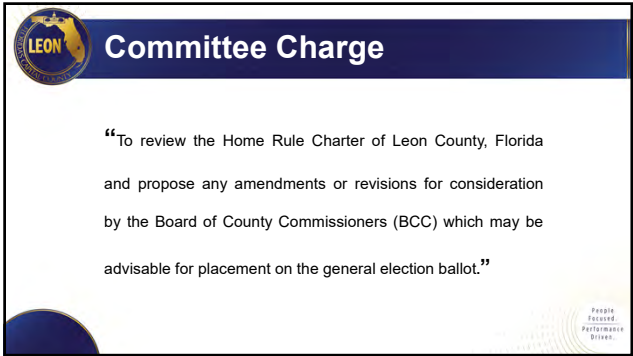
Leon County History

2010 General Election Charter Amendments:

1. Tourist Development Council Structure
2. Minimum County-Wide Environmental Regulations
3. Employment of the County Administrator
4. Non-Interference Policy
5. Limitation on Campaign Contributions
6. Petition Thresholds
7. Future Charter Review Committees

PROPOSED AMENDMENTS TO THE LEON COUNTY CHARTER TO BE VOTED ON NOVEMBER 2, 2010 AS PROPOSED BY THE CITIZEN CHARTER REVIEW COMMITTEE

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Committee Charge


“To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners (BCC) which may be advisable for placement on the general election ballot.”

People Focused Performance Driven

IV.


""""""OVERVIEW OF FLORIDA)S'QRGP"

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Overview of Florida's Open Government Laws


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The Laws

- ❖ **SUNSHINE LAW**
Protects the public from “closed door” decision making and provide a right of access to governmental meetings.
(F. S. Sec. 286.011 (“Sunshine Law”) and Fl. Constitution Art. I, Sec. 24)


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The Laws



- ❖ **CODE OF ETHICS**
Protects against conflict of interest and establishes standards for the conduct of elected officials and government employees in situations where conflicts may exist.
(F. S. 112, Part III, Code of Ethics for Public Officers and Employees and the Fl. Constitution Art. II, Sec. 8)


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 **The Laws**

❖ **PUBLIC RECORDS LAW**



Creates a right of access to records made or received in connection with official business of a public body.


 

 **The Sunshine Law**

❖ **Applies when:**



- Two or more members of a governing board (such as the BCC) discuss a matter that may foreseeably come before the governing board.
- When a governing board moves any part of its decision making process to a committee or group, thereby appointing an "alter ego."


 

 **The Sunshine Law** 21

Applying Sunshine Law to Board appointed committees


- Allows the public to observe each preliminary step leading to the final decision.
- Prevents the Board from creating closed committees that narrow the Board's decisions.


 



Meeting Subject to Sunshine Law

- ❖ Formal or casual discussions about a matter on which the Committee may foreseeably take action, between two or more members of a Decision Making Committee.
- ❖ Discussions may occur through telephone or e-mail communications, or exchanges during workshops, social events, football games and neighborhood barbeques.






The Sunshine Law Imposes Three Obligations of Openness

23


- 1. Reasonable notice of meetings subject to the Sunshine Law must be given.**
Requires giving the public reasonable and timely notice so they can decide whether to attend.
What is "reasonable" or "timely" depends on the circumstance. Does not necessarily require a newspaper advertisement.






The Sunshine Law Imposes Three Obligations of Openness

- 2. Public must be allowed to attend meetings;**
Meetings cannot be held at exclusive or inaccessible facilities.
The public must be given an opportunity to be heard on any matter that is part of the Board's decision-making process.




25




The Sunshine Law Imposes Three Obligations of Openness

3. Written minutes must be taken and made available promptly.

- Sound recordings may also be used, in addition to written minutes.
- Minutes may be a brief summary of meeting's events.
- Minutes must record the votes.





Sunshine Law: Penalties for Noncompliance


Criminal Penalties:


A violation of the Sunshine Law by a Decision Making Committee, can nullify subsequent Board decisions.

- It is a second degree misdemeanor to knowingly violate the Sunshine Law.
- Punishable with a fine of up to \$500 and/or up to 60 days imprisonment.

Other Penalties Include:

- Removal from position.
- Payment of attorney's fees incurred by the challenging party, as well as declaratory and injunctive relief.





Florida Code of Ethics


F.S. Chap 112, Pt. 3 addresses:

- ⦿ Standards of Conduct
- ⦿ Voting Conflict

Applies to:

- ⦿ County Commissioners and Board Employees
- ⦿ Board Appointed Committee Members

Prohibits certain actions or conduct.
Requires certain disclosures be made to the public.



Standards of Conduct
Prohibit Public Officials, including Board Appointed Committee Members, from . . .

- ❖ **Soliciting and Accepting Gifts.** May not solicit or accept anything of value that is based on an understanding that their vote, official action, or judgment would be influenced by such a gift.
 - ❖ **Accepting Unauthorized Compensation.** May not accept any compensation, payment, or thing of value that is given to influence a vote or other official action.
- ❖ **Misusing Their Public Position.** May not corruptly use their official position to obtain a special privilege for themselves or others.
- ❖ **Disclosing or Using Certain Information.** May not disclose or use information not available to the public and obtained by reason of their public positions for the personal benefit of themselves or others.


Standards of Conduct
Prohibit Public Officials, including Board Appointed Committee Members, from . . .

The full Board may waive these two prohibitions, as they relate to Board appointed committees.

- ❖ **Doing business with their agency.** A public official's agency may not do business with a business entity in which the public official, or their spouse or child own more than a 5% interest.
- ❖ **Engaging in Conflicting Employment or Contractual Relationships.** A public official may not be employed or contract with any business entity regulated by or doing business with his or her public agency.

Voting Conflicts of Interest


- ❖ Requires no member of a Board appointed committee shall vote in an official capacity upon any measure which would inure to the special private gain or loss of themselves, any principal or entity by whom they are retained, other than an agency, or to any relative or business associate.
 - The term "agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university
 - The term "relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law




Voting Conflicts of Interest

- ❖ **Requires that a member of a Board appointed committee:**
 - Must announce the nature of the conflict before the vote; abstain from voting; and file a memorandum of voting conflict
 - May not participate in the discussion without first disclosing the nature of their interest in the matter (either in writing prior to the meeting, or orally as soon as they become aware that a conflict exists)

Becomes an issue when stakeholders are appointed to Board appointed Committee





Public Records Law


Public Records include:


- ❖ All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency

The Public Records Law Applies to:


- ❖ Records developed by a Board Appointed Committee and its members
- ❖ All types of records including written communications, letters, notes and e-mails.

Numerous exemptions are identified in F. S. 119.07 and other statutes.





Questions?



V.

REVIEW OF COMMITTEE BYLAWS

Charter Committee Amendment Consideration Process

“How An Idea Becomes a Charter Amendment”

<p>Nov. 16th - Jan. 11th Issues/Discussion Meetings</p>	<ul style="list-style-type: none"> ❖ Step 1 - Initial Committee Idea Deliberations: Any idea for a proposed charter amendment may be requested by any committee member to be agendaed for formal consideration by the committee. <p style="margin-left: 40px;">Voting Threshold: <u>4 votes of the committee</u> is required to formally agenda an idea for formal committee consideration for a proposed charter amendment. Ideas which do not receive that level of interest will not be considered further.</p> ❖ Step 2 - Proposed Charter Amendment Agendaed For Committee Consideration: For proposals receiving 4 votes by the committee (per Step 1), staff places an analysis of the proposal on the committee agenda for further consideration. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 3: <u>A simple majority vote</u> of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.</p> 	
<p>Jan. 18th & 25th Decision Meetings</p>	<ul style="list-style-type: none"> ❖ Step 3 - Proposed Charter Amendment Agendaed For Committee Consideration with Draft Charter Amendment Language: Upon a simple majority vote for the committee to consider the proposal for the second time (per Step 2), staff agendas the proposal with draft charter amendment language and seeks a committee decision on whether to advance the proposed charter amendment to public hearing. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 4: <u>A simple majority vote</u> of the committee is required to advance the proposal to a public hearing.</p> 	
<p>Feb. 1st, 8th, & 15th Public Hearings</p>	<ul style="list-style-type: none"> ❖ Step 4 - Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendments to the Board of County Commissioners: Upon a simple majority vote to advance the proposal to a public hearing (per Step 3), a public hearing is advertised and conducted by the committee to receive public comment on proposed charter amendment. Upon conclusion of the public hearing, the committee considers the proposed charter amendment (for a third time) and decides whether or not to recommend the proposed charter amendment to the Board of County Commissioners. <p style="margin-left: 40px;">Voting Threshold to Advance to Step 5: <u>10 votes of the committee</u> are required to recommend a proposed charter amendment to the Board of County Commissioners.</p> 	
<p>Step 5 - Board of County Commissioners Workshop</p>	<p>Step 6 - Board of County Commissioners Public Hearings</p>	<p>Step 7 - 2018 General Election November 6, 2018</p>

VI.

REVIEW OF COMMITTEE SCHEDULE

Charter Review Committee Meeting Schedule

All meetings are held on Thursdays from 11:30 am to 1:30 pm in the Leon County Commissioner Chambers unless otherwise noted.

November 9, 2017 / 9am

Orientation

November 16, 2017

Issue/Discussion Meeting

November 23, 2017 – No Meeting

Thanksgiving Holiday

November 30, 2017

Issue/Discussion Meeting

December 7, 2017

Issue/Discussion Meeting

December 14, 2017

Issue/Discussion Meeting

December 21 & 28, 2017 – No Meetings

Winter Holidays

January 4, 2018 – No Meeting

New Year's Holiday

January 11, 2018

Issue/Discussion Meeting

January 18, 2018

Decision Meeting

January 25, 2018

Decision Meeting

February 1, 2018 / 6pm

Public Hearing

February 8, 2018 / 6pm

Public Hearing

February 15, 2018 / 6pm

Public Hearing

February 22, 2018

(Tentatively scheduled if needed)



November 16th Meeting

- Election of the Chair & Vice-Chair
- Overview of Leon County Government
- Initial Committee Idea Deliberations



VII.

ADJOURNMENT

Citizen Charter Review Committee

November 16, 2017

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Overview of Leon County Government
- II. Review of County Charter
- III. Approval of Committee Bylaws
- IV. Election of a Chair & Vice-Chair
- V. Approval of November 9, 2017 Meeting Minutes
- VI. Initial Committee Idea Deliberations
- VII. Remarks of Interested Citizens
- VIII. Adjournment

*The next meeting of the Citizen Charter Review Committee will take place on
Thursday, November 30, 2017 at 11:30 A.M.*

I.

OVERVIEW OF LEON COUNTY GOVERNMENT



2017-2018 Leon County Citizens Charter Review Committee

November 16, 2017

People Focused. Performance Driven.



November 16th Meeting Agenda

- I. Overview of Leon County Government
- II. Review of County Charter
- III. Approval of Committee Bylaws
- IV. Election of a Chair & Vice-Chair
- V. Approval of November 9, 2017 Meeting Minutes
- VI. Initial Committee Idea Deliberations
- VII. Remarks of Interested Citizens
- VIII. Adjournment

People
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Performance
Driven.



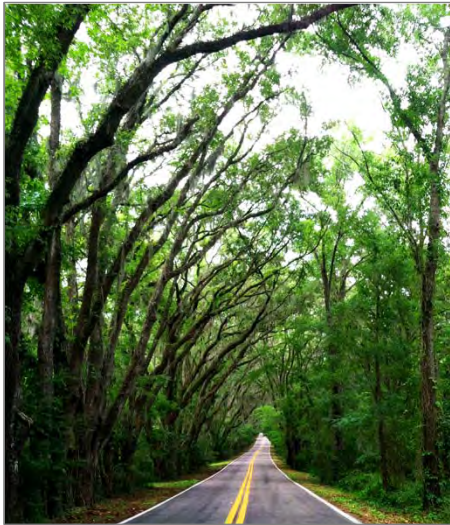
I. Overview of Leon County Government

People Focused. Performance Driven.

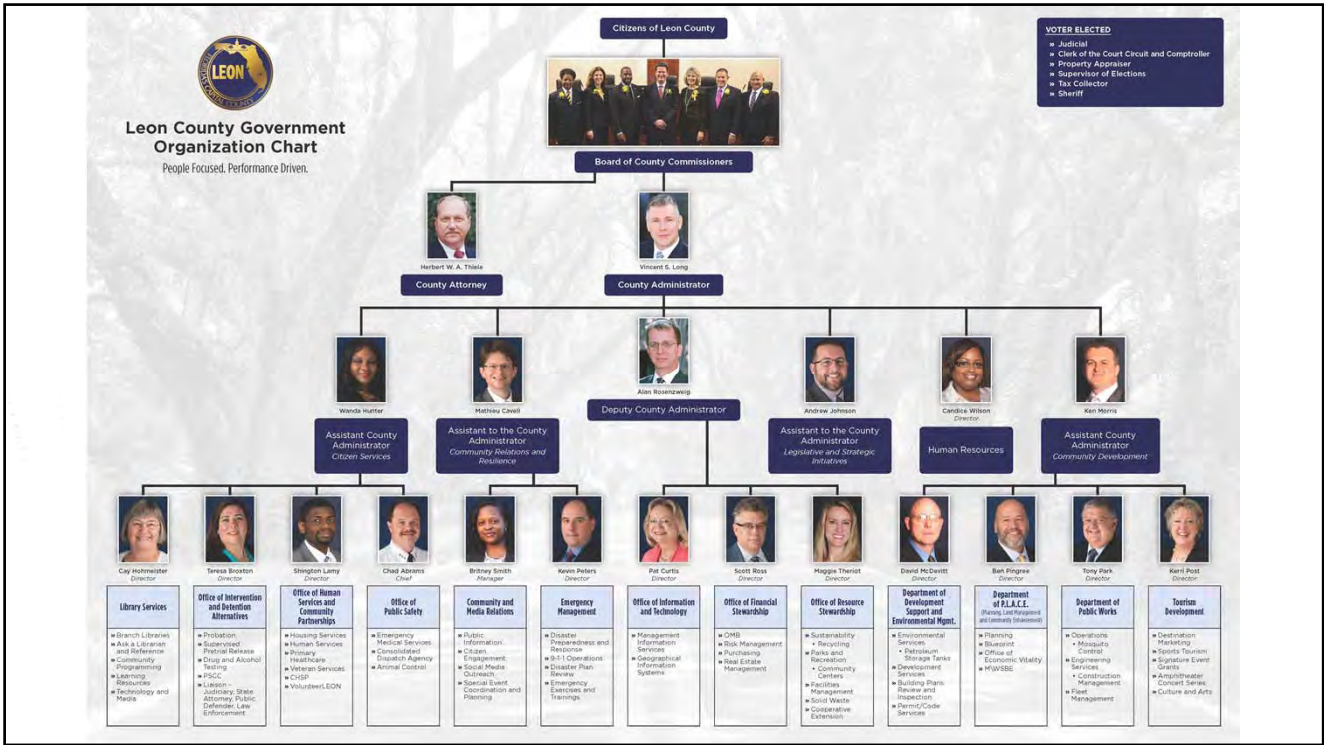


Leon County Fast Facts

- **Founded:** December 29, 1824
- **Charter Date:** 2002
- **Population:** 287,671
 - 34% Unincorporated
 - 66% within the City
- **Area (square miles):** 702
- **Homestead Properties:** 54,700
- **Median Age:** 31.1 Years
- **Total County Budget:** \$253.7 Million
- **County Employees:** 1,740 Total



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Performance
Driven.





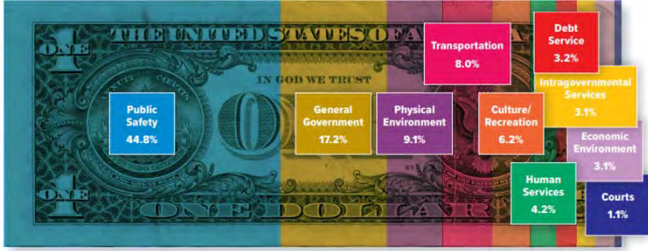
Budget at a Glance

WHERE THE \$253.7M COMES FROM...



FY 2017/2018 ADOPTED BUDGET:
\$253.7 MILLION

...AND HOW THE \$253.7M IS UTILIZED



People Focused.
Performance Driven.



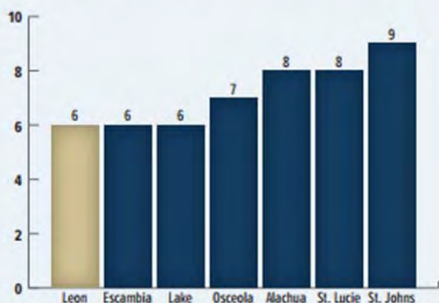
How We Compare

Net Budget Per Countywide Resident (FY 2017)



Leon County is the lowest for dollars spent per county resident. St. Johns County spends over two times the amount per resident that Leon County spends.

County Employees per 1,000 Residents (FY 2017)




Leon County has a ratio of 6.0 employees for every thousand County residents, tied with Escambia and Lake Counties for first in lowest per capita employees.

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ECONOMY

WHAT WE'VE ACCOMPLISHED



FY2012-2016

BOLD PROJECTS/BIG PROGRESS

**34 Total Initiatives,
33 Complete,
1 in Progress
97% Accomplished**

- » Passing the Penny Sales Tax
- » Conceiving and creating the Office of Economic Vitality
- » Launching the Leon Works Expo
- » Building and opening the Capital City Amphitheater and Apalachee Regional Park
- » Establishing the Domi Station business incubator

ECONOMY



WHAT WE'LL DO NEXT

BOLD GOAL

**Grow the five-year
tourism economy to
\$5 billion**

5-YEAR TARGETS

- » Attract 80 state, regional, or national championships across all sports
- » Co-create 500 entrepreneur ventures and 5,500 new jobs, including 200 high-wage jobs in high tech clusters
- » Connect 5,000 students and citizens to middle skilled job career opportunities
- » Host 100,000 residents and visitors as part of the Amphitheater County Concert Series

ENVIRONMENT

WHAT WE'VE ACCOMPLISHED



FY2012-2016

BOLD PROJECTS/BIG PROGRESS

**26 Total Initiatives,
24 Complete,
2 in Progress
92% Accomplished**

- » Initiating the Property Assessed Clean Energy (PACE) program
- » Closed the landfill operations
- » Launching single stream recycling to reduce waste and streamline collection
- » Creating the nation's first renovated Net-Zero government building
- » Protecting our water bodies through Minimum Environmental Standards and Lake Protection Zone

ENVIRONMENT



WHAT WE'LL DO NEXT

BOLD GOAL

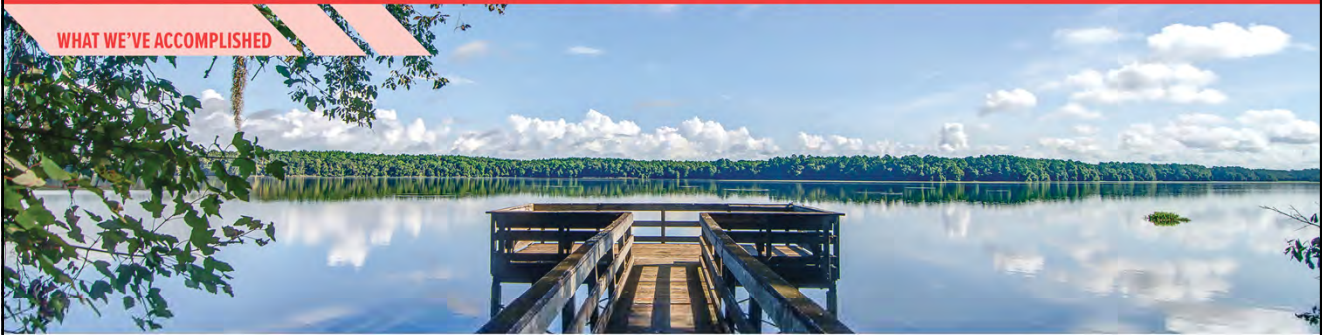
5-YEAR TARGETS

**Upgrade or eliminate
500 septic tanks in
the Primary Springs
Protection Zone**

- » Plant 15,000 trees including 1,000 in canopy roads
- » Ensure 100% of new County building construction, renovation and repair utilize sustainable design
- » 75% community recycling rate
- » Construct 30 miles of sidewalks, greenways and trails

QUALITY OF LIFE

WHAT WE'VE ACCOMPLISHED



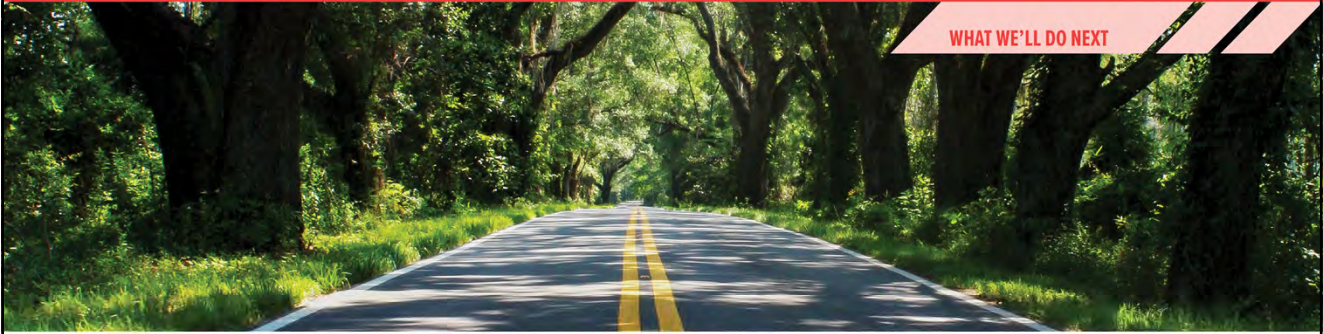
FY2012-2016

BOLD PROJECTS/BIG PROGRESS

**54 Total Initiatives,
52 Complete,
2 in Progress
96% Accomplished**

- » Constructing the Public Safety Complex
- » Establishing the Domestic Partnership Registry
- » Expanding the County library system with Woodville, Lake Jackson, and Eastside branches
- » Creating Operation Thank You to honor our local veterans
- » Revitalizing the Lake Jackson Center, library, and community center

QUALITY OF LIFE



WHAT WE'LL DO NEXT

BOLD GOAL

5-YEAR TARGETS

Secure more than \$100 million in Veteran Affairs benefits for Leon County veterans and their families

- » Double the number of downloadable books at the library
- » Construct 100 fire hydrants
- » Train 8,500 citizens in CPR/AEDs
- » Open 1,000 new acres of park land to the public

GOVERNANCE

WHAT WE'VE ACCOMPLISHED



FY2012-2016

BOLD PROJECTS/BIG PROGRESS

**40 Total Initiatives,
39 Complete,
1 in Progress
98% Accomplished**

- » Receiving bond upgrade to AA status for sound fiscal management
- » Creating the nationally recognized Citizen Engagement Series
- » Enhancing and streamlining permit process through launch of Project Dox, concurrent review, and ASAP
- » Opening the nationally recognized DesignWorks studio to focus on placemaking and design consultations
- » Promoting transparency and engagement online with My Checkbook and the Citizens Connect app

GOVERNANCE



BOLD GOAL

Implement 500 citizen ideas, improvements, solutions and opportunities for co-creation

5-YEAR TARGETS

- » Reduce by at least 30% the average time it takes to approve a single family building permit
- » Achieve 90% employee participation in the County's "My Rewards" Well Being Program
- » Reduce by 60% the outstanding debt of the County
- » 100% of employees are trained in Customer Experience, Diversity and Domestic Violence, Sexual Violence & Stalking in the Workplace

II.

REVIEW OF COUNTY CHARTER



II. Review of County Charter

People Focused. Performance Driven.



Article I. – Creation, Powers and Ordinances of Home Rule Charter Government

Section 1.6 Relationship to Municipal Ordinances

- (1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances...

- (2) *Minimum Environmental Regulations.* County ordinances shall establish minimum standards, procedures, requirements and regulations for the protection of the environment...
(Adopted in 2009)



Article I. – Creation, Powers and Ordinances of Home Rule Charter Government

Section 1.7 Transfer of Power

Whenever a municipality, special district or agency shall request by a majority vote of the governing body the performance or transfer of a function to the County, the County is so authorized by a majority vote of the Board of County Commissioners to have the power and authority to assume and perform such functions and obligations. This section does not authorize a transfer in violation of Article VIII, § 4 of the Constitution of Florida.



Article I. – Creation, Powers and Ordinances of Home Rule Charter Government

Section 1.9 Relation to State Law

Special laws of the state legislature relating to or affecting Leon County ... shall be subject to approval by local referendum... All special laws so approved shall become ordinances, and may be subject to amendment or repeal by the Board of County Commissioners.



Article II. – Organization of County Government

Section 2.1 Elected Commission & Appointed County Administrator Form of Government

Leon County shall operate under an elected County Commission and an appointed County Administrator form of government with separation of legislative and executive functions...

7) *Limitation on Campaign Contributions.* No candidate for any County office shall accept any contribution...in an amount in excess of \$250 per election. **(Adopted in 2009)**

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Article III. – Elected Constitutional Officers

Section 3.1 Preservation of Constitutional Offices

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices...

Section 3.2 Non-Partisan Offices

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

Section 3.4 Limitation on Campaign Contributions

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Article IV. – Powers Reserved to the People: Initiative & Recall

Section 4.1 Citizen Initiative

- (1) *Right to Initiate.* The electors of Leon County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances...upon petition signed by at least ten percent (10%) of the total number of electors qualified to vote in the County reflecting ten percent (10%) of the total number of electors qualified to vote within each of the five (5) commission districts.



Article IV. – Powers Reserved to the People: Initiative & Recall

Section 4.2 Recall

All members of the Board of County Commissioners shall be subject to recall as provided by general law.



Article V. – Home Rule Transition, Amendments, Review, Severance, Effective Date

Section 5.2 Home Rule Charter Amendments

- (1) Amendments Proposed by Petition.
- (2) Amendments and Revisions by Citizen Charter Review Committee.
 - (A) A Citizen Charter Review Committee shall be appointed by the Board of County Commissioners ...to review the Home Rule Charter and propose any amendments or revisions...
- (3) Amendments Proposed by the Board of County Commissioners.
 - (A) Amendments to this Home Rule Charter may be proposed by ordinance adopted by the Board of County Commissioners by an affirmative vote of a majority plus one (1) of the membership...

III.

APPROVAL OF COMMITTEE BYLAWS

In order to govern its function and operation in a manner consistent with the Home Rule Charter of Leon County, Florida approved by the electorate of Leon County on the 5th day of November 2002 and subsequently amended on the 2nd day of November 2010, the Leon County Citizens Charter Review Committee (hereinafter the “Committee”) hereby adopts the following Bylaws.

It shall be the duty of the Citizen Charter Review Committee to carry out the following charge: To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners (BCC) which may be advisable for placement on the general election ballot.

ARTICLE I. APPLICABLE FLORIDA LAWS AND BCC POLICIES

Section 1.1 Public Records Law and E-Mails: Each member of the Committee shall comply with the Florida’s Public Records Law, Chapter 119, Florida Statutes, and Leon County BCC Policy 96-4, “Policy on Public Records Law and E-Mail”, as may be amended from time to time, and each member of the Committee shall be provided a copy of BCC Policy 96-4.

Section 1.2 Government In the Sunshine Law: Each member of the Committee shall comply with the Florida Government in the Sunshine Law, Chapter 286, Florida Statutes, as may be amended from time to time.

Section 1.3 Code of Ethics: The Committee shall comply with the following state laws and BCC Policies with regard to the Florida Code of Ethics for Public Officers and Employees:

Clause 1.3.1 Each member of the Committee shall comply with Section 112.3143, Florida Statutes, “Voting Conflicts”, as may be amended from time to time, and shall be provided a copy of Section 112.3143.

Clause 1.3.2 Each member of the Committee shall abide by the Standards of Conduct set forth in Section 112.313, Florida Statutes, as may be amended from time to time, and shall be provided a copy of Section 112.313, Florida Statutes.

ARTICLE II. OFFICERS AND DUTIES

Section 2.1 The Chairperson and Vice-Chairperson shall serve until the dissolution of the Committee and assume the following powers and duties:

Clause 2.1.1 The Chairperson shall preside at all regular and special meetings of the Committee.

Clause 2.1.2 The Chairperson shall represent the Committee at all functions and activities so requiring (but without authority to state any position of the Committee not previously approved).

Clause 2.1.3 The Chairperson shall call special meetings when necessary;

Clause 2.1.4 The Chairperson shall set meeting agendas in coordination with County staff.

Section 2.2 In the event of the Chairperson's absence, or at the direction of the Chairperson, the Vice-Chairperson shall assume the powers and duties of the Chairperson.

Section 2.3 In the event that either the Chairperson or the Vice-Chairperson is unable to complete their terms, a replacement from among its members should be appointed as soon as reasonably possible.

ARTICLE III. TERM OF MEMBERS

Section 3.1 Each member shall serve on the Committee for 120 days or upon the completion of the Committee's work.

ARTICLE IV. ATTENDANCE AND REPLACEMENT OF MEMBERS

Section 4.1 **Attendance at Meetings:** Regular attendance and attention to the business of the Committee is expected. The seat of any member who fails to attend three consecutive regular meetings, without previous notification, shall be presumed vacant, and the Chairperson shall report that fact to the County Commissioner who appointed the member, for confirmation that a vacancy exists. Vacancies shall be filled in the same manner as initial appointments.

ARTICLE V. MEETINGS

Section 5.1 **Regular Meetings:** The Committee shall hold weekly meetings on Thursdays. Such regular meetings shall be held at **the Leon County Courthouse**. The duration of meetings shall not exceed **two** hours unless extended by a majority vote of the Committee. In order to expedite meetings, the Chairperson may place time limits on discussion of agenda items.

Section 5.2 **Special Meetings:** The Chairperson or any seven (7) members of the Committee may call a special meeting of the Committee to discuss any issue properly before the Committee. Such special meeting may be convened only after notification is given to each member of the Committee and after public notice is given no later than forty-eight (48) hours before the special meeting is scheduled to begin.

Section 5.3 **Public Participation:** The Committee will consider public comment on all substantive agenda items. Under the agenda item of "Remarks of Interested Citizens", interested citizens shall be afforded an opportunity to comment on matters before the Committee. The remarks of any citizen should be germane to the agenda or matters to come before the Committee. Each agenda shall include a point during the meeting at which "Remarks of Interested Citizens" may be made. Each citizen addressing the Committee is asked to observe the general rules of courtesy and civility, and to avoid repetition of other speakers. Citizens are asked to limit their comments to five minutes in the interest of fairness to all citizens desiring to be heard, although this requirement may be waived at the discretion of the Chairman for good cause.

Section 5.4 **Meeting Agendas:** County staff shall assist the Chairperson of the Committee in developing an agenda for each meeting of the Committee. The agenda for regular meetings of the Committee shall be generally as follows, subject to amendment or revision by the Committee Chairperson or a majority of the members present:

- I. Call to Order
- II. Pledge
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
- V. Reports of Chairperson (if any)
- VI. Presentations by Invited Guests
- VII. Remarks of Interested Citizens
- VIII. Unfinished Business
- IX. New Business
- X. Adjournment with Day Fixed for Next Meeting

Section 5.5 Official Acts and Quorum: Any and all official acts by the Committee shall require a majority vote of the members present and voting except as otherwise set forth in these bylaws. However, the Committee shall take no such action unless a quorum is present at the meeting. In order to constitute a quorum, there must be a majority of the Committee's current membership present at the meeting. The minutes of the meeting shall reflect the number of affirmative votes on a motion and shall specify the names of any members voting against the motion.

No member of the Committee shall have the power to vote by proxy. Only those members physically present shall be entitled to vote. Telephonic participation is not permitted.

Section 5.6 Meeting Minutes: Minutes shall be taken at all regular and special meetings of the Committee. Minutes of committee proceedings shall be filed with the County in accordance with BCC Policy No. 03-15, "Board-Appointed Advisory Committees."

Section 5.7 Procedure: Roberts' Rules of Order Revised shall govern the procedure of all meetings.

ARTICLE VI. DELIBERATIONS

Section 6.1 The Committee shall conduct meetings in three phases: (1) Issues Agendas, (2) Decision Agendas, and (3) Public Hearings and Transmittal.

Clause 6.1.1 Issues Agenda: During the first phase of meetings, the Committee shall, identify policy issues for discussion and potential recommendations to the BCC for placement on the general election ballot. By simple majority vote, the Committee shall approve policy issues to be considered and schedule Issues Agenda meetings at which the approved issues shall be discussed. Prior to completion of Issues Agenda meetings, additional policy issues may be added and scheduled upon the request of four or more members.

After completion of the scheduled Issues Agenda meetings but not later than January 11, 2018, additional issues may be scheduled with the concurrence of a majority of the Committee.

Any issue may be stricken from further consideration at Issues Agenda meetings by a majority of those members present, but not less than seven members.

Clause 6.1.2 Decision Agenda: By a simple majority vote, the Committee shall approve those issues to be discussed during the second phase of meetings and schedule Decision

Agenda meetings at which sample text of proposed amendments shall be considered. After a proposed amendment has been discussed, the Committee may, by a majority of those members present, direct County staff to prepare proposed amendments for review and discussion at public hearings.

Clause 6.1.3 Public Hearings and Transmittal: The Charter requires the Committee to hold at least three public hearings prior to submitting amendments to the BCC in accordance with Section 125.63, F.S. After all necessary hearings, the Committee shall amend (if necessary) and approve, the proposed Charter amendments, ballot titles, and summaries for recommendation to the BCC with the concurrence of two-thirds of those present but not less than 10 members.

By two-thirds of those present but not less than 10 members, the Committee shall direct the Chairperson to transmit the proposed amendments, ballot titles, and summaries to the BCC ninety (90) days prior to the general election in order for the special election on the proposed Charter amendments to be held simultaneously with the general election.

**ARTICLE VII.
POLICY ON PUBLICITY**

Section 7.1 Public statements by the Committee shall be coordinated through the Chairperson and County staff. Members of the Committee may make public or private statements of their personal feelings, attitudes or beliefs at any time. In making such statements, however, members of the Committee shall on every occasion make an affirmative statement that their views are not represented as the views of the Committee as a whole. The Chairperson of the Committee shall be responsible for announcing the adopted positions of the Committee.

**ARTICLE VIII.
AMENDMENTS TO BYLAWS**

Section 8.1 Amendments: These rules and policies shall be presented by staff and adopted as the bylaws of the Committee at their first meeting. The Bylaws may be amended by an affirmative vote of two-thirds of the entire Committee.

Section 8.2 Approval: The Amended Bylaws shall become effective upon the approval of the County Attorney as to the legality of the form and content of such amendment.

Approved As To Legality of Form and Content:

County Administrator's Office

County Attorney's Office

BY: _____

BY: _____

Vincent S. Long
County Administrator

Herbert W. A. Thiele
County Attorney

IV.

ELECTION OF A CHAIR & VICE-CHAIR

V.

**APPROVAL OF NOVEMBER 9, 2017
MEETING MINUTES**

MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 9, 2017

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 9, 2017 in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, and Kim Williams in attendance. Committee members Shane Hopkins, James Revell and Bill Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order at 9:00 a.m. He welcomed the Committee and provided staff introductions. He advised that staff would be available to guide the Committee throughout the charter review process. Mr. Long advised that all meetings would be televised on Comcast Channel 16 and streamed live via the web.

Opening remarks were provided by Mr. Long. He advised that the County's Charter was initially adopted in 2002 and its first review was done in 2010. He conveyed that Board was clear in its intent that the Committee not be restricted in issues they wished to address.

CRC members were then provided an opportunity to introduce themselves and provide brief comments. Ms. Jones stated for the record that while she was aide to County Commissioner Nick Maddox, was not appointed by Commissioner Maddox.

Mr. Long utilized a power point presentation to provide an Overview of Charter Government, which included:

- What is a Charter?
 - Local "Home Rule" Constitution.
 - "Living document" which reflects the preferences of the local electorate as to the powers, structure and authority of county government.
 - Only voters can approve and amend a county charter.
- Why Charter Government?
 - "One size fits all" government doesn't work.
 - Citizen determination to reflect community preferences.
 - Flexibility in fulfilling state-mandated functions.
 - Increases ability to address local concerns.
 - Like city governments (all charters) "bottom-up" approach to government.
- Florida's Charter Counties
 - Twenty Florida counties are currently charter counties, representing over 75% of the population;
- Florida History
- 1968 Florida Constitution
 - Dillon's Rule replaced by Home Rule
- Leon County History
 - In 2002 Leon County voters adopted a "starter charter" which included:
 - Roles and responsibilities of the County's constitutional officers.
 - The County's relationship with its municipalities.
 - A separate executive and legislative branch under the council-manager form of government.
 - Charter Amendment Process.

- Citizen Petition
- Board of County Commissioners
- Citizen Charter Reviews Committee
- 2009/2010 Charter Review Committee Proposed Amendments
- 2010 General Election Charter Amendments
 - Tourist Development Council Structure
 - Minimum County-wide Environmental Regulations
 - Employment of the County Administrator
 - Non-Interference Policy
 - Limitation on Campaign Contributions
 - Petition Thresholds
 - Future Charter Review Committees

Mr. Long noted the Committee's Charge *"To review the Home Rule Charter of Leon County, Florida and propose any amendments or revisions for consideration by the Board of County Commissioners which may be advisable for placement on the general election ballot."*

The CRC then engaged in roundtable discussion with Mr. Long and County Attorney Thiele on a variety of topics. These included: composition of other charter counties, municipal powers, establishment of CRA's, consolidation, and districting. It was established that while there were no pressing topics that the County had identified for the CRC to deliberate on, the CRC has the authority to discuss and bring forward any topic it deemed appropriate for Board consideration.

Mr. Thiele provided an overview of the Florida Public Records and Sunshine Laws. He advised that Public Records and Florida Sunshine Laws apply to CRC members, and to a certain extent, the Statewide Ethics Code.

- Sunshine Law: Requires that all public meetings be noticed, are open to the public and minutes are kept. A meeting is defined as two or more members of the same decision making body talking about substantive matters that may come before the committee. CRC members should not discuss any matters that may or may not be recommended to the Board.
- Public Records Law – Any written communications, i.e., texts, e-mails, Facebook posts or tweets received relating to the CRC or potential issues brought forth by citizens for CRC consideration are considered public record and should be retained and brought to the attention of staff for inclusion in the official CRC file.
- Florida Code of Ethics: Any potential voting conflicts should be brought to the attention of the County Attorney to determine if a conflict exists. CRC members are not permitted to accept gifts which may be given to persuade a member to advocate for a particular issue of interest to the giver. The County Attorney should be contacted if a CRC member has any concerns or questions about a particular gift.

In response to inquiries on the types of topics deliberated on by the 2010 CRC, Ms. Peeples shared that copies of the final report of the 2010 CRC was included in the binder provided. She then reviewed the proposed draft Bylaws of the CRC and noted that a vote to adopt would be done at the next CRC meeting.

Ms. Peeples discussed the process by which the CRC will deliberate potential amendments, sharing that a written copy of the process was included in the binder packet. The seven steps of this process are:

- **Step 1: Initial Committee Idea Deliberations.**
Requires four votes of the committee to formally agenda an idea for committee consideration.

- **Step 2: Proposed Charter Amendment Agendaed for Committee Consideration:**
A simple majority vote of the committee is required to request staff to prepare proposed charter amendment language and agenda the issue for further committee consideration.
- **Step 3: Proposed Charter Amendment Agendaed for Committee Consideration with Draft Charter Amendment Language:**
A simple majority vote of the committee is required to advance the proposal to a public hearing.
- **Step 4: Public Hearings on Proposed Charter Amendments and Committee Vote to Recommend Proposed Charter Amendment to the County Commission:**
Ten votes of the committee are required to recommend a proposed charter amendment to the Board of County Commissioners.
- **Step 5: Board of County Commissioners Workshop**
- **Step 6: Board of County Commissioners Public Hearings**
- **Step 7: 2018 General Election (November 6, 2018)**

Ms. Peeples then referenced the proposed Committee schedule, noting that future meetings would be held on Thursdays from 11:30 a.m. – 1:30 p.m. (unless specified otherwise) and lunch would be provided. She mentioned that public hearing would be held at 6:00 p.m. to allow for public participation. She added that the Committee will elect its chair and vice chair at next week's meeting.

County Administrator Long concluded the meeting by expressing appreciation for the Committee's time and dedication to this effort.

There being no further business, the meeting was adjourned at 11:05 a.m.

Chair, Leon County Charter Review Committee

Deputy Clerk

VI.

INITIAL COMMITTEE IDEA DELIBERATIONS

VII.

REMARKS OF INTERESTED CITIZENS

VIII.

ADJOURNMENT

Citizen Charter Review Committee
November 30, 2017
11:30 a.m. - 1:30 p.m.
Leon County Courthouse
Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of November 16, 2017 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Increasing Campaign Contribution Limits for Local Elections
(*Vincent S. Long*)
 - b. Code of Ethics (*Vincent S. Long*)
 - c. Charter Provision Related to Constitutional Officers
(*Vincent S. Long*)
 - d. Modifying the District Composition of the Board of County Commissioners (*Herbert W.A. Thiele*)
 - e. Modifying the District Commissioner Election Process.
(*Herbert W.A. Thiele*)
- V. Committee Idea Deliberation
 - a. County Attorney Hiring/Firing Process (*Jay Revell*)
 - b. Law Enforcement Consolidation (*Ken Hart*)
 - c. New Ideas for Committee Consideration (*All*)
- VI. Adjournment

*The next meeting of the Citizen Charter Review Committee will take place on
Thursday, December 7, 2017 at 11:30 A.M.*

I.

CALL TO ORDER

II.

APPROVAL OF NOVEMBER 16, 2017 MEETING MINUTES

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 16, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 16, 2017 at 9:00 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and Bill Graham were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

County Administrator Long called the meeting to order and thanked members for their participation in this important process. He reminded the CRC that all meeting were recorded and streamed live.

Mr. Long introduced CRC member Jay Revell, who provided brief introductory remarks.

Overview of Leon County Government

Mr. Long noted that a copy of the County's 2017 Annual Report and the Impact and Progress Report had been provided to the Committee. He then shared information on 1) the County (population, median age, County budget, etc.); 2) the County's organization chart; 3) the County's budget, and 4) how the County compares to other like size counties. He gave the CRC an overview of the accomplishments over the last five years and targets and "bold goals" for the next five years in the areas of the Economy, Environment, Quality of Life and Governance. He concluded his overview with a video summarizing the 2017 Annual Report.

Review of County Charter:

Mr. Long reviewed the current County Charter; which he pointed out contains five Articles:

1. Article I – Creation, Powers and Ordinances of Home Rule Charter Government
2. Article II – Organization of County Government
3. Article III – Elected Constitutional Officers
4. Article IV – Powers Reserved to the People: Initiative & Recall
5. Article V – Home Rule Transition, Amendments, Review, Severance, Effective Date

Approval of Committee Bylaws:

Mr. Long stated that should it be deemed that the Bylaws are not adequately serving the Committee, they can be amended by a two-thirds vote of the Committee.

A motion to approve the Committee Bylaws was offered by Gordon Thames and seconded by Michael Eurich. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Election of Chair and Vice Chair:

Mr. Long called for nominations for Chairman of the CRC.

A motion to nominate Lee Hinkle as Chairman of the Charter Review Committee was offered by Kim Williams and seconded by Jay Revell. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Long called for nomination for Vice-Chairman of the CRC.

A motion to nominate Kim Williams as Vice-Chairman of the Charter Review Committee was offered by Catherine Jones and seconded by Anice Prosser. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

At this point the meeting was turned over to Chair Hinkle to facilitate.

Approval of November 9, 2017 Meeting Minutes

A motion to approve the November 9, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Gordon Thames. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Initial Committee Ideas:

Chairman Hinkle stated that it was time for members to offer ideas for a proposed charter amendment for consideration by the committee. She explained that any idea that received four votes of support would be submitted to staff to prepare an analysis and returned to the CRC for further consideration.

The following topics were offered for CRC consideration:

1. **Offered by Ken Hart:**

Ken Hart moved, seconded by Ted Thomas, to provide for a change in the composition of the Board of County Commissioners to four districts/three at-large from the existing five district/two at-Large. The motion carried 12-0 (William Graham and Shane Hopkins absent).

Mr. Hart submitted that the proposal would allow all citizens to vote for a majority of the Commission.

2. **Offered by Kim Williams:**

Kim Williams moved, seconded by Ted Thomas, to provide for a change in the Charter that increases the current \$250 limitation on campaign contributions. The motion carried 8-4 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, and Anice Prosser in opposition and Bill Graham and Shane Hopkins absent).

Mr. Williams recalled that the Charter was amended in 2009 to restrict the allowable contributions in local campaigns to \$250. He suggested that it is difficult for individuals (particularly non incumbents) to raise enough funds to reach the county at large. He also mentioned that the State has increased its allowable contribution from \$500 to \$1,000.

3. **Offered by Casey Perkins:**

Casey Perkins moved, seconded by Gordon Thames, that the CRC deliver a resolution to the County Commission suggesting it consider the issue of consolidation. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Perkins offered that consolidation is a much discussed topic throughout community and in the media and suggested that it be decided by the voters.

County Administrator Long clarified that the Charter cannot effectuate a consolidation; however, the CRC could offer this as a recommendation to the County Commission for its consideration.

Ms. Jones stated that, while she appreciated the sentiment, she could not support bringing forward a resolution to the County Commission, especially in light of the County Administrator's comment that the Charter cannot effectuate this action.

4. Offered by Gordon Thames:

Gordon Thames moved, seconded by Anice Prosser, to provide for a change in the Charter that restricts Community Redevelopment Agency (CRA) funding to public infrastructure projects and requiring all CRA projects to follow open and competitive procurement processes. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thames proposed that CRA investment of County monies be limited to infrastructures which benefits the public and that higher standards be implemented over what is required by state statute.

5. Offered by Neil Fleckenstein

Neil Fleckenstein moved, seconded by Catherine Jones, to provide for a Code of Ethics and integrity for elected officials, appointed officials, County employees, and lobbyist in the Charter. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Fleckenstein opined that the Charter should identify the importance of adhering to standards of ethics and integrity for elected officials, appointed officials and County employees.

In response to inquiry from Mr. Thomas, County Administrator Long conveyed that a standard of ethics is included as a County policy. Mr. Long also stated that penalties are not currently included in the policy; however, could be included in the Charter.

Ms. Jones agreed that this should be codified in the Charter and suggested that the same be included in the County's lobbying policy. Mr. Fleckenstein agreed to include the recommendation in the motion.

6. Offered by Catherine Jones

Catherine Jones moved, seconded by Michael Eurich, to consider any changes the committee may wish to further explore related to the current Preservation of Constitutional Officers provision in the Leon County Charter. The motion carried 12-0 (Bill Graham and Shane Hopkins absent)

Ms. Jones emphasized that this is not a statement against any Constitutional Officer, but is a discussion that should be held by every CRC. She suggested that all Constitutional Offices be looked at individually to determine if the office should be filled by the electorate or by the County Commission. She asked that pros and cons of each position be provided in the analysis.

7. Offered by Ted Thomas

Ted Thomas moved, seconded by Jay Revell, to provide for a change in the Charter that establishes non-partisan elections for Superintendent of Schools and all Constitutional Officers. The motion carried 12-0 (Bill Graham and Shane Hopkins absent).

Mr. Thomas disclosed that his son is the current Superintendent of Schools Rocky Hannah. He indicated that he had shared with County Attorney Thiele his intention to bring this issue forward and was advised that by Mr. Thiele that no conflict of interest existed.

Mr. Thomas remarked that 19% of the County's electorate is nonpartisan and opined that all residents should be allowed to vote in Superintendent of School and Constitutional

Office races. He acknowledged that while there may be some legal questions on whether this could be included in the Charter, a precedent for doing this has been set in Columbia County.

Chairman Hinkle advised that the Committee had time to take up one more item and suggested that the two remaining issues be tabled until the next meeting. She also reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

8. Offered by Jay Revell

Jay Revell moved, seconded by Michael Eurich, to provide for a change in the voting process for electing District Commissioners. Requiring that candidates are selected initially through a primary election by district residents only and the top two candidates would then advance to a general election to be voted upon by the entire County electorate. The motion carried 7-5 (Reginald Ellis, Catherine Jones, Anice Prosser, Gordon Thames and Kim Williams in opposition and Bill Graham and Shane Hopkins absent).

Mr. Revell mentioned that currently district commissioners are elected by residents only within the district boundary. He suggested that the process be amended to allow primary elections to continue to be district specific, but the top two candidates from that election be placed on a ballot to be voted on by the entire County. He opined that this would be another mechanism to get more people involved in the electoral process. Mr. Revell noted that district commissioners serve the entire county, not just a district.

Mr. Williams confirmed that a district commissioner candidate must reside within that district.

Mr. Thames brought up the legality of implementing such a change, since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district. Deputy County Attorney Riggins stated that staff would include information on the legal implications of this in the analysis brought back to the CRC.

Mr. Ellis expressed concerns that this change could reduce the power and voice of a district commissioner.

Ms. Jones maintained the importance of residents to have a district commissioner who first and foremost advocates for the citizens of that district.

Pending Committee Ideas

The following topics were tabled until the November 28, 2017 CRC meeting.

- Make the provisions for the hiring/firing of the County Attorney consistent with the County Administrator. (Offered by Jay Revell)
- Law Enforcement Consolidation (Offered by Ken Hart)

Remarks of Interested Citizens

Chairman Hinkle confirmed there were no public speakers.

Adjourn

The Committee adjourned at 1:35 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

DRAFT

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM A**

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

ORDINANCE NO. 2010- 21

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING
5 THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA;
6 AMENDING ARTICLE II, ORGANIZATION OF COUNTY
7 GOVERNMENT; AMENDING SECTION 2.2, LEGISLATIVE
8 BRANCH, BY ADDING A NEW SUBSECTION (7) ENTITLED
9 LIMITATIONS ON CAMPAIGN CONTRIBUTIONS; AMENDING
10 ARTICLE III, ELECTED COUNTY CONSTITUTIONAL
11 OFFICERS, BY ADDING A NEW SECTION 3.4 ENTITLED
12 LIMITATIONS ON CAMPAIGN CONTRIBUTIONS;
13 PROVIDING FOR A BALLOT QUESTION TO BE POSED TO
14 THE LEON COUNTY ELECTORATE AT THE SPECIAL
15 ELECTION ON NOVEMBER 2, 2010; PROVIDING FOR THE
16 BALLOT QUESTION FORM; PROVIDING FOR FURTHER
17 AUTHORIZATION; PROVIDING FOR SEVERABILITY; AND
18 PROVIDING FOR AN EFFECTIVE DATE.
19
20

21 BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida,

22 that:

23 **Section 1.** Article II, Section 2.2 of the Home Rule Charter of Leon County, Florida,
24 is hereby amended to read as follows:

25 **Sec. 2.2. Legislative Branch.**

26 (1) **The County Commission.** The governing body of the County shall be a Board
27 of County Commissioners composed of seven (7) members serving staggered terms of four (4)
28 years. There shall be one (1) Commissioner elected for each of the five (5) County Commission
29 districts, established pursuant to general law or by ordinance, and they shall be elected by the
30 electors of that district. There shall be two (2) At-large Commissioners elected on a countywide
31 basis by the electors of the County. Elections for all seven (7) members of the County
32 Commission shall be non-partisan. Each candidate for the office of district County
33 Commissioner shall reside within the district from which such candidate seeks election at the

1 time of qualifying to run for that office, and during the term of office each Commissioner shall
2 reside in the district from which such Commissioner ran for office, provided that any
3 Commissioner whose residence is removed from a district by redistricting may continue to serve
4 during the balance of the term of office.

5 (2) **Redistricting.** Redistricting of County Commission district boundaries shall be
6 in accordance with general law, changed only after notice and a public hearing as provided by
7 general law.

8 (3) **Salaries and Other Compensation.** Salaries and other compensation of the
9 County Commissioners shall be established by ordinance, and salary shall not be lowered during
10 an officer's term in office.

11 (4) **Authority.** The Board of County Commissioners shall exercise all legislative
12 authority provided by this Home Rule Charter in addition to all other powers and duties
13 authorized by general law or special law approved by a vote of the electorate.

14 (5) **Vacancies.** A vacancy in the office of County Commissioner shall be defined and
15 filled as provided by general law.

16 (6) **Administrative Code.** The County Commission shall adopt an administrative
17 code in accordance with general law.

18 (7) **Limitation on Campaign Contributions.** No candidate for any County office
19 for which compensation is paid shall accept any contribution from any contributor, including a
20 political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250
21 per election.

1 properly placed on the ballot for the special election of November 2, 2010. Said referendum
2 shall be conducted according to the requirements of law governing referendum elections in the
3 State of Florida.

4 **Section 6. Severability.**

5 If any word, phrase, clause, section or portion of this ordinance shall be held invalid or
6 unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a
7 separate and independent provision and such holding shall not affect the validity of the
8 remaining portions thereof.

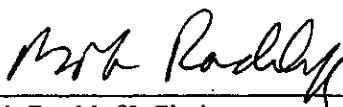
9 **Section 7. Effective Date.**

10 This ordinance shall have effect upon becoming law, but shall be of no further force or
11 effect if the proposed Charter amendments are not duly approved at the November 2, 2010,
12 special election. The amendments to the Home Rule Charter of Leon County, Florida, as
13 proposed by this Ordinance, shall become effective January 1, 2011, if the Charter amendment is
14 approved by a "yes" vote by a majority of those duly qualified electors voting on the question
15 posed at the November 2, 2010, referendum.

16 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
17 County, Florida, this 17th day of August, 2010.

18 LEON COUNTY, FLORIDA

19
20
21
22 By: _____


23 Bob Rackleff, Chairman
24 Board of County Commissioners
25
26



1 ATTESTED BY:
2 BOB INZER, CLERK OF THE COURT
3 LEON COUNTY, FLORIDA
4

5
6 By: John Stott, Deputy Clerk
7 Clerk
8
9

10 APPROVED AS TO FORM:
11 COUNTY ATTORNEY'S OFFICE
12 LEON COUNTY, FLORIDA
13

14
15 By: Herbert W. A. Thiele, Esq.
16 Herbert W. A. Thiele, Esq.
17 County Attorney

The 2017 Florida Statutes

Title IX
ELECTORS AND ELECTIONS

Chapter 106
CAMPAIGN FINANCING

106.08 Contributions; limitations on.—

(1)(a) Except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of the following amounts:

1. To a candidate for statewide office or for retention as a justice of the Supreme Court, \$3,000. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.
2. To a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge, \$1,000.

(b) The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party or affiliated party committee regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the primary election and general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. [106.011](#). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election.

(2)(a) A candidate may not accept contributions from a county executive committee of a political party whose contributions in the aggregate exceed \$50,000, or from the national or state executive committees of a political party, including any subordinate committee of such political party or affiliated party committees, whose contributions in the aggregate exceed \$50,000.

(b) A candidate for statewide office may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of the political party, or affiliated party committees, which contributions in the aggregate exceed \$250,000. Polling services, research services, costs for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the contribution limits of paragraph (a) or this paragraph. Any item not expressly identified in this paragraph as nonallocable is a contribution in an amount equal to the fair market value of the item and must be counted as allocable toward the contribution limits of paragraph (a) or this paragraph. Nonallocable, in-kind contributions must be reported by the candidate under s. [106.07](#) and by the political party or affiliated party committee under s. [106.29](#).

(3)(a) Any contribution received by a candidate with opposition in an election or by the campaign treasurer or a deputy campaign treasurer of such a candidate on the day of that election or less than 5 days before the day of that election must be returned by him or her to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

(b) Any contribution received by a candidate or by the campaign treasurer or a deputy campaign treasurer of a candidate after the date at which the candidate withdraws his or her candidacy, or after the date the candidate is defeated, becomes unopposed, or is elected to office must be returned to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

(4) Any contribution received by the chair, campaign treasurer, or deputy campaign treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than 5 days before the day of that election may not be obligated or expended by the committee until after the date of the election.

(5)(a) A person may not make any contribution through or in the name of another, directly or indirectly, in any election.

(b) Candidates, political committees, affiliated party committees, and political parties may not solicit contributions from any religious, charitable, civic, or other causes or organizations established primarily for the public good.

(c) Candidates, political committees, affiliated party committees, and political parties may not make contributions, in exchange for political support, to any religious, charitable, civic, or other cause or organization established primarily for the public good. It is not a violation of this paragraph for:

1. A candidate, political committee, affiliated party committee, or political party executive committee to make gifts of money in lieu of flowers in memory of a deceased person;

2. A candidate to continue membership in, or make regular donations from personal or business funds to, religious, political party, affiliated party committee, civic, or charitable groups of which the candidate is a member or to which the candidate has been a regular donor for more than 6 months; or

3. A candidate to purchase, with campaign funds, tickets, admission to events, or advertisements from religious, civic, political party, affiliated party committee, or charitable groups.

(6)(a) A political party or affiliated party committee may not accept any contribution that has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate. Funds contributed to an affiliated party committee may not be

designated for the partial or exclusive use of a leader as defined in s. 103.092.

(b)1. A political party or affiliated party committee may not accept any in-kind contribution that fails to provide a direct benefit to the political party or affiliated party committee. A "direct benefit" includes, but is not limited to, fundraising or furthering the objectives of the political party or affiliated party committee.

2.a. An in-kind contribution to a state political party may be accepted only by the chairperson of the state political party or by the chairperson's designee or designees whose names are on file with the division in a form acceptable to the division before the date of the written notice required in sub-subparagraph b. An in-kind contribution to a county political party may be accepted only by the chairperson of the county political party or by the county chairperson's designee or designees whose names are on file with the supervisor of elections of the respective county before the date of the written notice required in sub-subparagraph b. An in-kind contribution to an affiliated party committee may be accepted only by the leader of the affiliated party committee as defined in s. 103.092 or by the leader's designee or designees whose names are on file with the division in a form acceptable to the division before the date of the written notice required in sub-subparagraph b.

b. A person making an in-kind contribution to a state or county political party or affiliated party committee must provide prior written notice of the contribution to a person described in sub-subparagraph a. The prior written notice must be signed and dated and may be provided by an electronic or facsimile message. However, prior written notice is not required for an in-kind contribution that consists of food and beverage in an aggregate amount not exceeding \$1,500 which is consumed at a single sitting or event if such in-kind contribution is accepted in advance by a person specified in sub-subparagraph a.

c. A person described in sub-subparagraph a. may accept an in-kind contribution requiring prior written notice only in a writing that is dated before the in-kind contribution is made. Failure to obtain the required written acceptance of an in-kind contribution to a state or county political party or affiliated party committee constitutes a refusal of the contribution.

d. A copy of each prior written acceptance required under sub-subparagraph c. must be filed at the time the regular reports of contributions and expenditures required under s. 106.29 are filed by the state executive committee, county executive committee, and affiliated party committee. A state executive committee and an affiliated party committee must file with the division. A county executive committee must file with the county's supervisor of elections.

e. An in-kind contribution may not be given to a state or county political party or affiliated party committee unless the in-kind contribution is made as provided in this subparagraph.

(7)(a) Any person who knowingly and willfully makes or accepts no more than one contribution in violation of subsection (1) or subsection (5), or any person who knowingly and willfully fails or

refuses to return any contribution as required in subsection (3), commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#). If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$1,000 and not more than \$10,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political party, affiliated party committee, political committee, electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or participates in a violation of any provision punishable under this paragraph commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(b) Any person who knowingly and willfully makes or accepts two or more contributions in violation of subsection (1) or subsection (5) commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$10,000 and not more than \$50,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political committee, political party, affiliated party committee, or electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or participates in a violation of any provision punishable under this paragraph commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(8) Except when otherwise provided in subsection (7), any person who knowingly and willfully violates any provision of this section shall, in addition to any other penalty prescribed by this chapter, pay to the state a sum equal to twice the amount contributed in violation of this chapter. Each campaign treasurer shall pay all amounts contributed in violation of this section to the state for deposit in the General Revenue Fund.

(9) This section does not apply to the transfer of funds between a primary campaign depository and a savings account or certificate of deposit or to any interest earned on such account or certificate.

(10) Contributions to a political committee may be received by an affiliated organization and

transferred to the bank account of the political committee via check written from the affiliated organization if such contributions are specifically identified as intended to be contributed to the political committee. All contributions received in this manner shall be reported pursuant to s.106.07 by the political committee as having been made by the original contributor.

History.—s. 8, ch. 73-128; s. 6, ch. 74-200; s. 1, ch. 77-174; s. 48, ch. 77-175; s. 1, ch. 78-403; s. 9, ch. 79-365; s. 5, ch. 79-378; s. 7, ch. 85-226; s. 4, ch. 86-134; s. 12, ch. 89-256; ss. 33, 46, ch. 90-315; s. 9, ch. 90-338; s. 11, ch. 91-107; s. 642, ch. 95-147; s. 3, ch. 97-13; s. 8, ch. 99-355; s. 27, ch. 2002-17; s. 3, ch. 2002-197; s. 1, ch. 2002-281; s. 68, ch. 2005-277; s. 46, ch. 2005-278; s. 25, ch. 2005-286; s. 1, ch. 2005-360; s. 9, ch. 2006-300; s. 44, ch. 2007-30; s. 26, ch. 2010-167; ss. 14, 30, ch. 2011-6; s. 62, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 8, ch. 2012-5; s. 13, ch. 2013-37.

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: CS/CS/CS/HB 569

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): State Affairs Committee and
Appropriations Committee and
Ethics & Elections Subcommittee
and Schenck

79 Y's 34 N's

COMPANION (CS/CS/CS/CS/SB 1382)

GOVERNOR'S ACTION: Approved

BILLS:

SUMMARY ANALYSIS

CS/CS/CS/HB 569 passed the House on March 22, 2013. The bill was amended by the Senate on April 24, 2013, and subsequently passed the House on the same day. This bill makes multiple changes to Florida's campaign finance laws, including the following:

Issue	Effect of Changes
Committees of Continuous Existence (CCE)	<ul style="list-style-type: none"> Requires the Division of Elections to notify CCEs of new laws by 7/15/13; prohibits acceptance of contributions by CCEs after 8/1/13; revokes all CCE certifications effective 9/30/13; all CCE statutes are deleted on 11/1/13. Requires submission of any outstanding reports after revocation; authorizes a CCE to make unlimited contributions to a political committee effective May 1, 2013.
Limits on Campaign Contributions to Candidates	<ul style="list-style-type: none"> Increases limit from \$500 to \$3,000 for candidates for statewide office or retention as a Supreme Court justice. Increases limit from \$500 to \$1,000 for candidates for retention as a district court of appeal judge, legislative office, multicounty office, countywide office, county court judge, or circuit judge, and for candidates in any election conducted on less than a countywide basis. Removes \$100 limit on contributions made by unemancipated children under the age of 18, applying the above limits. Allows \$50,000 contribution, in the aggregate, from a county executive committee of a political party. Limits contributions to candidates who decide to run for another office to the above limits in the aggregate.
Political Committees (PCs)	<ul style="list-style-type: none"> Removes current \$500 limit to allow unlimited contributions to PCs but prohibits PCs from making unlimited expenditures for the purpose of jointly endorsing three or more candidates. Allows multiple, uniform contributions of less than \$250 per calendar year from the same person to be reported in the aggregate, with an annual disclosure required July 1 each year.
Surplus Campaign Funds	<ul style="list-style-type: none"> Increases the amount of surplus funds that may be transferred to an office account, specifies permissible uses for surplus funds transferred to an office account, allows a candidate elected to state office to retain up to \$20,000 in surplus campaign funds for use in the next election for the same office, and limits to \$25,000 surplus funds given by a candidate to an affiliated party committee or political party of which the candidate is a member. Eliminates the requirement that a candidate who qualifies by petition pay the election assessment prior to disposing of surplus campaign funds.
Disclosures by Statewide Candidates; PCs or Electioneering Organizations (ECOs) that file with the Division of Elections	<ul style="list-style-type: none"> Requires monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); Requires weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election; and Requires, for PCs and candidates, daily contribution reports beginning on the 10th day before the general election, with the last report due on the 5th day before the general election. ECOs are also required to file contribution reports on the 10th – 5th and the 3rd – 1st days before the general election.
Disclosures by all Non-Statewide Candidates; PCs or ECOs that file with a Supervisor of Elections or a municipal clerk	<ul style="list-style-type: none"> Requires monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); Requires biweekly contribution and expenditure reports on the 60th – 32nd day before the primary election, and the 74th – 32nd day before the general election; and Requires weekly contribution and expenditure reports beginning on the 32nd day before the primary and general elections, with the last weekly report due on the 4th day before the primary and general election.
Statewide Campaign Finance Database	Requires the Division of Elections to submit a proposal to the House and Senate by 12/1/13 for a mandatory statewide electronic filing system for all state and local campaign finance reports and filings reporting the disposition of campaign funds.
Campaign Fund Raisers and Accounts	Requires that tickets and advertising for campaign fund raisers contain sponsorship disclaimers and meet the other requirements applicable to political advertisements. Revises certain campaign account requirements.
Candidates for Political Party Executive Committee	Requires candidates for political party executive committees to file a campaign finance report with the supervisor of elections on the 4th day before the primary election.

This bill appropriates \$85,000 to the Division of Elections of the Department of State for two FTEs to implement reporting requirements imposed by this bill. This bill also appropriates \$42,900 for one FTE to the Florida Elections Commission to prepare additional cases as a result of the reporting requirements imposed by this bill.

The bill was approved by the Governor on May 1, 2013, ch. 2013-37, L.O.F., and became effective on November 1, 2013, except as otherwise provided in the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0569z.EES

DATE: May 15, 2013

A. EFFECT OF CHANGES:

1. *Committees of Continuous Existence (CCEs)**Current Situation*

A CCE is a group, organization, association, or other such entity that is involved in making contributions to candidates, PCs, ECOs, other CCEs, or political parties.¹ A CCE may not make electioneering communications or independent expenditures.

An "independent expenditure" is defined as "an expenditure by a person for the purpose of expressly advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee. An expenditure for such purpose by a person having a contract with the candidate, political committee, or agent of such candidate or committee in a given election period shall not be deemed an independent expenditure."²

An electioneering communication is defined by Florida law as "any communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone" that:

- A. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
- B. Is made within 30 days before a primary election or 60 days before a general election; and
- C. Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.³

An organization that registers as a CCE may exist for purposes other than influencing the outcome of an election in Florida, and may make expenditures of funds for non-election related activities.⁴ However, if an entity wishes to conduct political activities as a CCE, it must apply for and receive certification from the Division of Elections.⁵

CCEs are required to file periodic reports of contributions received and expenditures made.⁶ CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than \$250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members.⁷

Effect of Changes

This bill repeals s. 106.04, F.S., and creates an unnumbered section of law to establish a process to eliminate CCEs. As of August 1, 2013, CCEs are not permitted to accept contributions as that term is defined in the Florida Election Code,⁸ and on September 30, 2013, all CCE certifications are revoked. Before revocation, CCEs must disburse funds as currently authorized by law, or CCEs may make unlimited contributions to a political committee as of May 1, 2013. In order to provide sufficient notice to CCEs in advance of revocation, the Division of Elections is required to notify CCEs of the new laws by July 15, 2013. Even though CCE certifications are revoked by operation of law on September 30, 2013, s. 106.04, F.S., which governs CCEs, remains effective until November 1, 2013. Therefore, a CCE whose certification is revoked on September 30, 2013, must file required campaign finance reports, including the report due in October 2013 for the third quarter of 2013, disclosing contributions received and expenditures made that have not been previously reported. Regardless of whether the CCE is legally dissolved, a violation of these provisions or any other provision of ch. 106, F.S., constitutes a violation of ch. 106, F.S. A PC or ECO receiving funds from a CCE whose certification has been revoked is

¹ § 106.04(1), F.S.

² § 106.011(5)(a), F.S.

³ § 106.011(18), F.S.

⁴ § 106.04(5), F.S.

⁵ *Id.*

⁶ Please see Section 4 of this analysis for a discussion of the frequency of campaign finance reporting.

⁷ §§ 106.04(4)(b)1. and 106.04(4)(c)1., F.S.

⁸ "Contribution" is defined in § 106.011(3), F.S., as: (a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication. (b) A transfer of funds between political committees, between committees of continuous existence, between electioneering communications organizations, or between any combination of these groups. (c) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services. (d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate. Notwithstanding the foregoing meanings of "contribution," the term may not be construed to include services, including, but not limited to, legal and accounting services, provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or editorial endorsements.

The following table describes the current law and the effect of the bill's changes:

Committees of Continuous Existence		
	Current Law	Effect of Changes
Political Purpose	To make contributions to candidates, political committees, CCEs, ⁹ ECOs, or political parties. ¹⁰	This bill eliminates CCEs.
Limits on Contributions to a CCE	There are no limits as long as the CCE maintains the following organizational requirements: <ul style="list-style-type: none"> • Must be organized and operated under a written charter or bylaws specifying procedures for the election of officers and defining membership.¹¹ • At least 25% of the income, excluding interest, of the organization must come from dues of members.¹² 	
Limits on Contributions by a CCE	<ul style="list-style-type: none"> • \$500 maximum to each candidate or political committee supporting candidates.¹³ • No limit on contributions to ECOs, CCEs, political committees, or political parties. • 25% of annual income to a political committee supporting or opposing issues.¹⁴ 	
Permissible and Prohibited Activities	<ul style="list-style-type: none"> • May contribute to candidates, ECOs, CCEs, political committees, and political parties. • May not make electioneering communications or independent expenditures.¹⁵ • In order to directly support or oppose an issue, a CCE must register as a political committee.¹⁶ 	

2. Electioneering Communications Organizations (ECOs)

Current Situation

At the federal level, ECOs were first extensively regulated by the Bipartisan Campaign Reform Act of 2002 (the McCain-Feingold Act).¹⁷ After these provisions were upheld, Florida adopted similar standards for electioneering communications. Florida's initial attempt was struck down on First Amendment grounds in 2008,¹⁸ but the revised version was upheld on appeal in 2012 and remains the current law.¹⁹

Under current law, ECOs are required to file a statement of organization after making an expenditure for an electioneering communication in excess of \$5,000.²⁰ The statement of organization must include the following information:

1. The name, mailing address, and street address of the organization.
2. The names, addresses, and relationships of affiliated or connected organizations.
3. The area, scope or jurisdiction of the organization.
4. The name, mailing address, street address, and position of the custodian of books and accounts.
5. The name, mailing address, street address, and position of other principal officers, including the treasurer and deputy treasurer, if any.
6. Plans for the disposition of residual funds which will be made in the event of dissolution.
7. A listing of all banks, safe-deposit boxes, or other depositories used for organization funds.
8. A statement of the reports required to be filed with federal officials, if any, and names, addresses, and positions of such officials.
9. A statement of whether the organization was formed as a newly created organization during the current calendar quarter or was formed from an organization existing prior to the current calendar quarter.²¹

⁹ DEO 76-31.

¹⁰ § 106.04(1), F.S.

¹¹ § 106.04(1)(a), F.S.

¹² § 106.04(1)(b), F.S.

¹³ § 106.08, F.S.

¹⁴ § 106.04(5), F.S.

¹⁵ § 106.04(5); DEO 04-09.

¹⁶ § 106.04(5), F.S.

¹⁷ 2 U.S.C.A. § 431.

¹⁸ See *Broward Coalition of Condominiums v. Browning*, 2009 WL 1457972 (N.D. Fla. 2009).

¹⁹ See *National Organization for Marriage, Inc. v. Secretary, State of Fla.*, 447 Fed. Appx. 584 (11th Cir. 2012).

²⁰ § 106.03(b)1., F.S.

²¹ *Id.*

The following table describes the current law and effect of the bill's changes as they relate to ECOs:

Electioneering Communications Organizations		
	Current Law	Effect of Changes
Purpose	Any group, other than a political party, political committee, or CCE, whose <i>election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications</i> and whose activities would not otherwise require the group to register as a political party, political committee, or committee of continuous existence under chapter 106, F.S. ²²	No change.
Limits on Contributions to an ECO	No limit on any contributions to an ECO.	No change.
Limits on Contributions by an ECO	May NOT contribute to candidates, political parties, political committees, or CCEs. ²³	No change.
Permissible and Prohibited Activities	<ul style="list-style-type: none"> • May make electioneering communications, but may not “expressly advocate” the election or defeat of a candidate. • May NOT make independent expenditures. 	No change.
Disclosure Requirements	Generally, except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of each calendar quarter from the time the ECO registers, except if the 10th day is a Saturday, Sunday, or legal holiday, the report shall be filed on the next business day that is not a Saturday, Sunday, or legal holiday. Following the last day of qualifying, the reports must be filed on the 32nd, 18th, and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. ²⁴	Increases the frequency of campaign finance disclosure reporting. Please see discussion of reporting requirements under Section 4 of this analysis.

The bill also amends s. 106.03, F.S., to require an ECO's statement of organization to include the name, street addresses, and relationships of “affiliated sponsors.”

3. Political Committees (PCs)

Current Situation

A “political committee” is defined by Florida law as a combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:

- Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party;
- Accepts contributions for the purpose of *expressly advocating* the election or defeat of a candidate or the passage or defeat of an issue;
- Makes expenditures that *expressly advocate* the election or defeat of a candidate or the passage or defeat of an issue; or
- Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party.²⁵

A “political advertisement” is “a paid expression in any communications media...which *expressly advocates* the election or defeat of a candidate or the approval or rejection of an issue.”²⁶ “Express advocacy” is defined as “[c]ommunications that in express terms advocate the election or defeat of a clearly identified candidate.”²⁷

²² § 106.011(19).

²³ *Id.*

²⁴ § 106.0703(1)(a)-(b).

²⁵ § 106.011(1), F.S.

²⁶ § 106.011(17), F.S.

²⁷ *Buckley v. Valeo*, 424 U.S. 1, 44 (1976).

The following table describes the current law and effect of the bill's changes with regard to political committees:

Political Committees		
	Current Law	Effect of Changes
Purpose	A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year, accepts contributions to support or oppose any candidate, issue, political committee, CCE, ECO, or political party. ²⁸	No change (other than the elimination of CCEs).
Limits on Contributions to a PC	<ul style="list-style-type: none"> No limit to a political committee supporting or opposing issues only.²⁹ \$500 per election limit to a political committee supporting or opposing one or more candidates.³⁰ \$500 per election limit to a political committee supporting or opposing both candidates and issues.³¹ \$100 per election limit from unemancipated children under the age of 18 to a political committee supporting one or more candidates.³² Limits do not apply to contributions from political parties.³³ 	The bill amends s. 106.08, F.S., to allow unlimited contributions to any PC. In addition, Section 2 of the bill specifies that, effective May 1, 2013, CCEs may make unlimited contributions to a PC.
Limits on Contributions by a PC	<ul style="list-style-type: none"> To a candidate - \$500 per election.³⁴ In support of or in opposition to issues, or to a political party, CCE, or ECO - no limit.³⁵ To obtain time, space or services via any communication medium for the purpose of endorsing three or more candidates – no limit and do not have to be reported.³⁶ 	<ul style="list-style-type: none"> PCs may contribute up to \$3,000 to a candidate for statewide office or retention as a Supreme Court justice, and up to \$1,000 to a candidate for retention as a district court of appeal judge, legislative office, multicounty office, countywide office, county court judge, or circuit judge, or to a candidate in any election conducted on less than a countywide basis. PCs are required to adhere to the above contribution limits when jointly endorsing three or more candidates, and such contributions are required to be reported.
Permissible and Prohibited Activities	<ul style="list-style-type: none"> May contribute to candidates, ECOs, CCEs, PCs, APCs, and political parties. May make independent expenditures and electioneering communications.³⁷ 	No change (other than the elimination of CCEs).
Disclosure Requirements	Generally, except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of each calendar quarter from the time the political committee registers, except if the 10th day is a Saturday, Sunday, or legal holiday, the report must be filed on the next business day that is not a Saturday, Sunday, or legal holiday. In an election year, reports must also be filed on the 32nd, 18th, and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. ³⁸	Increases the frequency of campaign finance disclosure reporting. Please see discussion of reporting requirements under Section 4 of this analysis.

4. Frequency of Campaign Finance Reporting

Current Situation

In Florida, candidates, political committees, electioneering communications organizations, and committees of continuous existence³⁹ are required to file periodic reports of contributions received and expenditures made. CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than \$250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members.⁴⁰ Except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of *each calendar quarter* from the time the campaign treasurer is appointed.⁴¹ Quarterly reports must include all contributions received and expenditures made during the calendar quarter. In an election year, reports containing this information must also be filed every other week on the 32nd, 18th, and 4th days immediately preceding the primary and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. Any statewide candidate who has requested to receive contributions pursuant to the Florida Election Campaign Financing Act or any statewide candidate in a race with a candidate who has requested to receive contributions must also file weekly reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the primary election, and on the 4th, 11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the general election. In addition, there are different filing requirements during special elections.⁴²

²⁸ § 106.011(1)(a), F.S.

²⁹ § 106.08, F.S.

³⁰ § 106.08(1)(a), F.S.

³¹ § 106.08, F.S.

³² § 106.08(1)(b)2., F.S.

³³ *Id.*

³⁴ § 106.08, F.S.

³⁵ § 106.08, F.S.

³⁶ § 106.021(d), F.S.

³⁷ § 106.011, F.S.

³⁸ § 106.07, F.S.

³⁹ In addition to the reporting requirements applicable to all candidates, CCEs, PCs, and ECOs, CCEs are also required to file annual reports in January of each year.

⁴⁰ §§ 106.04(4)(b)1. and 106.04(4)(c)1., F.S.

⁴¹ §§ 106.07(1), 106.07(1)(a), 106.07(1)(b), and 106.0703, F.S. Quarterly reports are due on the 10th day after the quarter, unless the 10th day is a Saturday, Sunday, or legal holiday, in which case the report is due on the next business day.

⁴² § 106.07, F.S.

- *Candidates*: Reports are filed with the officer before whom the candidate qualifies. Candidates filing reports with the Division of Elections are required to electronically file by means of the Electronic Filing System.
- *Political Committees*: Reports are electronically filed with the Division of Elections if the PC supports or opposes statewide, legislative, or multicounty candidates or issues; with the Supervisor of Elections if the PC supports or opposes candidates or issues in a countywide or less than a countywide election, except municipal; or with the municipal clerk if the PC supports or opposes only municipal candidates or issues.
- *Committees of Continuous Existence*: Reports are filed electronically with the Division of Elections.
- *Electioneering Communications Organizations*: Reports are electronically filed with the Division of Elections if the ECO relates to statewide, legislative, or multicounty candidates; with the Supervisor of Elections if the ECO relates to candidates in a countywide or less than a countywide election, except municipal; or with the municipal clerk if the ECO relates to only municipal candidates.⁴³

While reports filed with the Division of Elections are submitted electronically, reports filed at the local level are frequently filed on paper forms rather than electronically.

Effect of Changes

The bill repeals s. 106.04, F.S., and creates an unnumbered section of law to eliminate committees of continuous existence and all associated reporting requirements.

The bill amends s. 106.07(4)(b), F.S., to allow multiple uniform contributions from the same person that do not exceed a total of \$250 per calendar year and that are collected by an organization that is an affiliated sponsor of a political committee to be reported by the political committee in an aggregate amount that lists the number of contributors, the amount contributed by each, and the total amount contributed during the reporting period. The identity of each person making a uniform contribution must be reported to the filing officer by July 1 of each calendar year, or, in a general election year, no later than the 60th day before the primary.

The bill amends s. 106.07, F.S., to require submission of the following reports by *statewide* candidates and political committees that file campaign finance reports with the Division of Elections:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election;
- Daily contribution reports beginning on the 10th day before the general election, with the last report due on the 5th day before the general election.

The bill amends s. 106.0703, F.S., to require submission of the following reports by electioneering communications organizations that file campaign finance reports with the Division of Elections:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election;
- Daily contribution reports beginning on the 10th day before the general election through the 5th day before the general election, and the 3rd day of the general election with the last report due on the day before the general election.

All daily reports required above must contain contributions received, but not expenditures made.

⁴³ §§ 106.0705 and 106.07(2), F.S.

The bill amends ss. 106.07 and 106.0703, F.S., to require submission of the following reports by all non-statewide candidates, regardless of the candidate's filing officer, and political committees or electioneering communications organizations that file reports with a Supervisor of Elections or a municipal clerk:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Biweekly contribution and expenditure reports on the 60th – 32nd day before the primary election, and the 74th – 32nd day before the general election;
- Weekly contribution and expenditure reports beginning on the 32nd day before the primary and general elections, with the last weekly report due on the 4th day before the primary and general elections.

This bill also creates an unnumbered section of law that requires the Division of Elections to submit to the Florida Legislature, by December 1, 2013, a proposal for creating a mandatory electronic filing system for all state and local campaign finance reports and filings reporting the disposition of campaign funds required by ss. 106.07, 106.0703, or 106.29, F.S.

5. Campaign Contribution Limits

Current Situation

Most states place some sort of limit on contributions to candidates from various sources, and also on contributions to political committees and political parties.⁴⁴ Four states—Missouri, Oregon, Utah, and Virginia—place no limits on contributions. Seven states—Alabama, Indiana, Iowa, Mississippi, North Dakota, Pennsylvania, and Texas—place few limits on contributions. These seven states allow unlimited contributions from all sources, but prohibit contributions by corporations and unions to candidates. The remaining states typically limit contributions to candidates from individuals, political parties, political committees, corporations, and unions. Sometimes contributions are prohibited outright, particularly contributions from corporations and unions. Limitations are also commonly placed on cash contributions, contributions by minors, and contributions to political committees and political parties made during the legislative session.

In addition, there are limitations applicable to candidates for federal office. According to the Federal Elections Commission, the federal contribution limits for 2013-2014 are as follows:⁴⁵

	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year ^[1]	Special Limits
Individual may give	\$2,600*	\$32,400*	\$10,000 (combined limit)	\$5,000	\$123,200* overall biennial limit: • \$48,600* to all candidates • \$74,600* to all PACs and parties ^[2]
National Party Committee may give	\$5,000	No limit	No limit	\$5,000	\$45,400* to Senate candidate per campaign ^[3]
State, District & Local Party Committee may give	\$5,000 (combined limit)	No limit	No limit	\$5,000 (combined limit)	No limit
PAC (multicandidate) ^[4] may give	\$5,000	\$15,000	\$5,000 (combined limit)	\$5,000	No limit
PAC (not multicandidate) may give	\$2,600*	\$32,400*	\$10,000 (combined limit)	\$5,000	No limit
Authorized Campaign Committee may give	\$2,000 ^[5]	No limit	No limit	\$5,000	No limit

* These contribution limits are increased for inflation in odd-numbered years.

1. A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. In certain circumstances, the contribution may also count against the contributor's limit to the PAC. 11 CFR 110.6. See also 11 CFR 110.1(h).
2. No more than \$48,600 of this amount may be contributed to state and local party committees and PACs.
3. This limit is shared by the national committee and the Senate campaign committee.
4. A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office. 11 CFR 100.5(e)(3).
5. A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 2 U.S.C. 432(e)(3)(B).

⁴⁴ Information in this paragraph was obtained in *Contribution Limits: An Overview*, National Conference of State Legislatures, Oct. 31, 2011, <http://www.ncsl.org/legislatures-elections/elections/campaign-contribution-limits-overview.aspx>.

⁴⁵ This table was obtained from the Federal Elections Commission website on February 6, 2013. *Contribution Limits 2013-2014*, <http://www.fec.gov/pages/brochures/contriblimits.shtml>.

The table below summarizes Florida's current campaign contribution limits and the effect of the bill's changes:

CAMPAIGN CONTRIBUTION LIMITS IN FLORIDA ⁴⁶			
	Current Limit		Effect of Changes
Candidates	From any one person, PC, or CCE	\$500 per election	<ul style="list-style-type: none"> Increases the limit to \$3,000 per election for candidates for statewide office or retention as a Supreme Court justice. Increases the limit to \$1,000 per election for candidates for retention as a district court of appeal judge, legislative office, multicounty office, countywide office, county court judge, or circuit judge, and for candidates in any election conducted on less than a countywide basis. Contributions will no longer be available from CCEs because CCEs are eliminated by this bill.
	From unemancipated children under the age of 18	\$100 per election	Same as above; the bill removes the distinction between any other person and unemancipated children under the age of 18.
	From a PP or APC to a candidate for statewide office	\$250,000 per election, in the aggregate	No change.
	From a PP or APC to any other candidate	\$50,000 per election, in the aggregate	Permits candidates to accept a contribution of up to \$50,000, in the aggregate, from a county executive committee of a political party, which is in addition to the \$50,000 limit per election, in the aggregate, from a national or state executive committee of a political party. In effect, it increases the limit to \$100,000 total.
Political Committees (PCs)	To a PC supporting or opposing issues only	No limit	No change.
	To a PC supporting or opposing one or more candidates	\$500 per election	The bill amends s. 106.08, F.S., to allow unlimited contributions to any PC. In addition, Section 2 of the bill specifies that, effective May 1, 2013, CCEs may make unlimited contributions to a PC.
	To a PC supporting or opposing both candidates and issues	\$500 per election	The bill amends s. 106.08, F.S., to allow unlimited contributions to any PC. In addition, Section 2 of the bill specifies that, effective May 1, 2013, CCEs may make unlimited contributions to a PC.
	Contributions from political parties	No limit	No change.
Electioneering Communications Organizations (ECOs)	No limit on any contributions to an ECO		No change.
Committees of Continuous Existence (CCEs)	No limit on any contributions to a CCE		This bill eliminates CCEs.
Political Parties (PPs)	No limit on any contributions to a PP		No change.
Affiliated Party Committees (APCs)	No limit on any contributions to an APC		No change.

6. Contributions to Candidates Who Change Designated Office

Current Situation

During the course of a campaign, a candidate is permitted to change the designated office for which he or she is a candidate.⁴⁷ However, the candidate is required to notify all contributors in writing of the intent to seek a different office and offer to return pro rata contributions given for the original office.⁴⁸ This notification is required 15 days after changing the designation with the Division of Elections.⁴⁹ Any contributions not requested to be returned within 30 days of the notification may be used by the candidate for the new office.⁵⁰

Contributions for the original office are limited to \$500 per election from non-political party contributors.⁵¹ Current law also permits a candidate to receive contributions limited to \$500 per election for the newly designated office, as well. Therefore, candidates changing their designated office could circumvent the contribution limits and receive twice as many contributions from the same contributor.

⁴⁶ § 106.08, F.S.

⁴⁷ § 106.021(1)(a), F.S.

⁴⁸ *Id.*

⁴⁹ *Id.* Notification is not required for changes in numerical designation as a result of redistricting.

⁵⁰ *Id.*

⁵¹ See Section 5 for discussion on contribution limits.

The bill amends s. 106.021(1)(a), F.S., to include the amount of a contribution for the original office for the purposes of contribution limits to the newly designated office. If a candidate receives contributions in excess of the contribution limits applicable to the newly designated office, the candidate must dispose of the excess contributions by:

1. Paying for items which were obligated before the candidate withdrew, became unopposed, or was eliminated or elected;
2. Paying for expenditures necessary to close down the campaign office and to prepare final campaign reports;
3. Returning the funds pro rata to each contributor;
4. Donating to a charitable organization or a 501(c)(3) organization; or
5. Giving the funds to the state (for a statewide candidate) or to a political subdivision (for a candidate for an office of such political subdivision)

7. Surplus Campaign Funds

Current Situation

Section 106.141, F.S., governs the disposal of surplus campaign funds. A candidate must dispose of all funds remaining in his or her campaign account and file a report within 90 days after the candidate is elected or eliminated, becomes unopposed, or withdraws from the election. A candidate may dispose of surplus funds in any of the following methods, or any combination thereof:⁵²

1. Return funds on a pro rata basis to each contributor.
2. Donate funds to s. 501(c)(3) charitable organizations.
3. Contribute funds to an affiliated party committee or the candidate's political party (there is not a limit on the amount of funds that may be transferred to these entities).
4. For statewide candidates, give funds to the state for use in the Election Campaign Financing Trust Fund or the General Revenue Fund.
5. For candidates for office in a political subdivision, give funds to the political subdivision for deposit in the general fund.
6. Transfer funds to an office account.⁵³

If a candidate is elected to office, he or she may transfer surplus campaign funds into an office account up to the following limits:

- \$20,000 for a candidate for statewide office.
- \$5,000 for a candidate for multicounty office.
- \$5,000 multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- \$2,500 multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- \$6,000 for a candidate for retention as a justice of the Supreme Court.
- \$3,000 for a candidate for retention as a judge of a district court of appeal.
- \$1,500 for a candidate for county court judge or circuit judge.⁵⁴

Surplus campaign funds transferred to an office account are also subject to use limitations. Such funds can be used only for legitimate expenses in connection with the candidate's public office, including travel expenses incurred by the officer or a staff member, personal taxes payable on office account funds by the candidate or elected public official, or expenses incurred in the operation of the official's office. Office operations include the employment of additional staff.⁵⁵

Upon leaving public office, any remaining funds in an office account must be disposed of by giving such funds to a 501(c)(3) charitable organization, or by giving the funds to the state (for a statewide candidate) or to a political subdivision (for a candidate for an office of such political subdivision).⁵⁶

⁵² § 106.141(4)(a), F.S.

⁵³ Section 106.141(5), F.S., permits a candidate elected to office to transfer surplus campaign funds to an office account, which may be used for "legitimate expenses in connection with the candidate's public office." The amount that may be transferred to an office account varies depending upon the office to which the candidate is elected.

⁵⁴ § 106.141(5), F.S.

⁵⁵ *Id.*

⁵⁶ § 106.141(5)(g)

Prior to disposing of surplus campaign funds, state and local candidates who qualified by the petition process and were not required to pay an election assessment or who filed an oath stating that he or she was unable to pay the assessment must reimburse the state or local government entity for the waived assessment.⁵⁷

Several states, including Delaware,⁵⁸ Maine,⁵⁹ South Carolina,⁶⁰ and Washington,⁶¹ allow candidates to use remaining campaign funds for future elections. However, other states, such as Connecticut⁶² and Montana,⁶³ expressly prohibit the use of remaining campaign funds for future elections.

Candidates for federal office are permitted to use surplus campaign funds for future federal elections.⁶⁴

Effect of Changes

This bill amends s. 106.141, F.S., in a number of areas. First, in addition to the current permissible methods of disposing of surplus campaign funds described above, this bill allows a candidate to retain up to \$20,000 in the candidate's campaign account for use in the candidate's next campaign for the same office. "Same office" is defined as an office in the same legislative body, regardless of district number or designation or geographic boundary. Candidates who do not qualify for the same office in the next election for that office are required to dispose of the retained funds within 90 days in one of the methods described above.

Second, this bill increases the amount of surplus campaign funds that may be transferred to an office account. The following table illustrates the amount of surplus campaign funds that may be transferred into an office account under the current law, and the changes in those amounts made by this bill:

OFFICE	CURRENT LIMIT	EFFECT OF CHANGES
Candidates for statewide office	\$20,000	\$50,000
Candidates for multicounty office	\$5,000	\$10,000
Candidates for legislative office	\$5,000 multiplied by the number of years in the term of office for which elected	\$10,000 multiplied by the number of years in the term of office for which elected
Candidates for county office or candidates in any election conducted on less than a countywide basis	\$2,500 multiplied by the number of years in the term of office for which elected	\$5,000 multiplied by the number of years in the term of office for which elected
Candidates for retention as a Supreme Court justice	\$6,000	No change
Candidates for retention as a judge of a district court of appeal	\$3,000	No change
Candidates for county court judge or circuit judge	\$1,500	\$3,000

Third, the bill expressly authorizes payment of the following expenses using office account funds:

- CPA or attorney services for preparation of the public official's financial disclosure filing.
- Costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents, so long as the correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication.
- Fees or dues to religious, civic, or charitable organizations of which the elected public official is a member.
- Items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at special events or family occasions of constituents.
- Personal expenses incurred in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week.

⁵⁷ § 106.141(6), F.S.
⁵⁸ DEL. CODE ANN. § 8022.
⁵⁹ ME. REV. STAT. tit. 21-A, § 1017(8).
⁶⁰ S.C. CODE ANN. § 8-13-1370.
⁶¹ WASH. REV. CODE § 42.17A.430.
⁶² CONN. GEN. STAT. § 9-608(e)(A)(i).
⁶³ MONT. CODE ANN. § 13-37-240; MONT. ADMIN. R. 44-10-335.
⁶⁴ See 11 C.F.R. §§ 110.3(c)(4), 110.1(b)(3)(ii) and 116.2(c)(2); Federal Elections Commission Advisory Opinion 1980-30.

Fourth, the bill limits surplus funds contributed to an affiliated party committee or political party of which the candidate is a member to \$25,000.

Lastly, the bill removes the requirement for state or local candidates who qualified by the petition process and were not required to pay an election assessment or who filed an oath stating that he or she was unable to pay the assessment to reimburse the state or local government entity for the waived assessment prior to disposing of surplus campaign funds.

8. Campaign Fund Raisers and Political Advertisements

Current Situation

A campaign fund raiser may not be held unless the person for whom the funds are to be used is a candidate for public office.⁶⁵ All money and contributions received during a campaign fund raiser are considered campaign contributions subject to the same requirements as other campaign contributions.⁶⁶ In 2011, the Florida Legislature deleted a statutory requirement that campaign fund raiser tickets and advertising comply with the disclaimer requirements applicable to political advertisements.⁶⁷ As a result, such tickets and advertisements are exempt from sponsorship disclaimer requirements, unless they otherwise meet the definition of a political advertisement.⁶⁸

Political advertisements are governed by section 106.143, F.S., which requires certain sponsorship disclaimers and disclosures for any paid political advertisement that is published, displayed, or circulated on or before Election Day.⁶⁹ The requirements of that section may be summarized as follows:

1. Any political advertisement that is paid for by a candidate, except a write-in candidate, and that is published, displayed, or circulated before, or on the day of, any election must prominently state:
 - A. "Political advertisement paid for and approved by (name of candidate) , (party affiliation) , for (office sought) "; or
 - B. "Paid by (name of candidate) , (party affiliation) , for (office sought) ."
2. Any political advertisement that is paid for by a write-in candidate and that is published, displayed, or circulated before, or on the day of, any election must prominently state:
 - A. "Political advertisement paid for and approved by (name of candidate) , write-in candidate, for (office sought) "; or
 - B. "Paid by (name of candidate), write-in candidate, for (office sought)."
3. Any other political advertisement published, displayed, or circulated before, or on the day of, any election must prominently:
 - A. Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv."
 - B. State the name and address of the persons paying for the advertisement.
 - C. State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement.
4. Any political advertisement of a candidate running for partisan office must express the name of the political party of which the candidate is seeking nomination or is the nominee. If the candidate for partisan office is running as a candidate with no party affiliation, any political advertisement of the candidate must state that the candidate has no party affiliation. A political advertisement of a candidate running for nonpartisan office may not state the candidate's political party affiliation. However, a political advertisement may state the candidate's partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

Effect of Changes

This bill reinstates the statutory requirement that tickets and advertising for campaign fund raisers must contain sponsorship disclaimers and meet the other requirements applicable to political advertisements in s. 106.143, F.S., as described above.

⁶⁵ § 106.025, F.S.

⁶⁶ *Id.*

⁶⁷ Ch. 2001-40, § 56 Laws of Fla.

⁶⁸ A "political advertisement" is "a paid expression . . . which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue." § 106.011(17), F.S.

⁶⁹ § 106.143(1), F.S.

9. Campaign Accounts

Current Situation

Section 106.05, F.S., requires all funds received by the campaign treasurer of any candidate or political committee to be deposited into a campaign depository in an account designated "(name of candidate or committee) Campaign Account."

Section 106.11, F.S., requires that all checks drawn on the campaign depository and all debit cards contain the statement "(name of candidate or political committee) Campaign Account."

Effect of Changes

This bill amends s. 106.05, F.S., to remove the requirement that the campaign account, and checks and debit cards associated therewith, contain the exact phrase "Campaign Account"; however, the name of the candidate or committee must still appear on the campaign account, checks, and debit cards.

10. Political Party Executive Committee Candidates

Current Situation

Section 103.091, F.S., provides for the establishment of political party executive committees and the selection of members. Each political party of the state must be represented by a state executive committee. County executive committees and other committees may be established in accordance with the rules of the state executive committee. A political party may provide for the selection of its national committee and its state and county executive committees in such manner as it deems proper. Unless otherwise provided by party rule, the county executive committee of each political party must consist of at least two members, a man and a woman, from each precinct, who are called the precinct committeeman and committeewoman. For counties divided into 40 or more precincts, the state executive committee may adopt a district unit of representation for such county executive committees. Upon adoption of a district unit of representation, the state executive committee must request the supervisor of elections of that county, with approval of the board of county commissioners, to provide for election districts as nearly equal in number of registered voters as possible. Each county committeeman or committeewoman must be a resident of the precinct from which he or she is elected. Each state committeeman or committeewoman must be a member in good standing of the county executive committee for the county in which the state committeeman or committeewoman is a registered voter.

Any political party other than a minor political party may by rule provide for the membership of its state or county executive committee to be elected for 4-year terms at the primary election in each year a presidential election is held. The terms commence on the first day of the month following each presidential general election, but the names of candidates for political party offices may not be placed on the ballot at any other election. The results of such election must be determined by a plurality of the votes cast. In such event, electors seeking to qualify for such office must do so with the Department of State or supervisor of elections not earlier than noon of the 71st day, or later than noon of the 67th day, preceding the primary election. The outgoing chair of each county executive committee must, within 30 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers.

Pursuant to s. 106.011(16), F.S., candidates for a political party executive committee are excluded from the definition of "candidate" for purposes of the campaign finance laws in chapter 106. Therefore, candidates for a political party executive committee are exempt from the chapter 106 campaign finance requirements, including disclosure requirements and contribution limits, currently imposed on candidates for public office.

Effect of Changes

The bill creates s. 106.0702, F.S., to require candidates for a publicly elected political party executive committee position to file a campaign finance report with the supervisor of elections of the appropriate county on the 4th day before the primary election. The bill retains current law to allow candidates for political party executive committee to collect unlimited contributions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: *Department of State:* According to the Department of State, the increase in the number of campaign finance reports filed with the Division of Elections will increase their workload, requiring two FTEs and a recurring fiscal impact of \$85,000. The Department asserts that, "[t]he increase in reports would cause an increase in fail to file letters, fine letters, incomplete report letters and Election Commission referrals. All of these documents must be scanned and posted to the web. One entry level FTE would be required to handle incomplete letters and Election Commission referrals. One additional FTE would be required to handle fail to file letters, scanning and posting the letters to the web and to handle the increased traffic on the help desk answering phone calls. In total if you take an average salary of \$30,000 for each FTE plus benefits would total \$85,000."

The Department of State intends to produce the report on the feasibility of a statewide database using current resources, so production of the report should not have a fiscal impact on the department.

The bill authorizes two full-time equivalent positions, with associated salary rate of 57,297 and appropriates \$85,000 in recurring funds from the General Revenue Fund to the Division of Elections of the Department of State to carry out the provisions of this bill.

Florida Elections Commission: According to the Florida Elections Commission (Commission), the increase in campaign finance reports filed will increase the number of cases against candidates, political committees, and electioneering communications organizations that fail to file reports. The Commission also expects the increase in reports to increase the number of cases appealing fines imposed for late filing of reports. According to the Commission, investigating and preparing these cases for presentation to the Commission requires one additional FTE at a salary of \$33,000, plus benefits for a total cost of \$42,900.

The bill authorizes one full-time equivalent position, with associated salary rate of 33,000 and appropriates \$42,000 in recurring funds from the Elections Commission Trust Fund within the Department of Legal Affairs to the Florida Elections Commission to carry out the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: The supervisors of elections and municipal clerks will receive and process more campaign finance reports, but the fiscal impact is indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The increased frequency of reporting may result in increased preparation costs for candidates seeking public office and private entities operating as political committees or electioneering communications organizations.

D. FISCAL COMMENTS: None.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
3. Leon County Board Policy “Code of Ethics”
4. Leon County’s Lobbyist Regulations Ordinance

The Florida Constitution

CONSTITUTION OF THE STATE OF FLORIDA

AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

ARTICLE II GENERAL PROVISIONS

SECTION 8. **Ethics in government.**—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(g) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(h) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(i) Schedule—On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

- a. A copy of the person's most recent federal income tax return; or
- b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also file disclosure of their financial interests pursuant to subsection (i)(1).

(3) The independent commission provided for in subsection (f) shall mean the Florida Commission on Ethics.

History.—Proposed by Initiative Petition filed with the Secretary of State July 29, 1976; adopted 1976; Ams. proposed by Constitution Revision Commission, Revision Nos. 8 and 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

The 2017 Florida Statutes

Title X

PUBLIC OFFICERS, EMPLOYEES, AND
RECORDS

Chapter 112

PUBLIC OFFICERS AND EMPLOYEES: GENERAL
PROVISIONS

PART III

**CODE OF ETHICS FOR
PUBLIC OFFICERS AND EMPLOYEES**

- 112.311 Legislative intent and declaration of policy.
- 112.312 Definitions.
- 112.3125 Dual public employment.
- 112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.
- 112.3135 Restriction on employment of relatives.
- 112.3136 Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.
- 112.3142 Ethics training for specified constitutional officers and elected municipal officers.
- 112.31425 Qualified blind trusts.
- 112.3143 Voting conflicts.
- 112.3144 Full and public disclosure of financial interests.
- 112.31445 Electronic filing system; full and public disclosure of financial interests.
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- 112.3251 Citizen support and direct-support organizations; standards of conduct.
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112.311 Legislative intent and declaration of policy.—

(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

(2) It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be

denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided.

(3) It is likewise essential that the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and past or pending legislative and executive actions at every level of government. In order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures, and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions, either by direct communication with such officials or by solicitation of others to engage in such efforts, be regularly disclosed to the people.

(4) It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

(5) It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.

(6) It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.

History.—s. 1, ch. 67-469; s. 1, ch. 69-335; s. 1, ch. 74-177; s. 2, ch. 75-208; s. 698, ch. 95-147.

112.312 Definitions.—As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(1) “Advisory body” means any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than 1 percent

of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations.

(2) "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district as defined in s. 189.012.

(3) "Breach of the public trust" means a violation of a provision of the State Constitution or this part which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests, including, without limitation, a violation of s. 8, Art. II of the State Constitution or of this part.

(4) "Business associate" means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or coowner of property.

(5) "Business entity" means any corporation, partnership, limited partnership, company, limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.

(6) "Candidate" means any person who has filed a statement of financial interest and qualification papers, has subscribed to the candidate's oath as required by s. 99.021, and seeks by election to become a public officer. This definition expressly excludes a committeeman or committeewoman regulated by chapter 103 and persons seeking any other office or position in a political party.

(7) "Commission" means the Commission on Ethics created by s. 112.320 or any successor to which its duties are transferred.

(8) "Conflict" or "conflict of interest" means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(9) "Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

(10) "Disclosure period" means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.

(11) "Facts materially related to the complaint at issue" means facts which tend to show a violation of this part or s. 8, Art. II of the State Constitution by the alleged violator other than those alleged in the complaint and consisting of separate instances of the same or similar conduct as alleged in the

complaint, or which tend to show an additional violation of this part or s. 8, Art. II of the State Constitution by the alleged violator which arises out of or in connection with the allegations of the complaint.

(12)(a) "Gift," for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:

1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.
4. The use of tangible or intangible personal property.
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
6. Forgiveness of an indebtedness.
7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
8. Food or beverage.
9. Membership dues.
10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Plants, flowers, or floral arrangements.
12. Services provided by persons pursuant to a professional license or certificate.
13. Other personal services for which a fee is normally charged by the person providing the services.
14. Any other similar service or thing having an attributable value not already provided for in this section.

(b) "Gift" does not include:

1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.
2. Except as provided in s. 112.31485, contributions or expenditures reported pursuant to chapter 106, contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party or affiliated party committee.
3. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.

4. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.
 5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.
 6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.
 7. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.
 8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.
- (c) For the purposes of paragraph (a), "intangible personal property" means property as defined in s. 192.001(11)(b).
- (d) For the purposes of paragraph (a), the term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.
- (13) "Indirect" or "indirect interest" means an interest in which legal title is held by another as trustee or other representative capacity, but the equitable or beneficial interest is held by the person required to file under this part.
- (14) "Liability" means any monetary debt or obligation owed by the reporting person to another person, entity, or governmental entity, except for credit card and retail installment accounts, taxes owed unless reduced to a judgment, indebtedness on a life insurance policy owed to the company of issuance, contingent liabilities, or accrued income taxes on net unrealized appreciation. Each liability which is required to be disclosed by s. 8, Art. II of the State Constitution shall identify the name and address of the creditor.
- (15) "Material interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity. For the purposes of this act, indirect ownership does not include ownership by a spouse or minor child.
- (16) "Materially affected" means involving an interest in real property located within the jurisdiction of the official's agency or involving an investment in a business entity, a source of income or a position of employment, office, or management in any business entity located within the jurisdiction or doing business within the jurisdiction of the official's agency which is or will be affected in a substantially different manner or degree than the manner or degree in which the public in general

will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.

(17) "Ministerial matter" means action that a person takes in a prescribed manner in obedience to the mandate of legal authority, without the exercise of the person's own judgment or discretion as to the propriety of the action taken.

(18) "Parties materially related to the complaint at issue" means any other public officer or employee within the same agency as the alleged violator who has engaged in the same conduct as that alleged in the complaint, or any other public officer or employee who has participated with the alleged violator in the alleged violation as a coconspirator or as an aider and abettor.

(19) "Person or business entities provided a grant or privilege to operate" includes state and federally chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage companies, credit unions, small loan companies, alcoholic beverage licensees, pari-mutuel wagering companies, utility companies, and entities controlled by the Public Service Commission or granted a franchise to operate by either a city or county government.

(20) "Purchasing agent" means a public officer or employee having the authority to commit the expenditure of public funds through a contract for, or the purchase of, any goods, services, or interest in real property for an agency, as opposed to the authority to request or requisition a contract or purchase by another person.

(21) "Relative," unless otherwise specified in this part, means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

(22) "Represent" or "representation" means actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client.

(23) "Source" means the name, address, and description of the principal business activity of a person or business entity.

(24) "Value of real property" means the most recently assessed value in lieu of a more current appraisal.

History.—s. 2, ch. 67-469; ss. 11, 12, ch. 68-35; s. 8, ch. 69-353; s. 2, ch. 74-177; s. 1, ch. 75-196; s. 1, ch. 75-199; s. 3, ch. 75-208; s. 4, ch. 76-18; s. 1, ch. 77-174; s. 2, ch. 82-98; s. 1, ch. 83-282; s. 2, ch. 90-502; s. 2, ch. 91-85; s. 3, ch. 91-292; s. 699, ch. 95-147; s. 1, ch. 96-328; s. 1, ch. 2000-243; ss. 28, 30, ch. 2011-6; s. 75, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 1, ch. 2013-36; s. 3, ch. 2014-22.

112.3125 Dual public employment.—

(1) As used in this section, the term “public officer” includes any person who is elected to state or local office or, for the period of his or her candidacy, any person who has qualified as a candidate for state or local office.

(2) A public officer may not accept public employment with the state or any of its political subdivisions if the public officer knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the public officer’s office or candidacy.

(3) Any public employment accepted by a public officer must meet all of the following conditions:

(a) The position was already in existence or was created by the employer without the knowledge or anticipation of the public officer’s interest in such position;

(b) The position was publicly advertised;

(c) The public officer was subject to the same application and hiring process as other candidates for the position; and

(d) The public officer meets or exceeds the required qualifications for the position.

(4) A person who was employed by the state or any of its political subdivisions before qualifying as a public officer for his or her current term of office or the next available term of office may continue his or her employment. However, he or she may not accept promotion, advancement, additional compensation, or anything of value that he or she knows, or with the exercise of reasonable care should know, is provided or given as a result of his or her election or position, or that is otherwise inconsistent with the promotion, advancement, additional compensation, or anything of value provided or given an employee who is similarly situated.

(5) This section may not be interpreted as authorizing employment that is otherwise prohibited by law.

History.—s. 2, ch. 2013-36.

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(1) **DEFINITION.**—As used in this section, unless the context otherwise requires, the term “public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) **SOLICITATION OR ACCEPTANCE OF GIFTS.**—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value

to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(3) **DOING BUSINESS WITH ONE'S AGENCY.**—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

(4) **UNAUTHORIZED COMPENSATION.**—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) **SALARY AND EXPENSES.**—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) **MISUSE OF PUBLIC POSITION.**—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

(7) **CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.**—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION.—A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Governors of the State University System; and the president, provost, vice presidents, and deans of each state university.

(VI) Any person, including an other-personal-services employee, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3.a. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

b. For a period of 2 years following vacation of office, a former member of the Legislature may not act as a lobbyist for compensation before an executive branch agency, agency official, or employee. The terms used in this sub-subparagraph have the same meanings as provided in s. 112.3215.

4. An agency employee, including an agency employee who was employed on July 1, 2001, in a Career Service System position that was transferred to the Selected Exempt Service System under chapter 2001-43, Laws of Florida, may not personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

- a. A person employed by the Legislature or other agency prior to July 1, 1989;
- b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;
- c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;
- d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or
- e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

(10) EMPLOYEES HOLDING OFFICE.—

(a) No employee of a state agency or of a county, municipality, special taxing district, or other political subdivision of the state shall hold office as a member of the governing board, council, commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.

(b) The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.

(11) PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD MEMBERS.—No officer, director, or administrator of a Florida state, county, or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

(12) EXEMPTION.—The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the

advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer or an officer of any district within a county, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it appears in the records of the agency that the governing

body of the agency has determined that such officer or member of a public board or body has not favored such bank over other qualified banks.

(h) The transaction is made pursuant to s. 1004.22 or s. 1004.23 and is specifically approved by the president and the chair of the university board of trustees. The chair of the university board of trustees shall submit to the Governor and the Legislature by March 1 of each year a report of the transactions approved pursuant to this paragraph during the preceding year.

(i) The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and:

1. The price and terms of the transaction are available to similarly situated members of the general public; and

2. The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

(13) COUNTY AND MUNICIPAL ORDINANCES AND SPECIAL DISTRICT AND SCHOOL DISTRICT RESOLUTIONS REGULATING FORMER OFFICERS OR EMPLOYEES.—The governing body of any county or municipality may adopt an ordinance and the governing body of any special district or school district may adopt a resolution providing that an appointed county, municipal, special district, or school district officer or a county, municipal, special district, or school district employee may not personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining. Nothing in this section may be construed to prohibit such ordinance or resolution.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection:

(a) The “government body or agency” of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.

(b) The “government body or agency” of any other county elected officer is the office or department headed by that officer, including all subordinate employees.

(c) The “government body or agency” of an elected municipal officer consists of the governing body of the municipality, the chief administrative officer or employee of the municipality, and their immediate support staff.

(d) The "government body or agency" of an elected special district officer is the special district.

(e) The "government body or agency" of an elected school district officer is the school district.

(15) ADDITIONAL EXEMPTION.—No elected public officer shall be held in violation of subsection (7) if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the officer's agency and:

(a) The officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;

(b) The officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the agency, or otherwise; and

(c) The officer abstains from voting on any matter which may come before the agency involving the officer's employer, publicly states to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s. 112.3143.

(16) LOCAL GOVERNMENT ATTORNEYS.—

(a) For the purposes of this section, "local government attorney" means any individual who routinely serves as the attorney for a unit of local government. The term shall not include any person who renders legal services to a unit of local government pursuant to contract limited to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. For the purposes of this section, "unit of local government" includes, but is not limited to, municipalities, counties, and special districts.

(b) It shall not constitute a violation of subsection (3) or subsection (7) for a unit of local government to contract with a law firm, operating as either a partnership or a professional association, or in any combination thereof, or with a local government attorney who is a member of or is otherwise associated with the law firm, to provide any or all legal services to the unit of local government, so long as the local government attorney is not a full-time employee or member of the governing body of the unit of local government. However, the standards of conduct as provided in subsections (2), (4), (5), (6), and (8) shall apply to any person who serves as a local government attorney.

(c) No local government attorney or law firm in which the local government attorney is a member, partner, or employee shall represent a private individual or entity before the unit of local government to which the local government attorney provides legal services. A local government attorney whose contract with the unit of local government does not include provisions that authorize or mandate the use of the law firm of the local government attorney to complete legal services for the unit of local government shall not recommend or otherwise refer legal work to that attorney's law firm to be completed for the unit of local government.

(17) BOARD OF GOVERNORS AND BOARDS OF TRUSTEES.—No citizen member of the Board of Governors of the State University System, nor any citizen member of a board of trustees of a local constituent university, shall have or hold any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. 11.045.

History.—s. 3, ch. 67-469; s. 2, ch. 69-335; ss. 10, 35, ch. 69-106; s. 3, ch. 74-177; ss. 4, 11, ch. 75-208; s. 1, ch. 77-174; s. 1, ch. 77-349; s. 4, ch. 82-98; s. 2, ch. 83-26; s. 6, ch. 83-282; s. 14, ch. 85-80; s. 12, ch. 86-145; s. 1, ch. 88-358; s. 1, ch. 88-408; s. 3, ch. 90-502; s. 3, ch. 91-85; s. 4, ch. 91-292; s. 1, ch. 92-35; s. 1, ch. 94-277; s. 1406, ch. 95-147; s. 3, ch. 96-311; s. 34, ch. 96-318; s. 41, ch. 99-2; s. 29, ch. 2001-266; s. 20, ch. 2002-1; s. 894, ch. 2002-387; s. 2, ch. 2005-285; s. 2, ch. 2006-275; s. 10, ch. 2007-217; s. 16, ch. 2011-34; s. 3, ch. 2013-36.

112.3135 Restriction on employment of relatives.—

(1) In this section, unless the context otherwise requires:

(a) “Agency” means:

1. A state agency, except an institution under the jurisdiction of the Board of Governors of the State University System;
2. An office, agency, or other establishment in the legislative branch;
3. An office, agency, or other establishment in the judicial branch;
4. A county;
5. A city; and
6. Any other political subdivision of the state, except a district school board or community college district.

(b) “Collegial body” means a governmental entity marked by power or authority vested equally in each of a number of colleagues.

(c) “Public official” means an officer, including a member of the Legislature, the Governor, and a member of the Cabinet, or an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency, including the authority as a member of a collegial body to vote on the appointment, employment, promotion, or advancement of individuals.

(d) “Relative,” for purposes of this section only, with respect to a public official, means an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(2)(a) A public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a

relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member. However, this subsection shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population. This subsection does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide.

(b) Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

(3) An agency may prescribe regulations authorizing the temporary employment, in the event of an emergency as defined in s. 252.34, of individuals whose employment would be otherwise prohibited by this section.

(4) Legislators' relatives may be employed as pages or messengers during legislative sessions.

History.—ss. 1, 2, 3, ch. 69-341; ss. 15, 35, ch. 69-106; s. 70, ch. 72-221; s. 3, ch. 83-334; s. 1, ch. 89-67; s. 4, ch. 90-502; s. 2, ch. 94-277; s. 1407, ch. 95-147; s. 1, ch. 98-160; s. 42, ch. 99-2; s. 11, ch. 2007-217; s. 47, ch. 2011-142.

Note.—Former s. 116.111.

112.3136 Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.—The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision, for the purposes of the following sections, are public officers and employees who are subject to the following standards of conduct of this part:

(1) Section 112.313, and their "agency" is the political subdivision that they serve; however, the contract under which the business entity serves as chief executive or administrative officer of the political subdivision is not deemed to violate s. 112.313(3) or (7).

(2) Section 112.3145, as a "local officer."

(3) Sections 112.3148 and 112.3149, as a "reporting individual."

History.—s. 1, ch. 2009-126.

112.3142 Ethics training for specified constitutional officers and elected municipal officers.—

(1) As used in this section, the term "constitutional officers" includes the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state

attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

(2)(a) All constitutional officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(b) Beginning January 1, 2015, all elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(c) The commission shall adopt rules establishing minimum course content for the portion of an ethics training class which addresses s. 8, Art. II of the State Constitution and the Code of Ethics for Public Officers and Employees.

(d) The Legislature intends that a constitutional officer or elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer or elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

(3) Each house of the Legislature shall provide for ethics training pursuant to its rules.

History.—s. 4, ch. 2013-36; s. 2, ch. 2014-183.

112.31425 Qualified blind trusts.—

(1) The Legislature finds that if a public officer creates a trust and does not control the interests held by the trust, his or her official actions will not be influenced or appear to be influenced by private considerations.

(2) If a public officer holds a beneficial interest in a qualified blind trust as described in this section, he or she does not have a conflict of interest prohibited under s. 112.313(3) or (7) or a voting conflict of interest under s. 112.3143 with regard to matters pertaining to that interest.

(3) The public officer may not attempt to influence or exercise any control over decisions regarding the management of assets in a qualified blind trust. The public officer or any person having a beneficial interest in the qualified blind trust may not make any effort to obtain information with respect to the

holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto, except as otherwise provided in this section.

(4) Except for communications that consist solely of requests for distributions of cash or other unspecified assets of the trust, the public officer or the person who has a beneficial interest may not have any direct or indirect communication with the trustee with respect to the trust, unless such communication is in writing and relates only to:

(a) A distribution from the trust which does not specify the source or assets within the trust from which the distribution is to be made in cash or in kind;

(b) The general financial interests and needs of the public officer or the person who has a beneficial interest, including, but not limited to, an interest in maximizing income or long-term capital gain;

(c) A notification of the trustee of a law or regulation subsequently applicable to the public officer which prohibits the officer from holding an asset and directs that the asset not be held by the trust; or

(d) A direction to the trustee to sell all of an asset initially placed in the trust by the public officer which, in the determination of the public officer, creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the public officer.

(5) The public officer shall report the beneficial interest in the qualified blind trust and its value as an asset on his or her financial disclosure form, if the value is required to be disclosed. The public officer shall report the blind trust as a primary source of income on his or her financial disclosure forms and its amount, if the amount of income is required to be disclosed. The public officer is not required to report as a secondary source of income any source of income to the blind trust.

(6) In order to constitute a qualified blind trust, the trust established by the public officer must meet the following requirements:

(a) The appointed trustee must be a bank, trust company, or other institutional fiduciary or an individual who is an attorney, certified public accountant, broker, or investment advisor. If the trustee is an individual or if the trustee is a bank, trust company, or other institutional fiduciary, the individual responsible for managing the trust may not be:

1. The public officer's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin, or the spouse of any such person;
2. A person who is an elected or appointed public officer or a public employee;
3. A person who has been appointed to serve in an agency by the public officer or by a public officer or public employee supervised by the public officer; or
4. A business associate or principal of the public officer.

(b) All assets in the trust must be free of any restrictions with respect to their transfer or sale. The trust may not contain investments or assets the transfer of which by the trustee is improbable or impractical without the public officer's knowledge.

(c) The trust agreement must:

1. Contain a statement that its purpose is to remove from the grantor control and knowledge of investment of trust assets so that conflicts between the grantor's responsibilities as a public officer and his or her private interests are eliminated.
2. Give the trustee complete discretion to manage the trust, including, but not limited to, the power to dispose of and acquire trust assets without consulting or notifying the covered public officer or the person having a beneficial interest in the trust.
3. Prohibit communication between the trustee and the public officer, or the person who has a beneficial interest in the trust, concerning the holdings or sources of income of the trust, except amounts of cash value or net income or loss, if such report does not identify any asset or holding, or except as provided in this section.
4. Provide that the trust tax return is prepared by the trustee or his or her designee and that any information relating thereto is not disclosed to the public officer or to the person who has a beneficial interest, except as provided in this section.
5. Permit the trustee to notify the public officer of the date of disposition and value at disposition of any original investment or interest in real property to the extent required by federal tax law so that the information can be reported on the public officer's applicable tax returns.
6. Prohibit the trustee from disclosing to the public officer or the person who has a beneficial interest any information concerning replacement assets to the trust, except for the minimum tax information necessary to enable the public official to complete an individual tax return required by law.

(d) Within 5 business days after the agreement is executed, the public officer shall file with the commission a notice setting forth:

1. The date that the agreement is executed.
2. The name and address of the trustee.
3. The acknowledgment by the trustee that he or she has agreed to serve as trustee.
4. A certification by the trustee on a form prescribed by the commission that the trust meets all of the requirements of this section. In lieu of said certification, the public officer may file a copy of the trust agreement.
5. A complete list of assets placed in the trust that the public officer would be required to disclose pursuant to s. 112.3144 or s. 112.3145.

(7) If the trust is revoked while the covered public official is a public officer, or if the covered public official learns of any replacement assets that have been added to the trust, the covered public official shall file an amendment to his or her most recent financial disclosure statement. The amendment shall be filed no later than 60 days after the date of revocation or the addition of the replacement assets. The covered public official shall disclose the previously unreported pro rata share

of the trust's interests in investments or income deriving from any such investments. For purposes of this section, any replacement asset that becomes known to the covered public official shall thereafter be treated as though it were an original asset of the trust.

History.—s. 5, ch. 2013-36.

112.3143 Voting conflicts.—

(1) As used in this section:

(a) "Principal by whom retained" means an individual or entity, other than an agency as defined in s. 112.312(2), that for compensation, salary, pay, consideration, or similar thing of value, has permitted or directed another to act for the individual or entity, and includes, but is not limited to, one's client, employer, or the parent, subsidiary, or sibling organization of one's client or employer.

(b) "Public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(c) "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(d) "Special private gain or loss" means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered.

(2)(a) A state public officer may not vote on any matter that the officer knows would inure to his or her special private gain or loss. Any state public officer who abstains from voting in an official capacity upon any measure that the officer knows would inure to the officer's special private gain or loss, or who votes in an official capacity on a measure that he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained other than an agency as defined in s.

112.312(2); or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer, shall make every reasonable effort to disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the

minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for the state public officer to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

(b) A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection.

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(b) However, a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was

made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term “participate” means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer’s direction.

(5) If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

(6) Whenever a public officer or former public officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

History.—s. 6, ch. 75-208; s. 2, ch. 84-318; s. 1, ch. 84-357; s. 2, ch. 86-148; s. 5, ch. 91-85; s. 3, ch. 94-277; s. 1408, ch. 95-147; s. 43, ch. 99-2; s. 6, ch. 2013-36.

112.3144 Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics. Additionally, beginning January 1, 2015, an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(2) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall not be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. If an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

(3) For purposes of full and public disclosure under s. 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over \$1,000 in the aggregate, may be reported in a lump sum and identified as “household goods and personal effects”:

(a) Jewelry;

- (b) Collections of stamps, guns, and numismatic properties;
- (c) Art objects;
- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles for personal use.

(4)(a) With respect to reporting, on forms prescribed under this section, assets valued in excess of \$1,000 which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets that are held jointly, with right of survivorship, must be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own a percentage of a partnership which is equal to the reporting individual's interest in the capital or equity of the partnership.

(b)1. With respect to reporting liabilities valued in excess of \$1,000 on forms prescribed under this section for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.

2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.

(5) Forms for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution shall be created by the Commission on Ethics. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names and addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. In compiling the list, the commission shall be assisted by each unit of government in providing at the request of the commission the name, address, and name of the office held by each public official within the respective unit of government.

(b) Not later than 30 days before July 1 of each year, the commission shall mail a copy of the form prescribed for compliance with full and public disclosure and a notice of the filing deadline to each person on the mailing list.

(c) Not later than 30 days after July 1 of each year, the commission shall determine which persons on the mailing list have failed to file full and public disclosure and shall send delinquency notices by certified mail to such persons. Each notice shall state that a grace period is in effect until September 1 of the current year.

(d) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been

filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.

(e) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:
 - a. When a statement is actually received by the office.
 - b. When the statement is postmarked.
 - c. When the certificate of mailing is dated.
 - d. When the receipt from an established courier company is dated.
2. Upon receipt of the disclosure statement or upon accrual of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys shall be deposited into the General Revenue Fund.
3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be made within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

(f) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's mailing list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(g) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and

the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (7).

(h) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(6) If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a full and public disclosure of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.

(7) Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection.

(8)(a) The commission shall treat an amended full and public disclosure of financial interests which is filed before September 1 of the year in which the disclosure is due as the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amended full and public disclosure of financial interests correcting any errors. If the filer does not file an amended full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final full and public disclosure of financial interests, the commission shall treat a new final full and public disclosure of financial interests as the original filing if filed within 60 days after the original filing, regardless of whether a complaint has been filed. If, more than 60 days after a final full and public disclosure of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint, other than notifying the filer of the complaint. The filer must be given 30 days to file a new final full and public disclosure of financial interests correcting any errors. If the filer does not file a new final full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(9)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual required to file is not a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(10) The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

History.—s. 1, ch. 82-98; s. 3, ch. 88-358; s. 19, ch. 91-45; s. 4, ch. 94-277; s. 1409, ch. 95-147; s. 2, ch. 2000-243; s. 30, ch. 2000-258; s. 127, ch. 2003-261; s. 3, ch. 2006-275; s. 7, ch. 2013-36; s. 3, ch. 2014-183.

112.31445 Electronic filing system; full and public disclosure of financial interests.—

(1) As used in this section, the term “electronic filing system” means an Internet system for recording and reporting full and public disclosure of financial interests or any other form that is required pursuant to s. 112.3144.

(2) Beginning with the 2012 filing year, all full and public disclosures of financial interests filed with the commission pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must be scanned and made publicly available by the commission through a searchable Internet database.

(3) By December 1, 2015, the commission shall submit a proposal to the President of the Senate and the Speaker of the House of Representatives for a mandatory electronic filing system. The proposal must, at a minimum:

(a) Provide for access through the Internet.

(b) Establish a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software.

(c) Provide for direct completion of the full and public disclosure of financial interests forms as well as upload such information using software approved by the commission.

(d) Provide a secure method that prevents unauthorized access to electronic filing system functions.

(e) Provide a method for an attorney or certified public accountant licensed in this state to sign the disclosure form to indicate that he or she prepared the form in accordance with s. 112.3144 and the instructions for completing and filing the disclosure form and that, upon his or her reasonable knowledge and belief, the form is true and correct.

(f) Address whether additional statutory or rulemaking authority is necessary for implementation of the system, and must include, at a minimum, the following elements: alternate filing procedures to be used in the event that the commission’s electronic filing system is inoperable, issuance of an electronic receipt via electronic mail indicating and verifying to the individual who submitted the full and public disclosure of financial interests form that the form has been filed, and a determination of the feasibility and necessity of including statements of financial interests filed pursuant to s. 112.3145 in the proposed system.

History.—s. 8, ch. 2013-36.

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires, the term:

(a) “Local officer” means:

1. Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. Any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision of the state:

- a. The governing body of the political subdivision, if appointed;
- b. A community college or junior college district board of trustees;
- c. A board having the power to enforce local code provisions;
- d. A planning or zoning board, board of adjustment, board of appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and such other groups who only have the power to make recommendations to planning or zoning boards;
- e. A pension board or retirement board having the power to invest pension or retirement funds or the power to make a binding determination of one's entitlement to or amount of a pension or other retirement benefit; or
- f. Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

3. Any person holding one or more of the following positions: mayor; county or city manager; chief administrative employee of a county, municipality, or other political subdivision; county or municipal attorney; finance director of a county, municipality, or other political subdivision; chief county or municipal building code inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator, with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; district school superintendent; community college president; district medical examiner; or purchasing agent having the authority to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY ONE, on behalf of any political subdivision of the state or any entity thereof.

(b) "Specified state employee" means:

1. Public counsel created by chapter 350, an assistant state attorney, an assistant public defender, a criminal conflict and civil regional counsel, an assistant criminal conflict and civil regional counsel, a full-time state employee who serves as counsel or assistant counsel to any state agency, the Deputy Chief Judge of Compensation Claims, a judge of compensation claims, an administrative law judge, or a hearing officer.

2. Any person employed in the office of the Governor or in the office of any member of the Cabinet if that person is exempt from the Career Service System, except persons employed in clerical, secretarial, or similar positions.

3. The State Surgeon General or each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council; unless otherwise provided, the division director, assistant division director, deputy director, bureau chief, and assistant bureau chief of any state department or division; or any person having the power normally conferred upon such persons, by whatever title.

4. The superintendent or institute director of a state mental health institute established for training and research in the mental health field or the warden or director of any major state institution or facility established for corrections, training, treatment, or rehabilitation.

5. Business managers, purchasing agents having the power to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY ONE, finance and accounting directors, personnel officers, or grants coordinators for any state agency.

6. Any person, other than a legislative assistant exempted by the presiding officer of the house by which the legislative assistant is employed, who is employed in the legislative branch of government, except persons employed in maintenance, clerical, secretarial, or similar positions.

7. Each employee of the Commission on Ethics.

(c) "State officer" means:

1. Any elected public officer, excluding those elected to the United States Senate and House of Representatives, not covered elsewhere in this part and any person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. An appointed member of each board, commission, authority, or council having statewide jurisdiction, excluding a member of an advisory body.

3. A member of the Board of Governors of the State University System or a state university board of trustees, the Chancellor and Vice Chancellors of the State University System, and the president of a state university.

4. A member of the judicial nominating commission for any district court of appeal or any judicial circuit.

(2)(a) A person seeking nomination or election to a state or local elective office shall file a statement of financial interests together with, and at the same time he or she files, qualifying papers. When a candidate has qualified for office prior to the deadline to file an annual statement of financial interests, the statement of financial interests that is filed with the candidate's qualifying papers shall be deemed to satisfy the annual disclosure requirement of this section. The qualifying officer must record that the statement of financial interests was timely filed. However, if a candidate does not qualify until after the annual statement of financial interests has been filed, the candidate may file a copy of his or her statement with the qualifying officer.

(b) Each state or local officer and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state

employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(c) State officers and specified state employees shall file their statements of financial interests with the Commission on Ethics. Local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Local officers who do not permanently reside in any county in the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.

(3) The statement of financial interests for state officers, specified state employees, local officers, and persons seeking to qualify as candidates for state or local office shall be filed even if the reporting person holds no financial interests requiring disclosure, in which case the statement shall be marked "not applicable." Otherwise, the statement of financial interests shall include, at the filer's option, either:

(a)1. All sources of income in excess of 5 percent of the gross income received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received an amount which was in excess of 10 percent of his or her gross income during the disclosure period and which exceeds \$1,500. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residences and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal

property worth in excess of 10 percent of such person's total assets. For the purposes of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every individual liability that equals more than the reporting person's net worth; or

(b)1. All sources of gross income in excess of \$2,500 received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received gross income exceeding \$5,000 during the disclosure period. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residence and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of \$10,000. For the purpose of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every liability in excess of \$10,000.

A person filing a statement of financial interests shall indicate on the statement whether he or she is using the method specified in paragraph (a) or paragraph (b).

(4) Beginning January 1, 2015, an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her statement of financial interests that he or she has completed the required training.

(5) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has

actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity. Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

(6) Each elected constitutional officer and each candidate for such office, any other public officer required pursuant to s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests, and each state officer, local officer, specified state employee, and candidate for elective public office who is or was during the disclosure period an officer, director, partner, proprietor, or agent, other than a resident agent solely for service of process, of, or owns or owned during the disclosure period a material interest in, any business entity which is granted a privilege to operate in this state shall disclose such facts as a part of the disclosure form filed pursuant to s. 8, Art. II of the State Constitution or this section, as applicable. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest.

(7) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a)1. Not later than May 1 of each year, the commission shall prepare a current list of the names and addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. In compiling the list, the commission shall be assisted by each unit of government in providing, at the request of the commission, the name, address, and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government.

2. Not later than May 15 of each year, the commission shall provide each supervisor of elections with a current mailing list of all local officers required to file with such supervisor of elections.

(b) Not later than 30 days before July 1 of each year, the commission and each supervisor of elections, as appropriate, shall mail a copy of the form prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests.

(c) Not later than 30 days after July 1 of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their

respective offices have failed to do so and shall send delinquency notices by certified mail, return receipt requested, to these persons. Each notice shall state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; for notices sent by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317.

(d) No later than November 15 of each year, the supervisor of elections in each county shall certify to the commission a list of the names and addresses of, and the offices or positions held by, all persons who have failed to timely file the required statements of financial interests. The certification must include the earliest of the dates described in subparagraph (f)1. The certification shall be on a form prescribed by the commission and shall indicate whether the supervisor of elections has provided the disclosure forms and notice as required by this subsection to all persons named on the delinquency list.

(e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.

(f) Any person who is required to file a statement of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however, this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:
 - a. When a statement is actually received by the office.
 - b. When the statement is postmarked.
 - c. When the certificate of mailing is dated.
 - d. When the receipt from an established courier company is dated.
2. For a specified state employee or a state officer, upon receipt of the disclosure statement by the commission or upon accrual of the maximum penalty, whichever occurs first, and for a local officer

upon receipt by the commission of the certification from the local officer's supervisor of elections pursuant to paragraph (d), the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. The fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys are to be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be made within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

(g) Any state officer, local officer, or specified employee whose name is not on the mailing list of persons required to file an annual statement of financial interests is not subject to the penalties provided in s. 112.317 or the fine provided in this section for failure to timely file a statement of financial interests in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h) The notification requirements and fines of this subsection do not apply to candidates or to the first or final filing required of any state officer, specified employee, or local officer as provided in paragraph (2)(b).

(i) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such a fine to a collection agent as provided in s. 17.20.

(8)(a) The appointing official or body shall notify each newly appointed local officer, state officer, or specified state employee, not later than the date of appointment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The agency head of each employing agency shall notify each newly employed local officer or specified state employee, not later than the day of employment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The appointing official or body or employing agency head may designate a person to be responsible for the notification requirements of this paragraph.

(b) The agency head of the agency of each local officer, state officer, or specified state employee who is required to file a statement of financial interests for the final disclosure period shall notify such

persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this paragraph.

(c) If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.

(9) A public officer who has filed a disclosure for any calendar or fiscal year shall not be required to file a second disclosure for the same year or any part thereof, notwithstanding any requirement of this act, except that any public officer who qualifies as a candidate for public office shall file a copy of the disclosure with the officer before whom he or she qualifies as a candidate at the time of qualification.

(10)(a) The commission shall treat an amended annual statement of financial interests which is filed before September 1 of the year in which the statement is due as the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amended statement of financial interests correcting any errors. If the filer does not file an amended statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final statement of financial interests, the commission shall treat a new final statement of financial interests as the original filing, if filed within 60 days of the original filing regardless of whether a complaint has been filed. If, more than 60 days after a final statement of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file a new final statement of financial interests correcting any errors. If the filer does not file a new final statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of

interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(11)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual who is required to file the disclosure does not constitute a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(12) The commission shall adopt rules and forms specifying how a state officer, local officer, or specified state employee may amend his or her statement of financial interests to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

History.—s. 5, ch. 74-177; ss. 2, 6, ch. 75-196; s. 2, ch. 76-18; s. 1, ch. 77-174; s. 63, ch. 77-175; s. 54, ch. 79-40; s. 3, ch. 82-98; s. 2, ch. 83-128; ss. 2, 5, ch. 83-282; s. 3, ch. 84-318; s. 1, ch. 88-316; s. 1, ch. 90-169; s. 5, ch. 90-502; s. 27, ch. 91-46; s. 6, ch. 91-85; s. 6, ch. 91-292; ss. 5, 13, ch. 94-277; s. 3, ch. 94-340; s. 1410, ch. 95-147; s. 14, ch. 96-410; s. 31, ch. 97-286; s. 17, ch. 99-399; s. 2, ch. 2000-161; s. 3, ch. 2000-243; s. 31, ch. 2000-258; s. 23, ch. 2000-372; s. 3, ch. 2001-91; s. 2, ch. 2001-282; s. 128, ch. 2003-261; s. 4, ch. 2006-275; s. 12, ch. 2007-217; s. 7, ch. 2008-6; s. 9, ch. 2013-36; s. 4, ch. 2014-183.

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

(2) If the commission determines that the individual who is the subject of an unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) is no longer a public officer or public employee or if the commission is unable to determine whether the individual is a current public officer or public employee, the commission may, 6 months after the order becomes final, seek garnishment of any wages to satisfy the amount of the fine, or any unpaid portion thereof, pursuant to chapter 77. Upon recording the order imposing the fine with the clerk of the circuit court, the order shall be deemed a judgment for purposes of garnishment pursuant to chapter 77.

(3) The commission may refer unpaid fines to the appropriate collection agency, as directed by the Chief Financial Officer, to utilize any collection methods provided by law. Except as expressly limited by this section, any other collection methods authorized by law are allowed.

(4) Action may be taken to collect any unpaid fine imposed by ss. 112.3144 and 112.3145 within 20 years after the date the final order is rendered.

History.—s. 10, ch. 2013-36; s. 10, ch. 2015-2.

112.3146 Public records.—The statements required by ss. 112.313, 112.3145, 112.3148, and 112.3149 shall be public records within the meaning of s. 119.01.

History.—s. 6, ch. 74-177; s. 6, ch. 90-502; s. 7, ch. 91-85.

112.3147 Forms.—Except as otherwise provided, all information required to be furnished by ss. 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149 and by s. 8, Art. II of the State Constitution shall be on forms prescribed by the Commission on Ethics.

History.—s. 7, ch. 74-177; s. 3, ch. 76-18; s. 7, ch. 90-502; s. 8, ch. 91-85; s. 12, ch. 2000-243; s. 5, ch. 2006-275; s. 11, ch. 2013-36.

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(1) The provisions of this section do not apply to gifts solicited or accepted by a reporting individual or procurement employee from a relative.

(2) As used in this section:

(a) “Immediate family” means any parent, spouse, child, or sibling.

(b)1. “Lobbyist” means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or

procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as "lobbyists" who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

(c) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(d) "Reporting individual" means any individual, including a candidate upon qualifying, who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office. For purposes of implementing this section, the "agency" of a reporting individual who is not an officer or employee in public service is the agency to which the candidate seeks election, or in the case of an individual elected to but yet to formally take office, the agency in which the individual has been elected to serve.

(e) "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds or is expected to exceed \$10,000 in any fiscal year.

(f) "Vendor" means a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

(3) A reporting individual or procurement employee is prohibited from soliciting any gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or the partner, firm, employer, or principal of such lobbyist, where such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement employee, or any member of the immediate family of a reporting individual or procurement employee.

(4) A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

(5)(a) A vendor doing business with the reporting individual's or procurement employee's agency; a political committee as defined in s. 106.011; a lobbyist who lobbies a reporting individual's or procurement employee's agency; the partner, firm, employer, or principal of a lobbyist; or another on behalf of the lobbyist or partner, firm, principal, or employer of the lobbyist is prohibited from giving, either directly or indirectly, a gift that has a value in excess of \$100 to the reporting individual or procurement employee or any other person on his or her behalf; however, such person may give a gift having a value in excess of \$100 to a reporting individual or procurement employee if the gift is intended to be transferred to a governmental entity or a charitable organization.

(b) However, a person who is regulated by this subsection, who is not regulated by subsection (6), and who makes, or directs another to make, an individual gift having a value in excess of \$25, but not in excess of \$100, other than a gift that the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter for the previous calendar quarter in which a reportable gift is made. The report shall be filed with the Commission on Ethics, except with respect to gifts to reporting individuals of the legislative branch, in which case the report shall be filed with the Office of Legislative Services. The report must contain a description of each gift, the monetary value thereof, the name and address of the person making such gift, the name and address of the recipient of the gift, and the date such gift is given. In addition, if a gift is made which requires the filing of a report under this subsection, the donor must notify the intended recipient at the time the gift is made that the donor, or another on his or her behalf, will report the gift under this subsection. Under this paragraph, a gift need not be reported by more than one person or entity.

(6)(a) Notwithstanding the provisions of subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of \$100 to any reporting individual or procurement employee if a public purpose can be shown

for the gift; and a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.

(b) Notwithstanding the provisions of subsection (4), a reporting individual or procurement employee may accept a gift having a value in excess of \$100 from an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board if a public purpose can be shown for the gift; and a reporting individual or procurement employee who is an officer or employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization.

(c) No later than March 1 of each year, each governmental entity or direct-support organization specifically authorized by law to support a governmental entity which has given a gift to a reporting individual or procurement employee under paragraph (a) shall provide the reporting individual or procurement employee with a statement of each gift having a value in excess of \$100 given to such reporting individual or procurement employee by the governmental entity or direct-support organization during the preceding calendar year. Such report shall contain a description of each gift, the date on which the gift was given, and the value of the total gifts given by the governmental entity or direct-support organization to the reporting individual or procurement employee during the calendar year for which the report is made. A governmental entity may provide a single report to the reporting individual or procurement employee of gifts provided by the governmental entity and any direct-support organization specifically authorized by law to support such governmental entity.

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to the statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics. The report filed by a reporting individual or

procurement employee who left office or employment during the calendar year covered by the report shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(7)(a) The value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities, except as otherwise provided in this subsection, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided shall be used. If additional expenses are required as a condition precedent to eligibility of the donor to purchase or provide a gift and such expenses are primarily for the benefit of the donor or are of a charitable nature, such expenses shall not be included in determining the value of the gift.

(b) Compensation provided by the donee to the donor, if provided within 90 days after receipt of the gift, shall be deducted from the value of the gift in determining the value of the gift.

(c) If the actual gift value attributable to individual participants at an event cannot be determined, the total costs shall be prorated among all invited persons, whether or not they are reporting individuals or procurement employees.

(d) Transportation shall be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses shall be considered a single gift. Transportation provided in a private conveyance shall be given the same value as transportation provided in a comparable commercial conveyance.

(e) Lodging provided on consecutive days shall be considered a single gift. Lodging in a private residence shall be valued at the per diem rate provided in s. 112.061(6)(a)1. less the meal allowance rate provided in s. 112.061(6)(b).

(f) Food and beverages which are not consumed at a single sitting or meal and which are provided on the same calendar day shall be considered a single gift, and the total value of all food and beverages provided on that date shall be considered the value of the gift. Food and beverage consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(g) Membership dues paid to the same organization during any 12-month period shall be considered a single gift.

(h) Entrance fees, admission fees, or tickets shall be valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater.

(i) Except as otherwise specified in this section, a gift shall be valued on a per occurrence basis.

(j) The value of a gift provided to several individuals may be attributed on a pro rata basis among all of the individuals. If the gift is food, beverage, entertainment, or similar items, provided at a function for more than 10 people, the value of the gift to each individual shall be the total value of the

items provided divided by the number of persons invited to the function, unless the items are purchased on a per person basis, in which case the value of the gift to each person is the per person cost.

(k) The value of a gift of an admission ticket shall not include that portion of the cost which represents a charitable contribution, if the gift is provided by the charitable organization.

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

(b) The statement shall include:

1. A description of the gift, the monetary value of the gift, the name and address of the person making the gift, and the dates thereof. If any of these facts, other than the gift description, are unknown or not applicable, the report shall so state.

2. A copy of any receipt for such gift provided to the reporting individual or procurement employee by the donor.

(c) The statement may include an explanation of any differences between the reporting individual's or procurement employee's statement and the receipt provided by the donor.

(d) The reporting individual's or procurement employee's statement shall be sworn to by such person as being a true, accurate, and total listing of all such gifts.

(e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company, which bears a date on or before the due date constitutes proof of mailing in a timely manner.

(f) If a reporting individual or procurement employee has not received any gifts described in paragraph (a) during a calendar quarter, he or she is not required to file a statement under this subsection for that calendar quarter.

(9) A person, other than a lobbyist regulated under s. 11.045, who violates the provisions of subsection (5) commits a noncriminal infraction, punishable by a fine of not more than \$5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to which the gift was given in violation of subsection (5), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action

to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.

(10) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

History.—s. 2, ch. 89-380; s. 8, ch. 90-502; s. 9, ch. 91-85; s. 7, ch. 91-292; s. 6, ch. 94-277; s. 1411, ch. 95-147; s. 2, ch. 96-328; s. 8, ch. 98-136; s. 4, ch. 2000-243; s. 32, ch. 2000-258; s. 8, ch. 2003-159; s. 6, ch. 2006-275; s. 4, ch. 2012-51; s. 12, ch. 2013-36; s. 29, ch. 2013-37; s. 3, ch. 2013-235.

112.31485 Prohibition on gifts involving political committees.—

(1)(a) For purposes of this section, the term “gift” means any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to chapter 106.

(b) For purposes of this section, the term “immediate family” means any parent, spouse, child, or sibling.

(2)(a) A reporting individual or procurement employee or a member of his or her immediate family is prohibited from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee.

(b) A political committee is prohibited from giving, directly or indirectly, any gift to a reporting individual or procurement employee or a member of his or her immediate family.

(3) Any person who violates this section is subject to a civil penalty equal to three times the amount of the gift. Such penalty is in addition to the penalties provided in s. 112.317 and shall be paid to the General Revenue Fund of the state. A reporting individual or procurement employee or a member of his or her immediate family who violates this section is personally liable for payment of the treble penalty. Any agent or person acting on behalf of a political committee who gives a prohibited gift is personally liable for payment of the treble penalty.

History.—s. 13, ch. 2013-36.

112.3149 Solicitation and disclosure of honoraria.—

(1) As used in this section:

(a) “Honorarium” means a payment of money or anything of value, directly or indirectly, to a reporting individual or procurement employee, or to any other person on his or her behalf, as consideration for:

1. A speech, address, oration, or other oral presentation by the reporting individual or procurement employee, regardless of whether presented in person, recorded, or broadcast over the media.

2. A writing by the reporting individual or procurement employee, other than a book, which has been or is intended to be published.

The term "honorarium" does not include the payment for services related to employment held outside the reporting individual's or procurement employee's public position which resulted in the person becoming a reporting individual or procurement employee, any ordinary payment or salary received in consideration for services related to the reporting individual's or procurement employee's public duties, a campaign contribution reported pursuant to chapter 106, or the payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual or procurement employee and spouse.

(b) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(c) "Reporting individual" means any individual who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file a full or limited public disclosure of his or her financial interests.

(d)1. "Lobbyist" means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as "lobbyists" who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

(e) "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds \$10,000 in any fiscal year.

(f) "Vendor" means a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

(2) A reporting individual or procurement employee is prohibited from soliciting an honorarium which is related to the reporting individual's or procurement employee's public office or duties.

(3) A reporting individual or procurement employee is prohibited from knowingly accepting an honorarium from a political committee, as defined in s. 106.011, from a vendor doing business with the reporting individual's or procurement employee's agency, from a lobbyist who lobbies the reporting individual's or procurement employee's agency, or from the employer, principal, partner, or firm of such a lobbyist.

(4) A political committee, as defined in s. 106.011, a vendor doing business with the reporting individual's or procurement employee's agency, a lobbyist who lobbies a reporting individual's or procurement employee's agency, or the employer, principal, partner, or firm of such a lobbyist is prohibited from giving an honorarium to a reporting individual or procurement employee.

(5) A person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee, but who provides a reporting individual or procurement employee, or a reporting individual or procurement employee and his or her spouse, with expenses related to an honorarium event, shall provide to the reporting individual or procurement employee, no later than 60 days after the honorarium event, a statement listing the name and address of the person providing the expenses, a description of the expenses provided each day, and the total value of the expenses provided for the honorarium event.

(6) A reporting individual or procurement employee who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual or procurement employee in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for those expenses received during the previous calendar year. The reporting individual or procurement employee shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (5) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. The attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual statement of a procurement employee shall be filed with the Commission on Ethics. The statement filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the statement shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial

disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(7) A person, other than a lobbyist regulated under s. 11.045, who violates the provisions of subsection (4) commits a noncriminal infraction, punishable by a fine of not more than \$5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to whom the honorarium was paid in violation of subsection (4), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.

(8) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

History.—s. 9, ch. 90-502; s. 7, ch. 94-277; s. 1412, ch. 95-147; s. 5, ch. 2000-243; s. 33, ch. 2000-258; s. 7, ch. 2006-275; s. 14, ch. 2013-36; s. 30, ch. 2013-37.

112.3151 Extensions of time for filing disclosure.—The Commission on Ethics may grant, for good cause, on an individual basis, an extension of time for filing of any disclosure required under the provisions of this part or s. 8(a), Art. II of the State Constitution. However, no extension may extend the filing deadline to a date within 20 days before a primary election. The commission may delegate to its chair the authority to grant any extension of time which the commission itself may grant under this section; however, no extension of time granted by the chair may exceed 45 days. Extensions of time granted under this section shall be exempt from the provisions of chapter 120.

History.—s. 4, ch. 83-282; s. 700, ch. 95-147.

112.316 Construction.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.

History.—s. 6, ch. 67-469; s. 2, ch. 69-335; s. 701, ch. 95-147.

112.317 Penalties.—

(1) Any violation of this part, including, but not limited to, failure to file disclosures required by this part or violation of any standard of conduct imposed by this part, or any violation of s. 8, Art. II of the State Constitution, in addition to any criminal penalty or other civil penalty involved, under applicable constitutional and statutory procedures, constitutes grounds for, and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The

commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in his or her salary level.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The

commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.

8. Public censure and reprimand.

(c) In the case of a candidate who violates this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.
2. Public censure.
3. Reprimand.
4. A civil penalty not to exceed \$10,000.

(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the officer's or employee's leaving public office or employment:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$10,000.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.

(e) In the case of a person who is subject to the standards of this part, other than a lobbyist or lobbying firm under s. 112.3215 for a violation of s. 112.3215, but who is not a public officer or employee:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$10,000.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the person or to the General Revenue Fund.

(2) In any case in which the commission finds a violation of this part or of s. 8, Art. II of the State Constitution and the proper disciplinary official or body under s. 112.324 imposes a civil penalty or restitution penalty, the Attorney General shall bring a civil action to recover such penalty. No defense may be raised in the civil action to enforce the civil penalty or order of restitution that could have been raised by judicial review of the administrative findings and recommendations of the commission by certiorari to the district court of appeal. The Attorney General shall collect any costs, attorney fees, expert witness fees, or other costs of collection incurred in bringing the action.

(3) The penalties prescribed in this part shall not be construed to limit or to conflict with:

(a) The power of either house of the Legislature to discipline its own members or impeach a public officer.

(b) The power of agencies to discipline officers or employees.

(4) Any violation of this part or of s. 8, Art. II of the State Constitution by a public officer constitutes malfeasance, misfeasance, or neglect of duty in office within the meaning of s. 7, Art. IV of the State Constitution.

(5) By order of the Governor, upon recommendation of the commission, any elected municipal officer who violates this part or s. 8, Art. II of the State Constitution may be suspended from office and the office filled by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the Governor. The Senate may, in proceedings prescribed by law, remove from office, or reinstate, the suspended official, and for such purpose the Senate may be convened in special session by its President or by a majority of its membership.

(6) In any case in which the commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with, or any testimony given before, the commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution and taxation of costs.

(7) In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this part, the complainant shall be liable for costs plus reasonable attorney fees incurred in the defense of the person complained against, including the costs and reasonable attorney fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.

History.—s. 7, ch. 67-469; s. 1, ch. 70-144; s. 2, ch. 74-176; s. 8, ch. 74-177; s. 2, ch. 75-199; s. 7, ch. 75-208; s. 5, ch. 82-98; s. 10, ch. 90-502; s. 10, ch. 91-85; s. 8, ch. 94-277; s. 1413, ch. 95-147; s. 1, ch. 95-354; s. 13, ch. 2000-151; s. 8, ch. 2006-275; s. 2, ch. 2009-126; s. 15, ch. 2013-36.

112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(1) **INTENT.**—It is the intent of the Legislature to implement the provisions of s. 8(d), Art. II of the State Constitution.

(2) **DEFINITIONS.**—As used in this section, unless the context otherwise requires, the term:

(a) “Conviction” and “convicted” mean an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or of nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

(b) “Court” means any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense.

(c) “Public officer or employee” means an officer or employee of any public body, political subdivision, or public instrumentality within the state.

(d) “Public retirement system” means any retirement system or plan to which the provisions of part VII of this chapter apply.

(e) “Specified offense” means:

1. The committing, aiding, or abetting of an embezzlement of public funds;
2. The committing, aiding, or abetting of any theft by a public officer or employee from his or her employer;
3. Bribery in connection with the employment of a public officer or employee;
4. Any felony specified in chapter 838, except ss. 838.15 and 838.16;
5. The committing of an impeachable offense;

6. The committing of any felony by a public officer or employee who, willfully and with intent to defraud the public or the public agency for which the public officer or employee acts or in which he or she is employed of the right to receive the faithful performance of his or her duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position; or

7. The committing on or after October 1, 2008, of any felony defined in s. 800.04 against a victim younger than 16 years of age, or any felony defined in chapter 794 against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.

(3) FORFEITURE.—Any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions as of the date of termination.

(4) NOTICE.—

(a) The clerk of a court in which a proceeding involving a specified offense is being conducted against a public officer or employee shall furnish notice of the proceeding to the Commission on Ethics after the state attorney advises the clerk that the defendant is a public officer or employee and that the defendant is alleged to have committed a specified offense. Such notice is sufficient if it is in the form of a copy of the indictment, information, or other document containing the charges. In addition, if a verdict of guilty is returned by a jury or by the court trying the case without a jury, or a plea of guilty or of nolo contendere is entered in the court by the public officer or employee, the clerk shall furnish a copy thereof to the Commission on Ethics.

(b) The Secretary of the Senate shall furnish to the Commission on Ethics notice of any proceeding of impeachment being conducted by the Senate. In addition, if such trial results in conviction, the Secretary of the Senate shall furnish notice of the conviction to the commission.

(c) The employer of any member whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense shall forward notice thereof to the commission.

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the Department of Management Services shall assist the commission in identifying the appropriate public retirement system.

(5) FORFEITURE DETERMINATION.—

(a) Whenever the official or board responsible for paying benefits under a public retirement system receives notice pursuant to subsection (4), or otherwise has reason to believe that the rights and privileges of any person under such system are required to be forfeited under this section, such official or board shall give notice and hold a hearing in accordance with chapter 120 for the purpose of determining whether such rights and privileges are required to be forfeited. If the official or board determines that such rights and privileges are required to be forfeited, the official or board shall order such rights and privileges forfeited.

(b) Any order of forfeiture of retirement system rights and privileges is appealable to the district court of appeal.

(c) The payment of retirement benefits ordered forfeited, except payments drawn from nonemployer contributions to the retiree's account, shall be stayed pending an appeal as to a felony conviction. If such conviction is reversed, no retirement benefits shall be forfeited. If such conviction is affirmed, retirement benefits shall be forfeited as ordered in this section.

(d) If any person's rights and privileges under a public retirement system are forfeited pursuant to this section and that person has received benefits from the system in excess of his or her accumulated contributions, such person shall pay back to the system the amount of the benefits received in excess of his or her accumulated contributions. If he or she fails to pay back such amount, the official or board responsible for paying benefits pursuant to the retirement system or pension plan may bring an action in circuit court to recover such amount, plus court costs.

(6) FORFEITURE NONEXCLUSIVE.—

(a) The forfeiture of retirement rights and privileges pursuant to this section is supplemental to any other forfeiture requirements provided by law.

(b) This section does not preclude or otherwise limit the Commission on Ethics in conducting under authority of other law an independent investigation of a complaint which it may receive against a public officer or employee involving a specified offense.

History.—s. 14, ch. 84-266; s. 4, ch. 90-301; s. 44, ch. 92-279; s. 55, ch. 92-326; s. 22, ch. 94-249; s. 1414, ch. 95-147; s. 13, ch. 99-255; s. 3, ch. 2008-108; s. 14, ch. 2012-100.

112.3175 Remedies; contracts voidable.—

(1) Any contract that has been executed in violation of this part is voidable:

(a) By any party to the contract.

(b) In any circuit court, by any appropriate action, by:

1. The commission.

2. The Attorney General.

3. Any citizen materially affected by the contract and residing in the jurisdiction represented by the officer or agency entering into such contract.

(2) Any contract that has been executed in violation of this part is presumed void with respect to any former employee or former public official of a state agency and is voidable with respect to any private sector third party who employs or retains in any capacity such former agency employee or former public official.

History.—s. 8, ch. 75-208; s. 2, ch. 2001-266.

112.3185 Additional standards for state agency employees.—

(1) For the purposes of this section:

(a) “Contractual services” shall be defined as set forth in chapter 287.

(b) “Agency” means any state officer, department, board, commission, or council of the executive or judicial branch of state government and includes the Public Service Commission.

(2) An agency employee who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services may not become or be, while an agency employee, the employee of a person contracting with the agency by whom the employee is employed.

(3) An agency employee may not, after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract in which the agency employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, or investigation while an officer or employee. When the agency employee’s position is eliminated and his or her duties are performed by the business entity, this subsection does not prohibit him or her from employment or contractual relationship with the business entity if the employee’s participation in the contract was limited to recommendation, rendering of advice, or investigation and if the agency head determines that the best interests of the state will be served thereby and provides prior written approval for the particular employee.

(4) An agency employee may not, within 2 years after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract for contractual services which was within his or her responsibility while an employee. If the agency employee’s position is eliminated and his or her duties are performed by the business entity, this subsection may be waived by the agency head through prior written approval for a particular employee if the agency head determines that the best interests of the state will be served thereby.

(5) The sum of money paid to a former agency employee during the first year after the cessation of his or her responsibilities, by the agency with whom he or she was employed, for contractual services provided to the agency, shall not exceed the annual salary received on the date of cessation of his or her responsibilities. This subsection may be waived by the agency head for a particular contract if the agency head determines that such waiver will result in significant time or cost savings for the state.

(6) An agency employee acting in an official capacity may not directly or indirectly procure contractual services for his or her own agency from any business entity of which a relative is an officer, partner, director, or proprietor or in which the officer or employee or his or her spouse or child, or any combination of them, has a material interest.

(7) A violation of any provision of this section is punishable in accordance with s. 112.317.

(8) This section is not applicable to any employee of the Public Service Commission who was so employed on or before December 31, 1994.

History.—s. 6, ch. 82-196; s. 32, ch. 83-217; s. 2, ch. 90-268; s. 11, ch. 90-502; s. 9, ch. 94-277; s. 1415, ch. 95-147; s. 9, ch. 2006-275.

112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—

(1) **SHORT TITLE.**—Sections 112.3187-112.31895 may be cited as the “Whistle-blower’s Act.”

(2) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public’s health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.

(3) **DEFINITIONS.**—As used in this act, unless otherwise specified, the following words or terms shall have the meanings indicated:

(a) “Agency” means any state, regional, county, local, or municipal government entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.

(b) “Employee” means a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

(c) “Adverse personnel action” means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor.

(d) “Independent contractor” means a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency.

(e) “Gross mismanagement” means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.

(4) ACTIONS PROHIBITED.—

(a) An agency or independent contractor shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this section.

(b) An agency or independent contractor shall not take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under this section.

(c) The provisions of this subsection shall not be applicable when an employee or person discloses information known by the employee or person to be false.

(5) NATURE OF INFORMATION DISCLOSED.—The information disclosed under this section must include:

(a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare.

(b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

(6) TO WHOM INFORMATION DISCLOSED.—The information disclosed under this section must be disclosed to any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act, including, but not limited to, the Office of the Chief Inspector General, an agency inspector general or the employee designated as agency inspector general under s. 112.3189(1) or inspectors general under s. 20.055, the Florida Commission on Human Relations, and the whistle-blower's hotline created under s. 112.3189. However, for disclosures concerning a local governmental entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer as defined in s. 447.203(9) or other appropriate local official.

(7) EMPLOYEES AND PERSONS PROTECTED.—This section protects employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower's hotline or the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs; or employees who file any written complaint to their supervisory officials or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, to the employee designated as agency inspector general under s. 112.3189(1), or to the Florida Commission on Human Relations. The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional

system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration. No remedy or other protection under ss. 112.3187-112.31895 applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. 112.3187-112.31895 is being sought.

(8) REMEDIES.—

(a) Any employee of or applicant for employment with any state agency, as the term “state agency” is defined in s. 216.011, who is discharged, disciplined, or subjected to other adverse personnel action, or denied employment, because he or she engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. 112.31895. Upon receipt of notice from the Florida Commission on Human Relations of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. 112.31895 or bring a civil action within 180 days after receipt of the notice.

(b) Within 60 days after the action prohibited by this section, any local public employee protected by this section may file a complaint with the appropriate local governmental authority, if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings under s. 120.65 to conduct hearings under this section. The administrative procedure created by ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate local governmental authority. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the local governmental authority. Within 180 days after entry of a final decision by the local governmental authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction. If the local governmental authority has not established an administrative procedure by ordinance or contract, a local public employee may, within 180 days after the action prohibited by this section, bring a civil action in a court of competent jurisdiction. For the purpose of this paragraph, the term “local governmental authority” includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing.

(c) Any other person protected by this section may, after exhausting all available contractual or administrative remedies, bring a civil action in any court of competent jurisdiction within 180 days after the action prohibited by this section.

(9) RELIEF.—In any action brought under this section, the relief must include the following:

(a) Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief.

(b) Reinstatement of the employee’s full fringe benefits and seniority rights, as appropriate.

(c) Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action.

(d) Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

(e) Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

(f) Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the Florida Commission on Human Relations, as applicable under s. 112.31895, determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency. This paragraph does not apply to an employee of a municipality.

(10) DEFENSES.—It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by this section.

(11) EXISTING RIGHTS.—Sections 112.3187-112.31895 do not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies in s. 447.401 also applies to whistle-blower actions.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 86-233; s. 1, ch. 91-285; s. 12, ch. 92-316; s. 1, ch. 93-57; s. 702, ch. 95-147; s. 1, ch. 95-153; s. 15, ch. 96-410; s. 20, ch. 99-333; s. 2, ch. 2002-400.

¹112.3188 Confidentiality of information given to the Chief Inspector General, internal auditors, inspectors general, local chief executive officers, or other appropriate local officials.—

(1) The name or identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general, a local chief executive officer, or other appropriate local official information that alleges that an employee or agent of an agency or independent contractor:

(a) Has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare; or

(b) Has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty

may not be disclosed to anyone other than a member of the Chief Inspector General's, agency inspector general's, internal auditor's, local chief executive officer's, or other appropriate local official's staff without the written consent of the individual, unless the Chief Inspector General, internal auditor, agency inspector general, local chief executive officer, or other appropriate local

official determines that: the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime; or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.

(2)(a) Except as specifically authorized by s. 112.3189, all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Florida Commission on Human Relations or the Department of Law Enforcement is confidential and exempt from s. 119.07(1) if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b), and an investigation is active.

(b) All information received by a local chief executive officer or appropriate local official or information produced or derived from fact-finding or investigations conducted pursuant to the administrative procedure established by ordinance by a local government as authorized by s. 112.3187(8)(b) is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b) and an investigation is active.

(c) Information deemed confidential under this section may be disclosed by the Chief Inspector General, agency inspector general, local chief executive officer, or other appropriate local official receiving the information if the recipient determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime. Information disclosed under this subsection may be disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

1. An investigation is active under this section if:

a. It is an ongoing investigation or inquiry or collection of information and evidence and is continuing with a reasonable, good faith anticipation of resolution in the foreseeable future; or

b. All or a portion of the matters under investigation or inquiry are active criminal intelligence information or active criminal investigative information as defined in s. 119.011.

2. Notwithstanding sub-subparagraph 1.a., an investigation ceases to be active when:

a. The written report required under s. 112.3189(9) has been sent by the Chief Inspector General to the recipients named in s. 112.3189(9);

b. It is determined that an investigation is not necessary under s. 112.3189(5); or

c. A final decision has been rendered by the local government or by the Division of Administrative Hearings pursuant to s. 112.3187(8)(b).

3. Notwithstanding paragraphs (a), (b), and this paragraph, information or records received or produced under this section which are otherwise confidential under law or exempt from disclosure under chapter 119 retain their confidentiality or exemption.

4. Any person who willfully and knowingly discloses information or records made confidential under this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 6, ch. 90-247; s. 1, ch. 91-150; s. 3, ch. 91-285; s. 2, ch. 93-57; s. 1, ch. 95-136; s. 2, ch. 95-153; s. 1, ch. 95-166; ss. 36, 37, ch. 96-406; s. 21, ch. 99-333.

¹**Note.**—As amended by s. 1, ch. 95-166, s. 2, ch. 95-153, and s. 36, ch. 96-406; this version of paragraph (2)(a) was also amended by s. 21, ch. 99-333. For a description of multiple acts in the same session affecting a statutory provision, see preface to the *Florida Statutes*, “Statutory Construction.” This section was also amended by s. 1, ch. 95-136, and s. 37, ch. 96-406, and that version reads:

112.3188 Confidentiality of information given to the Chief Inspector General and agency inspectors general.—

(1) The identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general information that alleges that an employee or agent of an agency or independent contractor has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public’s health, safety, or welfare or has committed or is suspected of having committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be disclosed to anyone other than a member of the Chief Inspector General’s or agency inspector general’s staff without the written consent of the individual, unless the Chief Inspector General or agency inspector general determines that:

(a) The disclosure of the individual’s identity is necessary to prevent a substantial and specific danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime, provided that such information is disclosed only to persons who are in a position to prevent the danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime;

(b) The disclosure of the individual’s identity is unavoidable and absolutely necessary during the course of the inquiry or investigation; or

(c) The disclosure of the individual’s identity is authorized as a result of the individual consenting in writing to attach general comments signed by such individual to the final report required pursuant to s. 112.3189(6)(b).

(2)(a) Except as specifically authorized by s. 112.3189 and except as provided in subsection (1), all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Department of Legal Affairs, the Office of the Public Counsel, or the Department of Law Enforcement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution for an initial period of not more than 30 days during which time a determination is made whether an investigation is required pursuant to s. 112.3189(5)(a) and, if an investigation is determined to be required, until the investigation is closed or ceases to be active. For the purposes of this subsection, an investigation is active while such

investigation is being conducted with a reasonable good faith belief that it may lead to the filing of administrative, civil, or criminal charges. An investigation does not cease to be active so long as the Chief Inspector General or the agency inspector general is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the Chief Inspector General or agency inspector general or other administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information as defined in s. 119.011, and except as otherwise provided in this section, all information obtained pursuant to this subsection shall become available to the public when the investigation is closed or ceases to be active. An investigation is closed or ceases to be active when the final report required pursuant to s. 112.3189(9) has been sent by the Chief Inspector General to the recipients specified in s. 112.3189(9)(c).

(b) Information deemed confidential under this subsection may be disclosed by the Chief Inspector General or agency inspector general receiving the information if the Chief Inspector General or agency inspector general determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime, and such information may be disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

(3) Information or records obtained under this section which are otherwise confidential under law or exempt from disclosure shall retain their confidentiality or exemption.

(4) Any person who willfully and knowingly discloses information or records made confidential under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(1) This section only applies to the disclosure of information as described in s. 112.3187(5) by an employee or former employee of, or an applicant for employment with, a state agency, as the term "state agency" is defined in s. 216.011, to the Office of the Chief Inspector General of the Executive Office of the Governor or to the agency inspector general. If an agency does not have an inspector general, the head of the state agency, as defined in s. 216.011, shall designate an employee to receive information described in s. 112.3187(5). For purposes of this section and s. 112.3188 only, the employee designated by the head of the state agency shall be deemed an agency inspector general.

(2) To facilitate the receipt of information described in subsection (1), the Chief Inspector General shall maintain an in-state toll-free whistle-blower's hotline and shall circulate among the various state agencies an advisory for all employees which indicates the existence of the toll-free number and its purpose and provides an address to which written whistle-blower information may be forwarded.

(3) When a person alleges information described in s. 112.3187(5), the Chief Inspector General or agency inspector general actually receiving such information shall within 20 days of receiving such information determine:

(a) Whether the information disclosed is the type of information described in s. 112.3187(5).

(b) Whether the source of the information is a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011.

(c) Whether the information actually disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

(4) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is not the type of information described in s. 112.3187(5), or that the source of the information is not a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, or that the information disclosed does not demonstrate reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general shall notify the complainant of such fact and copy and return, upon request of the complainant, any documents and other materials that were provided by the complainant.

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.
2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.
3. The benefit to state government to have a final report on the disclosed information.

4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter 110.

5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.

6. The time that has elapsed between the alleged event and the disclosure of the information.

(b) If the Chief Inspector General or agency inspector general determines under paragraph (a) that an investigation is not necessary, the Chief Inspector General or agency inspector general making such determination shall:

1. Copy and return, upon request of the complainant, any documents and other materials provided by the individual who made the disclosure.

2. Inform in writing the head of the state agency for the agency inspector general making the determination that the investigation is not necessary and the individual who made the disclosure of the specific reasons why an investigation is not necessary and why the disclosure will not be further acted on under this section.

(6) The agency inspector general may conduct an investigation pursuant to paragraph (5)(a) only if the person transmitting information to the agency inspector general is an employee or former employee of, or an applicant for employment with, the agency inspector general's agency. The agency inspector general shall:

(a) Conduct an investigation with respect to the information and any related matters.

(b) Submit to the complainant and the Chief Inspector General, within 60 days after the date on which a determination to conduct an investigation is made under paragraph (5)(a), a final written report that sets forth the agency inspector general's findings, conclusions, and recommendations, except as provided under subsection (11). The complainant shall be advised in writing by the agency head that the complainant may submit to the Chief Inspector General and agency inspector general comments on the final report within 20 days of the date of the report and that such comments will be attached to the final report.

(7) If the Chief Inspector General decides an investigation should be conducted pursuant to paragraph (5)(a), the Chief Inspector General shall either:

(a) Promptly transmit to the appropriate head of the state agency the information with respect to which the determination to conduct an investigation was made, and such agency head shall conduct an investigation and submit to the Chief Inspector General a final written report that sets forth the agency head's findings, conclusions, and recommendations; or

(b)1. Conduct an investigation with respect to the information and any related matters; and

2. Submit to the complainant within 60 days after the date on which a determination to conduct an investigation is made under paragraph (5)(a), a final written report that sets forth the Chief Inspector General's findings, conclusions, and recommendations, except as provided under subsection (11). The

complainant shall be advised in writing by the Chief Inspector General that the complainant may submit to the Chief Inspector General comments on the final report within 20 days of the date of the report and that such comments will be attached to the final report.

(c) The Chief Inspector General may require an agency head to conduct an investigation under paragraph (a) only if the information was transmitted to the Chief Inspector General by:

1. An employee or former employee of, or an applicant for employment with, the agency that the information concerns; or
2. An employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

(8) Final reports required under this section must be reviewed and signed by the person responsible for conducting the investigation (agency inspector general, agency head, or Chief Inspector General) and must include:

- (a) A summary of the information with respect to which the investigation was initiated.
- (b) A description of the conduct of the investigation.
- (c) A summary of any evidence obtained from the investigation.
- (d) A listing of any violation or apparent violation of any law, rule, or regulation.
- (e) A description of any action taken or planned as a result of the investigation, such as:
 1. A change in an agency rule, regulation, or practice.
 2. The restoration of an aggrieved employee.
 3. A disciplinary action against an employee.
 4. The referral to the Department of Law Enforcement of any evidence of a criminal violation.

(9)(a) A report required of the agency head under paragraph (7)(a) shall be submitted to the Chief Inspector General and the complainant within 60 days after the agency head receives the complaint from the Chief Inspector General, except as provided under subsection (11). The complainant shall be advised in writing by the agency head that the complainant may submit to the Chief Inspector General comments on the report within 20 days of the date of the report and that such comments will be attached to the final report.

(b) Upon receiving a final report required under this section, the Chief Inspector General shall review the report and determine whether the report contains the information required by subsection (8). If the report does not contain the information required by subsection (8), the Chief Inspector General shall determine why and note the reasons on an addendum to the final report.

(c) The Chief Inspector General shall transmit any final report under this section, any comments provided by the complainant, and any appropriate comments or recommendations by the Chief Inspector General to the Governor, the Legislative Auditing Committee, the investigating agency, and the Chief Financial Officer.

(d) If the Chief Inspector General does not receive the report of the agency head within the time prescribed in paragraph (a), the Chief Inspector General may conduct the investigation in accordance with paragraph (7)(b) or request that another agency inspector general conduct the investigation in accordance with subsection (6) and shall report the complaint to the Governor, to the Joint Legislative Auditing Committee, and to the investigating agency, together with a statement noting the failure of the agency head to file the required report.

(10) For any time period set forth in subsections (3), (6), (7), and (9), such time period may be extended in writing by the Chief Inspector General for good cause shown.

(11) If an investigation under this section produces evidence of a criminal violation, the report shall not be transmitted to the complainant, and the agency head or agency inspector general shall notify the Chief Inspector General and the Department of Law Enforcement.

History.—s. 13, ch. 92-316; s. 3, ch. 93-57; s. 129, ch. 2003-261; s. 17, ch. 2011-34.

112.31895 Investigative procedures in response to prohibited personnel actions.—

(1)(a) If a disclosure under s. 112.3187 includes or results in alleged retaliation by an employer, the employee or former employee of, or applicant for employment with, a state agency, as defined in s. 216.011, that is so affected may file a complaint alleging a prohibited personnel action, which complaint must be made by filing a written complaint with the Office of the Chief Inspector General in the Executive Office of the Governor or the Florida Commission on Human Relations, no later than 60 days after the prohibited personnel action.

(b) Within three working days after receiving a complaint under this section, the office or officer receiving the complaint shall acknowledge receipt of the complaint and provide copies of the complaint and any other preliminary information available concerning the disclosure of information under s. 112.3187 to each of the other parties named in paragraph (a), which parties shall each acknowledge receipt of such copies to the complainant.

(2) **FACT FINDING.**—The Florida Commission on Human Relations shall:

(a) Receive any allegation of a personnel action prohibited by s. 112.3187, including a proposed or potential action, and conduct informal fact finding regarding any allegation under this section, to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel action under s. 112.3187 has occurred, is occurring, or is to be taken.

(b) Notify the complainant, within 15 days after receiving a complaint, that the complaint has been received by the department.

(c) Within 90 days after receiving the complaint, provide the agency head and the complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.

(3) **CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.**—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before the Public Employees Relations Commission or any other appropriate agency, except that the Florida Commission on Human Relations must comply with the rules of the commission or other agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(b) Within 15 days after receiving a complaint that a person has been discharged from employment allegedly for disclosing protected information under s. 112.3187, the Florida Commission on Human Relations shall review the information and determine whether temporary reinstatement is appropriate

under s. 112.3187(9)(f). If the Florida Commission on Human Relations so determines, it shall apply for an expedited order from the appropriate agency or circuit court for the immediate reinstatement of the employee who has been discharged subsequent to the disclosure made under s. 112.3187, pending the issuance of the final order on the complaint.

(c) The Florida Commission on Human Relations shall notify a complainant of the status of the investigation and any action taken at such times as the commission considers appropriate.

(d) If the Florida Commission on Human Relations is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Florida Commission on Human Relations shall terminate the investigation. Upon termination of any investigation, the Florida Commission on Human Relations shall notify the complainant and the agency head of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding but is not admissible without the consent of the complainant.

(e)1. The Florida Commission on Human Relations may request an agency or circuit court to order a stay, on such terms as the court requires, of any personnel action for 45 days if the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited personnel action has occurred, is occurring, or is to be taken. The Florida Commission on Human Relations may request that such stay be extended for appropriate periods of time.

2. If, in connection with any investigation, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken which requires corrective action, the Florida Commission on Human Relations shall report the determination together with any findings or recommendations to the agency head and may report that determination and those findings and recommendations to the Governor and the Chief Financial Officer. The Florida Commission on Human Relations may include in the report recommendations for corrective action to be taken.

3. If, after 20 days, the agency does not implement the recommended action, the Florida Commission on Human Relations shall terminate the investigation and notify the complainant of the right to appeal under subsection (4), or may petition the agency for corrective action under this subsection.

4. If the Florida Commission on Human Relations finds, in consultation with the individual subject to the prohibited action, that the agency has implemented the corrective action, the commission shall file such finding with the agency head, together with any written comments that the individual provides, and terminate the investigation.

(f) If the Florida Commission on Human Relations finds that there are no reasonable grounds to believe that a prohibited personnel action has occurred, is occurring, or is to be taken, the commission shall terminate the investigation.

(g)1. If, in connection with any investigation under this section, it is determined that reasonable grounds exist to believe that a criminal violation has occurred which has not been previously reported, the Florida Commission on Human Relations shall report this determination to the Department of Law Enforcement and to the state attorney having jurisdiction over the matter.

2. If an alleged criminal violation has been reported, the Florida Commission on Human Relations shall confer with the Department of Law Enforcement and the state attorney before proceeding with the investigation of the prohibited personnel action and may defer the investigation pending completion of the criminal investigation and proceedings. The Florida Commission on Human Relations shall inform the complainant of the decision to defer the investigation and, if appropriate, of the confidentiality of the investigation.

(h) If, in connection with any investigation under this section, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a violation of a law, rule, or regulation has occurred, other than a criminal violation or a prohibited action under this section, the commission may report such violation to the head of the agency involved. Within 30 days after the agency receives the report, the agency head shall provide to the commission a certification that states that the head of the agency has personally reviewed the report and indicates what action has been or is to be taken and when the action will be completed.

(i) During any investigation under this section, disciplinary action may not be taken against any employee of a state agency, as the term "state agency" is defined in s. 216.011, for reporting an alleged prohibited personnel action that is under investigation, or for reporting any related activity, or against any employee for participating in an investigation without notifying the Florida Commission on Human Relations.

(j) The Florida Commission on Human Relations may also petition for an award of reasonable attorney's fees and expenses from a state agency, as the term "state agency" is defined in s. 216.011, pursuant to s. 112.3187(9).

(4) RIGHT TO APPEAL.—

(a) Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file, with the Public Employees Relations Commission, a complaint against the employer-agency regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).

(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.

History.—s. 14, ch. 92-316; s. 4, ch. 93-57; s. 703, ch. 95-147; s. 22, ch. 99-333; s. 130, ch. 2003-261.

112.31901 Investigatory records.—

(1) If certified pursuant to subsection (2), an investigatory record of the Chief Inspector General within the Executive Office of the Governor or of the employee designated by an agency head as the

agency inspector general under s. 112.3189 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or a report detailing the investigation is provided to the Governor or the agency head, or 60 days from the inception of the investigation for which the record was made or received, whichever first occurs. Investigatory records are those records that are related to the investigation of an alleged, specific act or omission or other wrongdoing, with respect to an identifiable person or group of persons, based on information compiled by the Chief Inspector General or by an agency inspector general, as named under the provisions of s. 112.3189, in the course of an investigation. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

(2) The Governor, in the case of the Chief Inspector General, or agency head, in the case of an employee designated as the agency inspector general under s. 112.3189, may certify that such investigatory records require an exemption to protect the integrity of the investigation or avoid unwarranted damage to an individual's good name or reputation. The certification must specify the nature and purpose of the investigation and shall be kept with the exempt records and made public when the records are made public.

(3) This section does not apply to whistle-blower investigations conducted pursuant to ss. 112.3187, 112.3188, 112.3189, and 112.31895.

History.—s. 4, ch. 93-405; s. 35, ch. 95-398; s. 38, ch. 2005-251; s. 13, ch. 2006-1.

Note.—Former s. 119.07(6)(w).

112.3191 Short title.—This act shall be known and cited as “The John J. Savage Memorial Act of 1974.”

History.—s. 1, ch. 74-176.

112.320 Commission on Ethics; purpose.—There is created a Commission on Ethics, the purpose of which is to serve as guardian of the standards of conduct for the officers and employees of the state, and of a county, city, or other political subdivision of the state, as defined in this part, and to serve as the independent commission provided for in s. 8(f), Art. II of the State Constitution.

History.—s. 2, ch. 74-176; s. 11, ch. 91-85.

112.321 Membership, terms; travel expenses; staff.—

(1) The commission shall be composed of nine members. Five of these members shall be appointed by the Governor, no more than three of whom shall be from the same political party, subject to confirmation by the Senate. One member appointed by the Governor shall be a former city or county official and may be a former member of a local planning or zoning board which has only advisory duties. Two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President of the Senate. Neither the Speaker of the House of Representatives nor the President of the Senate shall appoint more than one member from the same political party. Of the nine members of the Commission, no more than five members shall be from the

same political party at any one time. No member may hold any public employment. An individual who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or pursuant to any local government charter or ordinance may not serve as a member of the commission, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term. A member of the commission may not lobby any state or local governmental entity as provided in s. 11.045 or s. 112.3215 or as provided by any local government charter or ordinance, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term. All members shall serve 2-year terms. A member may not serve more than two full terms in succession. Any member of the commission may be removed for cause by majority vote of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

(2) The members of the commission shall elect a chair from their number, who shall serve for a 1-year term and may not succeed himself or herself as chair.

(3) Members of the commission shall receive no salary but shall receive travel and per diem as provided in s. 112.061.

(4) In accordance with the uniform personnel, job classification, and pay plan adopted with the approval of the President of the Senate and the Speaker of the House of Representatives and administered by the Office of Legislative Services, the commission shall employ an executive director and shall provide the executive director with necessary office space, assistants, and secretaries. Within the above uniform plan, decisions relating to hiring, promotion, demotion, and termination of commission employees shall be made by the commission or, if so delegated by the commission, by its executive director.

History.—s. 2, ch. 74-176; s. 3, ch. 75-199; s. 6, ch. 82-98; s. 1, ch. 86-148; s. 3, ch. 88-29; s. 2, ch. 91-49; s. 704, ch. 95-147; s. 24, ch. 98-136; s. 6, ch. 2000-243; s. 10, ch. 2006-275.

112.3213 Legislative intent and purpose.—The Legislature finds that the operation of open and responsible government requires the fullest opportunity to be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on executive branch action. Further, the Legislature finds that preservation of the integrity of the governmental decisionmaking process is essential to the continued functioning of an open government. Therefore, in order to preserve and maintain the integrity of the process and to better inform citizens of the efforts to influence executive branch action, the Legislature finds it necessary to require the public disclosure of the identity, expenditures, and activities of certain persons who attempt to influence actions of the executive branch in the areas of policy and procurement.

History.—s. 5, ch. 93-121.

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(1) For the purposes of this section:

(a) "Agency" means the Governor, Governor and Cabinet, or any department, division, bureau, board, commission, or authority of the executive branch. In addition, "agency" shall mean the Constitution Revision Commission as provided by s. 2, Art. XI of the State Constitution.

(b) "Agency official" or "employee" means any individual who is required by law to file full or limited public disclosure of his or her financial interests.

(c) "Compensation" means a payment, distribution, loan, advance, reimbursement, deposit, salary, fee, retainer, or anything of value provided or owed to a lobbying firm, directly or indirectly, by a principal for any lobbying activity.

(d) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term "expenditure" does not include contributions or expenditures reported pursuant to chapter 106 or contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or an affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).

(e) "Fund" means the Executive Branch Lobby Registration Trust Fund.

(f) "Lobbies" means seeking, on behalf of another person, to influence an agency with respect to a decision of the agency in the area of policy or procurement or an attempt to obtain the goodwill of an agency official or employee. "Lobbies" also means influencing or attempting to influence, on behalf of another, the Constitution Revision Commission's action or nonaction through oral or written communication or an attempt to obtain the goodwill of a member or employee of the Constitution Revision Commission.

(g) "Lobbying firm" means a business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist.

(h) "Lobbyist" means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. "Lobbyist" does not include a person who is:

1. An attorney, or any person, who represents a client in a judicial proceeding or in a formal administrative proceeding conducted pursuant to chapter 120 or any other formal hearing before an agency, board, commission, or authority of this state.

2. An employee of an agency or of a legislative or judicial branch entity acting in the normal course of his or her duties.

3. A confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.

4. A person who lobbies to procure a contract pursuant to chapter 287 which contract is less than the threshold for CATEGORY ONE as provided in s. 287.017.

(i) "Principal" means the person, firm, corporation, or other entity which has employed or retained a lobbyist.

(2) The Executive Branch Lobby Registration Trust Fund is hereby created within the commission to be used for the purpose of funding any office established to administer the registration of lobbyists lobbying an agency, including the payment of salaries and other expenses. The trust fund is not subject to the service charge to General Revenue provisions of chapter 215. All annual registration fees collected pursuant to this section shall be deposited into such fund.

(3) A person may not lobby an agency until such person has registered as a lobbyist with the commission. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar year basis thereafter. Upon registration the person shall provide a statement signed by the principal or principal's representative that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the commission. The registration shall require each lobbyist to disclose, under oath, the following information:

(a) Name and business address;

(b) The name and business address of each principal represented;

(c) His or her area of interest;

(d) The agencies before which he or she will appear; and

(e) The existence of any direct or indirect business association, partnership, or financial relationship with any employee of an agency with which he or she lobbies, or intends to lobby, as disclosed in the registration.

(4) The annual lobbyist registration fee shall be set by the commission by rule, not to exceed \$40 for each principal represented.

(5)(a)1. Each lobbying firm shall file a compensation report with the commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:

a. Full name, business address, and telephone number of the lobbying firm;

b. Name of each of the firm's lobbyists; and

c. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories: \$0; \$1 to \$49,999; \$50,000 to \$99,999; \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to \$999,999; \$1 million or more.

2. For each principal represented by one or more of the firm's lobbyists, the lobbying firm's compensation report shall also include the:

a. Full name, business address, and telephone number of the principal; and

b. Total compensation provided or owed to the lobbying firm for the reporting period, reported in one of the following categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or \$50,000 or more. If the category "\$50,000 or more" is selected, the specific dollar amount of compensation must be reported, rounded up or down to the nearest \$1,000.

3. If the lobbying firm subcontracts work from another lobbying firm and not from the original principal:

a. The lobbying firm providing the work to be subcontracted shall be treated as the reporting lobbying firm's principal for reporting purposes under this paragraph; and

b. The reporting lobbying firm shall, for each lobbying firm identified under subparagraph 2., identify the name and address of the principal originating the lobbying work.

4. The senior partner, officer, or owner of the lobbying firm shall certify to the veracity and completeness of the information submitted pursuant to this paragraph.

(b) For each principal represented by more than one lobbying firm, the commission shall aggregate the reporting-period and calendar-year compensation reported as provided or owed by the principal.

(c) The reporting statements shall be filed no later than 45 days after the end of each reporting period. The four reporting periods are from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. Reporting statements must be filed by electronic means as provided in s. 112.32155.

(d) The commission shall provide by rule the grounds for waiving a fine, the procedures by which a lobbying firm that fails to timely file a report shall be notified and assessed fines, and the procedure for appealing the fines. The rule shall provide for the following:

1. Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbying firm as to the failure to timely file the report and that a fine is being assessed for each late day. The fine shall be \$50 per day per report for each late day up to a maximum of \$5,000 per late report.

2. Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon the earliest of the following:

a. When a report is actually received by the lobbyist registration and reporting office.

b. When the electronic receipt issued pursuant to s. 112.32155 is dated.

3. Such fine shall be paid within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office, unless appeal is made to the commission. The moneys shall be deposited into the Executive Branch Lobby Registration Trust Fund.

4. A fine shall not be assessed against a lobbying firm the first time any reports for which the lobbying firm is responsible are not timely filed. However, to receive the one-time fine waiver, all reports for which the lobbying firm is responsible must be filed within 30 days after the notice that any reports have not been timely filed is transmitted by the Lobbyist Registration Office. A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbying firm may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the commission, which shall have the authority to waive the fine in whole or in part for good cause shown. Any such request shall be made within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office. In such case, the lobbying firm shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

6. The person designated to review the timeliness of reports shall notify the commission of the failure of a lobbying firm to file a report after notice or of the failure of a lobbying firm to pay the fine imposed. All lobbyist registrations for lobbyists who are partners, owners, officers, or employees of a lobbying firm that fails to timely pay a fine are automatically suspended until the fine is paid or waived, and the commission shall promptly notify all affected principals of each suspension and each reinstatement.

7. Notwithstanding any provision of chapter 120, any fine imposed under this subsection that is not waived by final order of the commission and that remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the lobbying firm's appeal shall be collected by the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department may assign the collection of such fine to a collection agent as provided in s. 17.20.

(e) Each lobbying firm and each principal shall preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate compensation. Any documents and records retained pursuant to this section may be subpoenaed for audit by the Legislative Auditing Committee pursuant to s. 11.40, and such subpoena may be enforced in circuit court.

(6)(a) Notwithstanding s. 112.3148, s. 112.3149, or any other provision of law to the contrary, no lobbyist or principal shall make, directly or indirectly, and no agency official, member, or employee shall knowingly accept, directly or indirectly, any expenditure.

(b) No person shall provide compensation for lobbying to any individual or business entity that is not a lobbying firm.

(7) A lobbyist shall promptly send a written statement to the commission canceling the registration for a principal upon termination of the lobbyist's representation of that principal. Notwithstanding this

requirement, the commission may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the office that a person is no longer authorized to represent that principal.

(8)(a) The commission shall investigate every sworn complaint that is filed with it alleging that a person covered by this section has failed to register, has failed to submit a compensation report, has made a prohibited expenditure, or has knowingly submitted false information in any report or registration required in this section.

(b) All proceedings, the complaint, and other records relating to the investigation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any meetings held pursuant to an investigation are exempt from the provisions of s. 286.011(1) and s. 24(b), Art. I of the State Constitution either until the alleged violator requests in writing that such investigation and associated records and meetings be made public or until the commission determines, based on the investigation, whether probable cause exists to believe that a violation has occurred.

(c) The commission shall investigate any lobbying firm, lobbyist, principal, agency, officer, or employee upon receipt of information from a sworn complaint or from a random audit of lobbying reports indicating a possible violation other than a late-filed report.

(d)1. Records relating to an audit conducted pursuant to this section or an investigation conducted pursuant to this section or s. 112.32155 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Any portion of a meeting wherein such investigation or audit is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. The exemptions no longer apply if the lobbying firm requests in writing that such investigation and associated records and meetings be made public or the commission determines there is probable cause that the audit reflects a violation of the reporting laws.

(9) If the commission finds no probable cause to believe that a violation of this section occurred, it shall dismiss the complaint, whereupon the complaint, together with a written statement of the findings of the investigation and a summary of the facts, shall become a matter of public record, and the commission shall send a copy of the complaint, findings, and summary to the complainant and the alleged violator. If, after investigating information from a random audit of lobbying reports, the commission finds no probable cause to believe that a violation of this section occurred, a written statement of the findings of the investigation and a summary of the facts shall become a matter of public record, and the commission shall send a copy of the findings and summary to the alleged violator. If the commission finds probable cause to believe that a violation occurred, it shall report the results of its investigation to the Governor and Cabinet and send a copy of the report to the alleged violator by certified mail. Such notification and all documents made or received in the disposition of the complaint shall then become public records. Upon request submitted to the Governor and Cabinet in writing, any person whom the commission finds probable cause to believe has violated any provision

of this section shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification. However, the Governor and Cabinet may on its own motion require a public hearing and may conduct such further investigation as it deems necessary.

(10) If the Governor and Cabinet find that a violation occurred, the Governor and Cabinet may reprimand the violator, censure the violator, or prohibit the violator from lobbying all agencies for a period not to exceed 2 years. If the violator is a lobbying firm, lobbyist, or principal, the Governor and Cabinet may also assess a fine of not more than \$5,000 to be deposited in the Executive Branch Lobby Registration Trust Fund.

(11) Any person who is required to be registered or to provide information under this section or under rules adopted pursuant to this section and who knowingly fails to disclose any material fact that is required by this section or by rules adopted pursuant to this section, or who knowingly provides false information on any report required by this section or by rules adopted pursuant to this section, commits a noncriminal infraction, punishable by a fine not to exceed \$5,000. Such penalty is in addition to any other penalty assessed by the Governor and Cabinet pursuant to subsection (10).

(12) Any person, when in doubt about the applicability and interpretation of this section to himself or herself in a particular context, may submit in writing the facts of the situation to the commission with a request for an advisory opinion to establish the standard of duty. An advisory opinion shall be rendered by the commission and, until amended or revoked, shall be binding on the conduct of the person who sought the opinion, unless material facts were omitted or misstated in the request.

(13) Agencies shall be diligent to ascertain whether persons required to register pursuant to this section have complied. An agency may not knowingly permit a person who is not registered pursuant to this section to lobby the agency.

(14) Upon discovery of violations of this section an agency or any person may file a sworn complaint with the commission.

(15) The commission shall adopt rules to administer this section, which shall prescribe forms for registration and compensation reports, procedures for registration, and procedures that will prevent disclosure of information that is confidential as provided in this section.

History.—s. 2, ch. 89-325; s. 3, ch. 90-268; s. 29, ch. 90-360; s. 5, ch. 91-292; s. 2, ch. 92-35; s. 6, ch. 93-121; s. 705, ch. 95-147; s. 1, ch. 95-357; s. 2, ch. 96-203; s. 38, ch. 96-406; s. 1, ch. 97-12; s. 2, ch. 2000-232; s. 131, ch. 2003-261; ss. 5, 6, ch. 2005-359; s. 1, ch. 2005-361; ss. 12, 13, 14, ch. 2006-275; s. 6, ch. 2010-151; ss. 29, 30, ch. 2011-6; s. 76, ch. 2011-40; s. 1, ch. 2011-178; HJR 7105, 2011 Regular Session; s. 3, ch. 2012-25; s. 16, ch. 2013-36; s. 17, ch. 2014-17.

112.32151 Requirements for reinstatement of lobbyist registration after felony conviction.—A person convicted of a felony after January 1, 2006, may not be registered as a lobbyist pursuant to s. 112.3215 until the person:

(1) Has been released from incarceration and any postconviction supervision, and has paid all court costs and court-ordered restitution; and

(2) Has had his or her civil rights restored.

History.—s. 9, ch. 2005-359; s. 8, ch. 2007-5.

112.32155 Electronic filing of compensation reports and other information.—

(1) As used in this section, the term “electronic filing system” means an Internet system for recording and reporting lobbying compensation and other required information by reporting period.

(2) Each lobbying firm who is required to file reports with the Commission on Ethics pursuant to s. 112.3215 must file such reports with the commission by means of the electronic filing system.

(3) A report filed pursuant to this section must be completed and filed through the electronic filing system not later than 11:59 p.m. of the day designated in s. 112.3215. A report not filed by 11:59 p.m. of the day designated is a late-filed report and is subject to the penalties under s. 112.3215(5).

(4) Each report filed pursuant to this section is considered to meet the certification requirements of s. 112.3215(5)(a)4. Persons given a secure sign-on to the electronic filing system are responsible for protecting it from disclosure and are responsible for all filings using such credentials, unless they have notified the commission that their credentials have been compromised.

(5) The electronic filing system must:

(a) Be based on access by means of the Internet.

(b) Be accessible by anyone with Internet access using standard web-browsing software.

(c) Provide for direct entry of compensation report information as well as upload of such information from software authorized by the commission.

(d) Provide a method that prevents unauthorized access to electronic filing system functions.

(6) The commission shall provide by rule procedures to implement and administer this section, including, but not limited to:

(a) Alternate filing procedures in case the electronic filing system is not operable.

(b) The issuance of an electronic receipt to the person submitting the report indicating and verifying the date and time that the report was filed.

(7) The commission shall make all the data filed available on the Internet in an easily understood and accessible format. The Internet website shall also include, but not be limited to, the names and business addresses of lobbyists, lobbying firms, and principals, the affiliations between lobbyists and principals, and the classification system designated and identified by each principal pursuant to s. 112.3215(3).

History.—s. 7, ch. 2005-359.

112.3217 Contingency fees; prohibitions; penalties.—

(1) "Contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent or in any way contingent on the enactment, defeat, modification, or other outcome of any specific executive branch action.

(2) No person may, in whole or in part, pay, give, or receive, or agree to pay, give, or receive, a contingency fee. However, this subsection does not apply to claims bills.

(3) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If such person is a lobbyist, the lobbyist shall forfeit any fee, bonus, commission, or profit received in violation of this section and is subject to the penalties set forth in s. 112.3215. When the fee, bonus, commission, or profit is nonmonetary, the fair market value of the benefit shall be used in determining the amount to be forfeited. All forfeited benefits shall be deposited into the Executive Branch Lobby Registration Trust Fund.

(4) Nothing in this section may be construed to prohibit any salesperson engaging in legitimate state business on behalf of a company from receiving compensation or commission as part of a bona fide contractual arrangement with that company.

History.—s. 7, ch. 93-121; s. 9, ch. 2000-336.

112.322 Duties and powers of commission.—

(1) It is the duty of the Commission on Ethics to receive and investigate sworn complaints of violation of the code of ethics as established in this part and of any other breach of the public trust, as provided in s. 8(f), Art. II of the State Constitution, including investigation of all facts and parties materially related to the complaint at issue.

(2)(a) Any public officer or employee may request a hearing before the Commission on Ethics to present oral or written testimony in response to allegations that such person violated the code of ethics established in this part or allegations of any other breach of the public trust, as provided in s. 8, Art. II of the State Constitution, provided a majority of the commission members present and voting consider that the allegations are of such gravity as to affect the general welfare of the state and the ability of the subject public officer or employee effectively to discharge the duties of the office. If the allegations made against the subject public officer or employee are made under oath, then he or she shall also be required to testify under oath.

(b) Upon completion of any investigation initiated under this subsection, the commission shall make a finding and public report as to whether any provision of the code of ethics has been violated or any other breach of the public trust has been committed by the subject official or employee. In the event that a violation or breach is found to have been committed, the commission shall recommend appropriate action to the agency or official having power to impose any penalty provided by s. 112.317.

(c) All proceedings conducted pursuant to this subsection shall be public meetings within the meaning of chapter 286, and all documents made or received in connection with the commission's investigation thereof shall be public records within the meaning of chapter 119.

(d) Any response to a request of a public official or employee shall be addressed in the first instance to the official or employee making the request.

(3)(a) Every public officer, candidate for public office, or public employee, when in doubt about the applicability and interpretation of this part or s. 8, Art. II of the State Constitution to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission on Ethics with a request for an advisory opinion to establish the standard of public duty. Any public officer or employee who has the power to hire or terminate employees may likewise seek an advisory opinion from the commission as to the application of the provisions of this part or s. 8, Art. II of the State Constitution to any such employee or applicant for employment. An advisory opinion shall be rendered by the commission, and each such opinion shall be numbered, dated, and published without naming the person making the request, unless such person consents to the use of his or her name.

(b) Such opinion, until amended or revoked, shall be binding on the conduct of the officer, employee, or candidate who sought the opinion or with reference to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

(4) The commission has the power to subpoena, audit, and investigate. The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers. The commission may delegate to its investigators the authority to administer oaths and affirmations. The commission may delegate the authority to issue subpoenas to its chair, and may authorize its employees to serve any subpoena issued under this section. In the case of a refusal to obey a subpoena issued to any person, the commission may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before the commission and to produce evidence, if so ordered, or to give testimony touching on the matter in question. Failure to obey the order may be punished by the court as contempt. Witnesses shall be paid mileage and witnesses fees as authorized for witnesses in civil cases, except that a witness who is required to travel outside the county of his or her residence to testify is entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, to be paid after the witness appears.

(5) The commission may recommend that the Governor initiate judicial proceedings in the name of the state against any executive or administrative state, county, or municipal officer to enforce compliance with any provision of this part or of s. 8, Art. II of the State Constitution or to restrain violations of this part or of s. 8, Art. II of the State Constitution, pursuant to s. 1(b), Art. IV of the State Constitution; and the Governor may without further action initiate such judicial proceedings.

(6) The commission is authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties. The Department of Legal Affairs shall, upon request, provide legal and investigative assistance to the commission.

(7) The commission may prepare materials designed to assist persons in complying with the provisions of this part and with s. 8, Art. II of the State Constitution.

(8) It shall be the further duty of the commission to submit to the Legislature from time to time a report of its work and recommendations for legislation deemed necessary to improve the code of ethics and its enforcement.

(9) The commission is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the commission by s. 8, Art. II of the State Constitution or by this part. Such rules shall be limited to:

(a) Rules providing for the practices and procedures of the commission.

(b) Rules interpreting the disclosures and prohibitions established by s. 8, Art. II of the State Constitution and by this part.

History.—s. 2, ch. 74-176; s. 4, ch. 75-199; s. 1, ch. 76-89; s. 1, ch. 77-174; s. 7, ch. 82-98; s. 33, ch. 89-169; s. 12, ch. 91-85; s. 13, ch. 94-277; s. 1416, ch. 95-147; s. 7, ch. 2000-243; s. 15, ch. 2006-275.

112.3231 Time limitations.—

(1) On or after October 1, 1993, all sworn complaints alleging a violation of this part, or of any other breach of the public trust within the jurisdiction of the Commission on Ethics under s. 8, Art. II of the State Constitution, shall be filed with the commission within 5 years of the alleged violation or other breach of the public trust.

(2) A violation of this part or any other breach of public trust is committed when every element has occurred or, if the violation or breach of public trust involves a continuing course of conduct, at the time when the course of conduct or the officer's, employee's, or candidate's complicity therein is terminated. Time starts to run on the day after the violation or breach of public trust is committed.

(3) The applicable period of limitation is tolled on the day a sworn complaint against the public officer, employee, or candidate is filed with the Commission on Ethics. If it can be concluded from the face of the complaint that the applicable period of limitation has run, the complaint shall be dismissed and the commission shall issue a public report.

History.—s. 13, ch. 91-85; s. 10, ch. 94-277.

112.3232 Compelled testimony.—If any person called to give evidence in a commission proceeding shall refuse to give evidence because of a claim of possible self-incrimination, the commission, with the written authorization of the appropriate state attorney, may apply to the chief judge of the appropriate judicial circuit for a judicial grant of immunity ordering the testimony or other evidence of such person notwithstanding his or her objection, but in such case no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal proceeding.

History.—s. 10, ch. 2000-243.

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(1) The commission shall investigate an alleged violation of this part or other alleged breach of the public trust within the jurisdiction of the commission as provided in s. 8(f), Art. II of the State Constitution:

(a) Upon a written complaint executed on a form prescribed by the commission and signed under oath or affirmation by any person; or

(b) Upon receipt of a written referral of a possible violation of this part or other possible breach of the public trust from the Governor, the Department of Law Enforcement, a state attorney, or a United States Attorney which at least six members of the commission determine is sufficient to indicate a violation of this part or any other breach of the public trust.

Within 5 days after receipt of a complaint by the commission or a determination by at least six members of the commission that the referral received is deemed sufficient, a copy shall be transmitted to the alleged violator.

(2)(a) The complaint and records relating to the complaint or to any preliminary investigation held by the commission or its agents, by a Commission on Ethics and Public Trust established by any county defined in s. 125.011(1) or by any municipality defined in s. 165.031, or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements as provided in s. 112.326 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Written referrals and records relating to such referrals held by the commission or its agents, the Governor, the Department of Law Enforcement, or a state attorney, and records relating to any preliminary investigation of such referrals held by the commission or its agents, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Any portion of a proceeding conducted by the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process, pursuant to a complaint or preliminary investigation, is exempt from s. 286.011, s. 24(b), Art. I of the State Constitution, and s. 120.525.

(d) Any portion of a proceeding of the commission in which a determination regarding a referral is discussed or acted upon is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, and s. 120.525.

(e) The exemptions in paragraphs (a)-(d) apply until:

1. The complaint is dismissed as legally insufficient;
2. The alleged violator requests in writing that such records and proceedings be made public;
3. The commission determines that it will not investigate the referral; or

4. The commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.

(f) A complaint or referral under this part against a candidate in any general, special, or primary election may not be filed nor may any intention of filing such a complaint or referral be disclosed on the day of any such election or within the 30 days immediately preceding the date of the election, unless the complaint or referral is based upon personal information or information other than hearsay.

(g) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) A preliminary investigation shall be undertaken by the commission of each legally sufficient complaint or referral over which the commission has jurisdiction to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the preliminary investigation, the commission finds no probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, the commission shall dismiss the complaint or referral with the issuance of a public report to the complainant and the alleged violator, stating with particularity its reasons for dismissal. At that time, the complaint or referral and all materials relating to the complaint or referral shall become a matter of public record. If the commission finds from the preliminary investigation probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, it shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint or referral shall then become public records. Upon request submitted to the commission in writing, any person who the commission finds probable cause to believe has violated any provision of this part or has committed any other breach of the public trust shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification required by this subsection. However, the commission may on its own motion, require a public hearing, may conduct such further investigation as it deems necessary, and may enter into such stipulations and settlements as it finds to be just and in the best interest of the state. The commission is without jurisdiction to, and no respondent may voluntarily or involuntarily, enter into a stipulation or settlement which imposes any penalty, including, but not limited to, a sanction or admonition or any other penalty contained in s. 112.317. Penalties shall be imposed only by the appropriate disciplinary authority as designated in this section.

(4) If, in cases pertaining to members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution, the commission shall forward a copy of the

complaint or referral and its findings by certified mail to the President of the Senate or the Speaker of the House of Representatives, whichever is applicable, who shall refer the complaint or referral to the appropriate committee for investigation and action which shall be governed by the rules of its respective house. It is the duty of the committee to report its final action upon the matter to the commission within 90 days of the date of transmittal to the respective house. Upon request of the committee, the commission shall submit a recommendation as to what penalty, if any, should be imposed. In the case of a member of the Legislature, the house in which the member serves has the power to invoke the penalty provisions of this part.

(5) If, in cases against impeachable officers, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution, and the commission finds that the violation may constitute grounds for impeachment, the commission shall forward a copy of the complaint or referral and its findings by certified mail to the Speaker of the House of Representatives, who shall refer the complaint or referral to the appropriate committee for investigation and action which shall be governed by the rules of the House of Representatives. It is the duty of the committee to report its final action upon the matter to the commission within 90 days of the date of transmittal.

(6) If the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution by an impeachable officer other than the Governor, and the commission recommends public censure and reprimand, forfeiture of a portion of the officer's salary, a civil penalty, or restitution, the commission shall report its findings and recommendation of disciplinary action to the Governor, who has the power to invoke the penalty provisions of this part.

(7) If the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution by the Governor, and the commission recommends public censure and reprimand, forfeiture of a portion of the Governor's salary, a civil penalty, or restitution, the commission shall report its findings and recommendation of disciplinary action to the Attorney General, who shall have the power to invoke the penalty provisions of this part.

(8) If, in cases other than complaints or referrals against impeachable officers or members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of s. 8, Art. II of the State Constitution, it is the duty of the commission to report its findings and recommend appropriate action to the proper disciplinary official or body as follows, and such official or body has the power to invoke the penalty provisions of this part, including the power to order the appropriate elections official to remove a candidate from the ballot for a violation of s. 112.3145 or s. 8(a) and (i), Art. II of the State Constitution:

(a) The President of the Senate and the Speaker of the House of Representatives, jointly, in any case concerning the Public Counsel, members of the Public Service Commission, members of the Public

Service Commission Nominating Council, the Auditor General, or the director of the Office of Program Policy Analysis and Government Accountability.

(b) The Supreme Court, in any case concerning an employee of the judicial branch.

(c) The President of the Senate, in any case concerning an employee of the Senate; the Speaker of the House of Representatives, in any case concerning an employee of the House of Representatives; or the President and the Speaker, jointly, in any case concerning an employee of a committee of the Legislature whose members are appointed solely by the President and the Speaker or in any case concerning an employee of the Public Counsel, Public Service Commission, Auditor General, or Office of Program Policy Analysis and Government Accountability.

(d) Except as otherwise provided by this part, the Governor, in the case of any other public officer, public employee, former public officer or public employee, candidate or former candidate, or person who is not a public officer or employee, other than lobbyists and lobbying firms under s. 112.3215 for violations of s. 112.3215.

(e) The President of the Senate or the Speaker of the House of Representatives, whichever is applicable, in any case concerning a former member of the Legislature who has violated a provision applicable to former members or whose violation occurred while a member of the Legislature.

(9) In addition to reporting its findings to the proper disciplinary body or official, the commission shall report these findings to the state attorney or any other appropriate official or agency having authority to initiate prosecution when violation of criminal law is indicated.

(10) Notwithstanding the foregoing procedures of this section, a sworn complaint against any member or employee of the Commission on Ethics for violation of this part or of s. 8, Art. II of the State Constitution shall be filed with the President of the Senate and the Speaker of the House of Representatives. Each presiding officer shall, after determining that there are sufficient grounds for review, appoint three members of their respective bodies to a special joint committee who shall investigate the complaint. The members shall elect a chair from among their number. If the special joint committee finds insufficient evidence to establish probable cause to believe a violation of this part or of s. 8, Art. II of the State Constitution has occurred, it shall dismiss the complaint. If, upon completion of its preliminary investigation, the committee finds sufficient evidence to establish probable cause to believe a violation has occurred, the chair thereof shall transmit such findings to the Governor who shall convene a meeting of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court to take such final action on the complaint as they shall deem appropriate, consistent with the penalty provisions of this part. Upon request of a majority of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, the special joint committee shall submit a recommendation as to what penalty, if any, should be imposed.

(11)(a) Notwithstanding subsections (1)-(8), the commission may dismiss any complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the commission shall consider whether the interests of the public were protected despite the violation. This subsection does not apply to complaints or referrals pursuant to ss. 112.3144 and 112.3145.

(b) For the purposes of this subsection, a de minimis violation is any violation that is unintentional and not material in nature.

(12) Notwithstanding the provisions of subsections (1)-(8), the commission may, at its discretion, dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the commission shall issue a public report stating with particularity its reasons for the dismissal.

History.—s. 2, ch. 74-176; s. 5, ch. 75-199; s. 3, ch. 83-282; s. 30, ch. 90-360; s. 14, ch. 91-85; s. 11, ch. 94-277; s. 1417, ch. 95-147; s. 2, ch. 95-354; s. 4, ch. 96-311; s. 3, ch. 97-293; s. 14, ch. 2000-151; s. 17, ch. 2000-331; s. 30, ch. 2001-266; s. 1, ch. 2002-186; s. 1, ch. 2005-186; s. 17, ch. 2008-4; s. 3, ch. 2009-126; s. 1, ch. 2010-116; s. 1, ch. 2010-130; s. 18, ch. 2011-34; s. 17, ch. 2013-36; s. 1, ch. 2013-38; s. 18, ch. 2014-17.

112.3241 Judicial review.—Any final action by the commission taken pursuant to this part shall be subject to review in a district court of appeal upon the petition of the party against whom an adverse opinion, finding, or recommendation is made.

History.—s. 6, ch. 75-199; s. 4, ch. 84-318.

112.3251 Citizen support and direct-support organizations; standards of conduct.—A citizen support or direct-support organization created or authorized pursuant to law must adopt its own ethics code. The ethics code must contain the standards of conduct and disclosures required under ss. 112.313 and 112.3143(2), respectively. However, an ethics code adopted pursuant to this section is not required to contain the standards of conduct specified in s. 112.313(3) or (7). The citizen support or direct-support organization may adopt additional or more stringent standards of conduct and disclosure requirements if those standards of conduct and disclosure requirements do not otherwise conflict with this part. The ethics code must be conspicuously posted on the citizen support or direct-support organization's website.

History.—s. 5, ch. 2014-183.

112.326 Additional requirements by political subdivisions and agencies not prohibited.—Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

History.—s. 5, ch. 75-196; s. 12, ch. 94-277.

112.3261 Lobbying before water management districts; registration and reporting.—

(1) As used in this section, the term:

(a) "District" means a water management district created in s. 373.069 and operating under the authority of chapter 373.

(b) "Lobbies" means seeking, on behalf of another person, to influence a district with respect to a decision of the district in an area of policy or procurement or an attempt to obtain the goodwill of a district official or employee. The term "lobbies" shall be interpreted and applied consistently with the rules of the commission implementing s. 112.3215.

(c) "Lobbyist" has the same meaning as provided in s. 112.3215.

(d) "Principal" has the same meaning as provided in s. 112.3215.

(2) A person may not lobby a district until such person has registered as a lobbyist with that district. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar-year basis thereafter. Upon registration, the person shall provide a statement signed by the principal or principal's representative stating that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the district. Any changes to the information required by this section must be disclosed within 15 days by filing a new registration form. The registration form shall require each lobbyist to disclose, under oath, the following:

(a) The lobbyist's name and business address.

(b) The name and business address of each principal represented.

(c) The existence of any direct or indirect business association, partnership, or financial relationship with any officer or employee of a district with which he or she lobbies or intends to lobby.

(d) In lieu of creating its own lobbyist registration forms, a district may accept a completed legislative branch or executive branch lobbyist registration form.

(3) A district shall make lobbyist registrations available to the public. If a district maintains a website, a database of currently registered lobbyists and principals must be available on the district's website.

(4) A lobbyist shall promptly send a written statement to the district canceling the registration for a principal upon termination of the lobbyist's representation of that principal. A district may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the district that a person is no longer authorized to represent that principal.

(5) A district may establish an annual lobbyist registration fee, not to exceed \$40, for each principal represented. The district may use registration fees only to administer this section.

(6) A district shall be diligent to ascertain whether persons required to register pursuant to this section have complied. A district may not knowingly authorize a person who is not registered pursuant to this section to lobby the district.

(7) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a district or has knowingly submitted false information in a report or registration required under this section, the commission shall investigate a lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the Governor with a report of its findings and recommendations in any investigation conducted pursuant to this subsection. The Governor is authorized to enforce the commission's findings and recommendations.

(8) Water management districts may adopt rules to establish procedures to govern the registration of lobbyists, including the adoption of forms and the establishment of a lobbyist registration fee.

History.—s. 6, ch. 2014-183.

Board of County Commissioners

Leon County, Florida

Policy No. 03-05

Title: Code of Ethics
Date Adopted: December 11, 2007
Effective Date: December 11, 2007
Reference: Chapter 112, Florida Statutes; Leon County Ordinance No. 07-27
(Lobbyist Regulations)
Policy Superseded: Amending Policy No. 03-05, "Code of Ethics," adopted February 10, 2004;
Amending Policy No. 03-05, "Code of Ethics," adopted March 18, 2003;
Superseding Policy No. 02-08, adopted July 30, 2002

Policy No. 03-05, Code of Ethics, adopted by the Leon County Board of County Commissioners on February 10, 2004, is hereby amended to read as follows:

It shall be the policy of the Board of County Commissioners of Leon County, Florida, that this policy shall apply to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

Section 1. Code of Ethics.

This Policy shall be known as the Leon County Code of Ethics.

If any word, phrase, clause, section or portion of this policy shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

This policy shall take effect upon being approved by a majority vote of the Board of County Commissioners.

Section 2. Intent and Purpose.

The proper operation of County government requires that County Commissioners be independent and impartial; that County policy and decisions be made through established processes; that County Commissioners not use public office to obtain private benefit; that County Commissioners avoid actions which create the appearance of using public office to obtain a benefit; and that the public have confidence in the integrity of its County government and County Commissioners.

Section 3. Acknowledgment.

All County Commissioners, upon taking their oath of office to their current term and all current County Commissioners within ten (10) days of the passage hereof, shall submit a signed statement to the County Attorney acknowledging that they have received and read the Leon County Code of Ethics, that they understand it, and that they are bound by it.

All candidates for County Commission, upon qualifying to run for that office, shall submit a signed statement to the Clerk to the Board located at the Clerk of Court's Office, Finance Department, Room 450, 315 South Calhoun Street, Tallahassee, Florida 32301, acknowledging that they have received and read the Leon County Code of Ethics, that they understand it, and that they shall be bound by it upon election to office.

Section 4. Interpretation, Advisory Opinions.

When in doubt as to the applicability and interpretation of the Leon County Code of Ethics, any County Commissioner may request an advisory opinion from the County Attorney's Office. The County Attorney's Office shall keep a file, open to the public, of all written opinions issued and submit a copy of each opinion rendered to every County Commissioner.

Any County Commissioner may request a review by the Board of County Commissioners of any advisory opinion within thirty (30) days of its issuance or it shall become final. A majority vote of the Board of County Commissioners shall be the final determination of said opinion.

Section 5. Definitions.

- I. "Advisory body" means any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than 1 percent of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations.
- II. "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university.
- III. "Breach of the public trust" means a violation of a provision of the State Constitution or this part which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests, including, without limitation, a violation of s. 8, Art. II of the State Constitution or of this part.

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- IV. "Business associate" means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property.
- V. "Business entity" means any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.
- VI. "Candidate" means any person who has filed a statement of financial interest and qualification papers, has subscribed to the candidate's oath as required by s. 99.021, and seeks by election to become a public officer. This definition expressly excludes a committeeman or committeewoman regulated by chapter 103 and persons seeking any other office or position in a political party.
- VII. "Commission" means the Commission on Ethics created by s. 112.320 or any successor to which its duties are transferred.
- VIII. "Conflict" or "conflict of interest" means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.
- IX. "Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.
- X. "Disclosure period" means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.
- XI. "Facts materially related to the complaint at issue" means facts which tend to show a violation of this part or s. 8, Art. II of the State Constitution by the alleged violator other than those alleged in the complaint and consisting of separate instances of the same or similar conduct as alleged in the complaint, or which tend to show an additional violation of this part or s. 8, Art. II of the State Constitution by the alleged violator which arises out of or in connection with the allegations of the complaint.

XII.

- A. "Gift," for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:
1. Real property.
 2. The use of real property.
 3. Tangible or intangible personal property.
 4. The use of tangible or intangible personal property.
 5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
 6. Forgiveness of indebtedness.
 7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
 8. Food or beverage.
 9. Membership dues.
 10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
 11. Plants, flowers, or floral arrangements.
 12. Services provided by persons pursuant to a professional license or certificate.
 13. Other personal services for which a fee is normally charged by the person providing the services.
 14. Any other similar service or thing having an attributable value not already provided for in this section.
- B. "Gift" does not include:
1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.

2. Contributions or expenditures reported pursuant to chapter 106, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party.
 3. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.
 4. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.
 5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.
 6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.
 7. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.
 8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.
- C. For the purposes of paragraph (a), "intangible personal property" means property as defined in s. 192.001(11)(b), Florida Statutes.
- D. For the purposes of paragraph (a), the term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.
- XIII. "Indirect" or "indirect interest" means an interest in which legal title is held by another as trustee or other representative capacity, but the equitable or beneficial interest is held by the person required to file under this part.
- XIV. "Liability" means any monetary debt or obligation owed by the reporting person to another person, entity, or governmental entity, except for credit card and retail installment accounts, taxes owed unless reduced to a judgment, indebtedness on a life insurance policy owed to the company of issuance, contingent liabilities, or accrued income taxes on net unrealized appreciation. Each liability which is required to be disclosed by s. 8, Art. II of the State Constitution shall identify the name and address of the creditor.
- XV. "Material interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity. For the purposes of this act, indirect ownership does not include ownership by a spouse or minor child.

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- XVI. "Materially affected" means involving an interest in real property located within the jurisdiction of the official's agency or involving an investment in a business entity, source of income or a position of employment, office, or management in any business entity located within the jurisdiction or doing business within the jurisdiction of the official's agency which is or will be affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.
- XVII. "Ministerial matter" means action that a person takes in a prescribed manner in obedience to the mandate of legal authority, without the exercise of the person's own judgment or discretion as to the propriety of the action taken.
- XVIII. "Parties materially related to the complaint at issue" means any other public officer or employee within the same agency as the alleged violator who has engaged in the same conduct as that alleged in the complaint, or any other public officer or employee who has participated with the alleged violator in the alleged violation as a coconspirator or as an aider and abettor.
- XIX. "Person or business entities provided a grant or privilege to operate" includes state and federally chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage companies, credit unions, small loan companies, alcoholic beverage licensees, pari-mutuel wagering companies, utility companies, and entities controlled by the Public Service Commission or granted a franchise to operate by either a city or county government.
- XX. "Purchasing agent" means a public officer or employee having the authority to commit the expenditure of public funds through a contract for, or the purchase of, any goods, services, or interest in real property for an agency, as opposed to the authority to request or requisition a contract or purchase by another person.
- XXI. "Relative," unless otherwise specified in this part, means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

XXII. "Represent" or "representation" means actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client.

XXIII. "Source" means the name, address, and description of the principal business activity of a person or business entity.

XXIV. "Value of real property" means the most recently assessed value in lieu of a more current appraisal.

Section 6. Standards of Conduct.

- I. Definitions. As used in this Section, unless the context otherwise requires, the following terms shall be defined as follows:
 - A. "County Officer" shall include any person elected or appointed to hold office in the Leon County government, including any person serving on an advisory body.
 - B. "County Commissioner" shall include any member of the Leon County Board of County Commissioners.
 - C. "County Employee" shall include any person employed by the Leon County Board of County Commissioners.
- II. Solicitation or Acceptance of Gifts. No County Officer or County Employee shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the County Officer, County Employee, local government attorney, or candidate would be influenced thereby.
- III. Doing Business with One's Agency. No County Employee acting in his or her official capacity as a purchasing agent, or County Officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the County Officer or County Employee or the County Officer's or County Employee's spouse or child is an officer, partner, director, or proprietor or in which such County Officer or County Employee or the County Officer's or County Employee's spouse or child, or any combination of them, has a material interest. Nor shall a County Officer or County Employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the County. This subsection shall not affect or be construed to prohibit contracts entered into prior to:
 - A. October 1, 1975.
 - B. Qualification for elective office.
 - C. Appointment to public office.
 - D. Beginning public employment.

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- IV. **Unauthorized Compensation.** No County Officer or County Employee or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such County Officer, or County Employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the County Officer or County Employee was expected to participate in his or her official capacity.
- V. **Salary and Expenses.** No County Commissioner shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a County Officer, as provided by law. The County Attorney shall not be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.
- VI. **Misuse of Public Position.** No County Officer or County Employee shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31, Florida Statutes.
- VII. **Conflicting Employment or Contractual Relationship.**
- A. No County Officer or County Employee shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, Leon County, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall a County Officer or County Employee have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.
- If the Leon County Board of County Commissioners exercises regulatory power over a business entity residing in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a County Officer or County Employee shall not be prohibited by this subsection or be deemed a conflict.
- B. This subsection shall not prohibit a County Officer or County Employee from practicing in a particular profession or occupation when such practice is required or permitted by law or ordinance.

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- VIII. Disclosure or Use of Certain Information. No County Officer or County Employee shall disclose or use information not available to members of the general public and gained by reason of his or her official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.
- IX. Post-Employment Restrictions; Standards of Conduct. No County Officer or County Employee shall personally represent another person or entity for compensation before Leon County Board of County Commissioners for a period of 2 years following vacation of office.
- X. County Employees Holding Office.
- A. No County Employee shall hold office as a member of the Leon County Board of County Commissioners while, at the same time, continuing as a County Employee.
- B. The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.
- C. Exemption. The requirements of Subsection III, "Doing Business With One's Agency," and Subsection VII, "Conflicting Employment or Contractual Relationship," as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing entity and full disclosure of the transaction or relationship by the appointee to the appointing entity. In addition, no person shall be held in violation of Subsection III, "Doing Business With One's Agency," and Subsection VII, "Conflicting Employment or Contractual Relationship" if:
1. Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.
 2. The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:
 - a. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder.
 - b. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

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- c. The official, prior to or at the time of the submission of the bid, has filed a statement with the County.
 3. The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.
 4. An emergency purchase or contract which would otherwise violate a provision of Subsection III, "Doing Business with One's Agency," and Subsection VII, "Conflicting Employment or Contractual Relationship," must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.
 5. The business entity involved is the only source of supply within the political subdivision of the County Officer or County Employee and there is full disclosure by the County Officer or County Employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.
 6. The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.
 7. The fact that a County Officer or County Employee is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of Leon County, provided it appears in the record that the Board of County Commissioners has determined that such County Officer or County Employee has not favored such bank over other qualified banks.
 8. The County Officer or County Employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with Leon County.
 9. The County Officer or County Employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of Leon County and:
 - a. The price and terms of the transaction are available to similarly situated members of the general public; and
 - b. The County Officer or County Employee makes full disclosure of the relationship to the Board of County Commissioners prior to the transaction.

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- XI. Additional Exemption. No County Officer or County Employee shall be held in violation of Subsection III, "Doing Business With One's Agency," or Subsection VII, "Conflicting Employment or Contractual Relationship," if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with Leon County, and:
- A. The County Officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;
 - B. The County Officer has in no way participated in the County's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with County Officers or County Employees, or otherwise; and
 - C. The County Officer abstains from voting on any matter which may come before the Board of County Commissioners involving the officer's employer, publicly states to the assembly the nature of the County Officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s.112.3143, Florida Statutes.
- XII. Non-Interference in County Real Estate Transactions. The following provisions are intended to assure the integrity of the competitive bidding process is preserved, agreements are negotiated at arms-length and consistently enforced, and that no County Commissioner utilizes his or her position or any property within his or her trust, to secure a special privilege, benefit, or exemption for himself, herself, or others.
- A. Definitions. As used in this subsection, unless the context otherwise requires, following terms shall be defined as follows:
 - 1. "County Real Estate Transaction" shall include any existing or proposed real estate transaction in which Leon County is involved as either a buyer, seller, lessee, lessor, or is otherwise involved as a party.
 - 2. "Communicate" or "Communication" shall include one-on-one meetings, discussions, telephone calls, e-mails, and the use of other persons to convey information or receive information.
 - 3. "Property Manager" shall mean the individual or entity retained by the Board of County Commissioners to lease and manage any County-owned property.

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- B. Restricted Communication With Parties to County Real Estate Transactions.
1. No County Commissioner shall knowingly communicate with any individual or entity, or their employees, officers, or agents, involved as a party in any County Real Estate Transaction, unless the communication is:
 - a. Part of the transactional process expressly described in a request for bids or other such solicitation invitation;
 - b. Part of a noticed meeting of the Board of County Commissioners; or
 - c. Incidental and does not include any substantive issues involving a County Real Estate Transaction in which such individual or entity is a party.
 2. Any Board member who receives a communication in violation of this subsection shall place in the record at the next regular meeting of the Board of County Commissioners, the following:
 - a. Any and all such written communications;
 - b. Memoranda stating the substance of any and all such oral communications; and
 - c. Any and all written responses to such communications, and memoranda stating the substance of any and all oral responses thereto.
- C. Restricted Communication With County Employees and Property Manager.
1. No County Commissioner shall directly or indirectly coerce or attempt to coerce the County Administrator, the County Attorney, any other County Employee, or the Property Manager, with respect to any County Real Estate Transaction.
 2. In accordance with the Board of County Commissioners Policy No. 03-01 and the Leon County Administrative Code, the County Administrator or his designee shall be responsible for the management of any County-owned property, including the enforcement and termination of lease and license agreements. Except for the purpose of inquiry, County Commissioners shall not communicate directly or indirectly, give directions or otherwise interfere with these property management responsibilities.

3. Any communication outside a noticed meeting of the Board of County Commissioners between a County Commissioner, or their Aide, and the County Administrator, the County Attorney, any County Employee, and/or the Property Manager, which communication involves a substantive issue in a County Real Estate Transaction, shall be summarized in writing no later than three (3) working days after the communication (the Communication Summary), as follows:
 - a. While it is preferred that the template provided on the County intranet is utilized for the Communication Summary, another form of effective written communication, such as e-mail, is acceptable.
 - b. The Communication Summary shall include, at a minimum, the name of the persons involved in the communication, the date of the communication, the subject matter of the communication, and the way in which the communication was ended. The Communication Summary may also include the remarks of the persons involved.
4. The completed Communication Summary shall be forwarded to the Chairperson of the Board of County Commissioners, unless the communication involved the Chairperson in which case it shall be forwarded to the Vice-Chairperson, and a copy of the Communication Summary shall be forwarded to the County Administrator and the County Attorney.

Section 7. Voting Conflicts.

- I. As used in this section:
 - A. "County Officer" includes any person elected or appointed to hold office in the Leon County government, including any person serving on an advisory body.
 - B. "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.
 - C. No County Officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2), Florida Statutes; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the County Officer. Such County Officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

However, a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

- D. No appointed County Officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the County Officer, without first disclosing the nature of his or her interest in the matter.
1. Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.
 2. In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.
 3. For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.
- E. Whenever a county officer or former county officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

Section 8. Use of Office for Political Campaigns or Personal Matters.

Use of Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters, is strictly forbidden.

Section 9. Investigation and Prosecution of Alleged Violation of Code of Ethics.

The investigation and prosecution of any alleged violation of this Code of Ethics shall be in accordance with the Florida Statutes or local ordinances.

Section 10. Conflicts Between this Policy and Florida Statutes.

The Florida Statutes shall apply in the event of any conflict between this adopted policy and the Florida Statutes.

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ARTICLE XII. - LOBBYIST REGULATIONS

Sec. 2-700. - Definitions.

- (a) *Lobbying* shall mean communications, whether written or oral, by a lobbyist with any member or members of the Board of County Commissioners, or any member or members of any decision-making body under the jurisdiction of the board, or any county employee, whereby the lobbyist seeks to encourage or influence the passage, defeat, modification or repeal of any item which may be presented for vote before the Board of County Commissioners, or any decision-making body under the jurisdiction of the board, or which may be presented for consideration by a county employee as a recommendation to the board or decision-making body.
- (b) *Lobbyist* means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity.
- (c) *Lobbying firm* means a business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist.
- (d) *Principal* shall mean a person, firm, corporation, or other legal entity which has employed or retained a lobbyist.
- (e) *Employee* shall mean the county administrator, county attorney, executive director of tourist development, commission staff, and all persons employed by the board of county commissioners.
- (f) *Decision-making body* shall mean any body established by the board of county commissioners.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-701. - Registration of lobbyists.

All lobbyists, as defined herein, shall register with the clerk of the Board of County Commissioners on an annual basis, including payment of a non-refundable \$25.00 fee for each principal so represented, prior to engaging in any lobbying. Registration shall be updated annually to add or withdraw principals, and at least each time a lobbyist commences lobbying on behalf of any new principle. Each lobbyist shall be required to register on forms prepared by the clerk of the board. The lobbyist shall state under oath his or her name, business address, the name and business address of each principal represented, that the principal has actually retained the lobbyist, the general and specific areas of legislative interest, and the nature and extent of any direct business association or partnership with any current member of the Board of County Commissioners, county employee, or person sitting on a decision-making body. Each lobbying firm may register in the name of such firm, corporation or legal entity, provided the registration and the payment of the lobbyist fees shall be for each of the persons who engage in lobbying as defined in this article. Failure to register, or providing false information in the lobbyist registration form, shall constitute a violation of this article.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-702. - Exemptions.

The following persons are not lobbyists as defined in section 2-700(b), and shall not be required to register as lobbyists or to keep records as lobbyists:

- (1) Leon County employees discussing government business;
- (2) Law enforcement personnel conducting an investigation;

- (3) Persons who communicate with board members or employees in an individual capacity for the purpose of self-representation, or on behalf of a family member, without compensation or reimbursement;
- (4) Consultants under contract with Leon County who communicate with commissioners or county employees regarding issues related to the scope of services in their contract;
- (5) Any government officials or employees who are acting in their official capacity or in the normal course of their duties, unless they are proposing in a competitive procurement, or are government employees principally employed for, or whose substantial duties pertain to, governmental affairs lobbying;
- (6) Persons who make purely factual informational requests to a member of the board of county commissioners, member of a decision-making body, or employee with no intent to affect a decision or recommendation on any item; and
- (7) Persons or representatives of organizations contacted by a member of the board of county commissioners, member of a decision-making board, or employee when the contact is initiated by that board member, decision-making board member, or employee in his or her official capacity in the normal course of his or her duties to obtain factual information only.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-703. - Validity of action.

The validity of any decision, action, or determination made by the commission, decision-making board or employee shall not be affected by the failure of any person to comply with the provisions of this article.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-704. - Quarterly compensation report.

Each lobbying firm shall file a compensation report, signed under oath, with the clerk of the board of county commissioners for each calendar quarter during any portion of which such a lobbyist or lobbyist firm was registered under this article to represent a principal (hereinafter "reporting period").

- (1) Each lobbying firm shall file a quarterly compensation report with the clerk of the board for each calendar quarter during any portion of which the lobbyist or one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:
 - a. Full name, business address, and telephone number of the lobbying firm;
 - b. Name of each of the firm's lobbyists; and
 - c. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories: \$0.00; \$1.00 to \$49,999.00; \$50,000.00 to \$99,999.00; \$100,000.00 to \$249,999.00; \$250,000.00 to \$499,999.00; \$500,000.00 to \$999,999.00; \$1 million or more.
- (2) For each principal represented by one or more of the firm's lobbyists, the quarterly compensation report shall also include the:
 - a. Full name, business address, and telephone number of the principal; and
 - b. Total compensation provided or owed to the lobbying firm for the reporting period from such principal, reported in one of the following categories: \$0.00; \$1.00 to \$9,999.00; \$10,000.00 to \$19,999.00; \$20,000.00 to \$29,999.00; \$30,000.00 to \$39,999.00; \$40,000.00 to \$49,999.00; or \$50,000.00 or more. If the category "\$50,000 or more" is

selected, the specific dollar amount of compensation must be reported, rounded up or down to the nearest \$1,000.00.

- (3) The quarterly compensation reports shall be filed no later than 30 days after the end of each reporting period. The four reporting periods are from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. The quarterly compensation reports shall be filed in the form provided by the clerk of the Board of County Commissioners, and the quarterly reporting shall commence on January 1 of each year.
- (4) Failure to file a required quarterly compensation report with the clerk of the board shall result in the imposition of a penalty equal to twice the annual lobbyist registration fee.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-705. - Maintaining Registrations and Compensation Reports.

The clerk of the board of county commissioners shall accept and maintain the lobbyist registrations and quarterly compensation reports, which shall be open for public inspection.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-706. - Prohibited conduct of county officials and employees.

No member of the board of county commissioners or employee of Leon County shall solicit or accept as compensation, payment, favor, service, or thing of value from a lobbyist or principal when such member of the board of county commissioners or employee, as specified above, knows, or with the exercise of reasonable care, should know, that it was given to influence a vote or recommendation favorable to the lobbyist or principal.

(Ord. No. 07-27, § 1, 12-11-07)

Sec. 2-707. - Prohibited communication.

- (a) Any form of communication, except for written correspondence, shall be prohibited regarding a particular request for proposal, request for qualification, bid, or any other competitive solicitation between:
 - (1) Any person or person's representative seeking an award from such competitive solicitation; and
 - (2) Any county commissioner or commissioner's staff, or any county employee authorized to act on behalf of the commission to award a particular contract.
- (b) For the purpose of this section, a person's representative shall include, but not be limited to, the person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the person.
- (c) The prohibited communication shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation.
- (d) The provisions of this section shall not apply to oral communications at any public proceeding, including pre-bid conferences, oral presentations before selection committees, contract negotiations during any public meetings, presentations made to the board, and protest hearings. Further, the provisions of this section shall not apply to contract negotiations between any employee and the intended awardee, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence with any employee, county

commissioner, or decision-making board member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.

- (e) The provisions of this section shall not apply to any purchases made in an amount less than the competitive bid threshold of \$20,000.00, as set forth in Leon County Purchasing Policy No. 96-1, as amended.
- (f) The provisions of this section shall terminate at the time the board, or a county department authorized to act on behalf of the board, awards or approves a contract, rejects all bids or responses, or otherwise takes action which ends the solicitation process.

(Ord. No. 07-27, § 1, 12-11-07; Ord. No. 12-11, § 1, 10-9-12)

Sec. 2-708. - Penalties.

The penalties for an intentional violation of this article shall be those specified in F.S. § 125.69(1), as amended, and shall be deemed supplemental to the penalties set forth in section 1-9 of this Code.

(Ord. No. 07-27, § 1, 12-11-07)

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Charter Provision Related to Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

To consider any changes the committee may wish to further explore related to the current Preservation of Constitutional Officers provision in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to potential changes to the Constitutional Officers which the Charter Committee may wish to consider.

All of the 47 non-charter governments and the majority of the 20 charter counties in Florida have five constitutional officers who perform a variety of constitutional and statutory duties and functions for the state and county. The five constitutional officers include the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Each of these constitutional officers administer their own office; however, each office obtains budgets and facilities from their respective Board of County Commissioners to perform their respective duties, including :

- Sheriff: Oversees law enforcement, public safety and often corrections for the county;
- Property Appraiser: assesses the fair value of all property so that property taxes can be computed;
- Tax Collector: receives property tax and other payments for both the county and state;
- Supervisor of Elections: registers voters and organizes all elections in the county; and
- Clerk of the Courts: maintains public records and is clerk to the county commission.

The Leon County's Charter as originally approved in 2002 includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections. The 2009-2010 Citizen Charter Review Committee previously considered this issue, but chose not to recommend any changes to this provision of the County Charter.

Analysis:

Florida Charter Counties have the ability to abolish elected Constitutional Officers, as long as the duties of the individual office are provided for elsewhere. Article VIII, Section 1 (d) of the Florida Constitution states that there shall be five County Officers, "...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office."

Of the Charter Counties in Florida (Attachment #1):

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.
- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.

Title: Charter Provision Related to Constitutional Officers
November 30, 2017
Page 3

- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

In evaluating whether to propose any changes to the Constitutional Officers through a county charter, individuals in support of preserving the constitutional officers generally make the following arguments:

1. The Constitutional Officers' duties are mandated by state law and those duties must be carried out no matter what form of government exists in the county.
2. Maintaining complete independence of those offices insures a system of "checks and balances."
3. The independently elected status permits the offices to focus exclusively on the duties mandated by state law without the undue influence from the legislative body of the county. Because the people directly elect them, constitutional officials are more responsive to the electorate than are appointed officers.
4. The offices provide many services to other jurisdictions in addition to the county government and should therefore be independent of the county legislative body.

Individuals supporting revisions to the constitutional officers generally make the following arguments:

1. Changes to the Constitutional Officers through a county charter provides for a more efficient, uniform set of administrative support policies (budget, personnel, purchasing, etc.) to be implemented.
2. The entity imposing the taxes to fund a program should have ultimate control over the expenditure thereof.
3. Charter amendments provide the opportunity to prescribe additional professional qualifications for candidates seeking to run large, sophisticated operations.

If a charter amendment is considered, as noted in other Florida Charter Counties, there are two approaches to abolish an office and transfer its responsibilities to another office. One is to transfer the responsibility to an appointed position and the other is to transfer the duties to an elected charter officer. Note that all constitutional officers need not be treated in the same manner by the charter.

While there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

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November 30, 2017
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Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Summary

Comparative Analysis: Florida Charter Counties Elected/Appointed Constitutional Officers

County	Elected vs. Appointed Constitutional Officers
Alachua	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Brevard	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Broward	Elected: Sheriff, Property Appraiser, Supervisor of Elections, Clerk of the Courts Appointed: (1) The Office of the Tax Collector was abolished and powers were transferred to County Manager who appoints The Department of Finance (2) Some functions of the Clerk related to county funds transferred to County Manager
Charlotte	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Clay	Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts Appointed: Some functions of the Clerk of Court related to county funds transferred to Appointed County Manager
Columbia	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Duval	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Hillsborough	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Lee	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Leon	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Miami-Dade	Elected: Clerk of Courts, Property Appraiser Appointed: (1) Supervisor of Elections (Department under Mayor), (2) Tax Collector (Office Abolished and Transferred to Department of Finance under Mayor), (3) Sheriff (Office Abolished and Powers Transferred to Mayor)
Orange	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Osceola	Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts Appointed: Some functions of the Clerk of Court related to county funds, ex officio clerk, and accountant transferred to Appointed County Manager
Palm Beach	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Pinellas	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Polk	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Sarasota	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Seminole	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts
Volusia	Elected: Sheriff, Property Appraiser, Supervisor of Elections, Clerk of the Courts Appointed: (1) The Office of the Tax Collector was abolished and powers were transferred to County Manager who appoints The Department of Finance (2) Some functions of the Clerk related to county funds and ex officio to the Board of County Commissioner transferred to County Manager
Wakulla	All constitutional and statutory functions of Constitutional Officers preserved in County Charter Elected: Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections, Clerk of the Courts

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM D**

Citizen Charter Review Committee

Agenda Item D

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modifying the District Composition of the Board of County Commissioners

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator

Summary:

To consider a change in the composition of the Board of County Commissioners to four (4) District/three (3) At-Large from the existing five (5) District/two (2) At-Large.

Staff Recommendation:

Option #4: Committee direction.

Title: Modifying the Composition of the Board of County Commissioners
November 30, 2017
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Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners.

In accordance with Section 2.1 of Leon County's Charter, the Board of County Commissioners is composed of seven total members: One Commissioner elected for each of the five County Commission districts and two At-Large Commissioners. All County Commissioners serve staggered terms of four years. This composition has been in place since 1986 and was incorporated into the original Leon County Home Rule Charter adopted in 2002.

Florida's Constitution allows charter county voters to adopt a variety of structures and election processes for its board of county commissioners; however, Leon County has additional considerations. Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended.

In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and

Title: Modifying the Composition of the Board of County Commissioners
November 30, 2017
Page 3

before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No. 01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Amending the composition of the Leon County BOCC was previously considered by the 2009-2010 Citizen Charter Review Committee (Attachment #2); however, the Committee ultimately voted to recommend that no change be made to the Charter on this issue.

Analysis:

Charter counties vary in the composition of their board of county commissioners. Prior to 1968, all Florida counties were required to have a board of county commissioners composed of five members with one commissioner from each of five commission districts, but elected on a countywide basis. In 1968, Florida counties were constitutionally-vested with home rule, which allowed them to adopt a charter with alternative board compositions. Attachment #1 contains a summary of charter county board compositions and is summarized as follows:

- Seven (7) charter counties: All at-large commissioners;
- Eight (8) charter counties: All single-member districts; and
- Five (5) charter counties: Mix of single-member districts and at-large commissioners.

Since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its “election plan,” no modifications to the current election system and composition of the BOCC could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Regardless of the approach taken, the County will still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval. Staff is uncertain at this time if all of the necessary requirements can be met in the timeframe between the Committee’s final meeting and the 2018 General Election.

After taking into consideration the legal matters outlined above, the Charter Review Committee may still wish to advance modifying the composition of the board of county commissioners as a recommended charter amendment. The Committee’s process can continue to be followed and

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November 30, 2017
Page 4

ultimately the recommended charter amendment can be proposed to the Board of County Commissioners for consideration to be placed on the November 2018 ballot.

However, all legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. The Committee, however, may recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting.

Voting Threshold: Simple Majority Vote

2. Request additional information and analysis.

Voting Threshold: Four (4) Votes

3. Take no further action at this time.

Voting Threshold: Simple Majority Vote

4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Charter County Districting Scheme Comparison
2. 2009 Memo on Modifying the BOCC Structure

Charter County Districting Scheme Comparison

County	All At-Large	All Single-Member Districts	Mixed
Alachua	5 At-large		
Charlotte	5 At-Large		
Lee	5 At-Large		
Polk	5 At-Large		
Sarasota	5 At-Large		
Seminole	5 At-Large		
Wakulla	5 At-Large		
Brevard		5 Single	
Clay		5 Single	
Columbia		5 Single	
Osceola		5 Single	
Orange		6 Single	
Palm Beach		7 Single	
Broward		9 Single	
Miami-Dade		13 Single	
Hillsborough			Mixed (4S /3A)
Pinellas			Mixed (4S/ 3A)
Leon			Mixed (5S/ 2A)
Volusia			Mixed (5S/2A)
Duval			Mixed (14S/ 5A)

MEMORANDUM

TO: 2009/2010 Leon County Charter Review Committee

FROM: Kurt Spitzer

DATE: December 14, 2009

RE: Information for Meeting of December 17, 2009

BCC Structure

The issue raised for the consideration of the charter review advisory committee is whether to revise Leon County's districting system to one where there are three Commissioners elected countywide and four from single-member districts.

For years, the "default" structure of the Board of County Commissioners as required by the Florida Constitution was five Commissioners residing in separate residence districts but elected by all of the voters on a countywide (at-large) basis. Numerous lawsuits centering on whether this system had a discriminatory effect or intent resulted in the Legislature passing a proposed constitutional amendment allowing the voters of a county to approve one of two alternative systems: Five single-member districts or seven commissioners with two elected at-large and five from single-member districts. The Florida electorate adopted the amendment to the Constitution in the mid-1980's.

About half of the non-charter counties have retained the at-large system, as have many charter counties.

However, the electorate in most charter counties have the ability to adopt a wide variety of districting schemes for electing County Commissioners and are not bound by the statutory options of electing commissions based on a system of five at-large, five single-member, or five single-member plus two at-large. The attached table illustrates the districting practice in other charter counties.

Those who favor a system of single-member districts generally argue that Commissioners elected from individual districts are much more responsive to and reflective of the residents from within that district. At-large districting schemes may make it difficult for a member of a minority community to be elected.

Those who argue against single-member districts believe that such systems can lead to "ward" politics or that it is often more difficult for persons elected from a single district to be able to balance a wide variety of competing, countywide interests and view the "big picture" for the jurisdiction as a whole.

Several county charters contain provisions attempting to balance the objectives of the differing systems. Some pair a system of single-member districts with a strong elected executive or mayor. Others combine a system of single-member and at-large districts.

Hillsborough and Pinellas counties utilize a system where there are three commissioners elected at-large and four from single-member districts. Each elector has the ability to vote for a majority of the county commission ~ three Commissioners elected countywide plus his or her own district representative. The Pinellas system requires residence areas for those commissioners elected at-large; Hillsborough does not.

The five/two system in Leon County pre-dates the adoption of the charter but was not adopted by vote of the electorate. It is the result of a lawsuit brought by the NAACP. Altering the current system will require review by the federal court at some point in time.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM E**

Citizen Charter Review Committee

Agenda Item E

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modification of District Commission Election Process

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Herbert W.A. Thiele, County Attorney

Summary:

This item provides the Committee with additional information and analysis on the proposal that only electors within each of the Commission single member Districts would vote in a primary election for candidates for each single member District office. However, after such a primary election, the two (2) highest vote getters (assuming there are more than one candidate) would be put on the General Election ballot for a vote by all of the electors of Leon County.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request an agenda item related to modifying the district commission election process for the Leon County Board of County Commissioners.

When the Leon County Home Rule Charter was adopted in 2002, the drafters of the proposed Charter and the Board of County Commissioners elected not to try to modify the existing composition of the Board of County Commissioners. In 2002 that composition was five (5) County Commission Districts, elected by the electors of that District, and two (2) At-large Commissioners elected on a County-wide basis by the electors of the County.

While the proposed change is theoretically possible in all Charter Counties, Leon County has additional considerations.

Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended. In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No.

01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Analysis:

This item provides the Committee with additional information and analysis on the proposal that only electors within each of the Commission single member Districts would vote in a primary election for candidates for each single member District office. However, after such a primary election, the two (2) highest vote getters (assuming there are more than one candidate) would be put on the General Election ballot for a vote by all of the electors of Leon County. No Counties in Florida (either Charter or non-Charter) currently utilize this election process.

Compliance with the Voting Right Acts of 1965, as amended will be necessary in order to make such a modification. Again, because the United States District Court for the Northern District of Florida has retained jurisdiction, we will need to petition for a modification to the election plan contained in the Court's Final Judgment of 1986 or to seek dissolution of the Court's continuing jurisdiction over Leon County and its election plan. No significant research has been performed at this early juncture as to whether or not such an election system would comply with all Federal Laws, especially the Voting Rights Act of 1965, as amended; however, we have serious concerns that this will significantly dilute minority electors' voting impact, and thus will not comply with the Voting Rights Act.

Options:

1. Direct County staff to prepare proposed charter amendment language and agenda the issue for further Committee consideration.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

V.

COMMITTEE IDEA DELIBERATION

VI.

ADJOURNMENT

Citizen Charter Review Committee

December 7, 2017

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of November 30, 2017 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Consolidation of Law Enforcement Services (*Vincent S. Long*)
 - b. Hiring/Firing Process for the County Attorney (*Vincent S. Long*)
 - c. Standards for Community Redevelopment Agency Expenditures (*Herbert W.A. Thiele*)
 - d. Nonpartisan Superintendent of Schools and Constitutional Officers (*Herbert W.A. Thiele*)
- V. Committee Idea Deliberation
 - a. New Ideas for Committee Consideration (*All*)
- VI. Review of Committee Schedule
- VII. Adjournment

The next meeting of the Citizen Charter Review Committee will take place on Thursday, December 14, 2017 at 11:30 A.M.

I.

CALL TO ORDER

II.

APPROVAL OF NOVEMBER 30, 2017 MEETING MINUTES

**MINUTES
LEON COUNTY
2017-2018 CITIZENS CHARTER
REVIEW COMMITTEE
NOVEMBER 30, 2017**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on November 30, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Bill Graham, Michael Eurich, Gordon Thames, Shane Hopkins, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Reginald Ellis and Anice Prosser were absent. Also present were County Administrator Vince Long, Deputy County Administrator Alan Rosenzweig, County Attorney Herb Thiele, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order

Chairman Hinkle called the meeting to order. She introduced CRC members Shane Hopkins and Bill Graham, who provided brief introductory remarks.

She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated ideas.

II. Approval of November 16, 2017 Minutes

A motion to approve the November 16, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 12-0 (Reggie Ellis and Anice Prosser absent).

III. Remarks of Interested Citizens

- Sheriff Walt McNeil appeared before the CRC to advocate that the election of Constitutional Officers remain partisan elections. He opined that citizens have a right to know the political ideology of a candidate.
- Doris Maloy, Tax Collector, reminded the CRC that when the Charter was established in 2002, Constitutional Officers were assured that the document would not negatively affect the status of Constitutional Officers. She too urged the Committee to retain partisan elections for Constitutional Officers.

IV. Proposed Charter Amendments for Committee Consideration

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced and provided a brief summary of the item.

Mr. Fleckenstein asked by what percentage of the electorate voted in favor of the 2010 amendment. Mr. Long indicated that staff did not include that in their analysis; however, it would be included in staff's further analysis.

Mr. Williams advocated for the limit to be set at the established State limit of \$1,000. He suggested that limiting the amount of contributions makes it more difficult for individuals running against incumbents.

Mr. Thames established that the City has a campaign contribution limit of \$250 and submitted that consistency with the City may be something to consider.

Kim Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language increasing campaign

contributions to the state level of \$1,000 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

As there was some misunderstanding on the intent of the motion, Chairman Hinkle asked Mr. Williams to restate his motion and that the vote be revisited.

Mr. Williams moved, seconded by Ted Thomas, to approve Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language which strikes from the Charter language the limitation of campaign contributions to \$250 for the January 18, 2018 meeting. The motion carried 7-5 (Michael Eurich, Neil Fleckenstein, Catherine Jones, Kenneth Hart and Gordon Thames in opposition and Reginald Ellis and Anice Processer absent).

After the vote was taken, Mr. Eurich asked that campaign fund balances for individual candidates from previous elections be included in the information brought back to the Committee. (Approved without objection)

b. Code of Ethics

County Administrator Long introduced and provided a brief overview of the item.

Mr. Fleckenstein remarked that his intent was to adopt a code of ethics ordinance to elevate the importance of ethical behavior and accountability in all elected and appointed officials and County staff. He agreed that the amendment should require a date certain for an ordinance to be enacted and to include prescribed requirements.

Ms. Jones asked how many charter counties with a Code of Ethics provision include constitutional officers. Ms. Peebles did not have an exact number, but indicated that many county charters have a provision to include constitutional officers, as well as committees appointed by the Board of County Commissioners and County staff. Ms. Jones inquired about enforcement of an Ethics ordinance. County Attorney Thiele responded that provisions of the ordinance would be enforced as a law.

Mr. Graham commented that ordinance language would need to be thoroughly vetted, as it can be difficult to properly define those provisions to ensure they are suitable for prosecution.

Mr. Thiele discussed Chapter 112 of the Florida Statutes and conveyed that, where applicable, language from there would be incorporated into a County ordinance.

There continued to be discussion amongst the CRC and staff, with Ms. Jones ascertaining that the ordinance would specify to whom it would apply and Mr. Long sharing that there are a number of existing County documents pertaining to this topic that would be utilized in the development of an ordinance.

Mr. Thiele reminded the Committee that an ethics ordinance would be brought forward to the Board as a recommendation by the CRC; only the Board of County Commissioners can adopt an ordinance.

Mr. Eurich confirmed with Mr. Thiele that if an Ethics Ordinance was adopted by the Board, it would be Mr. Thiele's recommendation that any duplication of language be removed from County documents, so as to ensure there is no duplicity.

There was discussion regarding authority to include Constitutional Officers in an Ethics Ordinance; however, Mr. Thiele opined that the CRC, should it wish to do so, could include constitutionals in its recommendation.

Mr. Eurich cited Section 3.1 of the current Charter, which states that constitutional officers should remain as independently elected constitutional offices whose status, powers, duties and function shall not be altered by the Charter. He submitted that this portion of the Charter would have to be amended to alter the status of constitutional officers.

Mr. Fleckenstein requested that further analysis include a legal prospective on the ramifications of applying a Code of Ethics to Constitutional Officers.

Mr. Hart agreed that constitutionals should be included and that enforcement issues, whatever they may be, would be addressed by the County Attorney in development of the ordinance.

The following motion was offered by Ms. Jones, seconded by Mr. Thames and amended by Mr. Hart.

Ms. Jones moved Option 1, as amended: Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting, which includes language for a "Code of Ethics" which applies to Constitutional Officers.

The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

c. Charter Provision Related to Constitutional Officers

County Administrator Long introduced and provided a brief overview of the item.

Ms. Jones clarified that her intent for bringing this forward was to review and discuss each constitutional office to determine if it should be filled by the electorate or be an appointed position.

Ms. Jones reiterated that this was not a statement against any Constitutional Officer, but was a discussion that should be held by every CRC. She suggested that constitutional offices have become politicized and it was time to look at other options.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission.

Ms. Jones requested that an analysis include a breakdown of the role of constitutional officers and how the appointments would be made for each office.

Ms. Jones moved, seconded by Casey Perkins, to approve Option 2, as amended: Request additional information and analysis to include a summary of each

Constitutional Officer's job duties and potential process for making appointments to constitutional offices.

The motion failed 2-10 (Michael Eurich, Neil Fleckenstein, William Graham, Lee Hinkle, Shane Hopkins, Kenneth Hart, Jay Revell, Gordon Thames, Ted Thomas, and Kim Williams in opposition and Reginald Ellis and Anice Prosser in opposition).

d. Modifying the District Composition of the Board of County Commissioners

County Attorney Thiele introduced and provided a brief overview of the item, which included how to implement such a change since the County is under Federal Court Order to maintain five County Commission single-member districts and two at-large County Commission seats, including a minority-majority district and minority-access district.

Mr. Hart clarified that his intent for bring this item forward is to allow citizens to elect a majority of the Board of County Commissioners. He suggested that most issues brought before the County Commission are countywide and voters should have a voice in electing a majority of the Commissioners.

Mr. Revell recommended that the County maintain its minority-majority and minority access districts. Mr. Thiele confirmed that would be his intent.

Mr. Hart moved, seconded by Mr. Revell to approve Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting. The motion carried 11-1 (Catherine Jones in opposition and Reginald Ellis and Anice Prosser absent).

e. Modifying the District Commissioner Election Process

Mr. Revell, as the originator of the item, asked that it be removed from consideration.

Mr. Revell moved, seconded by Neil Fleckenstein, to approve Option 3: Take no further action at this time regarding modification of the District Commissioner election process. The motion carried 11-1 (Bill Graham in opposition and Reginald Ellis and Anice Prosser absent).

V. Committee Idea Deliberation

a. County Attorney Hiring/Firing Process (Offered by Jay Revell)

Mr. Revell provided that his intent was to have hiring/firing requirements for the County Attorney match the hiring/firing requirements of the County Administrator.

Jay Revell moved, seconded by Neil Fleckenstein, to consider providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter. The motion carried 12-0 (Reginald Ellis and Anice Prosser absent).

b. Law Enforcement Consolidation (Offered by Ken Hart)

Mr. Hart indicated that he was unsure if this could be done; however, countywide consolidation has been a big topic of discussion within the community and he believed it a good idea to explore and discuss the feasibility of law enforcement consolidation. He confirmed with Mr. Thiele that law enforcement consolidation could not be realized through a Charter amendment; but also established that it could be done through an interlocal agreement between the Sheriff and the City of Tallahassee or by a transfer of power (which would require a City referendum). Mr. Thiele offered that a lot of “behind the scene” details would have to be worked out.

Ken Hart moved, seconded by Neil Fleckenstein to request additional information and analysis related to consolidation of law enforcement services.

Mr. Williams stated that he would not be in support of law enforcement consolidation and offered that the current system has worked well.

Mr. Hart submitted that consolidation could result in a more efficient, streamlined and coordinated approach.

Mr. Fleckenstein indicated that he was interested in learning the pros and cons of such an endeavor and asked that these be included in staff's analysis.

Mr. Thomas conveyed that he could not support the motion as he deemed it appropriate to look at total consolidation, not just in one area.

Chairman Hinkle mentioned functional consolidation that has occurred between the County and City, such as animal control, environmental standards, joint dispatch, etc. Mr. Long affirmed the extensive functional consolidation between the County and City and commented that there are not many more areas that could be considered.

Mr. Williams expressed his support for the motion and was interested in the potential financial savings that could be gained.

The motion carried 9-2 (Catherine Jones and Kim Williams in opposition and Reginald Ellis, Anice Prosser and Jay Revell absent).

c. New Ideas for Committee Consideration

There were no additional ideas offered.

Ms. Peeples reminded the Committee that items can be brought forward up until the January 11, 2018 meeting.

VI. Adjournment

The Committee adjourned at 1:35 pm.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM A

Citizen Charter Review Committee

Agenda Item A

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Consolidation of Law Enforcement Services

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to the consolidation of law enforcement services.

Staff Recommendation:

Option #4: Committee direction.

Title: Consolidation of Law Enforcement Services
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 30, 2017, the Committee passed a motion to request additional information and analysis related to consolidation of law enforcement services.

As discussed during the November 30, 2017 Charter Review Committee meeting, consolidation of law enforcement services cannot be effectuated through a charter amendment. However, Florida law provides two methods for consolidating law enforcement services: (1) Transfer of Powers and (2) Interlocal Agreement.

Transfer of Powers

As outlined in Article VIII, Section 3 of the Florida Constitution (Attachment #1), the powers and functions of a county or municipality may be permanently transferred to and performed by another county or municipality. This transfer of power requires a special law or resolution of the governing bodies of each of the affected governments followed by approval from the electors of both governments through a dual referendum. A “dual referendum” requires the residents of the City and unincorporated each to separately approve the referendum.

Interlocal Agreement

Section 166.0495, Florida Statutes, authorizes a municipality to enter into an interlocal agreement to obtain law enforcement services from an adjoining municipality within the same county, without requiring dual referenda for approval (Attachment #2). An interlocal agreement allows governments to set their terms when contracting for services and/or transferring certain functions such as the duration of time that one government will provide services for the other.

Regardless of the approach, consolidation cannot be effectuated unilaterally by any one government and requires mutual agreement of all parties.

Analysis:

Currently, the City of Tallahassee Police Department (TPD) provides law enforcement services to citizens within the incorporated area of the County, while the Leon County Sheriff's Office (LCSO) provides countywide services and patrol services to the unincorporated area. In addition to patrol, LCSO is also responsible for school resource deputies, judicial services (warrants, civil process, bailiffs, inmate transportation, etc.), and the operation of the Leon County Detention Center. TPD and LCSO have mutual aid and other agreements to ensure cooperation for the provision of law enforcement services throughout the county.

Consolidation of law enforcement services in Leon County would require either the transfer of the City's law enforcement authority to LCSO by resolution and dual referendum or through an interlocal agreement between the City and the Sheriff. As the funding entity for the Sheriff's Office, the Leon County Board of County Commissioners would also need to support the consolidation and work collaboratively with the City and LCSO.

Title: Consolidation of Law Enforcement Services
December 7, 2017
Page 3

Although the outcome of consolidation is dependent on the jurisdiction in which it occurs, general arguments in support of consolidation of law enforcement include:

1. Consolidating law enforcement services can reduce service delivery and administrative costs to provide fiscal savings for tax payers by eliminating the duplication of services.
2. Consolidation can leverage greater efficiency through the streamlining of services, greater flexibility related to large-scale issues, and improved utilization of resources.
3. Consolidation provides law enforcement on a larger, cross-jurisdictional scale which can enhance coordination of services and reduce jurisdictional confusion of citizens.

General arguments in favor of maintaining separate law enforcement authorities and in opposition of consolidation include:

1. Consolidation of services is typically cost prohibitive due to the high cost of implementation such as new branding, uniforms, and vehicles/equipment.
2. Citizens in the incorporated area that previously received City services may experience a reduction in services and/or a resulting increase in costs following consolidation.
3. Merging law enforcement services of two entities may cause issues related to organizational structure, culture, and the alignment of priorities which may hinder coordination.

Prior to implementing a consolidation of law enforcement services, the Board of County Commissioners, the City Commission, and the Sheriff would need to conduct a broad review to address several issues including but not limited to impacts to services and/or crime rates, variations in organizational structure and leadership, and development of consistent policies and training. Potential costs associated with implementation such as modifications to salaries and benefits packages, increased pensions, and issuing standard equipment/materials (uniforms, vehicles, branding, etc.) would also need to be identified and budgeted for. Addressing these and other issues related to implementation, may require the respective entities to hire a consultant to perform an in-depth analysis.

As consolidation of law enforcement cannot be effectuated by a charter amendment, the Committee is limited in how it may make such a recommendation to the Board. Should the Committee wish to further consider the issue, the Committee may by simple majority vote request that staff prepare language for inclusion in the Committee's Final Report recommending that the Board coordinate with LCSO and the City to explore law enforcement consolidation through transfer of powers or interlocal agreement upon a thorough analysis of the costs/benefits to the community.

Title: Consolidation of Law Enforcement Services
December 7, 2017
Page 4

Options:

1. Request staff prepare language for inclusion in the Citizen Charter Review Committee's Final Report recommending that the Board of County Commissioners consider consolidation of law enforcement services.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Article VIII, Section 3 and Section 4 of the Florida Constitution
2. F.S. 166.0495 Interlocal agreements to provide law enforcement services

The Florida Constitution

CONSTITUTION OF THE STATE OF FLORIDA

AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

ARTICLE VIII LOCAL GOVERNMENT

SECTION 4. **Transfer of powers.**—By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.

The 2017 Florida Statutes

[Title XII](#)
MUNICIPALITIES

[Chapter 166](#)
MUNICIPALITIES

[View Entire Chapter](#)

166.0495 Interlocal agreements to provide law enforcement services.—A municipality may enter into an interlocal agreement pursuant to s. [163.01](#) with an adjoining municipality or municipalities within the same county to provide law enforcement services within the territorial boundaries of the other adjoining municipality or municipalities. Any such agreement shall specify the duration of the agreement and shall comply with s. [112.0515](#), if applicable. The authority granted a municipality under this section is in addition to and not in limitation of any other authority granted a municipality to enter into agreements for law enforcement services or to conduct law enforcement activities outside the territorial boundaries of the municipality.

History.—s. 1, ch. 97-62.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of charter counties do not include a provision in their charter's related to the hiring / firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

1 and powers shall be assigned to, and vested in, the County Administrator. The County
2 Administrator shall exercise all executive authority provided by this Home Rule Charter and all
3 other powers and duties authorized by general or special law.

4 (B) The County Administrator shall be chosen on the basis of his/her professional
5 qualifications, administrative and executive experience, and ability to serve as the chief
6 administrator of the County. The County Administrator shall reside within the County during
7 his/her tenure as County Administrator.

8 (C) The compensation of the County Administrator shall be fixed by the Board of
9 County Commissioners at a level commensurate with the responsibilities of the position, with
10 performance appraisals conducted by the Board of County Commissioners at least annually.

11 (D) A vacancy in the office shall be filled in the same manner as the original
12 appointment. The County Administrator may appoint an Acting County Administrator in the
13 case of his/her temporary vacancy.

14 (2) **Senior Management.**

15 The County's senior management employees, with the exception of the County
16 Attorney's and Tourist Development Council (TDC) staff, shall serve at the pleasure of the
17 County Administrator, who may suspend or discharge senior management personnel with or
18 without cause.

19 **Section 2. Ballot Question To Be Presented To Electorate.**

20 The proposed amendments to the Home Rule Charter of Leon County, Florida, shall be
21 presented to the qualified Leon County electorate by placing the question of whether to adopt
22 same on the ballot at the special election to be held on November 2, 2010.

23 **Section 3. Ballot Question Form.**

1 The question on the ballot shall be substantially in the following form:

2 **EMPLOYMENT OF THE COUNTY ADMINISTRATOR AS PROPOSED BY**
3 **THE CITIZEN CHARTER REVIEW COMMITTEE**

4
5 Question

6
7 Shall the Home Rule Charter of Leon County, Florida be amended to
8 provide the manner by which the County Administrator shall be
9 employed and the manner by which the County Administrator is
10 terminated; effective January 1, 2011?

11
12 Yes for Approval _____

13
14 No for Rejection _____

15
16 **Section 4. Further Authorization.**

17 The Board of County Commissioners of Leon County, Florida, is authorized to adopt all
18 resolutions and take all actions necessary in order for this Charter amendment referendum to be
19 properly placed on the ballot for the special election of November 2, 2010. Said referendum
20 shall be conducted according to the requirements of law governing referendum elections in the
21 State of Florida.

22 **Section 5. Severability.**

23 If any word, phrase, clause, section or portion of this ordinance shall be held invalid or
24 unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a
25 separate and independent provision and such holding shall not affect the validity of the
26 remaining portions thereof.

27 **Section 6. Effective Date.**

28 This ordinance shall have effect upon becoming law, but shall be of no further force or
29 effect if the proposed Charter amendments are not duly approved at the November 2, 2010,
30 special election. The amendments to the Home Rule Charter of Leon County, Florida, as

1 proposed by this Ordinance, shall become effective January 1, 2011, if the Charter amendment is
2 approved by a "yes" vote by a majority of those duly qualified electors voting on the question
3 posed at the November 2, 2010, referendum.

4 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
5 County, Florida, this 17th day of August, 2010.

6
7 LEON COUNTY, FLORIDA



By: Bob Rackleff
Bob Rackleff, Chairman
Board of County Commissioners

15 ATTESTED BY:
16 BOB INZER, CLERK OF THE COURT
17 LEON COUNTY, FLORIDA

18
19
20 By: John Stott, Deputy Clerk
21 Clerk
22

23
24 APPROVED AS TO FORM:
25 COUNTY ATTORNEY'S OFFICE
26 LEON COUNTY, FLORIDA

27
28
29 By: Herbert W. A. Thiele
30 Herbert W. A. Thiele, Esq.
31 County Attorney

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Standards for CRA Expenditures

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn D. Riggans, Deputy County Attorney

Summary:

This item provides the Committee with additional information and analysis concerning creating and imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency.

Staff Recommendation:

Option #3: Take no further action at this time.

Title: Standards for CRA Expenditures
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency

The City of Tallahassee Community Redevelopment Agency is a public body corporate and politic that was created by the City of Tallahassee in 1998 to carry out and effectuate the purposes and provisions of Part III of Chapter 163, Florida Statutes (the Community Redevelopment Act of 1969). On August 26, 1998, the City of Tallahassee adopted Resolution No. 98-R-0039, which declared that one or more blighted areas existed within the City limits and that the rehabilitation, conservation, or redevelopment of such areas was necessary. On September 23, 1998, the City adopted Ordinance No. 98-O-0046, which created the City of Tallahassee Community Redevelopment Agency (the "CRA"). The CRA is governed by the CRA Board, which is presently composed of nine members, including the Mayor of the City of Tallahassee, four City Commissioners, and four members of the Leon County Board of County Commissioners. The CRA presently employs five full-time employees and one part-time employee, all of whom are considered to be City employees.

Analysis:

The Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) governs the creation of community redevelopment agencies and the exercise of powers in carrying out community redevelopment. Pursuant to and in accordance with the provisions of the Community Redevelopment Act, the City of Tallahassee established the CRA and CRA Board, and the provisions governing same are codified at Chapter 6, Article II of the City of Tallahassee Code of Ordinances. Notably, Section 6-52(a) of the City of Tallahassee Code provides that the CRA "shall be governed by a board of commissioners consisting of the mayor, the four members of the city commission and four members of the county commission." The County does not have any ordinances or Charter provisions concerning the CRA and community redevelopment, but has entered into Interlocal Agreements pertaining to same.

On June 23, 2004, the County, City of Tallahassee, and the CRA entered into an Interlocal Agreement regarding the creation and operation of the Downtown District Community Redevelopment Area. As stated in the Recitals of this Interlocal Agreement, it is the County's position that neither the City, nor the CRA, may legally create or designate any new community redevelopment areas, expand the boundaries of any existing community redevelopment areas, or exercise any powers within new or expanded community redevelopment areas without first obtaining the County's specific delegation of power or consent. Accordingly, Section 4 provides that any boundary adjustments to existing or newly created community redevelopment areas require the prior written approval of the County. In addition, in Section 5 of the Agreement, the County delegated to the City the County's powers pertaining to the Downtown District Community Redevelopment Area. Section 6 of the Agreement contains the financial provisions, which include funding via "tax increment financing" by both the City and County, as well as the use of certain tourist development tax dollars.

Title: Standards for CRA Expenditures
December 7, 2017
Page 3

The Interlocal Agreement was subsequently amended on October 4, 2007, February 9, 2009, and December 11, 2014, and included amendments to the financial provisions. The Interlocal Agreement provides that, “any portion of the Agreement may be amended or waived only pursuant to an instrument in writing, approved by the City Commission, the Governing Board of the Agency, and the County's Board of County Commissioners, and jointly executed by the Parties.” For example, the 2014 amendments to the Interlocal Agreement provided that tourist development tax funds in the amount of \$5,042,522, which had been previously collected through and including September 30, 2014, and which had been dedicated for a performing arts center, shall be set aside for use by the CRA, and, subject to the approval of the County and City, utilized for projects, programs and expenses related to culture, visual arts, and heritage programs, performing arts space as part of a convention center project, or other performing arts projects.

Florida Statute articulates the allowable uses of CRA funds, and the existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA. Imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to the existing Interlocal Agreements. Furthermore, amending the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County.

Finally, it appears that additional regulations regarding community redevelopment agencies will be considered during the upcoming 2018 Legislative Session. Both the Florida House and Senate are reportedly working on bills that will add transparency to and increase spending reporting requirements for community redevelopment agencies.

Options:

1. Direct County staff to prepare proposed charter amendment language and agenda the issue for further Committee consideration.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #3: Take no further action at this time.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM D**

Citizen Charter Review Committee

Agenda Item D

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Nonpartisan Superintendent of Schools and Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn Riggans, Deputy County Attorney Heather Peoples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis on the ability of Charter Review Committee to address making the office of Superintendent of Schools and Constitutional Officers nonpartisan.

Staff Recommendation:

Option #4: Committee direction.

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 2

Report and Discussion

Background: On November 16, 2017, the Charter Review Committee requested legal analysis on whether the Leon County Charter may address whether or not the office of Superintendent of Schools and other Constitutional Officers may be made nonpartisan.

Analysis: This item is intended to provide a brief overview and seeks additional direction from the Committee. The Florida Constitution address the subject of education in Article IX and the subject of local government in Article VIII.

Constitutional Officers

Regarding the question of changing Constitutional Officers to a nonpartisan election process you can look to Article VIII (d) County officers which states: “There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified....” There is an Attorney General opinion (Fla. AGO 2000-02) and case law that supports the position that either the Legislature or a charter amendment may make county officers electable on a nonpartisan basis.

Of the Charter Counties in Florida (Attachment #1):

- 12 hold partisan elections for its Constitutional Officers.
- Columbia, Polk, Volusia, and Wakulla County hold nonpartisan elections for its Constitutional Officers.
- Lee, Leon, Miami-Dade, and Palm Beach have both partisan and nonpartisan elections of Constitutional Officers.

It should be noted that Leon County’s Charter currently requires that the election of the Supervisor of Elections shall be nonpartisan. This provision was included in the County’s original Charter adopted by the voters in 2002.

Superintendent of Schools

To address the question of whether or not the Leon County Charter could make the election of the Superintendent of Schools nonpartisan the County Attorney’s Office reviewed Article VIII and IX of the Florida Constitution, searched Attorney General Opinions and reviewed available case law. Additionally, we looked at each of the 19 other charters of the 20 Florida Charter Counties.

It is worth noting that Article IX expressly provides for the election the Superintendent of Schools but has remained silent as to the selection process (partisan/nonpartisan) although in 1998 the Constitution was amended to provide for the nonpartisan election of school board members.

The current case law on this issue is not clear and does not provide a lot of guidance as to the legality of such a charter amendment.

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 3

Likewise, during our review of county charters it was found that only one, Columbia County, had incorporated in their charter a provision for making the Superintendent of Schools nonpartisan. Columbia County appears to have based their decision on the interplay between Articles VIII and IX of the Florida Constitution and a 1993 advisory opinion to the Governor regarding his power to suspend a school board member who had committed a crime. In the opinion, the Florida Supreme Court advised the Governor that the school board members and the superintendent were considered “county officers” within the meaning of Article IV of the Constitution which pertains to the Executive Branch. However, in our opinion this does not mean that the Superintendent falls within the meaning of “county officer” as defined in Article VIII, which expressly enumerates said officers.

Additionally, in our research of the issue we reached out to the Florida Association of District School Superintendents (FADSS). Counsel for FADSS has opined that Superintendents are separate and distinct Constitutional Officers, not county officers that would fall under the purview of local governments. It is counsel’s opinion that the Superintendents are regulated and governed by the respective district school boards and government at a state and not local level.

In conclusion, there is an argument that can be made that charter counties have the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. However, as it relates to the School Superintendents that same argument can be made but there is not a lot of information that supports that position. Moreover, most opinions are to the contrary. Taking all the gathered information in its totality we concur with the opinion of counsel representing the FADSS.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers

Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers

County	Partisan	Non-Partisan	Both Partisan & Non-Partisan
Alachua	X		
Brevard	X		
Broward	X		
Charlotte	X		
Clay	X		
Duval	X		
Hillsborough	X		
Osceola	X		
Pinellas	X		
Sarasota	X		
Seminole	X		
Columbia		X	
Orange		X	
Polk		X	
Volusia		X	
Wakulla		X	
Miami-Dade			<ul style="list-style-type: none"> • Partisan Clerk of Courts • Non-Partisan Property Appraiser (Appointed: Supervisor of Elections, Tax Collector, and Sheriff)
Palm Beach			<ul style="list-style-type: none"> • Partisan Clerk of Courts and Tax Collector • Non-Partisan Property Appraiser, Sheriff, and Supervisor of Elections
Lee			<ul style="list-style-type: none"> • Partisan Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan Supervisor of Elections
Leon			<ul style="list-style-type: none"> • Partisan Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan Supervisor of Elections

V.

COMMITTEE IDEA DELIBERATION

VI.

REVIEW OF COMMITTEE SCHEDULE

Charter Review Committee Meeting Schedule

All meetings are held on Thursdays from 11:30 am to 1:30 pm in the Leon County Commissioner Chambers unless otherwise noted.

November 9, 2017 / 9am

Orientation

November 16, 2017

Issue/Discussion Meeting

November 23, 2017 – No Meeting

Thanksgiving Holiday

November 30, 2017

Issue/Discussion Meeting

December 7, 2017

Issue/Discussion Meeting

December 14, 2017

Issue/Discussion Meeting

December 21 & 28, 2017 – No Meetings

Winter Holidays

January 4, 2018 – No Meeting

New Year's Holiday

January 11, 2018

Issue/Discussion Meeting

January 18, 2018

Decision Meeting

January 25, 2018

Decision Meeting

February 1, 2018 / 6pm

Public Hearing

February 8, 2018 / 6pm

Public Hearing

February 15, 2018 / 6pm

Public Hearing

February 22, 2018

(Tentatively scheduled if needed)

VII.

ADJOURNMENT

Citizen Charter Review Committee

January 11, 2018

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of December 7, 2017 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Standards for CRA Expenditures (*Herbert W.A. Thiele*)
 - Presentation on the Community Redevelopment Agency
Wayne Tedder, Assistant City Manager
 - b. Nonpartisan Constitutional Officers (*Vincent S. Long, Herbert W.A. Thiele*)
- V. Draft Charter Amendment Language for Committee Consideration
 - a. Increasing Campaign Contribution Limits for Local Elections
(*Vincent S. Long*)
 - b. “Code of Ethics” (*Vincent S. Long*)
 - c. Hiring/Firing Process for the County Attorney
(*Herbert W.A. Thiele*)
 - d. Modifying the District Composition of the Leon County Board of County Commissioners (*Herbert W.A. Thiele*)
- VI. Committee Idea Deliberation
 - a. New Ideas for Committee Consideration (*All*)
- VII. Adjournment

The next meeting of the Citizen Charter Review Committee will take place on Thursday, January 18, 2018 at 11:30 A.M.

I.

CALL TO ORDER

II.

APPROVAL OF DECEMBER 7, 2017 MEETING MINUTES

**CHARTER REVIEW COMMITTEE
DECEMBER 7, 2017**

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on December 7, 2017 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Gordon Thames, Anice Prosser, Casey Perkins, Kenneth Hart, Lee Hinkle, Jay Revell and Kim Williams in attendance. Committee members Shane Hopkins and William Graham were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

Chairman Hinkle convened the meeting. She mentioned the possibility that the December 14th meeting may not be needed, should the Committee conclude its deliberations on Committee initiated issues at today's meeting.

II. Approval or Meeting Minutes. Chairman Hinkle advised that amended minutes had been distributed. The original minutes incorrectly listed Reginald Ellis and Anice Prosser as in opposition to the motion offered in Section IV, Item c. Mr. Ellis and Ms. Prosser should have been recorded as absent.

A motion to approve the amended November 30, 2017 CRC meeting minutes was offered by Michael Eurich and seconded by Ted Thomas. The motion carried 12-0 (Shane Hopkins and William Graham absent).

III. Remarks of Interested Citizens.

- Wilson Barnes addressed the CRC on behalf of the Tallahassee Branch of the NAACP. He spoke of their opposition to proposed charter amendments which would 1) alter the district composition of the County Commission and 2) establish non-partisan elections for all Constitutional Officers. He asked that the NAACP be a partner in potential changes and that it be offered an opportunity to review and make comment on proposed amendments.

Chairman Hinkle advised that the Committee would be holding three public hearing to provide an opportunity for the public to comment on proposed amendments and encouraged Mr. Barnes and others to attend.

IV. Proposed Charter Amendments for Committee Consideration

a. Consolidation of Law Enforcement

County Administrator Long provided an overview of the analysis. He relayed that consolidation of law enforcement services cannot be effectuated through a charter amendment. However, Florida law provides two methods for consolidating law enforcement services: 1) transfer of powers and 2) interlocal agreement. He articulated that should the CRC wish to further consider the issue, it may by a simple majority vote to direct staff to prepare language for inclusion in the Committee's Final Report recommending that the Board coordinate with the Sheriff's Office and the City to explore law enforcement consolidation after a thorough analysis of the costs/benefits to the community.

Mr. Perkins confirmed that the County could not place consolidation on the ballot without the City.

Ms. Jones submitted that the proposal is out of the purview of the CRC.

Catherine Jones moved, seconded by Michael Eurich, approval of Option 3: Take no further action at this time. The motion carried 10-2 (Ken Hart and Gordon Thames in opposition; William Graham and Shane Hopkins absent).

b. Hiring/Firing Process for County Attorney

County Attorney Thiele provided an overview of the analysis. The existing employment contract with the County Attorney includes a process for termination whereby the County Attorney may be removed at any time by a majority vote of the Board. He indicated that he is ambivalent on this issue; however, there is merit that the two employees reporting to the Board should have the same termination process.

Mr. Revell stated his intent for the amendment was consistency within the Charter.

Jay Revell moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting. The motion carried 12-0 (William Graham and Shane Hopkins absent).

c. Standards for Community Redevelopment Agency (CRA) Expenditures

County Attorney Thiele provided an overview of the analysis. He indicated that a review to determine if the Charter could bind the CRA to expend funds in a certain manner resulted in an opinion that the Charter cannot bind another properly constituted legal entities expenditures.

Mr. Thames, while respecting the opinion of staff, did not believe the analysis addressed the intent of his recommendation. He clarified that his intent was that, going forward, anything purchased from CRA funds would be owned by the citizens of Leon County, i.e., parking garage, roads, etc.

Mr. Long, in response to a request from Mr. Revell, provided the CRC with an update on the County's decision to no longer participate in the Downtown CRA. He indicated that staff is working to facilitate the County's withdrawal from the Downtown CRA and will bring back options to both the City and County Commissions on the County's participation and the process going forward.

Mr. Williams provided his insights on the function and value of the CRA and submitted that a number of good projects have come from public funding of private structures (understanding that these structure must meet certain requirements.) He also mentioned that the only way the CRA can be effective is to create value within the boundaries where the CRA collects its funding. He stated that this was a very complex issue and suggested that CRA staff be invited to make presentation to the Committee.

Mr. Thames again advocated for placing this before the voters and allowing them to decide if they want to own what is bought with tax money.

Mr. Thomas pointed out that that the extra dollars going into the CRA are not going toward the general revenue, which places an extra burden on the rest of the community.

Gordon Thames moved, seconded by Catherine Jones, to limit, going forward, the expenditure of prospective County funding for the Community Redevelopment Agency to public infrastructure projects.

There continued to be much discussion among the Committee on the motion, including multiple suggestions for additional information and presentation from CRA staff.

Mr. Thomas Called the Question.

The motion failed 5-7 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Casey Perkins, Ted Thomas and Kim Williams in opposition and William Graham and Shane Hopkins absent).

Ted Thomas moved, duly seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis including a presentation from the Community Redevelopment Agency. The motion carried 12-0 (William Graham and Shane Hopkins absent).

d. Nonpartisan Superintendent of Schools and Constitutional Officers

Deputy County Attorney LaShawn Riggins provided an overview of the analysis. She conveyed that statute provides that a Charter County has the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. Regarding the Superintendent of Schools, staff concurred with the Florida Association of District School Superintendents (FADSS) Council that superintendents are regulated and governed by the respective district school boards and government at the state and not local level; thus the County Charter could not effectuate this change.

Mr. Thomas reviewed his rationale for bringing this issue forward. He submitted that 19% of voters in Leon County and 20% of the voters in the City are registered as nonpartisan. He submitted that this was a significant number of disenfranchised voters and the opportunity for all registered voters to vote for Constitutional positions was important. He acknowledged that the change to make Superintendent of Schools nonpartisan could not be accomplished through the Charter, but suggested that the Chairman of the CRC send a letter on behalf of the Committee to the School Board requesting they move to make the Superintendent of Schools a nonpartisan election to be placed on the November 2018 ballot.

Ms. Riggins reiterated that it was the opinion of the FADSS that the Superintendent of Schools, while overseen by the local School Board, was governed by state law.

Mr. Thomas offered that there is a nexus between the fact that the School Board has the authority to change the School Superintendent to an appointed position and the authority to also make it a nonpartisan race.

Mr. Fleckenstein suggested a “robust” analysis of the pros and cons of making constitutionals nonpartisan would be helpful.

Mr. Ellis indicated that he had some concerns about changing the election of constitutional officers to nonpartisan, as it would alter the manner in which African American voters have historically voted.

Mr. Eurich and Ms. Jones both commented that a proposed change to nonpartisan elections for the Superintendent of Schools was unlike a proposed change for the Constitutional Officers as it cannot be accomplished through the Charter and was outside of the Committee's purview.

Mr. Revell indicated that he had a number of issues that he would like staff to bring back more information on.

Jay Revell moved, seconded by Reginald Ellis, approval of Option 2, as amended: Direct staff to provide additional information and analysis to include:

- *Total number of registered voters in Leon County.*
- *Number of voters in Leon County by party registration, including those with no party affiliation.*
- *Growth rates in party registration and no party affiliation over the last four election cycles.*
- *The number of partisan elections that resulted in two-party races in the last four election cycles.*
- *Voter turnout by party affiliation in the primary and general elections over the last four election cycles.*
- *The number of minority candidates in Leon County over the last four election cycles.*
- *Include County Commission in chart of partisan elections.*

The motion carried 11-1 (Catherine Jones in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle clarified that the information coming back to the Committee pertained to Constitutional Offices only.

Ted Thomas moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter to the Leon County School Board requesting a referendum on the November 6, 2018 General Election ballot to make the Superintendent of School nonpartisan. The motion failed 3-9 (Reginald Ellis, Michael Eurich, Neil Fleckenstein, Lee Hinkle, Catherine Jones, Ken Hart, Casey Perkins, Anice Prosser and Jay Revell in opposition and William Graham and Shane Hopkins absent).

Chairman Hinkle suggested that Mr. Thomas take this issue up directly with the School Board.

V. Committee Idea Deliberation

Chairman Hinkle confirmed there were no additional items to be brought forward by the Committee for consideration.

VI. Review of Committee Schedule

Chairman Hinkle commented that the Committee had conducted all the necessary action up to this point and recommended that the meeting scheduled for December 14, 2017 be cancelled. The next meeting of the Committee is scheduled for January 11, 2018 at 11:30 a.m.

Ms. Jones clarified that Committee members could bring items forward at the January 11th meeting.

VI. Adjournment

The meeting was adjourned at 1:15 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

DRAFT

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 4-A

Citizen Charter Review Committee

Agenda Item #4A

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Standards for CRA Expenditures

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn D. Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis concerning creating and imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency.

Staff Recommendation:

Option #4: Committee direction.

Title: Standards for CRA Expenditures
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency (CRA).

On December 7, 2017, County staff presented the Committee with an agenda item (Attachment #1) including a legal analysis of the proposed Charter amendment. The analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to existing Interlocal Agreements. After significant discussion, the Committee passed a motion 12-0 to request a presentation from the Community Redevelopment Agency.

Analysis:

On December 8, 2017, the Citizen Charter Review Committee Chair sent a letter to the City of Tallahassee on behalf of the Committee requesting a CRA representative attend the Committee's next meeting to provide a presentation and answer any questions members may have (Attachment #2). A CRA representative is scheduled to present during the Committee's January 11, 2018 meeting.

Currently, none of Florida's 20 county charters contain provisions regarding the regulation of Community Redevelopment Agencies. As stated in the item presented to the Committee on December 7, 2017, the Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) articulates the allowable uses of CRA funds. Existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA.

Imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to the existing Interlocal Agreements. Furthermore, amending the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County. Consequently, it remains the recommendation of staff that the Committee take no further action at this time.

Title: Standards for CRA Expenditures
January 11, 2018
Page 3

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. December 7, 2017 Item, "Standards for CRA Expenditures"
2. Letter Requesting CRA Presentation

Citizen Charter Review Committee

Agenda Item C

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Standards for CRA Expenditures

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn D. Riggans, Deputy County Attorney

Summary:

This item provides the Committee with additional information and analysis concerning creating and imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency.

Staff Recommendation:

Option #3: Take no further action at this time.

Title: Standards for CRA Expenditures
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request additional information and analysis related to imposing standards for expenditures made by the City of Tallahassee Community Redevelopment Agency

The City of Tallahassee Community Redevelopment Agency is a public body corporate and politic that was created by the City of Tallahassee in 1998 to carry out and effectuate the purposes and provisions of Part III of Chapter 163, Florida Statutes (the Community Redevelopment Act of 1969). On August 26, 1998, the City of Tallahassee adopted Resolution No. 98-R-0039, which declared that one or more blighted areas existed within the City limits and that the rehabilitation, conservation, or redevelopment of such areas was necessary. On September 23, 1998, the City adopted Ordinance No. 98-O-0046, which created the City of Tallahassee Community Redevelopment Agency (the "CRA"). The CRA is governed by the CRA Board, which is presently composed of nine members, including the Mayor of the City of Tallahassee, four City Commissioners, and four members of the Leon County Board of County Commissioners. The CRA presently employs five full-time employees and one part-time employee, all of whom are considered to be City employees.

Analysis:

The Community Redevelopment Act of 1969 (Chapter 163, Part III, Florida Statutes) governs the creation of community redevelopment agencies and the exercise of powers in carrying out community redevelopment. Pursuant to and in accordance with the provisions of the Community Redevelopment Act, the City of Tallahassee established the CRA and CRA Board, and the provisions governing same are codified at Chapter 6, Article II of the City of Tallahassee Code of Ordinances. Notably, Section 6-52(a) of the City of Tallahassee Code provides that the CRA "shall be governed by a board of commissioners consisting of the mayor, the four members of the city commission and four members of the county commission." The County does not have any ordinances or Charter provisions concerning the CRA and community redevelopment, but has entered into Interlocal Agreements pertaining to same.

On June 23, 2004, the County, City of Tallahassee, and the CRA entered into an Interlocal Agreement regarding the creation and operation of the Downtown District Community Redevelopment Area. As stated in the Recitals of this Interlocal Agreement, it is the County's position that neither the City, nor the CRA, may legally create or designate any new community redevelopment areas, expand the boundaries of any existing community redevelopment areas, or exercise any powers within new or expanded community redevelopment areas without first obtaining the County's specific delegation of power or consent. Accordingly, Section 4 provides that any boundary adjustments to existing or newly created community redevelopment areas require the prior written approval of the County. In addition, in Section 5 of the Agreement, the County delegated to the City the County's powers pertaining to the Downtown District Community Redevelopment Area. Section 6 of the Agreement contains the financial provisions, which include funding via "tax increment financing" by both the City and County, as well as the use of certain tourist development tax dollars.

Title: Standards for CRA Expenditures
December 7, 2017
Page 3

The Interlocal Agreement was subsequently amended on October 4, 2007, February 9, 2009, and December 11, 2014, and included amendments to the financial provisions. The Interlocal Agreement provides that, “any portion of the Agreement may be amended or waived only pursuant to an instrument in writing, approved by the City Commission, the Governing Board of the Agency, and the County’s Board of County Commissioners, and jointly executed by the Parties.” For example, the 2014 amendments to the Interlocal Agreement provided that tourist development tax funds in the amount of \$5,042,522, which had been previously collected through and including September 30, 2014, and which had been dedicated for a performing arts center, shall be set aside for use by the CRA, and, subject to the approval of the County and City, utilized for projects, programs and expenses related to culture, visual arts, and heritage programs, performing arts space as part of a convention center project, or other performing arts projects.

Florida Statute articulates the allowable uses of CRA funds, and the existing Interlocal Agreements between Leon County and the City of Tallahassee further address financial expenditures of the CRA. Imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but rather requires amendments to the existing Interlocal Agreements. Furthermore, amending the Interlocal Agreements cannot be done unilaterally and requires mutual agreement of both the City and County.

Finally, it appears that additional regulations regarding community redevelopment agencies will be considered during the upcoming 2018 Legislative Session. Both the Florida House and Senate are reportedly working on bills that will add transparency to and increase spending reporting requirements for community redevelopment agencies.

Options:

1. Direct County staff to prepare proposed charter amendment language and agenda the issue for further Committee consideration.
Voting Threshold: Simple Majority Vote
2. Direct County staff to provide additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #3: Take no further action at this time.



Leon County

Board of County Commissioners

301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5302 www.leoncountyfl.gov

Commissioners

NICK MADDOX
At-Large
Chairman

JIMBO JACKSON
District 2
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District 4

KRISTIN DOZIER
District 5

MARY ANN LINDLEY
At-Large

VINCENT S. LONG
County Administrator

HERBERT W.A. THIELE
County Attorney

December 8, 2017

Reese Goad, Acting City Manager
City of Tallahassee
300 South Adams Street
Tallahassee, FL 32301

Dear Mr. Goad,

Over the last several weeks, the Leon County Citizen Charter Review Committee has convened to review the County's Home Rule Charter and propose any amendments or revisions for consideration by the Board of County Commissioners for placement on the 2018 general election ballot.

At yesterday's meeting, the Committee members voted to request that a Community Redevelopment Agency (CRA) representative be invited to provide the Committee with a general overview of the CRA and answer any question the Committee may have.

On behalf of the Leon County Citizen Charter Review Committee, I am writing to formally request a CRA representative present during the Committee's next meeting on January 11, 2018. We would greatly appreciate your assistance and that of your staff in providing input as the Committee discusses this topic.

Should you have any questions or wish to discuss this further, please feel free to contact me or Heather Peeples, Special Projects Coordinator, at 606-5317 or PeeplesH@leoncountyfl.gov.

Sincerely,

Lee Hinkle
Chair, Leon County Citizen Charter Review Committee

Cc: Members of the Leon County Citizen Charter Review Committee
Vincent S. Long, County Administrator
Herbert W. A. Thiele, County Attorney

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 4-B

Citizen Charter Review Committee

Agenda Item #4B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Nonpartisan Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn D. Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis on the ability of Charter Review Committee to address making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

On November 16, 2017, the Charter Review Committee voted 12-0 to request legal analysis on whether the Leon County Charter may address whether or not the office of Superintendent of Schools and other Constitutional Officers may be made nonpartisan.

On December 7, 2017, County staff presented the Committee with an agenda item (Attachment #1) and the Committee voted 11-1 to approve a motion to request additional information and analysis making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.

The legal analysis presented to the Committee concluded that the office of Superintendent of Schools is regulated and governed by the respective district school boards and government at a state and not local level. Therefore, making the office nonpartisan could not legally be effectuated by a Charter amendment.

Analysis:

This item provides the Committee with the requested information and analysis as well as an update on recent litigation challenging charter counties authority to make constitutional officers nonpartisan.

The Committee requested the following data on the Leon County electorate and candidates for local offices over the last four election cycles. Attachment #2 provides the complete analysis of the Committee's request as provided the Leon County Supervisor of Elections (SOE) Office. The following provides a brief summary of the data contained in the attachment:

- Total number of registered voters in Leon County by party registration, including those with no party affiliation.
 - Democrats (52.5%), Republicans (27.7%), No Party Affiliation (19.2%), and Other (0.5%).
- Growth rates in party registration and no party affiliation over the last four election cycles.
 - Over the last four cycles, party registration have remained generally proportionate to the increase in population in Leon County. In addition, a slight increase in No Party Affiliation has occurred.
- Voter turnout by party affiliation in the primary and general elections over the last four election cycles.
 - Over the last four cycles, voter turnout rates have been consistent with the number of registered voters of each party affiliation. Subsequently, voter turnout has been highest among Democrats which is the most common party affiliation among voters in Leon County.

Title: Nonpartisan Constitutional Officers
January 11, 2018
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- Total number of partisan elections that resulted in two-party races in the last four election cycles.
 - In 2014, all local partisan incumbents in Leon County ran unopposed; however, the 2012 Sheriff and the Superintendent of Schools and all 2016 local partisan elections included two or more party affiliations.
 - Consistent with the registration majority in Leon County, each of these partisan election with two or more party affiliations included a Democratic candidate.
- Total number of minority candidates in Leon County over the last four election cycles.
 - The following chart provides the race/ethnicity of all candidates over the last four primary and general election cycles for County Commission and Constitutional Officers.

Race/Ethnicity of Candidates	2010	2012	2014	2016
Black/Non-Hispanic	2	4	3	10
White/ Hispanic	0	0	0	0
White/Non-Hispanic	5	9	3	17
Other	1	0	0	0
Total	8	13	6	27

- In addition to County Commission and Constitutional Officers candidates, Attachment #2 provides the race/ethnicity of other local election candidates including the City Commission/Mayor, Superintendent of Schools, and School Board.

The Committee also requested that County staff provide a comparison of charter counties including whether their Constitutional Officers and board of county commissioners were partisan or nonpartisan. A detailed comparison is included as Attachment #2 and is summarized below:

Partisan:

- 11 counties hold partisan elections for both Constitutional Officers and board of county commissioners.

Nonpartisan:

- Columbia, Orange, Volusia, and Wakulla County hold nonpartisan elections for both its Constitutional Officers and board of county commissioners

Mixed:

- Polk County has nonpartisan elections for Constitutional Officers and partisan elections for its board of county commissioners.
- Leon and Miami-Dade County have a mix of partisan and nonpartisan Constitutional Officers and hold nonpartisan elections for their board of county commissioners.
- Lee and Palm Beach County have a mix of partisan and nonpartisan Constitutional Officers and hold partisan elections for their board of county commissioners.

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Currently, there are several challenges to charter counties' authority to make constitutional officers nonpartisan. These include ongoing litigation and proposals being considered by the Florida Constitutional Revision Commission.

On December 8, 2017 the Fifth District Court of Appeal of the State of Florida rendered an opinion in *Orange County, Florida v. Singh, et al.* in case numbers 5D16-2509 and 5D16-2511 in an appeal from the Circuit Court for Orange County (Attachment #4). In this case, Orange County appealed a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. The trial court had determined that the Amendment provision was contrary to State law. The Fifth District Court of Appeal agreed with the trial court finding that Orange County could not regulate the method and timing of its elections for County Constitutional Officers because that subject area had been preempted to the State by Article 6, Section 1 of the Florida Constitution, and the statutory provision set forth in Chapters 97 to 105 of the Florida Statutes. The Court also rejected the County's argument that Article VIII, Section 1(d) of the Florida Constitution expressly authorizes charter counties to provide for nonpartisan elections of county constitutional officers. While Leon County is not in the Fifth District Court of Appeal, and it is unknown whether Orange County will be appealing this decision, this decision would provide potential limitation on Leon County's ability to change the constitutional officers to nonpartisan status. That also leaves for additional consideration whether we must now also change the supervisor of elections, which is currently listed as nonpartisan in the County Charter back to a partisan election system.

Furthermore, the Florida Constitutional Revision Commission has before it proposal number 13 which would specifically in the Constitution, if adopted by the voters in November of 2018, prohibit charter counties from modifying the powers, duties and elections of Florida constitutional officers, thus prohibiting this amendment. Whether this all will be resolved prior to our deadline to submit charter amendments to the supervisor of elections in August of 2018 remains to be seen.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Title: Nonpartisan Constitutional Officers
January 11, 2018
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Recommendation:

Option #4: Committee direction.

Attachment:

1. December 7, 2017 Item, “Nonpartisan Superintendent of Schools and Constitutional Officers”
2. Data on Leon County Electorate and Candidates for Local Office
3. Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers and Board of County Commissioners
4. Orange County, Florida v. Singh, et al. (Fla. 5th DCA 12/8/17).

Citizen Charter Review Committee

Agenda Item D

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Nonpartisan Superintendent of Schools and Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	LaShawn Riggans, Deputy County Attorney Heather Peoples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis on the ability of Charter Review Committee to address making the office of Superintendent of Schools and Constitutional Officers nonpartisan.

Staff Recommendation:

Option #4: Committee direction

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 2

Report and Discussion

Background: On November 16, 2017, the Charter Review Committee requested legal analysis on whether the Leon County Charter may address whether or not the office of Superintendent of Schools and other Constitutional Officers may be made nonpartisan.

Analysis: This item is intended to provide a brief overview and seeks additional direction from the Committee. The Florida Constitution address the subject of education in Article IX and the subject of local government in Article VIII.

Constitutional Officers

Regarding the question of changing Constitutional Officers to a nonpartisan election process you can look to Article VIII (d) County officers which states: “There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified....” There is an Attorney General opinion (Fla. AGO 2000-02) and case law that supports the position that either the Legislature or a charter amendment may make county officers electable on a nonpartisan basis.

Of the Charter Counties in Florida (Attachment #1):

- 12 hold partisan elections for its Constitutional Officers.
- Columbia, Polk, Volusia, and Wakulla County hold nonpartisan elections for its Constitutional Officers.
- Lee, Leon, Miami-Dade, and Palm Beach have both partisan and nonpartisan elections of Constitutional Officers.

It should be noted that Leon County’s Charter currently requires that the election of the Supervisor of Elections shall be nonpartisan. This provision was included in the County’s original Charter adopted by the voters in 2002.

Superintendent of Schools

To address the question of whether or not the Leon County Charter could make the election of the Superintendent of Schools nonpartisan the County Attorney’s Office reviewed Article VIII and IX of the Florida Constitution, searched Attorney General Opinions and reviewed available case law. Additionally, we looked at each of the 19 other charters of the 20 Florida Charter Counties.

It is worth noting that Article IX expressly provides for the election the Superintendent of Schools but has remained silent as to the selection process (partisan/nonpartisan) although in 1998 the Constitution was amended to provide for the nonpartisan election of school board members.

The current case law on this issue is not clear and does not provide a lot of guidance as to the legality of such a charter amendment.

Title: Nonpartisan Superintendent of Schools and Constitutional Officers
November 30, 2017
Page 3

Likewise, during our review of county charters it was found that only one, Columbia County, had incorporated in their charter a provision for making the Superintendent of Schools nonpartisan. Columbia County appears to have based their decision on the interplay between Articles VIII and IX of the Florida Constitution and a 1993 advisory opinion to the Governor regarding his power to suspend a school board member who had committed a crime. In the opinion, the Florida Supreme Court advised the Governor that the school board members and the superintendent were considered “county officers” within the meaning of Article IV of the Constitution which pertains to the Executive Branch. However, in our opinion this does not mean that the Superintendent falls within the meaning of “county officer” as defined in Article VIII, which expressly enumerates said officers.

Additionally, in our research of the issue we reached out to the Florida Association of District School Superintendents (FADSS). Counsel for FADSS has opined that Superintendents are separate and distinct Constitutional Officers, not county officers that would fall under the purview of local governments. It is counsel’s opinion that the Superintendents are regulated and governed by the respective district school boards and government at a state and not local level.

In conclusion, there is an argument that can be made that charter counties have the authority to make Constitutional Officers that are also considered “county officers” nonpartisan. However, as it relates to the School Superintendents that same argument can be made but there is not a lot of information that supports that position. Moreover, most opinions are to the contrary. Taking all the gathered information in its totality we concur with the opinion of counsel representing the FADSS.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language making the Constitutional Offices of the Sheriff, Tax Collector, Property Appraiser, and Clerk of the Circuit Court nonpartisan.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Analysis: Florida Charter Counties Partisan/Non-Partisan Constitutional Officers

Data on Leon County Electorate and Candidates for Local Office

Committee Request: Total number of registered voters in Leon County by party registration, including those with no party affiliation.

Data Provided by SOE:

Table #1 - Registered voters in Leon County (As of 12/12/17)

TOTAL	DEM	REP	NPA	OTHER
206,014	108,187	57,160	39,578	1,089
	52.5%	27.7%	19.2%	0.5%

Committee Request: Growth rates in party registration and no party affiliation over the last four election cycles.

Data Provided by SOE:

Table #2 - Registration totals and party registration %, last 4 election cycles

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 Primary	194,676	104,213	54,925	31,176	4,362
		54%	28%	16%	2%
2014 Primary	184,165	99,939	51,054	28,715	4,457
		54%	28%	16%	2%
2012 Primary	174,304	95,613	49,114	23,412	6,165
		55%	28%	13%	4%
2010 Primary	165,858	93,523	46,144	19,651	6,540
		56%	28%	12%	4%

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 General	206,327	109,502	57,143	35,055	4,627
		53%	29%	18%	2%
2014 General	191,780	101,786	51,960	33,154	4,880
		53%	28%	18%	3%
2012 General	190,571	103,641	52,302	28,443	6,185
		54%	30%	16%	4%
2010 General	169,875	95,505	47,135	20,709	6,526
		56%	28%	12%	4%

Committee Request: Voter turnout by party affiliation in the primary and general elections over the last four election cycles.

Data Provided by SOE:

Table #3 - Voter Turnout by Party last 4 election cycles (of the voters that voted)

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 Primary	64,263	39,659	20,521	3,429	654
		62%	32%	5%	1%
2014 Primary	45,300	29,086	13,240	2,451	523
		64%	29%	5%	1%
2012 Primary	53,134	32,111	17,649	2,674	700
		60%	33%	5%	1%
2010 Primary	59,101	34,916	20,708	2,619	858
		59%	35%	4%	1%

ELECTION	TOTAL	DEM	REP	NPA	OTHER
2016 General	155,183	83,999	46,505	21,613	3,066
		54%	30%	14%	2%
2014 General	108,972	60,174	33,106	13,266	2,426
		55%	30%	12%	2%
2012 General	148,873	82,857	42,599	19,073	4,344
		56%	29%	13%	3%
2010 General	100,797	57,987	31,642	8,608	2,560
		58%	31%	9%	3%

Committee Request: Total number of partisan elections that resulted in two-party races in the last four election cycles.

Data Provided by SOE:

Table #4 - Local Partisan Contests in General Election (Only Leon County Constitutional Offices & the Supervisor of Elections)

2016 General (75% turnout)	Party	%*	Votes
Clerk of Courts			
Gwen Marshall	DEM	68%	105,135
Franklin Ayetin	NPA	19%	29,928
Sheriff			
Charlie Strickland	REP	24%	36,862
Walt McNiel	DEM	44%	67,566
Tommy Mills	NPA	6%	9,046
Mike Wood	NPA	23%	35,120
Property Appraiser			
Akin Akinyemi	DEM	47%	72,798
Greg Lane	NPA	45%	69,084
Tax Collector			
John Paul Bailey	REP	28%	43,456
Doris Maloy	DEM	66%	102,708
Superintendent of Schools			
Forrest Van Camp	REP	9%	14,183
Jackie Pons	DEM	34%	53,162
Rocky Hanna	NPA	52%	80,059
Patricia Ann Sunday	NPA	1%	1,871
2012 General (78% turnout)	Party	%	Votes
Sheriff			
Larry Campbell	DEM	65%	96,146
Lisa Sprague	NPA	29%	43,416
Superintendent of Schools			
Jackie Pons	DEM	77%	114,907
Sabrina M. Allen	NPA	16%	23,477

* % will not equal 100% due to undervotes in contests (no voter choice in that contest on a ballot)

Note: No local partisan contests were held during the 2014 General Election.

Committee Request: Total number of minority candidates in Leon County over the last four election cycles

Data Provided by SOE:

Race/Ethnicity of Candidates	2010	2012	2014	2016
Black/Non-Hispanic	2	4	3	10
White/ Hispanic	0	0	0	0
White/Non-Hispanic	5	9	3	17
Other	1	0	0	0
Total	8	13	6	27

2010 Primary Election Candidates

School Board District 1		
	Donna C. Allocco	5, white, not hispanic
	Forrest Van Camp	5, white, not hispanic
School Board District 5		
	Georgia Joy Bowen	3, black, not hispanic
	Laymon Hicks	3, black, not hispanic
County Commission District 5		
	Kristin Dozier	5, white, not hispanic
	Bob Rackleff	5, white, not hispanic
	David E. Ward	6, other
County Commission at Large Group 2		
	Nick Maddox	3, black, not hispanic
	Rick Malphurs	5, white, not hispanic
	Scott Matteo	5, white, not hispanic
	Cliff Thael	5, white, not hispanic
Mayor		
	Larry Hendricks	5, white, not hispanic
	John Marks	3, black, not hispanic
	Steve Stewart	5, white, not hispanic
City Commission Seat 3		
	Stephen Hogge	5, white, not hispanic
	Nancy Miller	5, white, not hispanic
	Bill Rollins	3, black, not hispanic
City Commission Seat 5		
	Erwin Jackson	5, white, not hispanic
	James Moran	3, black, hot hispanic
	Gil Ziffer	5, white, not hispanic

2010 General Election Candidates

County Commission District 1		
	John Byrne	5, white, not hispanic
	Bill Proctor	3, black, not hispanic
County Commission at Large Group 2		
	Nick Maddox	3, black, not hispanic
	Cliff Thael	5, white, not hispanic
City Commission Seat 3		
	Stephen Hogge	5, white, not hispanic
	Nancy Miller	5, white, not hispanic
Elected Unopposed- County Commission - District 3		
	John E. Dailey	5, white, not hispanic

2012 Primary Election Candidates

Clerk of Courts		
	Bob Inzer	5, white, not hispanic
	Cynthia P. Turner	3, black, not hispanic
Sheriff		
	Larry Campbell	5, white, not hispanic
	Tommy Mills	3, black, not hispanic
County Commission at Large Group 1		
	Akin Akinyemi	3, black, not hispanic
	Emily Fritz	5, white, not hispanic
	Mary Ann Lindley	5, white, not hispanic
	Fred Varn	5, white, not hispanic
City Commission Seat 1		
	Eric Friall	3, black, not hispanic
	Bob Fulford	5, white, not hispanic
	Delaitre J. Hollinger	3, black, not hispanic
	Scott Maddox	7, multi-racial
	Daniel Parker	5, white, not hispanic
	Steve Stewart	5, white, not hispanic
City Commission Seat 2		
	Jacob S. Eaton	3, black, not hispanic
	Andrew Gillum	3, black, not hispanic
	Nick Halley	5, white, not hispanic
	David Riddle	5, white, not hispanic

2012 General Election Candidates

Sheriff		
	Larry Campbell	5, white, not hispanic
	Lisa Sprague	5, white, not hispanic
Superintendent of Schools		
	Jackie Pons	5, white, not hispanic
	Sabrina M. Allen	3, black, not hispanic
County Commission at Large Group 1		
	Akin Akinyemi	3, black, not hispanic
	Mary Ann Lindley	5, white, not hispanic
County Commission District 2		
	Kirk Headley-Perdue	5, white, not hispanic
	Jane G. Sauls	5, white, not hispanic
City Commission Seat 1		
	Scott Maddox	7, multi-racial
	Steve Stewart	5, white, not hispanic
Elected Unopposed-Tax Collector		
	Doris Malloy	3, black, not hispanic
Elected Unopposed-Property Apraiser		
	Bert Hartsfield	5, white, not hispanic
Elected Unopposed- Supervisor of Elections		
	Ion Sancho	4, hispanic
Elected Unopposed-County Commission District 5		
	Kristen Dozier	5, white, not hispanic

2014 Primary Election Candidates

School Board District 1		
	Alva Swafford Striplin	5, white, not hispanic
	Forrest Van Camp	5, white, not hispanic
Mayor		
	Andrew D. Gillum	5, black, not hispanic
	Larry Hendricks	5, white, not hispanic
	Zack Richardson	3, black, not hispanic
City Commission Seat 2		
	Diana Oropallo	5, white, not hispanic
	Curtis Richardson	3, black, not hispanic
	David Riddle	5, white, not hispanic
City Commission Seat 3		
	Nancy Miller	5, white, not hispanic
	Steve Stewart	5, white, not hispanic

2014 General Election Candidates

County Commission District 1		
	Weser Khufu	3, black, not hispanic
	Bill Proctor	3, black, not hispanic
County Commission at Large Group 2		
	Curtis Baynes	5, white, not hispanic
	Nick Maddox	3, black, not hispanic
Elected Unopposed- County Commission District 3		
	John Dailey	5, white, not hispanic
Elected Unopposed- County Commission District 5		
	Kristin Dozier	5, white, not hispanic
Elected Unopposed- City Commission Seat 5		
	Gil Ziffer	5, white, not hispanic
Elected Unopposed- School Board District 3		
	Maggie Lewis-Butler	3, black, not hispanic
Elected Unopposed- School Board District 5		
	Georgia Joy Brown	3, black, not hispanic

2016 Primary Election Candidates

Clerk of Court		
	Bill Bogan	3, black, not hispanic
	Barry Brooks	5, white, not hispanic
	Gwen Marshall	3, black, not hispanic
Property Appraiser		
	Akin Akinyemi	3, black, not hispanic
	Clay Ketcham	5, white, not hispanic
	Doug Will	5, white, not hispanic
Superintendent of Schools		
	Woody Hildebrandt	5, white, not hispanic
	Jackie Pons	5, white, not hispanic
Supervisor of Elections		
	Mark S. Earley	5, white, not hispanic
	Tena M. Pate	5, white, not hispanic
	Alan Williams	3, black, not hispanic
County Commission District 2		
	Jefferey W. Bullock	5, white, not hispanic
	Nancy L. Calhoun	5, white, not hispanic
	Howard Font	5, white, not hispanic
	Margaret Franklin	3, black, not hispanic
	Kirk Headley-Perdue	5, white, not hispanic
	Jimbo Jackson	5, white, not hispanic
	Manny Joanos	5, white, not hispanic
	T.J. Lewis	3, black, not hispanic
School Board District 2		
	Roger Pinholster	1, american ind/alaskan
	Rosanne Wood	5, white, not hispanic
School Board District 4		
	patrick Cannon	5, white, not hispanic
	Tallie Gainer III	3, black, not hispanic
	Dee Dee Rasmussen	5, white, not hispanic
City Commission Seat 1		
	Gary Gayle	3, black, not hispanic
	Luther Lee	5, white, not hispanic
	Scott Maddox	7, multi-racial
	Bruce W. Strouble Jr.	3, black, not hispanic
City Commission Seat 2		
	Steven Houglan	5, white, not hispanic
	Curtis Richardson	3, black, not hispanic

2016 General Election Candidates

Clerk of Court		
	Gwen Marshall	3, black, not hispanic
	Franklin Ayetin	3, black, not hispanic
Sheriff		
	Charlie Strickland	5, white, not hispanic
	Walt McNeil	3, black, not hispanic
	Tommy Mills	3, black, not hispanic
	Mike Wood	5, white, not hispanic
Property Appraiser		
	Akin Akinyemi	3, black, not hispanic
	Greg Lane	5, white, not hispanic
Tax Collector		
	John Paul Bailey	5, white, not hispanic
	Doris Maloy	3, black, not hispanic
Superintendent of Schools		
	Forrest Van Camp	5, white, not hispanic
	Jackie Pons	5, white, not hispanic
	Rocky Hanna	5, white, not hispanic
	Patricia Ann Sunday	5, white, not hispanic
Supervisor of Elections		
	Mark S. Earley	5, white, not hispanic
	Alan Williams	3, black, not hispanic
County Commission District 2		
	Jimbo Jackson	5, white, not hispanic
	Manny Joanos	5, white, not hispanic
County Commission at Large Group 1		
	David T. Hawkins	5, white, not hispanic
	Mary Ann Lindley	5, white, not hispanic
Elected Unopposed-County Commission District 4		
	Brian Desloge	5, white, not hispanic

Comparative Analysis: Florida Charter Counties Partisan/Nonpartisan Constitutional Officers and Board of County Commissioners

County	Constitutional Officers	Board of County Commissioners
Alachua	Partisan	Partisan
Brevard	Partisan	Partisan
Broward	Partisan	Partisan
Charlotte	Partisan	Partisan
Clay	Partisan	Partisan
Duval	Partisan	Partisan
Hillsborough	Partisan	Partisan
Osceola	Partisan	Partisan
Pinellas	Partisan	Partisan
Sarasota	Partisan	Partisan
Seminole	Partisan	Partisan
Polk	Nonpartisan	Partisan
Columbia	Nonpartisan	Nonpartisan
Orange	Nonpartisan	Nonpartisan
Volusia	Nonpartisan	Nonpartisan
Wakulla	Nonpartisan	Nonpartisan
Leon	Both <ul style="list-style-type: none"> • Partisan: Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan: Supervisor of Elections 	Nonpartisan
Miami-Dade	Both <ul style="list-style-type: none"> • Partisan: Clerk of Courts • Non-Partisan: Property Appraiser • Appointed: Supervisor of Elections, Tax Collector, and Sheriff 	Nonpartisan
Lee	Both <ul style="list-style-type: none"> • Partisan: Sheriff, Property Appraiser, Tax Collector, and Clerk of the Courts • Non-Partisan: Supervisor of Elections 	Partisan
Palm Beach	Both <ul style="list-style-type: none"> • Partisan: Clerk of Courts and Tax Collector • Non-Partisan: Property Appraiser, Sheriff, and Supervisor of Elections 	Partisan



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

ORANGE COUNTY, FLORIDA,

Appellant/Cross-Appellee,

v.

Case Nos. 5D16-2509
5D16-2511

RICK SINGH, INDIVIDUALLY, SCOTT
RANDOLPH, INDIVIDUALLY, JERRY
DEMINGS, SHERIFF OF ORANGE
COUNTY, RICK SINGH, ORANGE
COUNTY PROPERTY APPRAISER,
SCOTT RANDOLPH, ORANGE COUNTY
TAX COLLECTOR,

Appellees/Cross-Appellants,

BILL COWLES, ORANGE COUNTY
SUPERVISOR OF ELECTIONS AND
ORANGE COUNTY CANVASSING
BOARD,

Appellees.

Opinion filed December 8, 2017

Appeal from the Circuit Court
for Orange County,
Keith F. White, Judge.

Jeffrey J. Newton, County Attorney, and
William C. Turner, Assistant County
Attorney, Orange County Attorney's
Office, Orlando, for Appellant/Cross-
Appellee, Orange County, Florida.

John H. Pelzer, of Greenspoon Marder, P.A., Fort Lauderdale, and Michael Marder, of Greenspoon Marder, P.A., Orlando, for Appellee/Cross-Appellant Rick Singh, Individually, and as Orange County Property Appraiser.

Gigi Rollini and Mark Herron, of Messer Caparello, P.A., Tallahassee, for Appellee/Cross-Appellant, Scott Randolph, Orange County Tax Collector, and Scott Randolph, Orlando, pro se.

Eric D. Dunlap, Assistant General Counsel, Orange County Sheriff's Office, Legal Services Section, Orlando, for Appellee/Cross-Appellant, Jerry Demings, Sheriff of Orange County.

Nicholas A. Shannin, of Shannin Law Firm, P.A., Orlando, for Appellee Bill Cowles, Orange County Supervisor of Elections.

No Appearance for Appellee Orange County Canvassing Board.

David H. Margolis, Orlando, Amicus Curiae, for the Orange County Clerk of Circuit Court.

Jason Vail, of Jolly, Peterson & Truckenbrod P.A., Tallahassee, Amicus Curiae, for the Florida Sheriffs Association.

PER CURIAM.

Orange County appeals a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. We affirm. The trial court properly determined that the amendment provision was contrary to state law.

On August 19, 2014, the Orange County Board of Commissioners enacted an ordinance proposing an amendment to the Orange County Charter to provide for term limits and nonpartisan elections for six county constitutional officers—clerk of the circuit court, comptroller, property appraiser, sheriff, supervisor of elections, and tax collector. The ordinance provided for the following ballot question to be presented for further approval:

CHARTER AMENDMENT PROVIDING FOR
TERM LIMITS AND NON-PARTISAN ELECTIONS
FOR COUNTY CONSTITUTIONAL OFFICERS

For the purpose of establishing term limits and non-partisan elections for the Orange County Clerk of the Circuit Court, Comptroller, Property Appraiser, Sheriff, Supervisor of Elections and Tax Collector, this amendment provides for county constitutional officers to be elected on a non-partisan basis and subject to term limits of four consecutive full 4-year terms.

_____ Yes

_____ No

The ballot question appeared on the November 4, 2014 ballot and was approved by the majority of Orange County voters. As a result, the relevant portions of section 703 of the Orange County Charter were amended (as underlined) to read:

B. Except as may be specifically set forth in the Charter, the county officers referenced under Article VIII, Section 1(d) of the Florida Constitution and Chapter 72-461, Laws of Florida, shall not be governed by the Charter but instead governed by the Constitution and laws of the State of Florida. The establishment of nonpartisan elections and term limits for county constitutional officers shall in no way affect or impugn their status as independent constitutional officers, and shall in no way imply any authority by the board whatsoever over such independent constitutional officers.

C. Elections for all county constitutional offices shall be non-partisan. No county constitutional office candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All county constitutional office candidates' names shall be placed on the ballot without reference to political party affiliation.

In the event that more than two (2) candidates have qualified for any single county constitutional office, an election shall be held at the time of the first primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.

D. Any county constitutional officer who has held the same county constitutional office for the preceding four (4) full consecutive terms is prohibited from appearing on the ballot for reelection to that office; provided, however, that the terms of office beginning before January 1, 2015 shall not be counted.

Prior to the November 4, 2014 election, three Orange County constitutional officers—the sheriff, property appraiser, and tax collector (collectively “Appellees”)—filed a suit for declaratory and injunctive relief against Orange County, challenging the underlying county ordinance as well as the ballot title and summary.¹ After the election, in ruling on competing summary judgment motions, the trial court upheld the portion of the charter amendment providing for term limits, but struck down that portion providing for nonpartisan elections. The trial court concluded that Orange County was prohibited

¹ The trial court properly determined that these constitutional officers could only sue in their individual capacity—not in their official capacity. *State ex rel. Watson v. Kirkman*, 27 So. 2d 610, 612 (Fla. 1946) (“As a general rule a public official whose rights are not adversely and injuriously affected by the operation of an Act, or the particular feature complained of, may not raise the question of its constitutionality. The mere interest of a public official as such is not sufficient to entitle him to question the validity of a statute, but to entitle the official to the right to raise such a question he must show that his rights of person or property are adversely affected by the operation of the statute.”).

from regulating nonpartisan elections for county constitutional officers because that subject matter was preempted to the Legislature. This appeal followed.

Article VIII, section 1(g) of the Florida Constitution grants broad home rule power to charter counties, but prohibits those counties from enacting ordinances that are inconsistent with general law:

CHARTER GOVERNMENT. 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 the county operating under a charter may enact county ordinances not inconsistent with general law. . . .

There are two ways in which a county will be found to have enacted an ordinance that was inconsistent with general law. First, a county cannot legislate in a field if the subject area has been preempted to the Legislature. *Phantom of Brevard, Inc. v. Brevard Cty.*, 3 So. 3d 309, 314 (Fla. 2008). Second, in a field where both the state and local government can legislate concurrently, a county cannot enact an ordinance that directly conflicts with a state statute. *Id.*

We agree with Appellees' assertion that Orange County cannot regulate the method and timing of its elections for county constitutional officers because that subject area has been preempted to the State. Article VI, section 1 of the Florida Constitution requires elections to be "regulated by law"—meaning a statute enacted by the Legislature. *Grapeland Heights Civic Ass'n v. City of Miami*, 267 So. 2d 321, 324 (Fla. 1972). The Legislature regulates elections generally in the Florida Election Code, which encompasses chapters 97 to 105 of the Florida Statutes. In 2010, the Legislature enacted section 97.0115, which expressly provided that all matters set forth in the Florida Election Code were preempted to the Legislature:

Preemption.—All matters set forth in chapters 97-105 are preempted to the state, except as otherwise specifically authorized by state or federal law. The conduct of municipal elections shall be governed by s. 100.3605.

§ 97.0115, Fla. Stat. (2010); see also *Jackson v. Leon Cty. Elections Canvassing Bd.*, 204 So. 3d 571, 575 (Fla. 1st DCA 2016) (“The Legislature has expressly preempted to the state matters involving state and local elections, with a limited exception for municipal elections.”). Chapter 105, Florida Statutes (2014), set forth provisions and procedures specific to nonpartisan elections. Significantly, chapter 105 did not authorize counties to hold nonpartisan elections for the county constitutional officers that are the subject of the charter amendment at issue.

We reject the County’s argument that article VIII, section 1(d) of the Florida Constitution expressly authorizes charter counties to provide for nonpartisan elections of county constitutional officers. That section provides that county officers are to be elected, unless the county charter specifies that they “be chosen in another manner”:

COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. . . .

Art. VIII, §1(d), Fla. Const. That provision simply authorizes a charter county to select its county constitutional officers in some other manner than by election. It does not grant a charter county the power to regulate elections for those officers. See *In re Advisory Opinion to the Governor*, 313 So. 2d 717, 721 (Fla. 1975) (interpreting article VIII, section 1(d) to mean that the sheriff, tax collector, tax assessor, supervisor of elections, and clerk

of the circuit court are to be elected by the electors of each county but containing the proviso "that alternatively another manner than election for the selection of these officers may be provided for by county charter or special law"); Op. Att'y Gen. Fla. 86-82 (1986) ("Thus, s. 1(d) of Art. VIII merely authorizes a charter providing for the selection of county officers in another manner than elections; it does not authorize the charter to regulate the manner and election of these officers.").

In conclusion, we hold that the trial court correctly struck down that portion of Orange County's charter amendment that provided for the nonpartisan election of its county constitutional officers. We affirm, without discussion, the remaining issues raised on appeal and cross-appeal.

AFFIRMED.

PALMER, TORPY and EVANDER, JJ., concur.

V.

**DRAFT CHARTER AMENDMENT LANGUAGE
FOR COMMITTEE CONSIDERATION**

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM 5-A**

Citizen Charter Review Committee

Agenda Item #5A

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* (Attachment #1). This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item (Attachment #1) and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

The Committee also requested that staff bring back additional information regarding the approval rate for the Charter amendment in the 2010 General Election, which limited campaign donations to candidates for County Commission and Constitutional Officers to \$250 per contributor, and the options for the disposition of surplus funds of candidates and campaign fund balances of individual candidates from previous elections.

Analysis:

Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Limitations to campaign contributions was proposed by the 2009-2010 Citizen Charter Review Committee and adopted by the voters in 2010. The final vote count for the amendment during the 2010 General Elections was as follows:

YES: 57,558 (65.53%)

NO: 30,275 (34.47%)

Should Article II sec. 2.2 sub. (7) and Article III sec. 3.4 be stricken from the Charter, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Florida law, Section 106.08 F.S., which sets the campaign finance limit to \$1,000.

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Analysis of Surplus Funds by Candidates

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles as reflected in Attachment #3. Campaign fund balances are the funds that remain following an election. However if a negative balances remains, it must be addressed by the campaign after an election has ended.

Attachment #3 provides the complete analysis of candidates subject to the County's \$250 campaign limit or the state limit of \$1,000. In addition, the analysis reflects the City of Tallahassee's 2014 Charter Amendment which lowered the contribution limit for City Commission Candidates from \$1,000 to \$250 beginning in 2016. The following provides a brief summary of the data contained in Attachment #3.

Candidates Subject to a \$250 Campaign Limit

- Over the last three election cycles, 30 County Commission candidates and 26 Constitutional Officer candidates were subject to the County's \$250 Campaign Limit.
- On average, 70% of these candidates ended the election cycle with a campaign surplus ranging from \$20 to \$46,765.
- Since 2012, the maximum funds raised by a candidate subject to the County's \$250 limit was \$337,078.
- In 2016, 88% of City candidates subject to the City's \$250 campaign limit ended the election cycle with a campaign surplus ranging from \$25 to \$48,547.

Candidates Subject to the \$1,000 Campaign Limit

- Over the last three election cycles, 77 candidates were subject to the State's \$1,000 Campaign Limit including County Judges, School Board, Superintendent of Schools, Soil and Water Conservation, City Candidates (2012 & 2014) and community development district candidates.
- On average, 69% of these candidates ended the election cycle with a campaign surplus ranging from \$2 to \$135,909.
- Since 2012, the maximum funds raised by a candidate subject to the \$1,000 limit was \$295,839.

Disposition of Surplus Funds by Candidates

The options available to candidates for disposing of surplus funds are outlined Section 106.141, Florida Statutes (Attachment #4), which states:

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

Unopposed candidates for a county office or any election conducted on less than a countywide basis also have the option to transfer to an office account up to \$5,000 multiplied by the number of years the candidate has served in the office he/she is being elected to. Funds transferred to an office account may be used for legitimate expenses related to the candidate's public office such as travel expenses, professional services provided by an accountant or attorney for preparation of financial disclosure filings, or fees/dues to religious, civic, or charitable organizations.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Increasing Campaign Contribution Limits for Local Elections

January 11, 2018

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Attachments:

1. Proposed Charter Amendment
2. November 30, 2017 Item, "Increasing Campaign Contributions for Local Elections"
3. Candidate Campaign Balances - 2012, 2014, 2015 Election Cycles
4. Florida Statute 106.14; Disposition of surplus funds by candidates.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Cynthia Turner	\$250	Clerk of the Court and Comptroller	\$20,280.33	(\$20,260.61)	\$19.72
Bob Inzer	\$250	Clerk of the Court and Comptroller	\$38,412.68	(\$35,208.59)	\$3,204.09
Bessie Beard	\$250	Leon County Commission, At Large Group 1	\$0.00	\$0.00	\$0.00
Mary Ann Lindley	\$250	Leon County Commission, At Large Group 1	\$112,829.00	(\$112,829.00)	\$0.00
Fred Varn	\$250	Leon County Commission, At Large Group 1	\$39,557.00	(\$39,163.70)	\$393.30
Emily Fritz	\$250	Leon County Commission, At Large Group 1	\$80,479.79	(\$79,847.16)	\$632.63
Akin Akinyemi	\$250	Leon County Commission, At Large Group 1	\$55,250.12	(\$54,455.56)	\$794.56
Harrison Arencibian	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Janes Sauls	\$250	Leon County Commission, District 2	\$29,145.00	(\$26,903.94)	\$2,241.06
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$128,492.00	(\$84,969.80)	\$43,522.20
Bryan Desloge	\$250	Leon County Commission, District 4	\$57,895.00	(\$56,053.49)	\$1,841.51
Bert Hartsfield	\$250	Property Appraiser	\$12,650.00	\$0.00	\$12,650.00
Lisa Ann Sprague	\$250	Sheriff	\$47,812.56	(\$49,267.96)	(\$1,455.40)
Tommy Mills	\$250	Sheriff	\$82,421.00	(\$81,562.80)	\$858.20
Larry Campbell	\$250	Sheriff	\$168,836.00	(\$140,772.16)	\$28,063.84
Ion Sancho	\$250	Supervisor of Elections	\$0.00	\$0.00	\$0.00
Doris Maloy	\$250	Tax Collector	\$14,575.00	(\$15,341.95)	(\$766.95)
Samuel Yozviak	\$250	Tax Collector	\$455.00	(\$119.19)	\$335.81
Barry Brooks	\$1,000	Capital Region CDD, Seat 2	\$0.00	\$0.00	\$0.00
Wayne Toothman	\$1,000	Capital Region CDD, Seat 4	\$0.00	\$0.00	\$0.00
John Ray	\$1,000	Capital Region CDD, Seat 4	\$1,855.00	(\$1,685.98)	\$169.02
Robert Wheeler	\$1,000	Leon County Judge, Seat 1	\$11,230.00	(\$71.91)	\$11,158.09
Judith Hawkins	\$1,000	Leon County Judge, Seat 2	\$8,025.00	(\$8,025.00)	\$0.00
Ronald Flury	\$1,000	Leon County Judge, Seat 3	\$5,600.00	(\$5,486.74)	\$113.26
Augustus Aikens	\$1,000	Leon County Judge, Seat 4	\$100.00	(\$10.00)	\$90.00
Dee Crumpler	\$1,000	Leon County School Board, District 2	\$1,500.00	(\$1,475.80)	\$24.20
DeeDee Rasmussen	\$1,000	Leon County School Board, District 4	\$30,302.00	(\$4,140.61)	\$26,161.39
Bobby Buccellato	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$1,000	Leon Soil and Water Conservation, District 1	\$1,425.00	(\$1,325.00)	\$100.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$2,435.00	(\$2,333.39)	\$101.61
Martha Lang	\$1,000	Leon Soil and Water Conservation, District 1	\$938.00	(\$817.01)	\$120.99
Evan Power	\$1,000	Leon Soil and Water Conservation, District 3	\$8,775.00	(\$8,727.79)	\$47.21
Pyllis Basch Smith	\$1,000	Leon Soil and Water Conservation, District 3	\$125.00	(\$55.12)	\$69.88

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation, District 3	\$2,845.00	(\$2,435.89)	\$409.11
Bill Howell	\$1,000	Leon Soil and Water Conservation, District 5	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 5	\$8,790.00	(\$8,727.79)	\$62.21
Richard Kessler	\$1,000	Piney-Z CDD, Seat 2	\$1,678.70	(\$598.54)	\$1,080.16
Sabrina M. Allen	\$1,000	Superintendent of Schools	\$15,728.00	(\$15,032.21)	\$695.79
Jackie Pons	\$1,000	Superintendent of Schools	\$295,389.00	(\$188,816.17)	\$106,572.83
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					
Robert Fulford	\$1,000	Tallahassee City Commission, Seat 1	\$370.80	(\$370.80)	\$0.00
Daniel Parker	\$1,000	Tallahassee City Commission, Seat 1	\$32,505.09	(\$32,505.09)	\$0.00
Brian Acosta	\$1,000	Tallahassee City Commission, Seat 1	\$2.00	\$0.00	\$2.00
Delaitre Hollinger	\$1,000	Tallahassee City Commission, Seat 1	\$5,806.36	(\$5,601.23)	\$205.13
Erica Friall	\$1,000	Tallahassee City Commission, Seat 1	\$28,430.00	(\$25,976.04)	\$2,453.96
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 1	\$98,360.00	(\$95,392.22)	\$2,967.78
Scott Maddox	\$1,000	Tallahassee City Commission, Seat 1	\$223,971.57	(\$210,415.85)	\$13,555.72
Jacob Eaton	\$1,000	Tallahassee City Commission, Seat 2	\$2,399.12	(\$2,942.43)	(\$543.31)
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 2	\$105,431.55	(\$105,431.55)	\$0.00
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$865.00	(\$831.22)	\$33.78
Nicholas Halley	\$1,000	Tallahassee City Commission, Seat 2	\$4,761.37	(\$1,003.14)	\$3,758.23
<p>* Negative balances for Maloy and Sprague were amended to balance out. * Reports for Eaton resulted in follow up with the Florida Elections Commission.</p>					

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Curtis Baynes	\$250	Leon County Commission, At Large Group 2	\$27,596.74	(\$23,294.28)	\$4,302.46
Nick Maddox	\$250	Leon County Commission, At Large Group 2	\$61,100.00	(\$58,596.58)	\$2,503.42
Weser Khufu	\$250	Leon County Commission, District 1	\$12,746.80	(\$14,172.24)	(\$1,425.44)
William Curtis Proctor	\$250	Leon County Commission, District 1	\$9,345.00	(\$10,126.00)	(\$781.00)
Keishann Corley	\$250	Leon County Commission, District 3	\$0.00	\$0.00	\$0.00
John Dailey	\$250	Leon County Commission, District 3	\$32,630.00	(\$29,390.65)	\$3,239.35
Kristin Dozier	\$250	Leon County Commission, District 5	\$59,220.29	(\$29,750.06)	\$29,470.23
Patrick Madden	\$1,000	Leon County School Board, District 1	\$4,050.00	(\$3,610.12)	\$439.88
Diana Oropallo	\$1,000	Leon County School Board, District 1	\$44,305.00	(\$4,546.69)	\$39,758.31
Alva Swafford Striplin	\$1,000	Leon County School Board, District 1	\$26,344.70	(\$26,228.16)	\$116.54
Patty Ball Thomas	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Forrest Van Camp	\$1,000	Leon County School Board, District 1	\$68,665.00	(\$62,864.75)	\$5,800.25
Ed Lee	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Maggie Bert Lewis-Butler	\$1,000	Leon County School Board, District 3	\$625.00	(\$223.13)	\$401.87
Georgia Bowen	\$1,000	Leon County School Board, District 5	\$3,425.00	(\$2,575.19)	\$849.81
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Stan Peacock	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Brian Lee	\$1,000	Leon Soil and Water Conservation, District 4	\$8,633.00	(\$6,598.63)	\$2,034.37
Ryan Truchelut	\$1,000	Leon Soil and Water Conservation, District 4	\$4,915.04	(\$3,799.47)	\$1,115.57
Nina Ashenafi Richardson	\$1,000	Leon County Judge, Seat 5	\$9,300.00	(\$6,211.20)	\$3,088.80
Glenda Herrera-Gray	\$1,000	Capital Region CDD, Seat 1	\$0.00	\$0.00	\$0.00
Eli Nortelus	\$1,000	Capital Region CDD, Seat 3	\$4,090.00	(\$1,921.83)	\$2,168.17
Luis K. Rojas	\$1,000	Capital Region CDD, Seat 3	\$8,802.00	(\$7,808.93)	\$993.07
David E. Ramba	\$1,000	Capital Region CDD, Seat 5	\$0.00	\$0.00	\$0.00
Hugh Hauck	\$1,000	Piney-Z CDD, Seat 1	\$49.00	(\$49.00)	\$0.00
Delores Ann Pincus	\$1,000	Piney-Z CDD, Seat 1	\$0.00	\$0.00	\$0.00
Johnny Devine	\$1,000	Piney-Z CDD, Seat 3	\$150.00	(\$58.39)	\$91.61
Cheryl Hudson	\$1,000	Piney-Z CDD, Seat 3	\$0.00	\$0.00	\$0.00
Janetta Morphew	\$1,000	Piney-Z CDD, Seat 5	\$0.00	\$0.00	\$0.00
Michael Lee	\$1,000	Piney-Z CDD, Seat 5	\$50.00	(\$35.00)	\$15.00

City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Darren Mason	\$1,000	Tallahassee City Commission, Seat 2	\$0.00	\$0.00	\$0.00
Rick Minor	\$1,000	Tallahassee City Commission, Seat 2	\$19,074.00	(\$1,077.04)	\$17,996.96
Diana Oropallo	\$1,000	Tallahassee City Commission, Seat 2	\$97,258.31	(\$92,321.60)	\$4,936.71
Curtis Richardson	\$1,000	Tallahassee City Commission, Seat 2	\$80,183.00	(\$52,928.89)	\$27,254.11
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$420.00	(\$361.10)	\$58.90
Todd Sperry	\$1,000	Tallahassee City Commission, Seat 2	\$10,500.00	(\$10,500.00)	\$0.00
Rosa Houston Autery	\$1,000	Tallahassee City Commission, Seat 3	\$125.00	\$0.00	\$125.00
Nancy Miller	\$1,000	Tallahassee City Commission, Seat 3	\$124,076.00	(\$111,588.76)	\$12,487.24
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 3	\$23,235.00	(\$17,186.65)	\$6,048.35
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$253,151.09	(\$217,876.90)	\$35,274.19
Larry Hendricks	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$1,075.00	(\$739.40)	\$335.60
Evin Matthews	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$0.00	\$0.00	\$0.00
Zachery Richardson	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$10,495.00	(\$6,290.38)	\$4,204.62
Gil Ziffer	\$1,000	Tallahassee City Commission, Seat 5	\$74,635.00	(\$20,692.56)	\$53,942.44

* Negative balances for Kufu were amended to balance out.

* Reports for Proctor resulted in follow up with the Florida Elections Commission.

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Franklin Ayetin	\$250	Clerk of the Court and Comptroller	\$12,007.16	(\$10,892.71)	\$1,114.45
Bill Bogan	\$250	Clerk of the Court and Comptroller	\$33,350.00	(\$22,320.77)	\$11,029.23
Barry Brooks	\$250	Clerk of the Court and Comptroller	\$36,893.83	(\$36,872.67)	\$21.16
Gwendolyn Marshall	\$250	Clerk of the Court and Comptroller	\$16,819.00	(\$16,872.84)	(\$53.84)
Akin Akinyemi	\$250	Property Appraiser	\$20,128.00	(\$16,943.97)	\$3,184.03
Clay Ketcham	\$250	Property Appraiser	\$61,932.54	(\$60,010.72)	\$1,921.82
Robert Lane	\$250	Property Appraiser	\$94,871.00	(\$86,676.82)	\$8,194.18
Doug Will	\$250	Property Appraiser	\$83,289.15	(\$81,809.27)	\$1,479.88
Walt McNeil	\$250	Sheriff	\$199,874.50	(\$192,180.86)	\$7,693.64
Tommy Mills	\$250	Sheriff	\$79,609.97	(\$63,162.71)	\$16,447.26
Charles Strickland	\$250	Sheriff	\$90,445.13	(\$78,366.13)	\$12,079.00
Mike Wood	\$250	Sheriff	\$337,078.32	(\$334,294.55)	\$2,783.77
Mark Earley	\$250	Supervisor of Elections	\$77,917.15	(\$72,554.97)	\$5,362.18
Tina Pate	\$250	Supervisor of Elections	\$18,928.00	(\$14,442.37)	\$4,485.63
Alan Williams	\$250	Supervisor of Elections	\$193,438.00	(\$177,862.57)	\$15,575.43
John Paul Bailey	\$250	Tax Collector	\$24,277.16	(\$23,137.37)	\$1,139.79
Doris Maloy	\$250	Tax Collector	\$51,879.38	(\$45,481.85)	\$6,397.53
Gary Gayle	\$250	Tallahassee City Commission, Seat 1	\$450.00	(\$376.23)	\$73.77
Luther Lee	\$250	Tallahassee City Commission, Seat 1	\$1,056.23	(\$1,056.23)	\$0.00
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$5,630.15	(\$5,360.17)	\$269.98
Rick Minor	\$250	Tallahassee City Commission, Seat 1	\$72,735.23	(\$24,188.18)	\$48,547.05
Gloria Pugh	\$250	Tallahassee City Commission, Seat 1	\$48,732.01	(\$15,151.96)	\$33,580.05
Bruce Strouble	\$250	Tallahassee City Commission, Seat 1	\$6,699.31	(\$6,059.40)	\$639.91
Steven Hougland	\$250	Tallahassee City Commission, Seat 2	\$9,475.00	(\$9,450.51)	\$24.49
Curtis Richardson	\$250	Tallahassee City Commission, Seat 2	\$70,675.00	(\$51,971.39)	\$18,703.61
David Hawkins	\$250	Leon County Commission, At Large Group 1	\$6,115.00	(\$6,086.00)	\$29.00
Mary Ann Linley	\$250	Leon County Commission, At Large Group 1	\$57,504.00	(\$52,282.39)	\$5,221.61
Jeffery Bullock	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Nancy Calhoun	\$250	Leon County Commission, District 2	\$3,130.00	(\$3,033.80)	\$96.20
Howard Font	\$250	Leon County Commission, District 2	\$3,748.00	(\$1,801.06)	\$1,946.94
Margaret Franklin	\$250	Leon County Commission, District 2	\$35,586.00	(\$35,434.11)	\$151.89
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$85,855.00	(\$39,089.11)	\$46,765.89
Jimbo Jackson	\$250	Leon County Commission, District 2	\$26,073.00	(\$25,236.12)	\$836.88

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Manny Joanos	\$250	Leon County Commission, District 2	\$115,719.00	(\$114,712.06)	\$1,006.94
T.J Lewis	\$250	Leon County Commission, District 2	\$13,291.00	(\$13,008.69)	\$282.31
Taurean Lewis	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Bradley Sherman	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$250	Leon County Commission, District 2	\$3,976.12	(\$1,969.21)	\$2,006.91
Bryan Desloge	\$250	Leon County Commission, District 4	\$33,850.00	(\$14,223.94)	\$19,626.06
Rocky Hanna	\$1,000	Leon County Superintendent of Schools	\$288,416.55	(\$275,012.77)	\$13,403.78
Woody Hildebrandt	\$1,000	Leon County Superintendent of Schools	\$22,841.61	(\$22,601.60)	\$240.01
Jackie Pons	\$1,000	Leon County Superintendent of Schools	\$371,970.23	(\$342,440.21)	\$29,530.02
Patricia Ann Sunday	\$1,000	Leon County Superintendent of Schools	\$1,156.70	(\$1,085.49)	\$71.21
Forrest Van Camp	\$1,000	Leon County Superintendent of Schools	\$11,200.00	(\$10,317.17)	\$882.83
Michael Wynn	\$1,000	Leon County Superintendent of Schools	\$0.00	\$0.00	\$0.00
Roger Pinholster	\$1,000	Leon County School Board, District 2	\$14,444.00	(\$14,406.84)	\$37.16
Rosanne Wood	\$1,000	Leon County School Board, District 2	\$71,611.43	(\$62,612.58)	\$8,998.85
Patrick Cannon	\$1,000	Leon County School Board, District 4	\$3,243.91	(\$2,779.46)	\$464.45
Tallie Lee Gainer III	\$1,000	Leon County School Board, District 4	\$3,445.00	(\$2,923.70)	\$521.30
Dee Dee Rasmussen	\$1,000	Leon County School Board, District 4	\$39,327.00	(\$35,320.75)	\$4,006.25
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Bill Helmich	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Anthony Cooper	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Delaitre Hollinger	\$1,000	Leon Soil and Water Conservation District 5	\$145.00	(\$85.00)	\$60.00
William Howell	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Monique Richardson	\$1,000	Leon County Judge, Seat 2	\$142,577.76	(\$121,274.19)	\$21,303.57
Layne Smith	\$1,000	Leon County Judge, Seat 2	\$153,773.73	(\$142,971.59)	\$10,802.14
Dorothy McPherson	\$1,000	State Committee Woman	\$1,083.56	\$0.00	\$1,083.56
Caitlin Murray	\$1,000	State Committee Woman	\$21,130.00	(\$12,073.09)	\$9,056.91
Brian Kelley	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Luis Rojas	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Carl Mikyska	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
John B Ray	\$1,000	Capital Regional CDD, Seat 4	\$3,025.00	\$480.11	\$3,505.11

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Luis Rojas	\$1,000	Capital Regional CDD, Seat 4	\$0.00	\$0.00	\$0.00
Richard Kessler	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Gerry Cashin	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Arthur Kirby	\$1,000	Piney Z CDD, Seat 4	\$200.00	(\$88.04)	\$111.96
Joseph Didier	\$1,000	Piney Z CDD, Seat 4	\$0.00	\$0.00	\$0.00
<i>Redesignated Campaigns</i>					
Scott Maddox	\$1,000	Leon County Superintendent of Schools	\$216,448.55	(\$80,539.23)	\$135,909.32
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$52,525.00	(\$52,525.00)	\$0.00

* Negative balances for Marshall were amended to balance out.

Select Year:

The 2017 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.141 Disposition of surplus funds by candidates. –

(1) Except as provided in subsection (6), each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate may not accept any contributions, nor may any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, before such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. [106.11\(5\)\(b\)](#) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign

account to an office account any amount of the funds on deposit in such campaign account up to:

- (a) Fifty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.
- (b) Ten thousand dollars, for a candidate for multicounty office.
- (c) Ten thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- (d) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- (e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.
- (f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.
- (g) Three thousand dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member; personal taxes payable on office account funds by the candidate or elected public official; professional services provided by a certified public accountant or attorney for preparation of the elected public official's financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#); costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in s. [106.011](#); fees or dues to religious, civic, or charitable organizations of which the elected public official is a member; items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral; personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or expenses incurred in the operation of the elected public official's office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall use such funds to pay for professional services provided by a certified public accountant or attorney for preparation of the elected public official's final financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#), or give such funds to a charitable organization that meets the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6)(a) For purposes of this subsection, the term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

(b) A candidate elected to state office or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to \$20,000 in his or her campaign account, or in an interest-bearing account or certificate of deposit, for use in his or her next campaign for the same office, in addition to the disposition methods provided in subsections (4) and (5). All requirements applicable to candidate campaign accounts under this chapter, including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

(c) If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or s. [106.11\(5\)](#) within 90 days after the last day of candidate qualifying for that office. Requirements in this section applicable to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(7) Before disposing of funds pursuant to subsection (4), transferring funds into an office account pursuant to subsection (5), or retaining funds for reelection pursuant to subsection (6), any candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her shall reimburse the state or local governmental entity, whichever is applicable, for such waived fee. If there are insufficient funds in the account to pay the full amount of the fee, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund.

(8)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and, on or before the date by which such disposition is to have been made, shall file with the officer with whom reports are required to be filed pursuant to s. [106.07](#) a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor;
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank, savings and loan association, or credit union in which the office account is located; and
4. The amount of such funds retained pursuant to subsection (6), together with the name and address of the bank, savings and loan association, or credit union in which the retained funds are located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. [106.07](#).

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. [106.07](#) for submitting late termination reports.

(9) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. [106.07\(2\)](#).

(10) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(11) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 15, ch. 2013-37.

¹**Note.**—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM 5-B**

Citizen Charter Review Committee

Agenda Item #5B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to providing for a “Code of Ethics” in the Leon County Charter. Per the Committee’s request, this item also provides proposed charter amendment language including language for a “Code of Ethics” which applies to Constitutional Officers

Staff Recommendation:

Option #5: Committee direction.

Title: Code of Ethics
January 11, 2017
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Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request that staff provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

On November 30, following staff’s presentation of the requested agenda item (Attachment #1), the Committee voted 12-0 to request that staff prepare proposed charter amendment language for consideration at the Committee’s January 11, 2018 meeting. Additionally, the Committee requested information and analysis regarding other counties whose charter requires the adoption of a “Code of Ethics.”

Analysis:

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

Per the committee’s request, staff has attached provisions from each counties’ charter regarding the “Code of Ethics” requirement (Attachment #2). Applicability of these counties’ ethics code to elected Constitutional Officers varies.

- Broward, Clay, and Duval County’s charters specifically state that their “Code of Ethics” applies to all elected Constitutional Officers/“county officers.”
- Palm Beach and Seminole County’s “Code of Ethics” does not apply to elected Constitutional Officers.
- Miami-Dade County’s “Code of Ethics” Ordinance is not applicable to elected Constitutional Officers, with the exception of one provision regarding ethical campaign practices and associated penalties of admonition and/or fines.

Based on the Committee’s direction, staff has prepared proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the Code of Ethics as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. In support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #3) in a continuous effort to provide guidance and assistance to County employees.

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As previously stated, all local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, Florida Statutes, which is applicable to all public officials, officers, and employees in the state. Accordingly, section 112.326, Florida Statutes states:

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

Per the Committee’s direction, staff has prepared two variations of the proposed amendment one not applicable to Constitutional Officers and one applicable to Constitutional Officers.

Version #1 (**Not** Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019 and shall. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Version #2 (Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, Leon County Constitutional Officers and their employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative

Title: Code of Ethics
January 11, 2017
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standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics” **not** applicable to Constitutional Officers.
Voting Threshold: Simple Majority Vote
2. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule for public hearing the proposed charter amendment language providing for a “Code of Ethics” that is applicable to Constitutional Officers.
3. Request additional information and analysis.
Voting Threshold: Four (4) Votes
4. Take no further action at this time.
Voting Threshold: Simple Majority Vote
5. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. November 30, 2017 Citizen Charter Review Committee “Code of Ethics” Agenda Item
2. Ethical Provisions in Florida Counties’ Charters
3. Leon County Government – Code of Ethics Guide

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
 2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
 3. Leon County Board Policy “Code of Ethics”
 4. Leon County’s Lobbyist Regulations Ordinance
- .

Florida Counties' Charter Code of Ethics References

Broward

Section 11.08 BROWARD COUNTY ETHICS COMMISSION

A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

(November 4, 2008: Section 11.08, as proposed by the Charter Review Commission, was created to establish the Broward County Ethics Commission responsible for drafting a Code of Ethics regulating the conduct of County Commissioners, to be considered for passage by the County Commission and/or the County electors.)

Section 11.10 CONSTITUTIONAL OFFICERS SUBJECT TO CODE OF ETHICS

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

(November 2, 2010: Section 11.01 C, as proposed by the County Commission, was amended to establish that a County ordinance shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees through a code of ethics. Section 11.10, as proposed by the County Commission, was created to establish that County constitutional officers are subject to the County Code of Ethics.)

Clay

SECTION 2.2 LEGISLATIVE BRANCH – CODE OF ETHICS

Before July 1, 2007, the Board of County Commissioners shall enact by ordinance a Code of Ethics. The Code of Ethics shall prescribe standards of conduct for members of the Board, the County Manager, the County Attorney, the County Auditor, all other elected or appointed County Officers including the Superintendent of Schools and members of the School Board, and the deputies and employees of all such officers. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics may include, but is not limited to, provisions defining offenses, establishing an ethics board to hear and determine charges, and prescribing penalties within the limits allowed by law. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

(Added November 7, 2006)

Duval

Chapter 2 – ETHICS

Section 1.202. - ETHICS CODE, ETHICS COMMISSION, INSPECTOR GENERAL

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority. The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office; and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

Section 1.203 - ETHICS OVERSIGHT AND COMPLIANCE OFFICE AND OFFICE OF INSPECTOR GENERAL

- (a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.
- (b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.
- (c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.

Miami-Dade

Citizens' Bill of Rights (A) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

Citizens' Bill of Rights (C) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

Orange

Section 706 – CODE OF ETHICS

A. The local code of ethics shall be construed and interpreted in such a way to protect the public's trust and to promote open and accountable government in Orange County. Preserving the public's trust shall be paramount in enforcing the local code of ethics, and it shall be interpreted consistent with the purposes and intent of the local code of ethics.

B. The citizens of Orange County are entitled to a government that embraces best ethical practices and full disclosure of conflicts of interest involving county employees or elected officials. All votes of the board, and actions of the mayor, the county commissioners and county employees, shall be made or taken in the best interests of the citizens of Orange County, free of any undisclosed conflicts of interest.

C. In order to provide a high level of transparency and ethical conduct under charter government, the board shall adopt a local code of ethics applicable to the board of county commissioners and to those employees required to file financial disclosure under state law or who participate in the county procurement process. Such code, though more stringent than general law, shall not place the board of county commissioners or county employees in conflict with the state ethics code, or any other provision of federal or state law, and at a minimum shall provide for:

1. Additional financial and business relationship disclosure;
2. Restrictions on gifts to the board of county commissioners;
3. Under the auspices of an apparent conflict of interest concerning matters involving a prior business associate of any member of the board, disclosure and abstention from voting for a reasonable period of time following termination of the business associate relationship;
4. Approval by the board on development related matters ordinarily subject to final approval by county staff where the applicant or any person having a beneficial interest in the outcome of the matter is a business associate, family member, or employer of a member of the board;
5. Reasonable post-employment restrictions for employees; and
6. Subject to the attainment of the same type of confidentiality provisions available to the state commission on ethics under general law, an enforcement process to provide for due process, penalties, and appeals, all within a reasonable timeframe.

Implementation of the provisions of this subsection shall be by ordinance adopted either prior to the effective date of this provision or by no later than January 1, 2010.

D. The board of county commissioners and those employees required to file financial disclosure under state law or who participate in the county procurement process shall be required to receive at least annual educational sessions on best ethical practices and current trends in ethics issues.

E. The state code of ethics, as provided by general law, shall have full effect on all employees and officeholders under the charter government. Penalty for violation of the state code of ethics shall be as provided by general law.

F. Any local code of ethics adopted prior to the effective date of this section shall, if necessary, be amended so as to comply with the provisions of this section.

Palm Beach

Article VIII Ethics Regulation – Section 8.1 COUNTY CODE OF ETHICS

The county shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 of this charter.

Seminole

Section 5.4 ETHICS

Ordinance Requirements. On or before January 8, 2008, the Board of County Commissioners of Seminole County, shall, by ordinance (the "Ordinance"), require compliance with the following provisions, which shall be supplemental to, but may not diminish the provisions of general law.



LEON COUNTY GOVERNMENT

People Focused. Performance Driven.

THE CODE OF ETHICS GUIDE

An Ethics “Field Manual” for Employees

► **Setting the Standard in Ethics & Public Service**

Vision

A community that is safe, healthy and vibrant.

Mission

To efficiently provide public services which serve and strengthen our community.



ADMINISTRATOR'S LETTER



Vincent S. Long

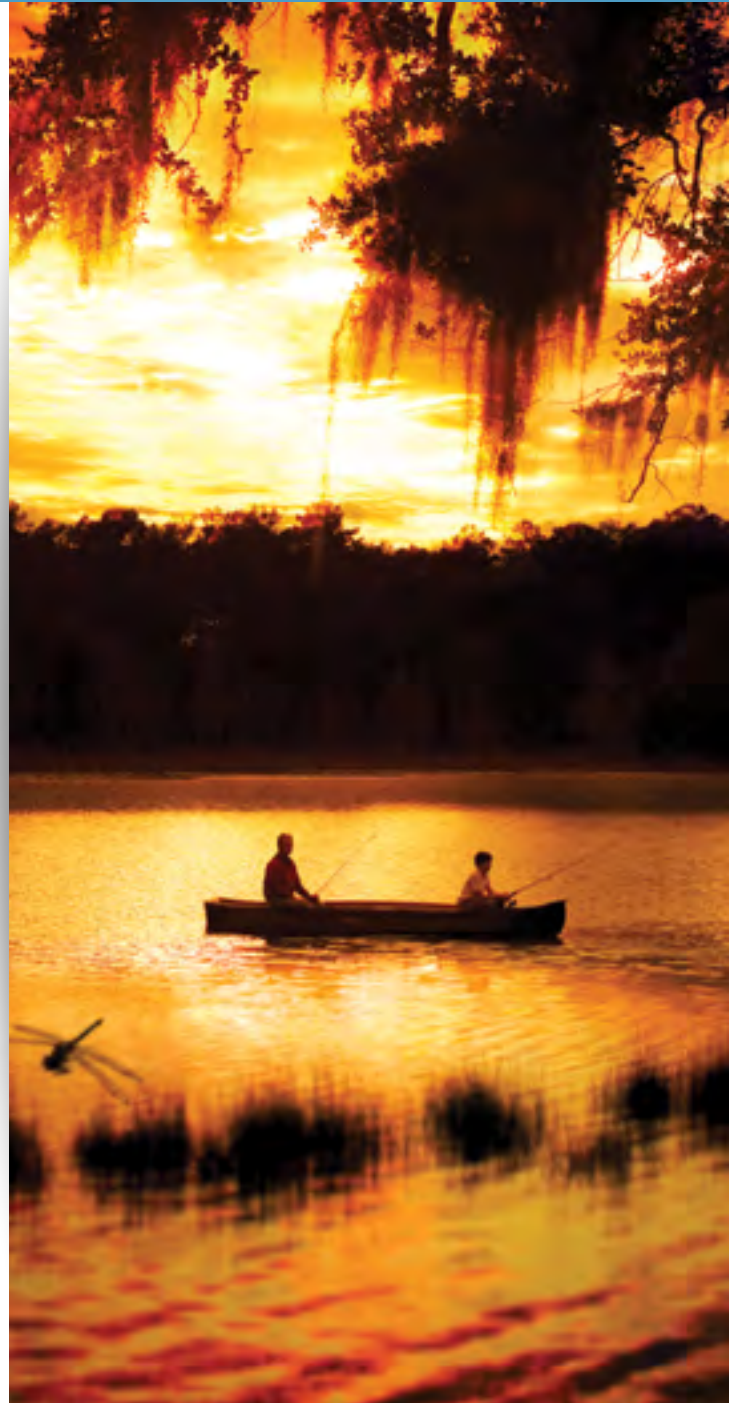
In every way that Leon County employees touch the lives of our citizens we serve, we consistently strive to set the standard in public service and to uphold the public trust.

Ethics are a core practice in Leon County Government and standards of ethical behavior are detailed in both our "Ethics Code" policy and our "Employee Standards of Conduct" contained in the Human Resources manual. While both of these documents are thorough and complete, the guide you are now holding is intended to be a user-friendly "field manual" for reference, reminders and reinforcement related to the high standards of ethical behavior required to be a Leon County employee.

Understanding that this guide may not answer every question you have now or in the future, I've designated Wanda Hunter, Assistant County Administrator to be your initial point of contact. She is just a phone call or e-mail away should you have a question or concern, require clarification or if you just need a little advice or guidance.

Leon County employees perform many different jobs and fulfill a broad range of responsibilities, but the one thing we must all do every day is practice ethics with great clarity and unwavering consistency. Thank you for all you do to make our community and our organization even better.

Vince



**Just a call
or email
away ...**

Wanda Hunter
Assistant County Administrator
(850) 606-5380
HunterW@LeonCountyFL.gov



With almost 30 years of public service, Wanda Hunter has spent her career dedicated to integrity, honesty and accountability. Beginning her career in Leon County with the Office of Equal Employment Opportunity, Wanda has since worked throughout the County in different roles and levels, giving her vast experience and a unique perspective to help you and address issues of ethics and compliance in coordination with Human Resources and the County Attorney's Office.

A PUBLIC TRUST



Leon County employees fully embrace and live by our core practices, and enhance our people focused, performance driven organizational culture; demonstrate pride in their work and their community; always strive to improve levels of service and performance; and are empowered to help the people they serve. To promote the public interest and maintain the public's trust, Leon County employees are committed to the following Core Practices:

- **Demonstrating Highest Standards of Public Service.** Employees adhere to the highest standards of ethical behavior, avoid circumstances that create even an appearance of impropriety and carry out the public's business in a manner which upholds the public trust. Citizens know that we are on their side.
- **Delivering the "Wow" factor in Customer Service.** Employees deliver exemplary service with pride, passion and determination; anticipating and solving problems in "real time" and exceeding customer expectations. Customers know that they are the reason we are here.
- **Connecting with Citizens.** Employees go beyond customer service to community relevance, engaging citizens as stakeholders in the community's success. Citizens know that they are part of the bigger cause.
- **Accepting Accountability.** Employees are individually and collectively accountable for their performance, adapt to changing conditions and relentlessly pursue excellence beyond the current standard, while maintaining our core values.
- **Exhibiting Respect.** Employees exercise respect for citizens, community partners and each other.
- **Employing Team Approach.** Employees work together to produce bigger and better ideas to seize the opportunities and to address the problems which face our community.
- **Exercising Responsible Stewardship of the Community's Resources.** Employees engage in the continuous effort to create and sustain a place which attracts talent, fosters economic opportunity and offers an unmatched quality of life, demonstrating performance, value and results for our citizenry.
- **Living our "People Focused, Performance Driven" Culture.** Employees have a structure in place to live all of this as our organizational culture and are empowered to help the people they serve.



MISUSE OF POSITION

It is prohibited for any County employee to use or attempt to use his/her position, or any property or resource, that may be within the employee's trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself, herself or others.

Employees shall not be permitted to use County facilities, meeting rooms, or conference rooms, or County equipment for other than County business, unless such facilities or equipment are available in accordance with established policy on a regular basis to the general public in which instance the use of such shall be on the same conditions as for the general public.

Perception is reality

! *Employees should avoid the appearance of inappropriate use of the County's equipment, supplies, facilities, and other resources for their own benefit.*



Q&A

- Q:** I have an outside business providing lawn care service, am I able to share my County business card with possible new clients?
- A:** No. Using your County business card, emailing County contacts and any misuse of County resources is prohibited.



UNAUTHORIZED COMPENSATION

No employee or employee's spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when the employee knows, or with the exercise of reasonable care should know that it was given to influence an employee's official actions.

Delivering the WOW!



Often our citizens want to express appreciation for work done well. If you have a citizen offer you a gift or money, politely say no. You can suggest they offer appreciation by contacting your supervisor.



Q&A

- Q:** May I take a part-time job from a contractor who currently does work with the County and whose contract I oversee?
- A:** No, you may not take the part time job even if the contractor has no intention of trying to influence how you manage their contract. Taking the job creates an appearance that you are being influenced.

Developed with financial assistance provided by the Florida Department of Environmental Protection through the Florida Recreational Development Assistance Program.

GIVING AND RECEIVING GIFTS

The law prohibits the solicitation or acceptance by any County employee of any gift, loan, favor, or service that would cause a reasonably prudent person to be influenced in the discharge of official duties, or should have known, that it was given to influence an employee's official actions.

Are there gifts I can receive?

? *T-shirts, pencils, raffles, shopping bags and all other "trinkets" are okay to take, as long as it is a County-sponsored or -approved activity and as long as everyone attending the event is offered the same items.*



TIP ►

County employees are eligible for discounts from vendors as long as the same discount is available to all employees.



Q&A

Q: Am I able to accept a dinner that is being offered free at an upcoming office-related event?

A: Accepting of food and/or drinks offered at activities where your attendance is associated with your official County duties is okay.

MISUSE OF INFORMATION



n employee may not disclose or use information not available to the general public for his/her personal gain or for the gain of any other person or business entity.

You have a duty to assure confidential information remains confidential. County employees may have possession of citizen's social security, medical, or even individual financial information. It is our job to always be on guard to strictly protect the confidentiality of this information.

Q&A



Q: *I'm aware of an upcoming County bid that a friend of mine might be qualified to bid on. In order to help my friend prepare the lowest bid, can I let her know the timing of the bid and let her know what type of contractor the County wants?*

A: *No. As a County employee, you cannot use your job to benefit another business or person. Giving your friend this information provides them an unfair advantage over other possible contractors that may also want to bid.*



POLITICAL ACTIVITIES

Every employee will have the right to express his or her views as a citizen, to cast his or her vote as he or she chooses, to hold membership in and to support a political party, or maintain political neutrality. Employees may also attend political meetings and take an active part in political campaigns during off duty hours. However, every employee is prohibited from:

- a. Using his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
- b. Directly or indirectly coercing, attempting to coerce, commanding, or advising a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
- c. Participating in political activities during scheduled work time.
- d. Participating as a candidate for public elective office in a partisan primary, general, or special election, will prohibit a person from being principally employed in a federally funded program.
- e. Using Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters.

TIP ► Social media requires care when using



Using your own social media accounts (Facebook, Twitter, etc.) to provide political opinions is okay – as long as it is on your own time. When acting on behalf of the County, including using the County’s social media, refrain from expressing your own personal political views.



Q&A

Q: I’ve been asked by a neighbor to collect signatures on a petition opposing a neighborhood re-zoning issue. Can I help out and collect signatures?

A: Yes, you can address issues that are important to you and as a citizen are permitted. Remember that you must do this on your own time and must not give even the appearance that you are representing the County. And as always, do not provide any confidential information in support of your position.

OUTSIDE EMPLOYMENT



employees shall not engage in any employment activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their County employment.

Employees may not transact business on behalf of the County with any agency in which either the employee or a member of the employee's immediate family has a "material interest."

Employees may not hold any employment or contractual relationship with any business entity or any agency, which is subject to the regulation of, or is doing business with, Leon County Government.



TIP ►

Accepting work outside of the County is acceptable as long as it doesn't conflict with your County job hours and shifts. Remember, your County job comes first.

Complete an Outside Employment Form



Employees who desire to accept outside employment in addition to their regular County position must complete an outside employment form and submit it to their respective Department/ Division Director for a determination of whether such employment conflicts with the duties and responsibilities of the employee.



Q&A

Q: I'm interested in getting a part time job a couple nights a week. Can I?

A: You may get a part-time job with the following conditions: you've completed the County's outside employment form and received the necessary approvals; your County job comes first and the new job's hours do not conflict; and you cannot use any County equipment, supplies, space, etc. when working at your part time job.

NEPOTISM

A relative of any County employee with supervisory responsibility shall not be eligible for employment in or advancement to any position which reports directly to the supervisory employee.

Likewise, a County employee shall not be eligible for advancement to any position with direct supervisory responsibility over a position in which a relative is employed.

TIP ▶ **“Relative” is a relative term...**

➔ *Leon County’s definition of “relative” includes not only father, mother, son, and daughter, but also brother, sister, uncle, and aunt as well as others – when in doubt, reach out to Human Resources for a complete list.*



Q&A

- Q:** Can my daughter apply for a job with the County?
- A:** Your daughter may apply for and be considered for a job at the County, IF, when hired you are not directly responsible for their supervision.

SOLICITATION AND FUNDRAISING



No employee or other person may solicit or be solicited during working hours or in work areas.

No employee may distribute literature in his/her work area or during work hours.

No person may distribute literature to an employee in that employee's work area or during that employee's working hours.

Charitable solicitations may be permitted upon approval of the County Administrator and subject to the following:

- Solicitation may take place only for charitable purposes and not for private gain, and only on behalf of generally recognized and reputable charitable organizations.
- The specific activities to be utilized in the charitable solicitation must be communicated to and approved by the County Administrator prior to any activity taking place.

TIP ►



As a member of a professional organization you may be subject to their specific code of ethics. As a County employee, the Leon County Code of Ethics sets a benchmark for you. If your professional organization has a more stringent code of ethics, reach out to the Assistant County Administrator to discuss which code you should follow.



REPORTING ETHICS CONCERNS



You are encouraged to report suspected ethics or compliance concerns, waste or abuse of County resources to your supervisor, or the Assistant County Administrator or both, depending on the circumstances.

- b. The Assistant County Administrator is ready and able to discuss any ethics or compliance concerns or issues of waste or abuse of County resources and will make every effort to maintain the confidentiality of the employee.
- c. Employees making a report in good faith, or cooperating in an investigation, shall not suffer any form of retaliation.
- d. Any suspicion of fraud should be reported directly to the fraud, waste, and abuse hotline, toll-free at 850-606-5304. Or, by mail to: Leon County Fraud, Waste, Abuse & Misconduct Hotline, 301 South Monroe Street, 5th Floor Leon County Courthouse, Tallahassee, Florida 32301. Reports may be made anonymously.

Additional information can be found at:
www.LeonCountyFL.gov/Fraud

- e. Any ethics and compliance concerns should be directed to 850-606-5380.



“Ethics is knowing the difference between what you have a right to do and what is right to do.”

—Supreme Court Justice Potter Stewart

AUTHORITY AND ENFORCEMENT



Leon County Policy No. 03-05 “Code of Ethics” applies to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

- b. In addition to the “Code of Ethics”, Leon County’s Human Resources Manual, Section II contains standards for “Employee Conduct”.
- c. The Code of Ethics for public officers and employees as set forth in Part III of Chapter 112, Florida Statutes, applies to all employees and sets forth a baseline of requirements. Where the County Code of Ethics has stricter requirements, employees must adhere to this code. Additionally, County employees may have professional association or licensing ethics requirements, which may impose requirements beyond the County Code of Ethics.
- d. Questions regarding compliance with the Code of Ethics are handled by the Assistant County Administrator, in consultation with the County Attorney and Human Resources as needed. In most cases, violations of the Code of Ethics will be addressed by the department director with assistance from the Assistant County Administrator and Human Resources. Where a violation has been found, discipline can range from corrective counseling to termination.



“The truth of the matter is that you always know the right thing to do. The hard part is doing it.”

—General H. Norman Schwarzkopf



ADDITIONAL RESOURCES



In our continuous efforts to be an employer of choice, Leon County Government seeks to attract and retain high performing, healthy and happy employees. This is not only good for our employees, but key to our success in setting the standard in public service. In addition to assisting our employees in navigating potential ethical situations, we have put in place policies and programs which have garnered national attention for employee well-being, domestic violence and employee assistance. Like the ethics guide, the resources below are intended to serve and support our employees and sustain a workplace where our people can thrive.

Domestic Violence, Sexual Violence and Stalking in the Workplace (Policy 13-2): Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County instituted this

Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.



Violence Prevention and Intervention (Policy 03-12):

Violence in the workplace can have a devastating effect on the productivity of organizations and the quality of life of employees. Recognizing this problem, Leon County has developed procedures to identify, report, intervene, and prevent workplace violence.

Employee Assistance Program (Policy 16-2): The Employee Assistance Program (EAP) has been established to assist employees, who develop

alcohol, drug, behavioral or stress related problems that result in or contribute to substandard job performance, by providing confidential consultation, treatment and rehabilitation.

Leon County Wellness Program (Policy 12-4): The primary purpose of the Leon County Wellness Program shall be to offer programs and services to assist employees in making voluntary behavior changes that improve employee health and enhance individual productivity and well-being or maintaining a healthy lifestyle.





People Focused. Performance Driven.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 5-C

Citizen Charter Review Committee

Agenda Item #5C

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language modifying the County Attorney hiring/firing process to match that of the County Administrator in the Leon County Charter (Attachment #1).

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item (Attachment #2). The Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding the hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator. Strike-through represents deletions and underline represents new language to be added. Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 3

Attachment:

1. Proposed Charter Amendment
2. December 7, 2017 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of the of Charter Counties do not include a provision in their charter’s related to the hiring/firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM 5-D

Citizen Charter Review Committee

Agenda Item #5D

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modifying the District Composition of the Board of County Commissioners

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Herbert W.A. Thiele, County Attorney

Summary:

This item provides proposed charter amendment language modifying the composition of the Board of County Commissioners to four (4) District/three (3) At-Large from the existing five (5) District/two (2) At-Large (Attachment #1).

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion 12-0 to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners. On November 30, 2017, County staff presented the Committee with an agenda item (Attachment #2), and the Committee voted 11-1 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding modifying composition of the Leon County Board of County Commissioners (strike-through reflecting deletions and underline reflecting the new language):

Sec. 2.2. - Legislative branch.

(1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the ~~five (5)~~ four (4) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be ~~two (2)~~ three (3) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.

The changes to the existing charter language are also reflected in Attachment #1 using strike-through underlined format.

As provided to the Charter Review Committee at the November 30, 2017 meeting (Attachment #2), since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its "election plan," no modifications to the current election system and composition of the Leon County Board of County Commissioners could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Title: Modifying the District Composition of the Board of County Commissioners
January 11, 2018
Page 3

Regardless of the approach taken, the County will still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval. Staff is uncertain at this time if all of the necessary requirements can be met in the timeframe between the Committee's final meeting and the 2018 General Election.

During the November 30, 2017 meeting, the Charter Review Committee discussed recommending to the Board continuing to retain the "Majority Minority" and "Minority Access" Commission districts if the proposed Charter Amendment is considered. This recommendation could be included as part of the Charter Review Committee's final report to the Board.

After taking into consideration the legal matters outlined above, the Charter Review Committee may still wish to advance modifying the composition of the Leon County Board of County Commissioners as a recommended charter amendment. The Committee's process can continue to be followed and ultimately the recommended charter amendment can be proposed to the Leon County Board of County Commissioners for consideration to be placed on the November 2018 ballot.

However, all legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. The Committee, however, may recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Leon County Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Proposed Charter Amendment.

Title: Modifying the District Composition of the Board of County Commissioners
January 11, 2018
Page 4

2. November 30, 2017 Item, "Modifying the District Composition of the Board of County Commissioners"

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the ~~five (5)~~four (4) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be ~~two (2)~~three (3) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.

Citizen Charter Review Committee

Agenda Item D

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Modifying the District Composition of the Board of County Commissioners

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator

Summary:

To consider a change in the composition of the Board of County Commissioners to four (4) District/three (3) At-Large from the existing five (5) District/two (2) At-Large.

Staff Recommendation:

Option #4: Committee direction.

Title: Modifying the Composition of the Board of County Commissioners
November 30, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee passed a motion to request an agenda item related to modifying the composition of the Leon County Board of County Commissioners.

In accordance with Section 2.1 of Leon County's Charter, the Board of County Commissioners is composed of seven total members: One Commissioner elected for each of the five County Commission districts and two At-Large Commissioners. All County Commissioners serve staggered terms of four years. This composition has been in place since 1986 and was incorporated into the original Leon County Home Rule Charter adopted in 2002.

Florida's Constitution allows charter county voters to adopt a variety of structures and election processes for its board of county commissioners; however, Leon County has additional considerations. Specifically, in 1983 the Tallahassee Branch of the National Association for the Advancement of Colored People, and other named Individuals, sued Leon County in the United States District Court for the Northern District of Florida alleging that its existing five (5) At-large County-wide voting for all members of the Board of County Commissioners of Leon County minimized black representation and participation and diluted black voting strength in violation of the rights secured by the Voting Rights Act of 1965, as amended.

In March of 1986, the Federal Court accepted the stipulation of Leon County and the County Commissioners that they would not contest the Plaintiffs' allegation that the At-large system violated Section 2 of the Voting Rights Act. In June of 1986 based upon the Court's review of Leon County's proposed remedial election plan which would consist of seven (7) members, five (5) of which are elected from single member Districts and two (2) elected At-large, ruled that it complied with Section 2 of the Voting Rights Act.

Thereafter, on June 13, 1986 Federal Judge William Stafford entered an Order approving the "election plan" for a seven (7) member Board of County Commissioners with five (5) members elected from single member Districts by a simple majority with a run-off election requirement in the primary if necessary. The Court also approved the two (2) County Commissioners to be elected on an At-large basis by simple majority vote with a run-off election if required in the primary. The Court also required the District Commissioners to reside within their District and set the stage for staggered terms to implement the new election plan, starting in the elections of 1986. The Court incorporated the election plan into the Final Judgment of June 13, 1986 and the Court reserved jurisdiction for further action of the Court necessary to carry out the terms of the Judgment. The Court Order also adopted appendices which set forth the description of the initial boundaries of the five (5) single member Districts.

Following the next United States Census, the boundaries were adjusted in order to maintain a Majority Minority District, a Minority Influence District, and three (3) other Districts, all which had approximately the same general population. Thereafter, in May of 1992 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines that were reflected in Leon County Ordinance No. 91-26. The Court continued to retain jurisdiction to enter such further orders as may be required. Following the 2000 census and

Title: Modifying the Composition of the Board of County Commissioners
November 30, 2017
Page 3

before Leon County adopted its Home Rule Charter, the Court once again granted a modification of the Final Judgment approving of new District boundaries that are set forth in Ordinance No. 01-20. This Order was executed by the Federal Court in January of 2002. Once again the Court retained jurisdiction to enforce the terms of the original Final Judgment, as modified. Lastly, on November 21, 2011 the Court approved of the adjustments of the Leon County Board of County Commissioner District boundary lines following the 2010 Census that were reflected in Leon County Ordinance No. 11-11.

Amending the composition of the Leon County BOCC was previously considered by the 2009-2010 Citizen Charter Review Committee (Attachment #2); however, the Committee ultimately voted to recommend that no change be made to the Charter on this issue.

Analysis:

Charter counties vary in the composition of their board of county commissioners. Prior to 1968, all Florida counties were required to have a board of county commissioners composed of five members with one commissioner from each of five commission districts, but elected on a countywide basis. In 1968, Florida counties were constitutionally-vested with home rule, which allowed them to adopt a charter with alternative board compositions. Attachment #1 contains a summary of charter county board compositions and is summarized as follows:

- Seven (7) charter counties: All at-large commissioners;
- Eight (8) charter counties: All single-member districts; and
- Five (5) charter counties: Mix of single-member districts and at-large commissioners.

Since Leon County is still under the jurisdiction of the United States District Court for the Northern District of Florida with regard to its “election plan,” no modifications to the current election system and composition of the BOCC could be implemented without seeking and obtaining approval from the Federal District Court. This could be done in one of two fashions:

- Petitioning the Court to modify the existing five (5) single member Districts to four (4) with three (3) At-large.
- Requesting the Court relinquish the jurisdiction and allow Leon County to modify its Charter on its own.

Regardless of the approach taken, the County will still be required to comply with the Voting Rights Act of 1965, as amended, and proof of same will likely be required by the Court if any such modification is sought. The County would also need to advise the Tallahassee Branch of the NAACP and seek their participation and approval. Staff is uncertain at this time if all of the necessary requirements can be met in the timeframe between the Committee’s final meeting and the 2018 General Election.

After taking into consideration the legal matters outlined above, the Charter Review Committee may still wish to advance modifying the composition of the board of county commissioners as a recommended charter amendment. The Committee’s process can continue to be followed and

Title: Modifying the Composition of the Board of County Commissioners
November 30, 2017
Page 4

ultimately the recommended charter amendment can be proposed to the Board of County Commissioners for consideration to be placed on the November 2018 ballot.

However, all legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot. The Committee, however, may recommend the Board take the necessary action to place the matter on a future ballot once the legal matters are resolved. Under Article V, Section 5 of the Charter, by a majority plus one vote, the Board of County Commissioners has the authority to place a charter amendment directly on a general election ballot.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to modifying the composition of the Leon County Board of County Commissioners for the January 18, 2018 meeting.

Voting Threshold: Simple Majority Vote

2. Request additional information and analysis.

Voting Threshold: Four (4) Votes

3. Take no further action at this time.

Voting Threshold: Simple Majority Vote

4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. Charter County Districting Scheme Comparison
2. 2009 Memo on Modifying the BOCC Structure

VI.

COMMITTEE IDEA DELIBERATION

VII.

ADJOURNMENT

Citizen Charter Review Committee

January 18, 2018

11:30 a.m. - 1:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of January 11, 2018 Meeting Minutes
- III. Remarks of Interested Citizens
- IV. Proposed Charter Amendments for Committee Consideration
 - a. Protections for Water Resources (*Vincent S. Long*)
 - b. Charter Provision Related to Constitutional Officers (*Vincent S. Long*)
- V. Adjournment

The next meeting of the Citizen Charter Review Committee will take place on Thursday, January 25, 2018 at 11:30 A.M.

I.

CALL TO ORDER

II.

APPROVAL OF JANUARY 11, 2018 MEETING MINUTES

CHARTER REVIEW COMMITTEE
January 11, 2018

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 11, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Shane Hopkins, William Graham, and Jay Revell in attendance. Committee member Ken Hart was absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peoples, and Deputy Clerk Rebecca Vause. Committee Members Kim Williams arrived at 11:30 and Gordon Thames arrived at 11:43.

I. Call to Order: Chair Hinkle called the meeting to order at 11:30 a.m. She advised that Committee member Ken Hart would not be in attendance and that a serious health issue most likely would prevent him from participating further on the Committee.

II. Approval of December 7, 2017 Meeting Minutes:

A motion to approve the December 7, 2017 minutes was offered by Michael Eurich and seconded by Reginald Ellis. The motion carried 11-0 (Kim Williams, Gordon Thames and Ken Hart absent).

III. Remarks of Interested Citizens:

- Marilynn Wills, spoke on the value of nonpartisan elections for Constitutional Offices and the Supervisor of Elections. She commented that there were over 35,000 voters in Leon County registered as no party affiliation and provided some advantages of nonpartisan elections.
- Robert Travis, Tallahassee NAACP, referenced the Consent Decree that was entered into between the County and the NAACP in the 1990's, which stipulated that the County would notify the NAACP of any proposed changes to establish partisan/nonpartisan single member districts. He advised that the NAACP opposed any changes that would be in violation of the Consent Decree.
- Commissioner Bill Proctor expressed support for the comments expressed by Mr. Travis. He asked that the CRC not make any changes to current County Commission districts. He also requested that partisan elections remain for Constitutional Officers as party affiliation represents ideals and policies of a candidate.
- Angela Hardiman appeared to speak strongly in favor of nonpartisan races for Constitutional Offices. She asserted that politics has no place in determining how well a job can be performed.
- Wilson Barnes stated that independent voters made the choice to be independent and he did not want to lose the opportunity to exercise his vote. He requested the Committee maintain partisan elections.

IV. Proposed Charter Amendments for Committee Consideration:

Chairman Hinkle reminded the Committee that a majority vote of the Committee was needed to move the proposed amendments to the next phase.

a. Standards for CRA Expenditures

County Administrator Long recalled that the CRC had been provided at its last meeting an agenda item including a legal analysis of the proposed Charter amendment. He noted that the analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but could through an amendment to the existing Interlocal Agreements. County Administrator Long recalled that the Committee had also requested a presentation from the CRA. He then introduced Wayne Tedder, Assistant City Manager of Development Services and Economic Vitality, to make the presentation to the Committee. County Administrator Long also recognized the presence of Interim City Manager Reese Goad.

Mr. Thames questioned the analysis and submitted that a Charter amendment is at a different level from an interlocal agreement. He opined that the voters of Leon County should have the authority, via Charter amendment, to stipulate that going forward, anything purchased from CRA funds would be owned by taxpayers.

County Attorney Thiele reaffirmed that because the CRA is a separate legal entity, a change to their processes and budget by Charter amendment could not be realized.

Mr. Tedder provided a thorough presentation to the Committee including, but not limited to: the makeup and processes of the CRA; criteria to establish a CRA; information on the two Tallahassee CRA Districts; CRA funding, and an overview of CRA projects (past, current and pending).

Dialogue between Mr. Thames and Mr. Tedder ensued upon the conclusion of the presentation.

Mr. Graham acknowledged the opinion of staff regarding the authority of the CRC on this issue. He mentioned that there were currently two bills pending in the legislature that address many of the concerns expressed by Mr. Thames and suggested that would be a more appropriate venue to bring these issues forward.

Ted Thomas moved, seconded by William Graham, approval of Option 3: Take no further action at this time. The motion carried 11-2 (Gordon Thames and Catherine Jones in opposition and Ken Hart absent).

b. Non Partisan Constitutional Officers

County Administrator Long introduced the item. He mentioned that the Florida Constitutional Revision Committee is considering an amendment to the Constitution that would prohibit charter counties from modifying the powers, duties and elected status of Constitutional Officers. He announced that Chris Moore, Deputy Supervisor of Elections, was in attendance to answer any questions the Committee may have.

County Attorney Thiele provided a brief update on the Fifth District Court of Appeal opinion in *Orange County Florida v. Singh, et al.*, in which Orange County appealed a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. County Attorney Thiele offered that, while Leon County is not in the Fifth District, and it is unknown whether Orange County will appeal the decision, it could provide potential limitation on Leon County's ability to change the Constitutional Offices to nonpartisan status.

Mr. Thomas offered that a precedent has been set in this district (Wakulla County) and opined that the Committee should move forward with an amendment that there be nonpartisan elections for Constitutional Officers.

Ms. Jones mentioned that while the CRC should not made decisions based on what the Constitutional Revision Committee might do, believed that consideration should be given to the ruling in the Fifth District Court. She stated that she was opposed to making Constitutional Offices nonpartisan; however, recognized the “no party affiliation” individuals have a right to vote.

Mr. Ellis opined that the CRC should not take action on this as there are too many unknowns at this time.

Reginald Ellis moved, seconded by Catherine Jones, approval of Option 3: Take no further action at this time.

Mr. Fleckenstein asked Mr. Moore to address what impact could be realized by the change. Mr. Moore responded that it would simplify the election process; however, mentioned that the County has both nonpartisan and partisan elections and both appear to work.

Mr. Thomas conveyed that when he spoke in support of nonpartisan elections, he intended that to be a motion.

Mr. Revell stated that he was a fan of nonpartisan elections and supports any option which expands the electorate to allow more voters to have a say.

The motion carried 9-4 (Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Ken Hart absent).

V. Draft Charter Amendment Language:

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced the item and noted that proposed charter amendment language is provided for the CRC’s consideration.

Kim Williams moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.

Mr. Fleckenstein pointed out that 66.5% of the electorate approved of the amendment in the 2010 General Election and based on data from the Supervisor of Elections website 165 of 166 precincts supported the amendment. He submitted that based on the success of the amendment in 2010 citizens supported a decrease in campaign contribution and he saw no reason to go in the opposite direction.

Mr. Eurich commented that when the \$250 campaign contribution limit is compared to the state’s limit of \$1,000, there is no substantive change in the percentage of candidates with a surplus at the end of the campaign cycle; thus he did not see where an increase was needed.

The motion carried 9-4 (Michael Eurich, Neil Fleckenstein, Anice Prosser and Gordon Thames in opposition and Ken Hart absent).

b. Code of Ethics

County Administrator Long introduced the item. He advised that the County currently has an ethics policy that closely follows state law; however, acknowledged that a Charter amendment requiring the County to adopt an ordinance would further elevate the importance and visibility of the County's ethics rules. He mentioned that a recently developed Ethics "Field Manual" for employees was included in the Committee's packet. County Administrator Long also advised that unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Comptroller and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney's opinion that the County cannot impose a "Code of Ethics" on Constitutional Officers.

*Neil Fleckenstein moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a "Code of Ethics" **not** applicable to Constitutional Officers.*

Ms. Jones opined that there was not a Constitutional Officer who would not support, appreciate and want the public to know that they also uphold to a code of ethics.

The motion carried 13-0 (Ken Hart absent)

c. Hiring/Firing County Attorney

County Attorney Thiele introduced the item. He referenced the proposed language and stated that it is was taken verbatim from the Charter applicable for the County Administrator.

Jay Revell moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing. The motion carried 13-0 (Ken Hart absent).

d. Modifying the District Composition of the Leon County Board of County Commissioners

County Attorney Thiele introduced the item. He stated that he had deemed it premature to contact the NAACP on the proposed change; however, as the amendment moves through the process, and when appropriate, dialogue would be initiated. He then reviewed the legal process that would be required to implement the amendment and advised that legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot.

Mr. Williams confirmed with County Attorney Thiele that the change had to be done by Charter amendment. Mr. Williams, on behalf of Mr. Hart (who initiated the amendment) conveyed that the intent was to allow all the electorate to vote for four of the seven County Commissioners. He asserted that he could not support the proposed amendment until the legal issues had been addressed.

Chairman Hinkle agreed that a court decision could not be rendered by 2018 and that it would be 2020 (or after) before the amendment could be placed on the ballot. She recommended that the CRC suggest to the County Commission that they revisit

the Federal Courts decision, as it was rendered in 1985 and much progress has been made since that time.

Mr. Revell affirmed with County Attorney Thiele that the requirements from the Federal Court order were not included in the Charter and he did recommend that they be added.

Ms. Jones recommended that the Committee not move forward with the amendment in light of the time that would be required to address the legal challenges and that the NAACP was not supportive of the change.

Catherine Jones moved, seconded by Reginald Ellis, approval of Option 3: Take no further action at this time.

Mr. Williams asked if the maker of the motion would consider adding Chairman Hinkle's recommendation to bring the matter to the Board for consideration. **Ms. Jones did not accept the friendly amendment.**

The motion carried 8-5 (Lee Hinkle, Casey Perkins, Anice Prosser, Jay Revell, and Ted Thomas opposed and Ken Hart absent).

VI. Committee Idea Deliberation

Chairman Hinkle stated that this was the last opportunity to take up any new ideas for consideration. She asked if there were any new ideas to be brought forward.

- Ms. Jones advocated for the Constitutional Offices of Supervisor of Elections, Clerk of Circuit Court and Comptroller, Property Appraiser and Tax Collector to be appointed positions. She shared that the Constitutional Offices were established by the Florida Constitution in 1885 and opined it was time to offer the citizens an opportunity to have an opinion on this issue.
 - *Catherine Jones moved, seconded by Gordon Thames, to request staff bring back an analysis on how an appointed structure would look like for the Supervisor of Elections, Clerk of Court and Comptroller, Property Appraiser and Tax Collector. The motion carried 8-5 (Reginald Ellis, Lee Hinkle, Shane Hopkins, Ted Thomas and Kim Williams in opposition and Ken Hart absent)).*

At the request of Chairman Hinkle, County Administrator Long provided an overview of the actions taken by the Committee. He informed the CRC that information on the last motion would be provided at the next meeting and the three items approved for amendment language will move to the public hearing phase. He reminded the Committee that the proposed amendments would require 10 votes to move to the Board for consideration. The three items moving forward to public hearing are:

- Increase Campaign Contribution Limits for Local Elections
- Provide a Code of Ethics Requirement in the Leon County Charter
- Modify the Hiring/Firing Process for the County Attorney

Chairman Hinkle shared that Commissioner Bill Proctor has requested an opportunity to address the Committee.

- Commissioner Proctor expressed his concerns regarding the potential relocation of the Capital from Tallahassee. He spoke of the devastating effect this would have on North Florida and the loss of 40% of jobs in Tallahassee.

- Commissioner Proctor also asked the Committee to consider the establishment of a Leon County Water Commission whose purpose would be to oversee and protect the areas water resources.

Ms. Jones was unclear how the Committee could address the relocation of the capital; however, suggested this was an issue to be addressed by the County Commission. She noted that Board Chairman Nick Maddox also chaired the Leon County Legislative Dialogue meetings and suggested that the delegation lobby to maintain the capital in Tallahassee.

- Chairman Maddox expressed his appreciation to the CRC for its work. He indicated that the issue of relocation is huge and would drastically change the character of the committee and create blight in the region. He suggested that the Committee direct Chairman Hinkle to send a letter to the County Commission expressing concerns over the possibility of relocation. He also suggested that a similar letter be sent to the legislative delegation expressing the Committee's concerns.

Gordon Thames moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter on behalf of the Committee to the Board of County Commissioners and the Legislative Delegation opposing efforts to move the state capital out of Leon County. The motion carried 13-0 (Ken Hart absent).

Ms. Jones stated that while she too was concerned about water issues she was unsure what authority the Committee has in creating a citizen advisory group.

Mr. Fleckenstein stated that Tall Timbers considers water resource protection as one of its most important functions. He spoke of the quality and quantity of water in our area and on the importance of protecting our water resource from being directed elsewhere. He stated that he would be interested in a staff analysis of how other charter counties have addressed water resource protection.

Neil Fleckenstein moved, seconded by William Graham, to direct staff to bring back additional information and analysis regarding how other county charters have address protecting water resources. The motion carried 13-0 (Ken Hart absent).

Chairman Hinkle advised that the requested information on the appointment of Constitutional Officers and the water resources issue would be on the Committee's January 18 agenda.

VII. Adjourn

The Committee adjourned at 1:44 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

REMARKS OF INTERESTED CITIZENS

IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM A

Citizen Charter Review Committee

Agenda Item A

January 18, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Protections for Water Resources

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator

Summary:

This item provides the Committee with additional information and analysis regarding how other Florida county charters have addressed protecting water resources.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of January 11, 2018, the Committee voted 13-0 to request additional information and analysis regarding how other county charters have addressed protecting water resources.

As reflected in the attached memo from the County Attorney (Attachment #1), waters in the state are considered a public resource to be managed on a state and regional basis. Consequently, the State maintains exclusive authority for requiring water use permits for the consumptive use of water, such as the construction of water wells. However, as noted in the analysis, counties can establish environmental standards related to water quality protection.

Analysis:

Explained in greater detail below, Leon County's Charter is consistent with other Florida Charter County's that have environmental and water protection provisions. Leon County's Charter currently contains a countywide "Minimum Environmental Regulations" provision in Section 1.6.(2) which was an amendment recommended by the 2009/2010 Citizen Charter Review Committee and approved by 61% of the electorate (Attachment #2).

Section 1.6.(2) of the Charter requires the County to adopt minimum standards, procedures, requirements and regulations for the protection of the environment to include, but are not limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and other environmental standards the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County. The amendment does not prohibit the City from adopting more stringent environmental regulations.

In March 2011, the Board of County Commissioners adopted a minimum Countywide Environmental Standard Ordinance to provide consistency, reliability and uniformity of standards countywide, recognizing that environmental conditions are not confined by jurisdictional boundaries. For instance, to address aquifer protection, the ordinance increased the stormwater treatment standards countywide. The base minimum stormwater treatment standard for the entire County was increased to more than twice the State minimum standard (1-1/8-inches versus 1/2 inch). Stormwater is the flow of water resulting from a rainfall event, which is treated through containment in stormwater ponds. Treatment standards for stormwater specify the quantities of stormwater contained and treated in these ponds.

The Ordinance also included countywide stormwater treatment and protection standards in drainage basins and study areas that crossed both the incorporated and unincorporated areas. These areas include the Bradfordville Study Area and Lake Jackson Basin and, as a result of the Ordinance, the Bradfordville and Lake Jackson stormwater standards became applicable within the City's limits. In addition, on July 7, 2015, the Board adopted a new stormwater standard for the Lake Jackson Basin. The new standard provided improved treatment for new residential type developments. This standard ensures that the water quality of Lake Jackson will not be adversely affected by new development.

Title: Protections for Water Resources
January 18, 2018
Page 3

As a charter county, Leon County also has the power to enact ordinances regulating water so long as they are consistent with state laws. For instance, Leon County Code of Laws provides for a countywide Aquifer/Wellhead Protection Program to “protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems.” The ordinance provides criteria for regulating the use, handling, production, storage, and disposal of regulated substances such as petroleum products, solvents, etc. The County contracts with the City of Tallahassee Water Quality Division to enforce the ordinance on a countywide basis (Attachments #3 and #4). The City enforces the County’s Ordinance governing the protection of the Floridan aquifer by inspecting facilities to prevent the introduction of these substances into the groundwater in the County. The County’s Ordinance includes regulations such as a prohibition of installing new water wells within 400 feet of an available water system, as well as regulations regarding maintenance and abandonment.

Regarding other Florida Charter Counties, six contain similar provisions as the Leon County Charter:

- Alachua County – Municipal ordinances regarding environmental standards prevail, unless the County’s standards are more stringent.
- Broward County – The County is required to set minimum standards protecting the environment through the prohibition or regulation of air or water pollution, or the destruction of resources in the County belonging to the general public.
- Columbia County – The County is permitted to adopt minimum countywide standards for protecting the environment by regulating air or water pollution.
- Orange County – The County is permitted to adopt minimum countywide standards for protecting the environment by prohibiting or regulating air or water pollution.
- Palm Beach County – The County is permitted to adopt a countywide ordinance relating to the protection of wells and well fields, by providing criteria for regulating and prohibiting the use, handling, production and storage of certain deleterious substances which may impair present and future public potable water supply wells and well fields.
- Volusia – The County is required to set minimum standards, procedures, requirements and regulations for the protection of the environment.

Where not pre-empted by the State, the Leon County Charter provides for the adoption of countywide water protection ordinances or regulations. While more specific provisions could be adopted as Charter amendments, the current approach of adopting local ordinances and regulations provides flexibility to address changing local conditions. Leon County continues explore and evaluate opportunities to improve water quality protection; however, there are no specific additional regulations recommended at this time.

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Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.


Attachment:

1. Memo from the County Attorney's Office
2. 2010 Charter Amendment, "Minimum Environmental Regulations"
3. Aquifer/Wellhead Ordinance
4. Aquifer/Wellhead Protection Program Interlocal Agreement

BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

To: Alan Rosenzweig, Deputy County Administrator

From: LaShawn D. Riggans, Esq. 
Deputy County Attorney

Date: January 12, 2018

Subject: Regulation of Water Wells in Florida

As requested, the purpose of this memorandum is to provide a general review and analysis of various laws and cases pertaining to water resources in the state, and most particularly the regulation of water wells. By way of background, there have been queries concerning local regulation of pumping, deep well injections, and the depth of wellheads.

Chapter 373, Florida Statutes is known as the “Florida Water Resources Act of 1972,” and is divided into seven parts. The pertinent parts herein are: (a) Part I, the state water resource plan; (b) Part II, permitting of consumptive uses of water; and (c) Part III, the regulation of wells.

In Part I of Chapter 373, the Legislature declares that “[b]ecause water constitutes a public resource benefiting the entire state, it is the policy of the Legislature that the waters in the state be managed on a state and regional basis.” § 373.016(4)(a), Fla. Stat. (2017). Further, pursuant to Section 373.023(2), Florida Statutes, “[n]o state or local government agency may enforce, except with respect to water quality, any special act, rule, regulation, or order affecting the waters in the state controlled under the provisions of this act... until such special act, rule, regulation, or order has been filed with the department [of environmental protection].”

With regard to Part II of Chapter 373, Section 373.217(2) states that it is the intent of the Legislature for Part II to “provide the exclusive authority for requiring permits for the consumptive use of water.” Section 373.217(3) states that if any ordinance, rule or regulation of any political subdivision or municipality is in conflict with Part II, then Part II “shall govern and control, and such other law or ordinance or rule or regulation... shall be deemed superseded for the purpose of regulating the consumptive use of water.” Section 373.217(4) then sets forth that Part II “preempts the regulation of the consumptive use of water.”

Pursuant to Section 373.216, Florida Statutes, each water management district, including the Northwest Florida Water Management District (“NFWMD”), has implemented a program for the issuance of permits authorizing the consumptive use of particular quantities of water. The conditions for obtaining a permit for a consumptive use of water are set forth in Section 373.223, Florida Statutes, and the rules for the regulation and permitting of consumptive uses of water by

the respective water management districts are set forth at Chapter 40A-2, Florida Administrative Code (“F.A.C.”).

Under Part III of Chapter 373, concerning the regulation of wells, the Legislature found that, in order to protect the health of the public and the environment, it was “necessary to regulate the construction, repair, and abandonment of wells, and the persons and businesses responsible therefor.” § 373.302, Florida Statutes (2017). Accordingly, Section 373.306 provides that “[n]o person shall construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to the provisions of this part and applicable rules and regulations.”

Section 373.309(1) provides that the Department of Environmental Protection (“DEP”) shall adopt rules governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of Part III. Pursuant to Section 373.309(1)(b), DEP may delegate, via interagency agreement to the water management districts, the Department of Health, or any other political subdivision, any of DEP’s authority under Part III to administer the rules governing the location, construction, repair, and abandonment of water wells. Section 373.308(1) provides that the DEP shall authorize the water management districts to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells, and that upon such authorization, “issuance of well permits will be the sole responsibility of the water management district, delegated local government, or local county health department.”

The purpose of Chapter 40A-3, F.A.C., is to implement the duties and responsibilities of the water management districts under Part III, Chapter 373, Florida Statutes, as well as to set forth the duties and responsibilities delegated by DEP to the water management districts, relative to regulating the location, construction, repair, or abandonment of wells, and the licensing of water well contractors. Rule 40A-3.011(1), F.A.C. Pursuant to Rule 40A-3.041(1), “[u]nless expressly exempted by Statute or District rule, a permit must be obtained from the District prior to construction, repair, or abandonment of a well and the well must be constructed, repaired, or abandoned by a licensed water well contractor.” Notably, Rule 40A-3.041(14), F.A.C., does make allowance for local rules and standards, as follows:

Receipt of a permit from the District does not alleviate the responsibility of the applicant to obtain other permits that may be necessary from local, state, or federal agencies. If more stringent rules concerning construction standards for water wells are promulgated by local permitting authorities, those standards shall apply.

As a charter county, Leon County has all powers of local self-government not inconsistent with general or special law and may enact county ordinances not inconsistent with general law. Art. VIII, s. 1(g), Fla. Const.; § 125.01(1), Fla. Stat. (2017). This power includes the power to provide and regulate water and alternative water supplies, including, but not limited

to, reclaimed water and water from aquifer storage and recovery, and conservation programs. § 125.01(1)(k)1., Fla. Stat. (2017).

Section 10-10.305 of the Leon County Code of Laws provides a general prohibition against installing new water wells within 400 feet of an available community water system. In addition, Section 10-10.306 of the Code contains certain regulations concerning injection wells, heat exchange wells and drainage wells, and Section 10-10.307 contains certain regulations concerning well maintenance, well abandonment and geotechnical borings. These provisions were adopted on November 8, 2005, via Leon County Ordinance No. 05-30.

It is clear that water management districts have the exclusive authority to permit consumptive uses of water. As stated by the Fifth District Court of Appeal, “Section 373.217 of the Florida Statutes... sets forth the supremacy and exclusivity of [the water management district’s] permitting authority.” Thomas v. Southwest Florida Water Management District, 864 So. 2d 455, 456 (Fla. 5th DCA 2003). Moreover, the Fifth DCA found that Section 373.217 even “expressly preempts other statutes, including Part I of Chapter 373, that attempt to limit or qualify” the permitting authority of a water management district. Id.

In a local case, the First District Court of Appeal held that the Department of Community Affairs had exceeded its authority when it attempted to require property owners on St. George Island to obtain well drilling permits from the Department. Northwest Florida Water Management District v. Department of Community Affairs, 7 So. 3d 1129 (Fla. 1st DCA 2009). The issue in this case was a 1977 development order issued by the Department of Community Affairs. Some thirty years later, certain property owners on St. George Island submitted applications to the NFWFMD for permits to drill wells on their property, and the NFWFMD announced its intention to issue the permits. However, the Department issued notices of violation to the property owners, asserting that the proposed wells were in violation of the development order and that the Department’s approval of the wells had not been obtained. However, the NFWFMD took the matter to court, and the First District Court of Appeal agreed with the position of the NFWFMD, as follows:

We agree with petitioner that [the] expressed intention of the Florida Legislature to provide the “exclusive authority” to the water management districts of this state for permitting the consumptive use of water is clear and requires this Court to grant the petition and exclude the Department [of Community Affairs] from the process of approving the wells in question.

Id. at 1131. Furthermore, the Court stated that the “preemption language of section 373.217 does in fact mean what it says and permitting by the water management district is all that is required to obtain approval for consumptive use of water in this state.” Id.

In Marion County v. Greene, 5 So. 3d 775, 777 (Fla. 5th DCA 2009), Marion County objected to the issuance of a consumptive use permit (“CUP”) to withdraw groundwater for

Alan Rosenzweig, Deputy County Administrator
January 12, 2018
Page 4

bottling and distribution as drinking water through an existing well, contending that the proposed use was not in the public interest and was “inconsistent with Marion County’s interests, plans, and regulations.” On appeal, the Fifth DCA found that Chapter 373 grants water management districts the “exclusive authority” to approve consumptive use permit applications, and that “when a county ordinance is in conflict with the water management district’s exclusive authority, the ordinance is deemed superseded for purposes of regulating the consumptive use of water.” *Id.* at 778-79. Further, “[n]either the statutes nor the rules regarding CUPs impose any requirements on the District related to compliance with a local government’s comprehensive plan or land development regulations.” *Id.* at 779.

Also, although Section 125.01(1)(k)1., Florida Statutes does provide counties with the power to provide and regulate water and alternative water supplies, the Second District Court of Appeal has found that Section 373.223, Florida Statutes, which sets the conditions for obtaining a water use permit, controls over Section 125.01(1)(k)1., Florida Statutes. See Southwest Florida Water Management District v. Charlotte County, 774 So. 2d 903, 918 (Fla. 2d DCA 2001), rev. den., 800 So. 2d 615 (Fla. 2001).

In the case of South Florida Water Management District v. City of St. Cloud, 550 So. 2d 551 (Fla. 5th DCA 1989), the City of St. Cloud challenged the issuance of well construction permits by the South Florida Water Management District (“SFWMD”), citing that the construction of the wells would have an effect of impairing, polluting, and otherwise adversely affecting the quality and availability of water to the City. Upon appeal, the Second DCA found that the City did have standing to intervene in the matter and was entitled to a formal administrative hearing. Also, the City was also entitled to a temporary injunction to prevent the construction of the wells pending the outcome of the formal administrative hearing, as the City had presented sufficient evidence to establish irreparable injury.

In conclusion, it is clear that in this county the NFWMD has the supreme and exclusive statutory authority to issue water use permits. However, as indicated in Rule 40A-3.041(14), F.A.C., more stringent rules concerning construction standards for water wells can be promulgated by local permitting authorities. Please advise if you need additional information or research concerning this matter.

ORDINANCE NO. 2010-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA; AMENDING ARTICLE I, CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT; AMENDING SECTION 1.6, RELATION TO MUNICIPAL ORDINANCES, BY ADDING A NEW SUBSECTION (2) TO PROVIDE FOR MINIMUM ENVIRONMENTAL REGULATIONS; PROVIDING FOR A BALLOT QUESTION TO BE POSED TO THE LEON COUNTY ELECTORATE AT THE SPECIAL ELECTION ON NOVEMBER 2, 2010; PROVIDING FOR THE BALLOT QUESTION FORM; PROVIDING FOR FURTHER AUTHORIZATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida,

that:

Section 1. Article I, Section 1.6 of the Home Rule Charter of Leon County, Florida,

is hereby amended to read as follows:

Sec. 1.6. Relation to Municipal Ordinances.

(1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances to the extent of any conflict within the boundaries of the municipality. To the extent that a county ordinance and a municipal ordinance shall cover the same subject without conflict, then both the municipal ordinance and the county ordinance shall be effective, each being deemed supplemental to the other.

(2) Minimum Environmental Regulations. County ordinances shall establish minimum standards, procedures, requirements and regulations for the protection of the environment and shall be effective within the unincorporated and incorporated areas of the County. Such standards, procedures, requirements and regulations shall include, but shall not be

1 limited to, tree protection, landscaping, aquifer protection, stormwater, protection of
2 conservation and preservation features, and such other environmental standards as the Board of
3 County Commissioners determines to be necessary for the protection of the public health, safety,
4 and welfare of the citizens throughout Leon County. Standards shall be designed to place
5 emphasis on supporting healthy natural systems occurring in the environment. However, nothing
6 contained herein shall prohibit a municipality from adopting ordinances, standards, procedures,
7 requirements or regulations establishing a more stringent level of environmental protection
8 within the incorporated area of the County.

9 **Section 2. Ballot Question To Be Presented To Electorate.**

10 The proposed amendments to the Home Rule Charter of Leon County, Florida, shall be
11 presented to the qualified Leon County electorate by placing the question of whether to adopt
12 same on the ballot at the special election to be held on November 2, 2010.

13 **Section 3. Ballot Question Form.**

14 The question on the ballot shall be substantially in the following form:

15 **MINIMUM COUNTYWIDE ENVIRONMENTAL REGULATIONS AS**
16 **PROPOSED BY THE CITIZEN CHARTER REVIEW COMMITTEE**

17 Question

18
19
20 Shall the Home Rule Charter for Leon County, Florida be amended to
21 provide that County ordinances shall establish minimum regulatory
22 standards for the protection of the environment countywide, with an
23 emphasis on supporting healthy natural systems in the environment;
24 effective April 1, 2011?

25
26 Yes for Approval _____

27
28 No for Rejection _____

29
30 **Section 4. Further Authorization.**

1 ATTESTED BY:
2 BOB INZER, CLERK OF THE COURT
3 LEON COUNTY, FLORIDA

4
5
6 By: _____
7 Clerk

8
9
10 APPROVED AS TO FORM:
11 COUNTY ATTORNEY'S OFFICE
12 LEON COUNTY, FLORIDA
13
14
15 By: _____
16 Herbert W. A. Thiele, Esq.
17 County Attorney

ARTICLE X. - AQUIFER/WELLHEAD PROTECTION

DIVISION 1. - GENERALLY

Sec. 10-10.101. - Definitions.

As stated in section 10-1.101, the definitions in section 10-1.101 apply to this article. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquifer protection coordinator shall mean a City of Tallahassee employee with co-delegated authority to enforce this article.

Discharge shall mean a nonpermitted discharge as defined by F.S. § 376.301(12), and includes but is not limited to, the spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substances which may affect the groundwater.

Drainage well shall mean any well installed for the purpose of draining water from above the earth's surface to subsurface layers.

Dry well shall mean a well lined or filled with gravel or sand that holds water until percolation into the ground.

Contaminated groundwater shall mean groundwater that does not meet the standards defined in Chapter 62-520, F.A.C.

Injection well shall mean a well into which fluids that are being or will be injected by gravity flow or under pressure, by gravity flow or under pressure.

Regulated entity shall mean any business, facility, activity, agency, or farming operation-site expanding more than three acres, that, at any time, manufactures, stores, or uses regulated substances listed in section 10-10.106, or any property that undergoes new construction, demolition, additions, alterations or repairs that requires a City of Tallahassee or Leon County building or environmental permit.

Well shall mean any excavation which has a depth greater than the diameter of the largest surface dimension that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for conveying groundwater to the surface, monitoring the groundwater level or quality, providing cathodic protection, or providing a method of injecting conveying water from above the earth's surface to subsurface layers.

Violator shall mean any person, firm, corporation, business entity, facility or organization owning, possessing, leasing, renting or having control of the subject property where prohibited activities occur and contribute to groundwater contamination.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.102. - Intent and purpose.

- (a) The intent and purpose of this article is to protect and maintain the quality and quantity of groundwater in the county by providing criteria for regulating the use, handling, production, storage, and disposal of regulated substances.
- (b) This article shall establish performance standards for the use, handling, production, storage, or disposal of regulated substances that are applicable to facilities so as to preclude the introduction of these substances into groundwater.
- (c) This article, through its provisions, is intended to protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems.

- (d) This article shall authorize the establishment of a funding mechanism for the operation and implementation of an aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.103. - Compliance with Comprehensive Plan.

The contents of this article shall meet or exceed the goals, objectives and policies established in the adopted Comprehensive Plan.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.104. - Public education and reporting requirements.

- (a) A public program shall be conducted in order to correct current practices regarding the use, storage, and disposal of regulated substances, and to provide for the protection of water resources in the county.
- (b) An annual report shall be presented to the Board of County Commissioners and to the Tallahassee City Commission detailing the extent of the public education activities, and the status of activities of the aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.105. - Territorial applicability.

The aquifer/wellhead protection area shall include all land and surface water and ground water within the county.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.106. - Regulated substances—Designated.

Regulated substances shall mean the following:

- (1) Substances, including degradation and interaction products, which because of quality, concentration, or physical/chemical characteristics (including ignitability, corrosivity, reactivity and toxicity, radioactivity, mutagenicity, bioaccumulative effect, or persistence in nature) may cause a violation of Florida Department of Environmental Protection (FDEP) ground water standards pursuant to Chapter 62-520, F.A.C.; and
- (2) Those substances set forth in the lists, as amended from time to time, entitled, "Lists of Hazardous Waste" (40 CFR 261, subpart D), "Hazardous Constituents-Appendix VIII," (40 CFR 261), and "EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA" (40 CFR 302.4); and
- (3) Substances which have known hazardous properties as listed in 40 CFR 302 by the EPA; and
- (4) Substances that are restricted-use pesticides according to F.S. ch. 487, or which are listed in F.A.C. chs. 5E-2 or 5E-9; and
- (5) Water which contains total dissolved solids (TDS) in excess of 10,000 parts per million (ppm) or chlorides in excess of 500 ppm.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.107. - Regulated entity—Exemptions.

- (a) The aquifer protection coordinator shall maintain a list of regulated entities with their associated four-digit Standard Classification Codes (SIC) and/or six-digit North American Industry Classification System (NAICS) Code, as appropriate. This list will be made available upon request.
- (b) Exemptions. This article does not apply to:
 - (1) The transportation of any regulated substance, provided that the transporting motor vehicle is in continuous transit. However, if the transporting vehicle containing regulated substances is not regulated by the U.S. Department of Transportation or the State Department of Transportation or the State Department of Highway Safety then it shall be deemed stationary (not in continuous transit) and must be registered.
 - (2) The use of any regulated substance in a vehicle or lawn maintenance equipment as a fuel or lubricant.
 - (3) Retail or wholesale establishments that store or handle regulated substances for resale in their original unopened containers, provided that no individual container of regulated substances exceeds five gallons if liquid or 50 pounds if solid.
 - (4) The use of regulated substances for cleaning, maintaining, pest control, or any other use by households that are not regulated entities.
- (c) An affected person may request a special exemption from this article. In order to obtain such an exemption, such person must demonstrate by a preponderance of competent, substantial evidence to the aquifer protection coordinator that special or unusual circumstances and adequate technology exists to isolate the facility or activity from soils, groundwater, or surface water. In granting the special exemption, the aquifer protection coordinator may prescribe any additional appropriate conditions that are necessary to protect soils, groundwater, or surface water.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.108. - Discharge causing contaminated groundwater prohibited.

It shall be unlawful to discharge any substance in a manner that may cause contaminated groundwater.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.109. - Stormwater.

Stormwater quality treatment shall be regulated through the applicable provisions of the Environmental Management Act of Leon County or the City of Tallahassee Environmental Management Ordinance, as amended, whichever is appropriate.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.110. - Program funding.

- (a) Fees may be established by resolution in accordance with the Comprehensive Plan settlement agreement requirement that user fees be collected to contribute to the cost of the inspection program.
- (b) Fees may be established by resolution to provide a funding mechanism for the operation and implementation of future aquifer protection activities and remediation.

(Ord. No. 07-20, § 2, 7-10-07)

DIVISION 2. - VIOLATIONS AND ENFORCEMENT

Sec. 10-10.201. - Generally; delegation of authority; interlocal agreement.

- (a) *Enforcement.* This article shall be strictly enforced in accordance with the enforcement procedures established by the county in addition to any established federal or state enforcement procedures.
- (b) *Delegation of authority.* Pursuant to an interlocal agreement between Leon County, Florida and the City of Tallahassee, the aquifer protection coordinator (APC) who is a City of Tallahassee employee, or his or her designee, is hereby delegated authority to enforce the provisions of this article. Such authority shall include but is not limited to the following job duties as set forth in the interlocal agreement:
 - (1) Supervise city environmental inspectors who conduct on-site inspections at regulated entities for compliance with this article.
 - (2) Oversee the scheduling of on-site inspections of regulated entities, and the maintenance of the current aquifer protection program database.
 - (3) Provide an annual report to the Board of County Commissioners and the City of Tallahassee Commissioners describing, in detail, the status of activities, including enforcement mechanisms of the aquifer protection program.
 - (4) Coordinate with other city and/or county departments, programs and employees, as needed, to implement the aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.202. - Persons held liable for violations.

For the purpose of this article both the property owner and the violator shall be held jointly liable for all activities that may contribute to groundwater contamination that occur on the subject property.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.203. - Procedures for notification of violation; procedures for remedial action.

- (a) When a violation of this article has occurred the aquifer protection coordinator or his/her designee shall issue a written notice to the person in violation, identifying the nature and location of the violation and specifying that remedial action is necessary to bring the violation into compliance. The person in violation shall commence remedial action within two weeks of the notice of violation, and shall have such time as may be specified in the notice to complete the remedial actions required to achieve compliance with this article. If a completion deadline is not specified in the notice, a timeframe shall be agreed upon by the responsible party and the aquifer protection coordinator. The following cleanup criteria shall apply to remedial action:
 - (1) *Generally.* If a facility is found to have visible signs of contamination or if a reportable discharge has occurred that may affect soil, surface water, or groundwater, the facility owner may be required to conduct an investigation which may include, but not be limited to, soil borings, soil or groundwater sampling and analysis, or monitoring well installation pursuant to the provisions of this section.
 - (2) Any affected groundwater or surface water must be remediated to drinking water standards, if possible, or to standards provided for in Rule 62-520, F.A.C.

- (3) Affected soils shall be remediated using best available technologies for the particular contaminant that has been released.
- (4) If any soil work is to be performed, all stormwater sedimentation erosion controls must be in place in accordance with all environmental management ordinances.
- (5) Applicable rules and guidance include but are not limited to:
 - a. Ch. 62-770, F.A.C., which establishes the procedures that shall be followed for petroleum and petroleum product contamination.
 - b. Chs. 62-761 and 62-762, F.A.C., which establish the procedures that shall be followed for closure of storage tanks.
 - c. Established FDEP enforcement cases shall follow FDEP's Model Orders for Corrective Action or the procedures established by consent order.
 - d. Sampling procedures and laboratory analysis shall meet the requirements of F.S. § 403.0625.
- (b) A copy of the notice of violation issued pursuant to this article shall be served upon the affected persons by either hand delivery or certified mail. Upon receipt of such notice, the property owner shall post the notice on the site. A notice of violation may be directed to the person owning the land upon which the violation has occurred or to any person who has committed the violation or both. When immediate corrective actions are warranted under the provisions of section 10-10.204, reasonable effort shall be made to provide notice as specified above, but when such notice cannot be immediately accomplished, sufficient notice may be given by physically leaving a copy of the notice or order at the address of the owner or the property.
- (c) Upon satisfactory completion of corrective action and remedial steps required by a notice of violation, the aquifer protection coordinator shall forthwith issue a notice of compliance.
- (d) In the event a violation involves a scenario in which the aquifer protection coordinator does not have adequate resources to enforce the violation, such violation shall be referred by the aquifer protection coordinator to the department of environmental protection for enforcement.
- (e) Minimization of potential groundwater contamination. All facilities with discharges of regulated substances shall take action to eliminate the discharge and minimize the possibility of groundwater contamination, and pursue remedial action.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.203. - Emergency corrective actions; imminent threat of danger; remediation activities; investigation, monitoring and cleanup of suspected or known discharges.

- (a) The aquifer protection coordinator, or his/her designee, may require emergency corrective action as described in section 10-10.203 if the discharge of regulated substances is resulting in imminent threat of contamination of surface water or groundwater, or danger to life or property. Initiation of any required clean-up activities shall commence within 24 hours of discovery of the violation by the aquifer protection coordinator or his/her designee, and shall be completed within a time specified by the aquifer protection coordinator. Failure to take such immediate corrective action when notified of the need for such action shall constitute a violation of this article. If immediate corrective measures are not taken and there is an imminent danger to the health, safety and welfare of the public, the aquifer protection coordinator or his/her designee may enter upon lands, take corrective actions, and, if necessary, refer the matter to the Leon County Code Enforcement Board in order to place a lien on the real property of such person or persons to recover the costs of the corrective measures or refer the matter to the state department of environmental protection for enforcement.
- (b) Any lien issued pursuant to this article and determined under the authority of this article shall be imposed only after notice has been given to the owner of the property upon which the lien is sought

to be imposed, has been given a reasonable opportunity to be heard. Such lien shall be recorded with the clerk of the circuit court and may be enforced under the provisions of F.S. Ch. 125.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.205. - Penalty.

- (a) Any person violating any provision of this article shall be punished according to law or in accordance with Leon County enforcement procedures. Each day any violation continues without corrective activities shall be considered as a separate offense.
- (b) If the person in violation fails to complete remedial action within the time allowed, the aquifer protection coordinator may refer the matter to the Leon County Code Enforcement Board who may initiate other enforcement actions as authorized by law.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.206. - Environmental and building permits.

No environmental or building permit shall be issued for a site on which a violation of this article exists, or until a determination is made by the aquifer protection coordinator as set forth in section 10-10.301(a) of this article. The aquifer protection coordinator shall coordinate with the Leon County and City of Tallahassee Growth Management Departments in order to prevent the issuance of environmental or building permits for a site on which a violation of this article has occurred.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.207. - Injunctions.

Affected persons may seek an injunction against any violation of the provisions of this article and recover from the violator such damages as he or she may suffer, including but not limited to, the damage to property as a result of a release of regulated substances.

(Ord. No. 07-20, § 2, 7-10-07)

DIVISION 3. - PREVENTATIVE MEASURES

Sec. 10-10.301. - Inspections of regulated entities.

- (a) The aquifer protection coordinator and designated inspectors are hereby authorized to make inspections at normal operational hours of all entities or activities regulated by this article in the county in order to determine proper compliance with the provisions of this article.
- (b) If a person who has common authority over a building, structure, or land does not permit an inspection, the inspection may be rescheduled and shall be noticed by certified mail. Failure of such person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, surveying, or examining the premises.
- (c) If a building, structure or land appears to be vacant or abandoned, and the property owner cannot be readily contacted in order to obtain consent for an inspection, the aquifer protection coordinator or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection.

- (d) The aquifer protection coordinator and inspectors shall have available and upon request present official identification when making inspections.
- (e) It shall be the duty of all city or county law enforcement officers to assist in making inspections when such assistance is requested by the aquifer protection coordinator or inspectors.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.302. - Reporting of discharges.

- (a) Any discharge of a regulated substance at the reporting thresholds established in section (b) below in the county shall be reported immediately by the regulated entity owner, operator, or responsible party to the aquifer protection coordinator or his/her designee. Such notification shall in no way alleviate the owner, operator, or responsible party from other local, state, or federal reporting obligations as required by law. If necessary, the aquifer protection coordinator or his/her designee shall inform the appropriate emergency response agency of the substance discharged, the amount, location, duration of discharge and the potential hazard to groundwater if known.
- (b) Threshold reporting quantities are as follows:
 - (1) The following substances and chemicals shall be reported if discharged in an amount equal to or greater than one gallon:
 - a. Chlorinated solvents including but not limited to:
 - 1. Carbon tetrachloride.
 - 2. Tetrachloroethylene.
 - 3. Trichloroethylene.
 - 4. 1,1,1,-trichloroethane.
 - 5. 1,2-dichloroethane.
 - 6. Methylene chloride.
 - (2) The following substances and chemicals as referenced in 40 C.F.R. 180, as amended, shall be reported immediately if discharged in an amount equal to or greater than five gallons:
 - a. The following pesticides, include, but are not limited to (specifically generic names):
 - 1. Fenuron.
 - 2. Terbacil.
 - 3. Bromacil.
 - b. Phenolic compounds.
 - (3) Petroleum or petroleum products including petroleum based solvents shall be reported if discharged in an amount equal to or greater than five gallons.
 - (4) All other regulated substances listed in section 10-10.106, shall be reported immediately if discharged in quantities greater than or equal to five gallons of liquid or 50 pounds if solid.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.303. - Reporting of sinkholes.

The aquifer protection coordinator shall establish a contact point for the reporting of newly formed sinkholes. Sinkholes shall be reported prior to backfilling. Backfill material shall be uncontaminated and of lower permeability than the surrounding soil.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.304. - Best management practices to prevent discharges of regulated substances.

- (a) Best management practices (BMPs) to prevent discharges of regulated substances shall be developed and made available to owners and operators of regulated entities.
- (b) General business practices/containment.
 - (1) *Generally.* All containers of regulated substances are subject to this section of this article. All regulated entities shall inspect, on a weekly basis, containers holding regulated substances for leaks. Visual inspection is satisfactory provided that the location of the containers can be inspected to a degree which reasonably assures that breakage or leakage can be detected by such inspection.
 - (2) *New construction containment of regulated substances.* Leakproof trays, floor curbing or other secondary containment systems shall be installed under containers of any regulated substance in liquid form. The secondary containment shall be of adequate capacity (at least 110 percent the volume of the stored containers) to handle all spills, leaks, and overflows. The specific design and selection of materials shall be appropriate to preclude any regulated substance loss to the environment. Containment systems shall be operated so that the intrusion of precipitation is effectively managed. These requirements shall apply to all production and handling areas, storage areas, loading and off-loading areas, and above ground and underground storage tank areas.
 - (3) *Retrofitting or upgrading.* All property owners who store, handle, use, or produce a regulated substance shall retrofit or upgrade to new construction containment standards whenever building improvements are planned. Storage facilities regulated by chs. 62-761 or 62-762, F.A.C. must meet the required retrofitting schedule. All retrofitting or upgrading construction provisions must be met and reviewed either during building plan review or during the inspection as required by this article.
 - (4) *Underground and above-ground petroleum product storage tanks.* All un-used residential and nonresidential underground and above-ground storage tanks must have all fuel removed by a registered petroleum or used oil transporter.
 - (5) *Activities.* Any activities involving regulated substances where spills and/or leaks are likely to occur must be conducted over an impervious surface or containment device. Any spills shall be promptly cleaned up.
 - (6) *Disposal.* All regulated substances shall be properly disposed of or recycled prior to issuance of any environmental or building permit. The Aquifer Protection Coordinator shall coordinate with the Leon County Growth Management Department in order to assure that such substances are properly disposed of.
 - (7) *Containers.* Containers of regulated substances shall be adequately protected from precipitation and water intrusion.

(Ord. No. 07-20, § 2, 7-10-07)

Sec 10-10.305. - New wells prohibited within 400 feet of available water system.

- (a) *General prohibition.* No person shall drill or reinstall any well which is located or proposed to be located on property that abuts and is within 400 feet of (1) an available community water system line or (2) an existing or planned well that is, or is intended to be, used in providing water for a community water system (as defined in F.A.C. § 62-550.200(12)).
- (b) Such prohibition shall not apply to wells constructed for a community water system, or to monitoring wells required for the investigation, remediation, or continued monitoring of contamination.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.306. - Injection wells, heat exchange wells and drainage wells.

- (a) *Injection wells.* Any well used for the purpose of injecting regulated substances or fluids that do not meet class G II water quality standards as defined in Chapter 62-520, F.A.C. to groundwater is hereby prohibited.
- (b) *Heat exchange wells.*
- (1) Any well used for the purpose of withdrawal and subsequent reinjection to the Floridian Aquifer shall not alter existing chemical, radiological, or biological water quality.
 - (2) All reinjected water from heat exchange wells shall meet all primary, secondary and ch. 62-3, F.A.C., drinking water standards and FDEP groundwater guidance standards.
 - (3) The owner of any heat exchange well operated in the county shall not discharge refrigerants to groundwater.
 - (4) All newly installed heat exchange wells shall be designed to prevent air entrainment in the reinjection process. All existing heat exchange wells must be retrofitted in order to prevent air entrainment in accordance with a schedule as determined by the aquifer protection coordinator.
 - (5) All owners of nonresidential heat exchange wells shall install a sampling tap on the withdrawal and the reinjection well that will be suitable for sample collection for both wells in accordance with a schedule as determined by the aquifer protection coordinator. The City of Tallahassee Aquifer Protection Coordinator is hereby delegated authority to conduct water quality testing pursuant to this section.
 - (6) Any owner or operator of a nonresidential heat exchange well system shall be required to have a flow measuring device and method for totaling annual flow and record the annual flow in the withdrawal and reinjection wells in accordance with a schedule determined by the aquifer protection coordinator. The flow information shall be kept on file by the owner for a period of five years.
 - (7) All owners or operators of wells used for withdrawal and subsequent reinjection for the heat exchange process that pump greater than 100,000 gallons per day shall be required to sample the withdrawal and reinjection water annually for water quality standards. The results shall be kept on file by the owner for a period of five years.
 - (8) The following governs corrective action:
 - a. In the event of a discharge to the reinjection system of any regulated substance, or if the reinjection water does not meet all primary drinking water quality standards, the well owner will be required to remediate the reinjection water and the affected withdrawal water to all primary drinking water standards at his own expense.
 - b. Remediation must be conducted using sound hydrogeologic and engineering principles and must continue until the withdrawal and reinjection water meets all primary drinking water quality standards.
 - c. The responsible party for all remediation projects is required to keep the aquifer protection coordinator informed of his progress, any problems or changes in status of the remediation process. The aquifer protection coordinator reserves the right to conduct split water sampling to verify any and all results.
- (c) *Drainage wells.*
- (1) As of February 7, 1992, the installation of any well for the purpose of surface drainage is prohibited.

- (2) All owners of property that contain drainage wells must properly abandon all such wells in accordance with a schedule determined by the aquifer protection coordinator. The appropriate abandonment permit must be obtained from the Northwest Florida Water Management District.
- (3) Any drainage well that is identified in a new development project study must be properly abandoned prior to commencement of any construction.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.307. - Well maintenance, well abandonment and geotechnical borings.

- (a) *Well maintenance.* Any owner of a well shall properly maintain the well in accordance with the standards of the Northwest Florida Water Management District (NFWFMD).
- (b) *Well abandonment.*
 - (1) Any well, injection well, dry well or drainage well that is not being used shall be properly abandoned at the property owner(s) expense following the guidelines established by the Northwest Florida Water Management District (NFWFMD).
 - (2) In instances that can be determined by the aquifer protection coordinator, the well may not need to be abandoned but the evaluation and determination of the necessity of abandonment shall be coordinated through the NFWFMD.
- (c) *Geotechnical borings.*
 - (1) All borings greater than or equal to 25 feet in depth shall be properly grouted with neat cement following the rules of the NFWFMD to the surface to prevent downward migration of surface and subsurface contaminants along the borehole to the Floridian Aquifer. All borings less than 25 feet in depth shall be backfilled with the original drilled soil or with grout to the surface.
 - (2) Where the boring is advanced through asphalt or concrete it shall be patched at the surface with a similar impervious material.
 - (3) If contamination is detected in any geotechnical boring, the contaminated soil shall not be used as replacement material and the horizontal and vertical extent of the contamination must be assessed and reported following the applicable provisions of section 10-10.203.
 - (4) Any boring less than five feet in depth, under a proposed building footprint, or in an area where excavation depth will exceed the boring depth is not required to be backfilled.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.308. - Septic tanks and drainfields.

- (a) The discharge of a regulated substance to a septic system shall be considered a violation of this article.
- (b) If upon testing, a regulated substance is identified in the septic tank or drainfield, and may cause violation of groundwater standards, the regulated entity will be required to conduct the investigation required by section 10-10.203.
- (c) Any regulated entity that is found to have discharged regulated substances to a septic system shall be required to connect to a centralized sanitary sewer system if such system is available and within 1,000 feet of the property within 120 days of notice of the violation or in accordance with a schedule approved by the aquifer protection coordinator.
- (d) Floor drains, grease traps, grease interceptors and oil/water separators shall be constructed to prevent infiltration of regulated substances to soil, groundwater, or surface water.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.309. - Inventory or proof of proper disposal; recycling of regulated substances.

- (a) *Proof of proper disposal.* It shall be considered a violation of this article if proof of proper disposal is not properly documented per this section.
- (1) Inventory or manifest documentation required by the Resource Conservation and Recovery Act (RCRA)-40 CFR 262 subpart B, shall be required to be kept by each facility that is regulated by RCRA for all substances that are used or considered waste products, to ensure that all substances are handled in an environmentally acceptable manner.
 - (2) All regulated entities that are not regulated by RCRA shall be required to keep an inventory of the types of regulated substances that are used or considered waste products, to ensure that all substances are handled in an environmentally acceptable manner. The method of record keeping may be of their own choosing, however, such records shall allow inspectors to determine if used or waste products are being disposed of in compliance with federal, state, and local laws.
 - (3) Each regulated entity shall provide documentation such as a contract or agreement with a certified waste hauler, or other documentation that shows that regulated substances or wastes are being disposed of using environmentally acceptable methods or are being recycled. Such documentation shall be maintained for a minimum of five years.
 - (4) Disposal records shall be made available during normal operational hours for the purpose of inspection.
- (b) *Recycling regulated substances.* It shall be required that regulated substances should be recycled or reused if economically and technically feasible.

(Ord. No. 07-20, § 2, 7-10-07)

ARTICLE XIII. - STORMWATER SYSTEM MANAGEMENT

Sec. 10-13.101. - Authority.

The county is authorized by the Florida Constitution and the provisions of the Florida Statutes Chapter 125, Chapter 163, and Chapter 403, to establish and administer programs for stormwater management including the control of pollution caused by stormwater.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.102. - Findings and determinations.

It is hereby found, determined and declared as follows:

- A. The contribution of pollutants through discharges from storm sewer systems has an adverse impact on receiving waters in the county and surrounding areas.
- B. Improperly treated discharges from industrial activities, interconnected municipal storm sewer systems (MS4), illicit discharges, spilling, dumping, or improper disposal of material other than stormwater to the municipal storm sewer system of the county will adversely affect the quality of water receiving such discharges.
- C. The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Register, has mandated that the county through the issuance of National Pollutant Discharge Elimination System (NPDES) Permit No. FLS000033 or successor permits,

must provide legal authority to control discharges to the municipal separate storm sewer system in order to control the quality of discharges from the county's storm sewer system to waters of the United States.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.103. - Definitions.

For the purpose of this article, the following definitions shall apply; words used in the singular shall include the plural, and the plural singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words defined herein shall be construed as defined herein whether the first letter of the defined term is capitalized or not. Words not defined herein shall be construed to have the meaning given by the common and ordinary use.

- A. *"Best management practices"* or *"BMPs"* means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters from entering the MS4 or being discharged from the MS4. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- B. *"Clean Water Act"* or *"CWA"* means Public Law (PL) 92-500, as amended PL 95-217, PL 95-576, PL 6-483 and PL 97-117, 33 U.S.C. 1251 et seq., as amended by the Water Quality Act of 1987, PL 100-4.
- C. *"Construction activities"* means the alteration of land during construction and includes such activities as clearing, grading, and excavation.
- D. *"Director"* means the Leon county administrator, or his or her designee.
- E. *"High risk facility"* means any nonresidential facility, including commercial areas, that discharge to the MS4 and meets any of the following conditions:
 - 1) Perform municipal landfill(s), hazardous waste treatment, storage, disposal, and recovery activities;
 - 2) Subject to reporting requirements of EPCRA Title III, Section 313; or
 - 3) Is determined by the county to be contributing substantial pollutant loading to the MS4.

This may include any facility that: a) has a non-stormwater discharge that is not specifically exempted in section 10-13.110 of this article; or b) has material-handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery that are exposed to stormwater.
- F. *"Illicit connection"* means any manmade conveyance connecting a non-stormwater discharge to the county's MS4 or waters of the United States, unless otherwise exempt under this article or permitted.
- G. *"Illicit discharge"* means any discharge to the county's MS4 or to waters of the United States which is not composed entirely of stormwater, unless exempted pursuant to this article, or the discharge to the county's MS4 or to waters of the United States which is not in compliance with federal, state, or local permits.
- H. *"Industrial activities"* means, for the purposes of this article, activities at facilities identified by the United States Environmental Protection Agency as requiring an NPDES stormwater permit in accordance with 40 CFR Section 122.26 or amendments thereto.
- I. *"Maximum extent practicable"* or *"MEP"* means the technology-based discharge standard for municipal separate storm sewer systems established by CWA Section 402(p).

- J. *"Municipal separate storm sewer system"* or *"MS4"* means a conveyance, storage area, or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, stormwater management facilities, and other structural BMPs) owned or operated by a local government that discharges to waters of the United States or other MS4's, that is designed solely for collecting, treating, or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 Code of the Federal Register 122.2 or any amendments thereto.
- K. *"NPDES"* means national pollutant discharge elimination system under Title 40 of the United States Code of Federal Regulations.
- L. *"Pollutant"* means dredged spoil, sediment, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended 42 U.S.C. 2011 et seq.), heat, wrecked or damaged equipment, rock, sand, and industrial, municipal or agricultural waste discharged into the MS4.
- M. *"Runoff"* means the surface flow of water which results from, and occurs following, a rainfall event.
- N. *"Spill"* means temporary, unintentional illicit discharge.
- O. *"Waters of the United States"* means surface and ground waters as defined by 40 Code of the Federal Register 122.2.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.104. - Stormwater discharges to the MS4 and waters of the United States.

- A. Discharges to the county's MS4 shall not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state, or federal requirements, including, but not limited to, NPDES Permit Number FLS000033, and successor permits. Discharges to the waters of the United States shall be controlled to the maximum extent practicable as defined in the NPDES Permit Number FLS000033, and successor permits.
- B. Any person responsible for illicit connections and illicit discharges to the county's MS4 or waters of the United States within the county shall provide corrective measures as approved by the director and may be subject to paying fines and damages as provided herein.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.105. - Stormwater discharges from industrial or construction activities.

- A. Stormwater discharges from industrial or construction activities shall be treated or managed on-site, in accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the county's MS4 or to waters of the United States.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.106. - Control of pollutant contributions from interconnected MS4's.

The discharge of stormwater between interconnected state, county, city or other MS4's shall not cause the county's MS4 to be in violation of the provisions of NPDES Permit Number FLS000033, or successor permits. Owners of any section of the interconnected MS4 shall be responsible for the quality

of discharge from its portion of the MS4 in accordance with interlocal agreements controlling the discharge of pollutants in stormwater from one MS4 to another.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.107. - Prohibition of illicit discharges and illicit connections.

- A. Illicit discharges and illicit connections are prohibited.
- B. Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or discovery, initiate procedures to cease the illicit discharge or illicit connection, or obtain appropriate federal, state, or local permits for such discharge or connection.
- C. This section is retroactive and applies to any illicit discharge or illicit connection made to the county's MS4 or waters of the United States within the county prior to the effective date of this article, unless made under federal, state, or local permit or other authorization.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.108. - Inspection and monitoring for compliance.

Designated inspectors shall be granted access for inspection of facilities, structures, or properties, whether private or public, discharging or suspected of discharging to the county's MS4 or waters of the United States in order to effectuate the provisions of this article and to investigate violations or complaints of potential violations of any of the terms herein. All structures and processes which allow discharges to the county's MS4, as well as records concerning them, shall be made accessible to designated inspectors for this purpose.

Designated inspectors shall develop and maintain a high risk industrial facilities inventory of such facilities which discharge to the MS4, as defined herein, and as based on the description identified in the county's NPDES MS4 Permit (FLS000033) or any successor permit. Designated inspectors shall have the authority to conduct inspections of high risk industrial facilities. Inspections will involve visual evaluation of non-structural and structural BMPs. These inspections shall include, but may not be limited to, proper storage and containment practices for material exposed to stormwater; use of good housekeeping practices to minimize pollutant discharge and dumping; review of waste management plans, spill prevention plans or spill cleanup plans; and ensuring constructed BMPs are operational and are being maintained.

Designated inspectors shall have the authority to monitor stormwater discharges associated with high risk industrial facilities which discharge to the county's MS4. Monitoring shall be performed for those pollutants described in the county's NPDES MS4 permit. The monitoring will involve the collection of stormwater samples from a single storm event on an annual basis.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.109. - Maintenance of Best Management Practices (BMPs).

Structural controls and other BMPs used for controlling the discharge of pollutants to the county's MS4 or to waters of the United States shall be operated and maintained so as to function in accordance with permitted design or performance criteria and in compliance with federal, state, or local permit conditions and regulations.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.110. - Exemptions.

The following non-stormwater discharges to the MS4 shall be allowed where they are not identified as a source of pollutants to the waters of the United States:

- A. Discharges which have obtained appropriate federal, state, or local permits and are in compliance with the permit conditions.
- B. Discharges from:
 - 1. Water line flushing;
 - 2. Landscape irrigation;
 - 3. Diverted stream flows;
 - 4. Rising ground waters;
 - 5. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to separate storm sewers;
 - 6. Uncontaminated pumped ground water;
 - 7. Discharges from potable water sources;
 - 8. Foundation drains;
 - 9. Air conditioning condensate;
 - 10. Irrigation water;
 - 11. Springs;
 - 12. Water from crawl space pumps;
 - 13. Footing drains;
 - 14. Lawn watering;
 - 15. Individual residential car washing;
 - 16. Flows from riparian habitat and wetlands;
 - 17. Dechlorinated swimming pool discharges;
 - 18. Street wash waters; and
 - 19. Discharges or flows from emergency fire fighting activities.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.111. - Enforcement, penalties, and legal proceedings.

- A. This article shall be administered by the director. All persons in violation of this article shall address such violations immediately upon written notification by the county. Violations shall be addressed by providing a written response to the director, outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the measures. Proposals for corrective action are subject to the approval of the director.
- B. The director is authorized to issue cease and desist orders in the form of written official notices sent by certified mail, return receipt requested, or by hand delivery to the person(s) responsible for the violation. Specific activities and operations may be ordered to be ceased based upon the following criteria:
 - 1. In a situation that may have a serious effect on the health, safety, or welfare of the public or the environment, including the quality of stormwater in the county's MS4; or,

2. When irreversible or irreparable harm may result, in the reasonable opinion of the director, and immediate cessation of the activity is necessary to protect the public or the environment, including the quality of stormwater in the county's MS4.
- C. Any person who violates this article and/or fails to comply with the requirements of any provision of this article shall be subject to prosecution before the Code Enforcement Board of Leon County, pursuant to Article 11 of Chapter 6, Leon County. Each day of violation shall constitute a separate violation.
- D. In addition to any fines which may be imposed by the Leon County Code Enforcement Board, persons responsible for violation of this article shall be liable for all costs incurred by the county in correcting and/or monitoring the violation, including but not limited to sampling and analytical costs, and for all fines, whether local, state, or federal, imposed as a result of the violation.
- E. If the persons responsible for the violation fail to take action required to correct the violation, the county has the right to take remedial action and to correct the violation. All cost incurred by the county in taking such actions shall be reimbursed by the persons responsible for the violation.
- F. In addition to the remedies provided herein, the county is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any persons from violating, or continuing to violate, provisions of this article. In addition, the county may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters or request any other appropriate, applicable legal remedy, including reimbursement of court costs or other costs incurred by the county related to the violation.
- G. In accordance with section 6-34, Leon County Code, any person violating any of the provisions of this article shall upon conviction thereof, be punished by a fine not to exceed \$500.00 a day or by imprisonment not to exceed 60 days or by both such fine and imprisonment.
- H. The county may elect to take any or all of the above remedies concurrently, and the pursuance of one shall not preclude the pursuance of others.
- I. Any fines or other funds received as a result of enforcement under this article which are not used for specific purposes set forth in this article shall be deposited in the stormwater utility fund, established under Article IV of Chapter 18, section 125 of the Leon County Code.
- J. If any fines or costs which accrue under this article are not paid by the violator as ordered, the county may impose a lien as authorized in subsection 6-34(c), Leon County Code.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.112. - Notices.

Any notices required by this article shall be sent from the director by U.S. Mail or hand delivery.

(Ord. No. 07-20, § 2, 7-10-07)

ARTICLE XIV. - FERTILIZER USE

Sec. 10-14.101. - Purpose and intent.

This article regulates the proper use of fertilizers by any fertilizer applicator; requires proper training of commercial and institutional fertilizer applicators; establishes training and licensing requirements; establishes a prohibited and restricted application period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The article requires the use of best management practices that provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on the county's natural and constructed

stormwater and drainage conveyances, creeks, canals, springs, lakes, ponds, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well being of the county's residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater and drainage conveyances. Regulation of nutrients contained in fertilizer will help improve and maintain water and habitat quality.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.102. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Administrator means the county administrator, or designee.

Application or *apply* means the actual physical deposit of fertilizer to turf or landscape plants.

Applicator means any person who applies fertilizer on turf and/or landscape plants in the unincorporated areas of the county.

Best management practices under this article, means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

County means the unincorporated areas of the county.

County approved best management practices training program means a training program approved by the administrator that includes at a minimum, a) the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," as revised and, b) all of the provisions and requirements of this article; or c) an alternative training program under section 10-14.111 of this article.

Code enforcement officer, official, or inspector means any authorized agent or employee of the county whose duty it is to ensure code compliance.

Commercial fertilizer applicator means any person who applies fertilizer on turf and/or landscape plants in the county in exchange for money, goods, services or other valuable consideration.

Fertilize, fertilizing, or fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Institutional fertilizer applicator means any person, other than a non-commercial, or commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional fertilizer applicators shall include, but shall not be limited to, owners and managers of public lands, schools, parks, athletic fields, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

Landscape plant means any native or exotic tree, shrub, or groundcover (excluding turf).

Lawn has the same definition as turf.

Low maintenance zone means an area a minimum of six feet wide adjacent to watercourse, which is planted and managed in order to eliminate the need for fertilization and minimize the need for watering, mowing, etc.

Noncommercial fertilizer applicator means any person other than a commercial fertilizer applicator or institutional fertilizer applicator who applies fertilizer on turf and/or landscape plants, such as an individual owner of a single-family residential unit.

Pasture means land used for livestock grazing that is managed to provide feed value.

Person means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

Prohibited application period means the time period during which a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning, or a three-day cone of uncertainty is in effect for any portion of Leon County, issued by the National Weather Service, or if heavy rain is expected.

Readily available nitrogen means the water-soluble fraction of formulated fertilizer determined by the sum of the percentage of nitrate and ammoniacal nitrogen plus other water soluble nitrogen and/or urea nitrogen in the guaranteed analysis section of the label.

Turf, sod, or lawn means a piece of grass-covered soil held together by the roots of the grass.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.103. - Applicability.

This article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the unincorporated areas of the county, unless such applicator is specifically exempted by the terms of this article. This article shall be applicable to and shall regulate any and all application of fertilizer within the unincorporated areas of the county unless otherwise provided in article IV of chapter 10 of the Leon County Land Development Code (LDC). In case of a conflict between the requirements in article IV of chapter 10, LDC, and this article, the provisions in article IV of chapter 10, LDC, shall prevail. This article shall be prospective only, and shall not impair any existing contracts.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.104. - Timing of fertilizer application.

No applicator shall apply fertilizers to turf and/or landscape plants during the prohibited application period.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.105. - Fertilizer content and application rates; irrigation with reclaimed wastewater.

- (a) Fertilizers applied to turf and/or landscape plants within the unincorporated areas of the county shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf. Fertilizer content in reclaimed wastewater used for irrigation shall be applied in accordance with subsection 10-14.105(d).
- (b) Except as provided in subsection 10-14.105(a), fertilizers shall be applied to turf and/or landscape plants at the lowest rate necessary. Nitrogen shall not be applied at an application rate greater than 0.7 pounds of readily available nitrogen per 1,000 feet ² at any one time based on the soluble fraction of formulated fertilizer, with no more than one pound total N per 1,000 feet ² to be applied at any one time and not to exceed the annual nitrogen recommendations in the Fertilization Guidelines for Established Turfgrass Lawns set forth below for convenience:

Fertilization Guidelines for Established Turfgrass Lawns Within the Unincorporated Areas of the County:	
Species	Nitrogen recommendations (lbs N/1,000 feet ² /year)
Bahia grass	2-3
Bermuda grass	3-5
Centipede grass	1-2
St. Augustine grass	2-4
Zoysia grass	3-5

- (c) Nitrogen fertilizer may not be applied to turf or landscape plants except as provided above unless a tissue deficiency has been verified by an approved test.
- (d) The use of water from a reclaimed wastewater system must be in accordance with an approved reclaimed wastewater reuse nutrient management plan. The plan shall contain, at a minimum, the frequency and volume of application, restricted periods of application (if any), application rates and required best management practices. If fertilizer other than that contained in the reclaimed water is to be applied, the nutrient management plan shall show that the cumulative nutrient loading does not exceed those established in this article.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.106. - Impervious surfaces.

Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.107. - Fertilizer free zones.

Fertilizer shall not be applied within ten feet of any pond, stream, watercourse, lake, drainage ditch, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a retaining wall associated with any of these features. If more stringent County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations.

See article IV of chapter 10 of the Leon County Land Development Code. Newly planted turf and/or landscape plants may be fertilized in this zone only for the first 60-day establishment period.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.108. - Low maintenance zones.

A voluntary six-foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a retaining wall associated with any of these features. A properly permitted swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material should be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone. If more stringent county regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. See article IV of chapter 10 of the Leon County Land Development Code.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.109. - Mode of application.

Spreader deflector shields are required when fertilizing via rotary spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.110. - Exemptions.

The provisions set forth above in this article shall not apply to:

- (a) Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14, provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.
- (b) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.111. - Training and certification; presence on site of trained applicator during application of fertilizer.

- (a) Within 180 days of the effective date of this article and every three years thereafter, all applicators of fertilizer within the unincorporated areas of the county, other than private homeowners on their own property, shall abide by and successfully complete a county-approved best management practices training program as defined in this article. Upon successful completion and compliance with the requirements in this article, a certificate of completion and a certification card valid for a period of three years will be provided by the entity providing the training. Persons working as employees and under the direct and physical supervision of commercial applicators that hold a current certificate of

completion and certification card shall be exempt from the requirement to complete a county-approved best management practices training program.

- (b) At least one person holding a current county-approved best management practices training certificate shall be present at all times on any job site while applying fertilizer is in progress.
- (c) Homeowners, and any other applicators not otherwise required to be certified are encouraged to follow the requirements of this article as well as the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.
- (d) Persons holding a certificate of training issued in conjunction with the Florida Green Industries Best Management Practices Program for protection of water resources in Florida; or, other state-approved certificate of training or, a certification issued by another local government, that includes at a minimum "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," or newer as the basis for instruction, may obtain certification by the county after contacting the county's environmental compliance division or designee and presenting proof of the currently active status of training as described in paragraph (a) above, and attesting that he/she has received and read a copy of this article. The environmental compliance division may adopt policies related to this exception, and shall maintain a list of approved alternative training programs.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.112. - Enforcement.

It is the intent hereof that the administrative, civil, and criminal penalties imposed through execution of this article be of such amount as to ensure immediate and continued compliance with this article. This article shall be enforced by the Leon County Code Enforcement Board, as set out in Chapter 6 of the Leon County Code of Laws, if the penalties in this subsection are not collected within 14 days. A violation of this [article] ordinance is determined to be irreparable and irreversible, such that no action to cure the violation is possible and a penalty in the form of a fine is warranted. Violation of any provision of this article shall be subject to the following penalties:

- (a) *First violation.* Written notification and education.
- (b) *Second violation.* Fifty dollars for residential applicators applying fertilizer to their own property and \$100.00 for commercial or institutional fertilizer applicators.
- (c) *Third violation.* One hundred dollars for residential applicators applying fertilizer to their own property and \$200.00 for commercial or institutional fertilizer applicators.
- (d) *Fourth and subsequent violation(s).* A minimum of \$100.00 for residential applicators applying fertilizer to their own property and a minimum of \$200.00 for commercial or institutional fertilizer applicators, not to exceed \$1,000.00.
- (e) Any applicator that violates the provisions of this article may be responsible for the county's costs of prosecution of any violation, including any costs to remedy or clean up any environmental condition caused by an act, which constitutes a violation of this article.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.113. - Variances.

Any applicator of fertilizer regulated by the provisions of this article may apply to the board of adjustment and appeals for a variance from the requirements of this article.

- (1) *Standards and procedures.* The applicant must identify the specific provisions of the fertilizer regulations for which a variance is requested, and shall address the following:

- (a) Whether, as a result of soil or tissue content at the point of the proposed application or for other geographical, environmental or geological reasons or other circumstances, such person should not be required to adhere to the strict provisions of this article; and
 - (b) Whether such person is able and willing to use a less strict application method or alternative materials or methods; and
 - (c) A plan for fertilizer application, including where the fertilizer will be applied, the frequency of application, contents of fertilizer to be applied, and period of time for which the variance is requested.
- (2) Following receipt of the variance application, the board of adjustment and appeals shall, at a timely regularly scheduled meeting:
- a. Approve the variance request or any portion thereof;
 - b. Approve the variance request or any portion thereof subject to conditions;
 - c. Disapprove the variance request, specifying the reasons therefore in writing; or
 - d. Continue consideration of the variance request to a time certain.
- (3) *Criteria for granting variance.* The board of adjustment and appeals may grant the variance request if it determines that:
- a. The applicant satisfactorily demonstrates that all practical alternatives have been evaluated, and the soil or tissue content at the point of the proposed application is such that the provisions of the fertilizer regulations create a hardship for the applicant; or
 - b. The applicant satisfactorily demonstrates that all practical alternatives have been evaluated, and due to unique geographical, environmental or geological reasons or other unique circumstances, the applicant should not be required to adhere to the strict provisions of the fertilizer regulations; and
 - c. The applicant satisfactorily demonstrates that its plan for fertilizer application is consistent with the purpose and intent of the fertilizer regulations to the greatest extent feasible and that adverse impacts, if any, are appropriately mitigated.
- (4) *Time periods for variances.* Any board of adjustment and appeals order approving a variance request to the fertilizer regulations shall establish an expiration date for the variance.

(Ord. No. 09-34, § 1, 10-13-09)

**LEON COUNTY
 CONTRACT ROUTING FORM**

Original 2
 Renewal
 Amendment(#)

County Contract No. 2970C

Division Contact: Jessica M. Icerman, Assistant County Attorney Phone # 606-2500

Department/Division: Leon County Attorney's Office

Contractor: City of Tallahassee

Address 300 S. Adams Street

City, State, Zip Tallahassee, FL 32301 Phone (850) 891-5440

Contract Period: From November 1, 2016 To November 20, 2021

Renewal Periods: Number _____ Term _____

Contract Total \$ Amount: N/A or check if Unit Price Agreement

Contract Type:	Procurement Method:	Forms Required:
<input type="checkbox"/> Conservation Easement	<input type="checkbox"/> Bid*	<input type="checkbox"/> Public Entity Crimes Statement
<input type="checkbox"/> Construction	<input type="checkbox"/> RFP*	<input type="checkbox"/> Performance Bond
<input type="checkbox"/> Continuing Supply	<input type="checkbox"/> Sole Source	<input type="checkbox"/> Materials & Payment Bond
<input type="checkbox"/> Deed	<input type="checkbox"/> Gov't Entity	<input type="checkbox"/> Warranty Bond
<input checked="" type="checkbox"/> Interlocal Agreement	<input type="checkbox"/> Other (Explain Below)	<input type="checkbox"/> Certification Regarding Debarment
<input type="checkbox"/> Grant		
<input type="checkbox"/> Lease	Insurance Certificates:	*Bid/RFP # _____
<input type="checkbox"/> Other Services	<input type="checkbox"/> General Liability	
<input type="checkbox"/> Performance Agreement	<input type="checkbox"/> Professional Liability	Awarded by:
<input type="checkbox"/> Professional Services	<input type="checkbox"/> Workers' Compensation	<input type="checkbox"/> Purchasing Director
<input type="checkbox"/> Purchase	<input type="checkbox"/> Errors & Omissions	<input type="checkbox"/> County Administrator
<input type="checkbox"/> Other (Explain below)	<input type="checkbox"/> Automobile Coverage	<input type="checkbox"/> Board of County Commissioners
		Agenda Date <u>10/18/2016</u> Item # <u>3</u>

Comments: _____

RECEIVED
 NOV 15 4 10:04 PM
 FINANCE DIVISION
 BOB INZER
 CLERK & COMPTROLLER

Routing:

Required	Initials	Date	
<input checked="" type="checkbox"/>			Originating Division <u>County Attorney's Office</u>
<input type="checkbox"/>			Group Director
<input type="checkbox"/>			Purchasing
<input type="checkbox"/>	<i>J</i>	<u>11/8/16</u>	County Attorney's Office
<input type="checkbox"/>			Deputy or Assistant County Administrator
<input type="checkbox"/>			County Administrator
<input checked="" type="checkbox"/>	<i>BP</i>	<u>11-9-16</u>	Chairman, BCC
<input checked="" type="checkbox"/>	<i>SP</i>	<u>11/14/16</u>	Clerk's Office (Finance)

RECEIVED
 NOV 15 AM 10:04
 FINANCE DIVISION
 BOB INZER
 CLERK & COMPTROLLER

Return completed documents to: ~~One original to be retained by the Finance Division~~
~~One original returned to Shawn Williams, Leon County Attorney's Office~~
 Be sure to return and file a fully executed agreement with the Finance Division

AQUIFER/WELLHEAD PROTECTION PROGRAM INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into this 1st day of November, 2016 (the "Effective Date"), pursuant to the authority of Section 163.01, Florida Statutes, by and between LEON COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida, hereinafter referred to as the "County" and the CITY OF TALLAHASSEE, a Florida municipal corporation, hereinafter referred to as the "City".

RECITALS

WHEREAS, the City, by the through its Water Quality Division, pursuant to the Aquifer/Wellhead Protection Program Interlocal Agreement approved August 23, 2011, currently enforces County ordinances governing protection of the Floridan aquifer by monitoring, inspecting and, if necessary, instituting enforcement action, for the proper use, protection and storage of groundwater in the County; and

WHEREAS, the parties hereto desire to make the most efficient use of their resources and powers to cooperate for their mutual advantages and the County wishes to delegate its enforcement authority to the City by utilizing the services of the City of Tallahassee Water Quality Division to enforce its Aquifer/Wellhead Protection Program, Chapter 10, Article X of the Leon County Code of Laws; and

WHEREAS, Section 163.01(4), Florida Statutes, provides "a public agency of this state may exercise jointly with another public agency of the state, of any other state, or of the United States Government any power, privilege or authority which such agencies share in common and which each might exercise separately."

NOW THEREFORE, in consideration of the mutual promises, covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto agree as follows:

1. Delegation of Authority. Leon County hereby delegates to the City of Tallahassee its authority to administer and enforce compliance with Chapter 10, Article X, Leon County Code of Laws. In carrying out such authority, the City's Underground Utilities Water Quality Manager or designee, shall perform the following functions in furtherance of the City's and the County's effort to protect the aquifer and groundwater in Leon County:

- A. Supervise City environmental inspectors who conduct on-site inspections at regulated entities for compliance with Chapter 10, Article X of the Leon County Code of Laws.
- B. Oversee the scheduling of on-site inspections of regulated entities by utilizing the current aquifer protection program database.
- C. Provide information to the County's designated Aquifer Protection Program contract

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

Page 2 of 5

administrator and be available if needed to assist in presentation of an annual report to the Board of County Commissioners describing, in detail, the status of activities, including enforcement mechanisms carried out under the Aquifer Protection Program during the previous fiscal year.

D. Coordinate with other state, city and/or county employees, as needed, to implement the Aquifer Protection Program.

The City shall perform these duties in accordance with reasonable professional standards and in a satisfactory and proper manner as reasonably determined by the County and subject to City appropriation of funds for such purposes.

2. Employee Designation. The County and the City agree that all employees of the City involved in carrying out the obligations of the City under this Interlocal Agreement shall remain employees of the City and be subject to the City's personnel rules and regulations.

3. City Responsible for Operating Costs, Salary and Benefits. The County and the City agree that the City shall be responsible for payment of all operating costs, including, but not limited to, salaries, pension plan, health and dental benefits, and insurance, associated with City employees. Any fees, fines or penalties assessed and collected under Aquifer Protection Program, while the program is administered by the City pursuant to this Interlocal Agreement, shall be paid directly to the City to be used for payment of operating costs of the program.

4. Termination. This Interlocal Agreement shall be effective as of the Effective Date written above and shall terminate on November 30, 2021, unless terminated as hereinafter provided.

A. Termination for Cause. If, through any cause, any party to this Interlocal Agreement shall fail to fulfill in timely and proper manner its obligation under this Interlocal Agreement, or if any party shall violate any of the covenants, agreements, or stipulations of this Interlocal Agreement, the party not in violation shall thereupon have the right to terminate this Agreement in whole or part by giving written notice to the party in such violation of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

B. Termination for Convenience. Either the City or the County may terminate this Interlocal Agreement at any time by giving at least thirty (30) days notice in writing to the other party.

5. Examination of Records. The City agrees that the County or any of its duly authorized representatives shall have access to and the right to examine, audit, copy, excerpt and transcribe any directly pertinent books, documents, papers and records of the City, relating to this Interlocal Agreement.

6. Contract Administrator. The County Administrator or his designee shall be designated as the contract administrator for the purpose of acting as the County's representative with

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

respect to questions regarding this Interlocal Agreement. The County Administrator or his designee shall have authority to transmit instructions, receive information and communicate the County's policies to the City. He shall also examine all reports and other documents presented by the City and render in writing any decision pertaining thereto within a reasonable time so as not to delay the City.

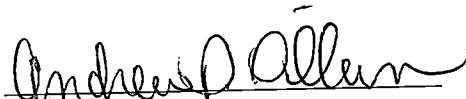
The County Administrator or his designee shall provide the City ready access to all data, files, reports or other information in possession of the County or readily available to it in order to fulfill the purpose of this agreement.

7. Liability Limitation. Each party hereto agrees that it shall be responsible for the negligent or wrongful acts or omissions of its employees in accordance with Florida law. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the limitations set forth under Florida law, including Section 768.28, Florida Statutes.

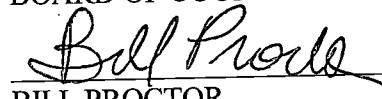
8. Dispute Resolution. Any disputes between the City and the County in respect to this Interlocal Agreement shall be resolved in accordance with the process set forth in Exhibit A of this Interlocal Agreement.

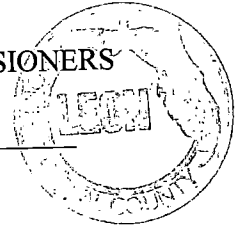
IN WITNESS WHEREOF, the parties have executed this Interlocal Agreement with the intent to be legally bound.

CITY OF TALLAHASSEE

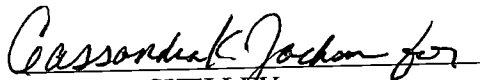

ANDREW GILLUM
MAYOR

LEON COUNTY FLORIDA
BOARD OF COUNTY COMMISSIONERS

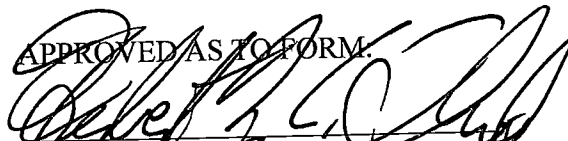

BILL PROCTOR
CHAIRMAN




APPROVED AS TO FORM:


LEWIS E. SHELLEY
CITY ATTORNEY

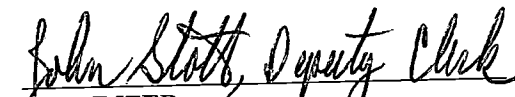
APPROVED AS TO FORM:


HERBERT W.A. THIELE
COUNTY ATTORNEY

ATTESTED BY:


JAMES O. COOKE, IV
CITY TREASURER-CLERK

ATTESTED BY:


BOB INZER
CLERK OF THE COURT AND
COMPTROLLER

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

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**EXHIBIT A
DISPUTE RESOLUTION PROCEDURE**

- 1.0 The parties shall attempt to resolve any disputes that arise under this Interlocal Agreement in good faith and in accordance with this Section. The provisions of the "Florida Governmental Conflict Resolution Act" shall not apply to disputes under this Interlocal Agreement as an alternative dispute resolution process is hereby provided. The aggrieved party shall give written notice to the other party setting forth the nature of the dispute, date of occurrence (if known), and proposed resolution, hereinafter referred to as the "Dispute Notice".
- 2.0 The appropriate City and County department heads shall meet at the earliest opportunity, but in any event within ten (10) days from the date the Dispute Notice is received, to discuss and resolve the dispute. If the dispute is resolved to the mutual satisfaction of both, the department heads shall report their decision, in writing, to the City Manager and the County Administrator.
- 3.0 If the department heads are unable to reconcile the dispute, they shall report their impasse to the City Manager and the County Administrator who shall then convene a meeting at their earliest opportunity, but in any event within twenty (20) days following receipt of the Dispute Notice, to attempt to reconcile the dispute.
- 4.0 If a dispute is not resolved by the foregoing steps within thirty (30) days after receipt of the Dispute Notice, unless such time is extended by mutual agreement of the parties, then either party may require the dispute to be submitted to mediation by delivering written notice thereof (the "Mediation Notice") to the other party. The mediator shall meet the qualifications set forth in Rule 10.100(d), Florida Rules for Mediators, and shall be selected by the parties within ten (10) days following receipt of the Mediation Notice. If agreement on a mediator cannot be reached in that ten (10) day period, then either party can request that a mediator be selected by an independent conflict resolution organization, and such selection shall be binding on the parties. The costs of the mediator shall be borne equally by the parties.
- 5.0 If an amicable resolution of a dispute has not been reached within sixty (60) calendar days following selection of the mediator, or by such later date as may be mutually agreed upon by the Parties, then, upon the agreement of both Parties, such dispute may be referred to binding arbitration; otherwise, each Party may pursue whatever remedies may be available at law, in equity, or otherwise. If the dispute is so referred, such arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes).
 - 5.1 Such arbitration shall be initiated by delivery, from one party (the "Petitioner") to the other (the "Respondent"), of a written Arbitration Notice therefore containing a statement of the nature of the dispute and the amount, if any, involved. The Respondent, within ten (10) days following its receipt of such Arbitration Notice, shall deliver an answering statement to the Petitioner. After the delivery of such statements, either party may make new or different claims by providing the other with

**AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT**

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written notice thereof specifying the nature of such claims and the amount, if any, involved.

- 5.2 Within ten (10) days following the delivery of such Arbitration Notice, each party shall select an arbitrator and shall deliver written notice of that selection to the other. If either party fails to select an arbitrator within such time, the other party may make application to the court for such appointment in accordance with the Florida Arbitration Code. Within ten (10) days following delivery of the last of such written notices, the two arbitrators so selected shall confer and shall select a third arbitrator.
- 5.3 The arbitration hearing shall be commenced in Leon County, Florida within sixty (60) days following selection of the third arbitrator. Except as may be specifically provided herein, the arbitration shall be conducted in accordance with Rules R-23 – R-48, of the Commercial Arbitration Rules of the American Arbitration Association.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE**

NOTES FOR AGENDA ITEM B

Citizen Charter Review Committee

Agenda Item B

January 18, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Consideration of Constitutional Officer Status

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides the Committee with additional information and analysis regarding changing the status of Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector from elected to appointed positions.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

On November 16, 2017 the Leon County Charter Review Committee passed a motion 12-0 requesting an agenda item related to preservation of Constitutional Officers as provided by the County Charter. Following staff's presentation of the item on November 30, 2017 (Attachment #1), a motion requesting staff to prepare additional analysis related to the duties and the process of appointing of Constitutional Officers failed 2-10.

On January 11, 2018 the Committee voted 8-5 to request that staff to prepare additional information related to the duties and potential process of appointment for the Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector.

Analysis:

Across the nation, there is great disparity among county governments related to the election and appointments of County officers, known more commonly as "row officers." The most commonly elected row offices include the Sheriff, Clerk, Assessor (i.e. Property Appraiser), and Treasurer; however, the variation of functions and titles of officers unique to some states make it difficult to equally compare. In addition, numerous County officers exist across the country which are unique to only one or two states. For instance, only two states (Florida and California) have elected elections supervisors. In summary, Attachment #2 contains a general list of row officers by state published by the National Association of Counties (NACo) in their most recent edition of "County Government Structure: A State by State Report."

For Florida, Article VIII, Section 1 (d) of the Constitution states that there shall be five County Officers, "...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office." The five constitutionally prescribed County officers, who perform a variety of constitutional and statutory duties and functions for the state and county, include the Clerk of Courts, Property Appraiser, Tax Collector, Supervisor Of Elections and Sheriff.

All of the 47 non-charter governments in Florida maintain the elected status and designation of duties of these offices as prescribed by the Constitution; however, the following overview reflects the variation among the 20 charter counties related to the method of selection and transfer of duties of these officers:

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.

- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.
- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

The Leon County's Charter, as originally approved in 2002, includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections.

As noted, the Florida Constitution states that Charter Counties have the ability to eliminate the elected status of County Constitutional Officers by transferring the duties of the individual office to an appointed position. Attachment #3 provides an overview of the statutorily prescribed duties of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector.

In Leon County, the appointed positions would be Department Directors reporting to the County Administrator. The process for appointing these new positions would be consistent with how the County currently recruits and hires for Department Directors. The County would establish the necessary skills, experience and education requirements for each of the positions. Hiring would be based on a competitive and open recruitment process. Appointments would be based on qualifications, skills, and ability to fulfill the statutory duties of the office.

However, any amendments to the County charter to alter the constitutional or statutorily prescribed functions or elected status of the constitutional officers may be later impacted by a proposal of the Florida Constitution Revision Commission (Attachment #4). The proposed amendment would mandate all constitutionally prescribed county officers to be elected by the electors of that county, as was originally prescribed prior to the authorization of county charters, and prohibit counties from abolishing, transferring the duties of, or establishing any alternate method of selection for county constitutional officers. If approved by voters during the 2018 general election, charter counties that have made changes related to prescribed functions or elected status of the constitutional officers would be required to revise their charters to conform to the change before the 2020 general election.

Additionally, while there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 25, 2018 meeting.

Voting Threshold: Simple Majority Vote

2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. November 30 Committee Agenda Item “Charter Provision Related to Constitutional Officers”
2. 2009 NACo Report, Row Officers by State
3. Requested Constitutional Officers Duties as Prescribed by Florida Statutes
4. Constitution Revision Commission Proposal #13

Citizen Charter Review Committee

Agenda Item C

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Charter Provision Related to Constitutional Officers

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

To consider any changes the committee may wish to further explore related to the current Preservation of Constitutional Officers provision in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to potential changes to the Constitutional Officers which the Charter Committee may wish to consider.

All of the 47 non-charter governments and the majority of the 20 charter counties in Florida have five constitutional officers who perform a variety of constitutional and statutory duties and functions for the state and county. The five constitutional officers include the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Each of these constitutional officers administer their own office; however, each office obtains budgets and facilities from their respective Board of County Commissioners to perform their respective duties, including :

- Sheriff: Oversees law enforcement, public safety and often corrections for the county;
- Property Appraiser: assesses the fair value of all property so that property taxes can be computed;
- Tax Collector: receives property tax and other payments for both the county and state;
- Supervisor of Elections: registers voters and organizes all elections in the county; and
- Clerk of the Courts: maintains public records and is clerk to the county commission.

The Leon County's Charter as originally approved in 2002 includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections. The 2009-2010 Citizen Charter Review Committee previously considered this issue, but chose not to recommend any changes to this provision of the County Charter.

Analysis:

Florida Charter Counties have the ability to abolish elected Constitutional Officers, as long as the duties of the individual office are provided for elsewhere. Article VIII, Section 1 (d) of the Florida Constitution states that there shall be five County Officers, "...except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office."

Of the Charter Counties in Florida (Attachment #1):

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.
- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.

Title: Charter Provision Related to Constitutional Officers
November 30, 2017
Page 3

- Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
- Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

In evaluating whether to propose any changes to the Constitutional Officers through a county charter, individuals in support of preserving the constitutional officers generally make the following arguments:

1. The Constitutional Officers' duties are mandated by state law and those duties must be carried out no matter what form of government exists in the county.
2. Maintaining complete independence of those offices insures a system of "checks and balances."
3. The independently elected status permits the offices to focus exclusively on the duties mandated by state law without the undue influence from the legislative body of the county. Because the people directly elect them, constitutional officials are more responsive to the electorate than are appointed officers.
4. The offices provide many services to other jurisdictions in addition to the county government and should therefore be independent of the county legislative body.

Individuals supporting revisions to the constitutional officers generally make the following arguments:

1. Changes to the Constitutional Officers through a county charter provides for a more efficient, uniform set of administrative support policies (budget, personnel, purchasing, etc.) to be implemented.
2. The entity imposing the taxes to fund a program should have ultimate control over the expenditure thereof.
3. Charter amendments provide the opportunity to prescribe additional professional qualifications for candidates seeking to run large, sophisticated operations.

If a charter amendment is considered, as noted in other Florida Charter Counties, there are two approaches to abolish an office and transfer its responsibilities to another office. One is to transfer the responsibility to an appointed position and the other is to transfer the duties to an elected charter officer. Note that all constitutional officers need not be treated in the same manner by the charter.

While there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

Title: Charter Provision Related to Constitutional Officers
November 30, 2017
Page 4

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachment:

1. Comparative Summary

Row Officer Overview

A discussion on this topic cannot be comprehensive because there are many variations of row officers representing infinite degrees of authority and contributions to local government operations. The following narrative and table are offered as a starting point to grasp what popularly elected officials exist throughout county government in each state. Input is encouraged to aid NACo in continued development of the data in this area. It is hoped that this summary will provide some insight into the historical elected offices that occupy the same tier as the central governing body in numerous county organization charts nationwide.

The traditional county distribution of power is characterized by a division of administrative responsibilities between the county governing board and separately elected offices. These separately elected offices are commonly known as “row offices” due to their appearance in a row on organizational chart or election ballots and the relative autonomy of each office from the central board.

This autonomy or independence is built on their legal status and accountability to the electorate. Row offices are most common in commission- and board-structured counties, but they are also found in other forms. In non-commission counties, row offices are usually fewer in number and may have less authority. In charter counties, row offices may be appointed by the board or elected executive.

Constitutional provisions for certain row offices are common. The position of sheriff is present in all but two states though not all are constitutionally required. Alaska and Hawaii (which have elected police chiefs) are the only states without sheriffs. Other offices frequently mandated by state constitutions include the county clerk, auditor, treasurer, and court clerk. Where possible, offices are designated in the table as “constitutional”.

County clerks are generally responsible for administrative support to the county board and many times for election administration details. In California there are appointed and elected registers of voters and in Florida there are election supervisors. An auditor is responsible for the accounting and auditing of county agencies and general fiscal affairs. A treasurer is specifically responsible for all county moneys and records on revenues as well as other fiscal matters related to general funds. A court clerk is responsible for: serving the county court system, including records maintenance, and may be responsible for one or more levels of court proceedings;

collection and recording of fines, penalties, and court costs; and judicial correspondence. The position of court clerk is authorized in at least 27 states including Delaware and Pennsylvania where similar responsibilities are vested in positions titled prothonotarys.

Many row offices are also established by state statutes with frequent examples including the positions of assessor, coroner, county attorney, prosecuting attorney, recorder, register of deeds, school superintendent, surveyor, and tax collector. These positions may be included in a state constitution, but are more commonly enacted through state laws.

The general responsibility of a prosecuting attorney is to prosecute suspected criminals in the name of the state. The county attorney acts as the attorney to the county governing board by providing legal opinions and representing the county in legal matters. Many states and individual counties have combined these roles into one elected county attorney position and it can be appointed in nine states. A minimum of 41 states have a prosecuting attorney and/or a county attorney including South Carolina, which calls the position “solicitor.”

The register of deeds and the recorder’s office represent similar functions involving the recording of all transfers of property and additional legal documents as deemed necessary. This function exists under either name in at least 28 states. The function may also be carried out by the county clerk in states where the register or recorder position does not exist or may be legally combined with the clerk, as in Montana and Idaho.

The position of coroner is responsible for determining the cause of death resulting from suspicious or violent circumstances. Twenty-one states authorize this position including Hawaii, which allows it to be combined with the position of police chief; Iowa, which allows an appointed or elected medical examiner; and Wisconsin, which utilizes medical examiners and coroners. The assessor position, noted in 26 states, is responsible for establishing property values subject to county property taxes and in many states the assessor is charged with collecting property taxes. A specific tax collector position is only designated in eight states including Georgia’s tax commissioners and Tennessee’s trustees. Finally, elected county school superintendents, historically common, are identified in 12 states with limited powers over school financial and program services. While historically very strong, the surveyor’s office now exists with limited duties and is noted in only 11 states.

There are numerous other row offices and variations on row offices which are unique to one or two states or lay minor roles in county government operations. For example, Michigan elects a drain commissioner, Kentucky elects county jailers, and Vermont elects commissioners of jail delivery and Minnesota appoints civil defense directors. Ohio elects county engineers, while four other states appoint them and Wisconsin allows a combined Engineer- Surveyor position. Three states utilize public administrators responsible for the man-

agement of estates and implementation of state probate laws while New Jersey counties have the position of surrogate to fulfill this need. The public administrator position is often combined with another office such as coroner and is usually appointed or elected at the discretion of the community. In addition, the offices may vary among counties within the same state. The list of unique offices could continue with many more details.

Below is a general list of the Row Officers by state and whether they are elected or appointed.

Table II: Row Officers by State

State	<u>Assessor</u>	<u>Auditor</u>	<u>Circuit Judge</u>	<u>Clerk</u>	<u>Coroner</u>	<u>County Attorney</u>	<u>Court Clerk</u>	<u>Engineer</u>	<u>Judge of the Probate</u>	<u>Prosecuting Attorney</u>	<u>Public Administrator</u>	<u>Recorder</u>	<u>Register of Deeds</u>	<u>School Superintendent</u>	<u>Sherriff</u>	<u>Surveyor</u>	<u>Tax Collector</u>	<u>Treasurer</u>
Alabama	E				E	A	E		E	E				D	E		E	E
Alaska	A			A		A									D			A
Arizona	E*					E*						E*	E*	E*				E*
Arkansas	E			E	E							E*			E	E	E	E
California		D		D	D	A						D						D
Colorado	E*			E*	E*	A									E*	E*		E*
Delaware	E			E								E			E			
Florida	E*						E*								E*		E*	
Georgia							E*		E*					D	E*		E*	
Hawaii	D			D		D				D								D
Idaho	E*				E*		E*			E*					E*			E*
Illinois	D	E		E	D		E	D		E*		E			E*			E*
Indiana	E	E*		E	E*	A	E*	A		E*		E*			E*	E*		E*
Iowa		E				E						E			E			E
Kansas	A	A		E		E				E			E		E			E
Kentucky				E	E	E	E								E	E		
Louisiana	E				E		E			E				E	E			
Maine									E	E			E		E			E
Maryland										E			E		E			E
Massachusetts													E		E			E

E = Elected A = Appointed D = Discretionary, Appointed or Elected
* = Constitutional ** = See Row Office Overview

Table II: Row Officers by State

State	<u>Assessor</u>	<u>Auditor</u>	<u>Circuit Judge</u>	<u>Clerk</u>	<u>Coroner</u>	<u>County Attorney</u>	<u>Court Clerk</u>	<u>Engineer</u>	<u>Judge of the Probate</u>	<u>Prosecuting Attorney</u>	<u>Public Administrator</u>	<u>Recorder</u>	<u>Register of Deeds</u>	<u>School Superintendent</u>	<u>Sherriff</u>	<u>Surveyor</u>	<u>Tax Collector</u>	<u>Treasurer</u>
Michigan							E*			E*			E*	A	E*			E*
Minnesota		D				E						D			E			D
Mississippi	E						E							E	E	E	E	
Missouri	E	A		E	E					E	E		E		E	E	E	E
Montana	D			E	D		E							E	E			E
Nebraska																		
Nevada	E	A		E				A		E	E	E			E	A		E
New Hampshire																		
New Jersey				E*			E*				E**			A	E*			
New Mexico	E			E					E						E			E
New York				E	E	A				E					E			E
North Carolina					E	A							E	A	E*			
North Dakota		E			E					E		E		A	E			E
Ohio		E			E			E		E		E			E			E
Oklahoma	E			E			E								E			E
Oregon	E			E						E				A	E	E		E
Pennsylvania		E			E		E	A		E		E	E		E			E
South Carolina		E			E*		E*		E				E	D	E*			E
South Dakota		E			D								E		E			E
Tennessee	E			E									E		E		E	
Texas	E			E		E									E	E		E
Utah	E	E		E						E		E			E	E		E
Vermont		A		A					E	E					E			A
Virginia				E		A				E					E		E	E
Washington	E	E		E	E					E					E			E
West Virginia	E			E			E			E					E	E		
Wisconsin					E		E			E			E		E			
Wyoming	E			E	E	E									E			E

E = Elected A = Appointed D = Discretionary, Appointed or Elected
* = Constitutional ** = See Row Office Overview

The Florida Constitution establishes the five County Offices to include the Supervisor of Elections, Property Appraiser, Tax Collector, Clerk of Courts and the Sheriff and prescribes their duties and functions to be provided in Florida Statutes. Per the Committee's direction, the statutorily assigned duties and functions of the Supervisor of Elections, Property Appraiser, Tax Collector, and Clerk of Courts are summarized below. Additional information can be found via Florida Statutes or the County offices' websites provided below.

Supervisor of Elections

The Supervisor Of Elections is the official custodian of the registration books and has the exclusive control of matters pertaining to the registration of voters, the conduct of local elections, the dissemination of election results, and the maintenance of election results. The Supervisor Of Elections must receive and preserve information, such as campaign treasurer reports, relevant to local candidates, political committees and political parties. Specific duties of the Supervisor of Elections include but are not limited to:

- Registering voters;
- Maintaining voter registration files;
- Conducting federal, state, and local elections;
- Administering the provisions of the campaign reporting laws; and
- Upholding the Elections Laws of the State of Florida.

Additional Information: <https://www.leonvotes.org/General-Information/About-Us>

Tax Collector

The Leon County Tax Collector's Office informs the public of tax obligations and available services, collects authorized taxes and fees from people and businesses in a fair and professional manner, and efficiently distributes the proceeds in accordance with law to the taxing authorities. Specific duties of the Tax Collector include but are not limited to:

- Collection of Ad Valorem, Non-Ad Valorem, sales, and tourist development taxes;
- Issuance of Motor vehicle and vessel registration and title applications; and
- Issuance of hunting and fishing licenses, driver licenses, and birth certificates.

Additional Information: <http://www.leontaxcollector.net/mission.html>

Property Appraiser

The Property Appraiser has the legal responsibility to provide a uniform assessment of property within the County to determine valuations for ad valorem tax purposes. Specific duties of the Property Appraiser include but are not limited to:

- Locating, identifying and appraising all property subject to ad valorem taxes;
- Producing and maintaining an equitable tax roll; and
- Administering all property tax exemptions in accordance with Florida Statutes and the Rules and Regulations of the Florida Department of Revenue.

Additional Information: <http://www.leonpa.org/dnn/>

Clerk of Court

The Clerk of Court County is a complex organization that performs a wide range of record keeping, information and financial management for citizens, the judicial system, and the Board of County Commissioner. Specific duties of the Clerk of Court include but are not limited to:

- Duties as the Clerk of Circuit and County Court such as collecting fines and fees and maintaining the court registry;
- Duties as the Recorder of Deeds such as processing applications and sales for deeds and maintaining a public records library;
- Duties as the Clerk to the Board of County Commissioners such as producing official meeting minutes and maintaining record of all county resolutions, ordinances, and contracts;
- Duties as the Accountant and Custodian of County Funds such as processing accounts payable and payroll of the County;
- Duties as the County Auditor review of contracts prior to adoption and conducting pre/post- financial audits; and
- Additional duties including processing marriage licenses, passport applications, and home solicitation permits.

Additional Information: <https://cvweb.clerk.leon.fl.us/public/login.asp>

**Constitution Revision Commission
Local Government Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 13

Relating to: LOCAL GOVERNMENT, Counties; Schedule to Article VIII

Introducer(s): Commissioner Timmann and others

Article/Section affected: Article VIII, Sections 1 & 6

Date: October 25, 2017

	REFERENCE	ACTION
1.	LO	Pre-meeting
2.	EE	

I. SUMMARY:

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county. Additionally, the proposal will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers. The proposal would take effect January 5, 2021, but would govern the elections for county constitutional officers for the 2020 election cycle.

The 1885 Florida Constitution initially provided that county constitutional officers are to be elected and that their duties be established in Florida statute. However, through amendments, in particular the enshrinement of home rule authority in the 1968 Florida Constitution, with the authorization of county charters, the method of selection and duties of some county constitutional officers in some counties changed. The proposal revises sections 1 and 6 of Article VIII to return to having all constitutionally prescribed county officers elected by voters of that county.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Constitution calls for the state to be divided into political subdivisions called counties. Specifically, Article VIII of the Florida Constitution provides for two types of counties: charter counties and non-charter counties.

Non-Charter Counties

If a county does not operate under a charter, the county has only such power of self-government as is provided by general or special law. If the Legislature has authorized a non-charter county to govern a particular area, the board of county commissioners may enact county ordinances not inconsistent with general or special law. Currently, there are 47 non-charter counties in Florida.

Charter Counties

Pursuant to either general or special law, a county charter may be adopted, amended, or repealed by approval of the electors of the county in a special election. If a county operates under a charter, the county has all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. Therefore, even if the Legislature has not specifically authorized a charter county to govern a particular area, the Florida Constitution grants the board of county commissioners broad authority to enact county ordinances not inconsistent with general law. Currently, there are 20 charter counties in Florida.

County Officers under the Florida Constitution

The Florida Constitution creates five specific county officers: Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court (collectively, the five constitutional offices/officers). The Clerk of the Circuit Court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of four years. These officers have prescribed duties provided for in general law.

All non-charter counties have the five constitutional officers with statutorily prescribed duties. Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred the powers to another county office.

The five constitutional offices may only be altered pursuant to authority prescribed by the terms of a county charter. Specifically, Article VIII, Section 1(d) authorizes a county charter to abolish one or all of the constitutional county offices; transfer the powers to another department of the county government; or provide for a different manner of selecting a county officer. Further, Article VIII, Section 1(d) authorizes a county charter to transfer the Clerk of the Circuit Court's duties as ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds to another department of county government.

Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred their duties to another county office. The eight counties that have altered the duties of a constitutional officer, or have abolished the office and reassigned

duties through their charter are: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

Brevard County

Brevard County “expressly preserved” the offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court as departments of county government, rather than constitutional offices. The county reiterated the ability to transfer or add to the powers of each of the county officers. The county has transferred the powers of the Clerk of Circuit Court as auditor, and custodian of county funds to the county manager. Each officer remains elected for a four year term.

Miami-Dade County

Miami-Dade County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser, transferred these powers to the mayor, and granted the mayor the discretion to sub-delegate the powers. The duties of the Sheriff were transferred to the police department, the director of which is appointed by the mayor. The duties of the tax collector were transferred to the department of finance, the director of which is jointly appointed by the mayor and the clerk of court. The county Property Appraiser, although not retained as a constitutional office, remains an elected position. The duties of the Supervisor of Elections were transferred to the elections department, the director of which is appointed by the mayor. The Clerk of the Circuit Court remains a constitutional, elected officer with some changes in duties. Although the clerk is still the clerk of the county commission, the clerk’s financial recorder and custodian duties were transferred to the department of financial services, and the clerk’s auditing duties were transferred to the commission auditor.

Volusia County

Volusia County established its charter by special law in 1970, and the voters of Volusia County subsequently approved it in a special countywide election the same year. Volusia County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser. The county transferred these offices’ powers to new charter offices. The duties of the Sheriff were transferred to and divided between the department of public safety and the department of corrections. The duties of the Tax Collector were transferred to the department of finance. The duties of the Property Appraiser were transferred to the department of property appraisal. The duties of the Supervisor of Elections were transferred to the department of elections. The Sheriff, Property Appraiser, and Supervisor of Elections are elected directors of their respective offices. The Tax Collector is appointed by the county manager and confirmed by the county council. The Clerk of the Circuit Court remains a constitutionally elected officer except that the clerk’s constitutional duties as clerk of the county commission were transferred to and divided between the department of central services and the department of finance.

Broward County

Broward County has not altered the constitutionally elected offices and duties of the Sheriff, Property Appraiser, and Supervisor of Elections. However, the office of the Tax Collector was abolished and the duties were transferred to the department of finance and administrative services, headed by the finance and administrative services director appointed by the county administrator. Though the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission were transferred to the county administrator.

Clay County

Clay County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. Although the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county administrator.

Duval County

Duval County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer but the clerk's duties as clerk of the county commission were transferred to the council secretary and the constitutional duties as auditor were transferred to the council auditor.

Orange County

In 2016, Orange County abolished the constitutionally elected offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, Clerk of the Circuit Court as well as the county Comptroller and reinstated the offices as elected officials that report directly to the county commission. The 2016 charter amendments provide, however, that each new charter office shall have all rights and privileges of the corresponding constitutional offices. Two separate lawsuits are pending as to whether the county can make constitutional officers term limited and subject to non-partisan elections through their county charter provisions.

Osceola County

Osceola County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer, but the clerk's duties as clerk of the county commission, auditor, and custodian of funds were transferred to the county manager.

B. EFFECT OF PROPOSED CHANGES:

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county, as was originally prescribed prior to the authorization of county charters, and will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers.

If adopted by the Constitution Revision Commission, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election (November 6, 2018). If approved by the voters, the amendment takes effect on January 5, 2021. As a result, affected charter counties will have around 18 months to revise their charters and ordinances to conform to this amendment for the 2020 general elections.

If adopted, the proposal would have no impact on non-charter counties and those charter counties that retained the constitutional offices without any changes to its selection or authority.

From the 2020 general election cycle forward, all county, whether charter or non-charter, constitutional officers must be elected with fixed four year terms, and their offices cannot be abolished, or their duties transferred to another office or officer.

If approved during the 2018 general election, the following counties will be required to revise their charter to conform to the change before the 2020 general election; Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

C. FISCAL IMPACT:

The fiscal impact is indeterminate. The impact will be confined to the charter counties who have altered their constitutional officers. The proposal would require the affected counties to expend funds to (a) provide for election of appointed constitutional officers, and (b) reorganize their governments to accommodate the officer's office and responsibilities. The effect will be heavily dependent on the reorganization efforts at the county level and could vary greatly by county.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

Line 44 “Notwithstanding subsection 6(e)...” The word “notwithstanding” may create ambiguity; therefore, “notwithstanding” is construed to communicate that this amendment supersedes subsection 6(e).

D. Related Issues:

None.

V.

ADJOURNMENT

Citizen Charter Review Committee

January 25, 2018

6:00 p.m. - 8:00 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of January 18, 2018 Meeting Minutes
- III. Public Hearings
 - a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
- IV. Adjournment

The next public hearing of the Citizen Charter Review Committee will take place on Thursday, February 1, 2018 at 6:00 P.M.

I.

CALL TO ORDER

II.

APPROVAL OF JANUARY 18, 2018 MEETING MINUTES

**2017/2018
Citizen Charter Review Committee
January 18, 2018**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 18, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Kim Williams and William Graham present. Committee members Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

- I. **Call to Order:** Chair Hinkle called the meeting to order at 11:30 a.m.
- II. **Approval of Minutes:** *A motion to approve the January 11, 2018 minutes was offered by Michael Eurich and seconded by Anice Prosser. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).*

III. **Remarks of Interested Citizens:**

Chair Hinkle confirmed there were no citizens to address the CRC.

IV. **Proposed Charter Amendments for Committee Consideration**

Chair Hinkle reminded the Committee that a simple majority vote of the CRC was needed to move the proposed amendments to the next phase.

a. **Protections for Water Resources**

County Administrator Long introduced the item. He advised that the state has exclusive authority over water consumption; however, counties may establish environmental standards related to water quality protection. He noted that a detailed memorandum from Deputy County Attorney Riggans on responsibilities of the state and counties as they pertain to the regulation of water quality is included in the Committee's agenda packet, as well as information on the actions of the 2010 Charter Review Committee by which countywide minimum environmental standards were established. He conveyed that the County will continue to evaluate opportunities to improve water quality and staff had no specific regulations to recommend at this time for inclusion in the County Charter.

Mr. Williams asked if there were any identified water quality issues to be cited in the Charter by which to oblige the County Commission to review or make improvements routinely.

County Administrator Long provided an overview of a number of actions the Board has taken to address water quality, such as leveraging opportunities to facilitate neighborhood conversions from septic to sewer services and actively evaluating pilot programs for alternative programs septic. He submitted that he did not believe a charter amendment was needed to ensure this issue remains on the Board's radar.

Mr. Fleckenstein inquired if there are water quality issues facing the County that are not being addressed by regulations or current programs.

David McDevitt, Development Support and Environmental Management Director, responded that the implementation of minimum countywide environmental standards and recent changes to the Comprehensive Plan has enhanced the means by which the County treats residential development in the lake protection area. He advised that staff is not aware of any additional regulations needed at this time.

Mr. Fleckenstein also ascertained from Mr. McDevitt that the County is adequately protected on issues such as oil drilling or fracking, as the County does not have a land use designation that would allow such events to occur.

Mr. Thomas submitted that, while regulations against pollutants affecting water quality are needed, an ordinance would be the more appropriate and effective venue.

Ms. Jones clarified that Commissioner Bill Proctor (who brought this issue forward) had asked for the establishment of a citizen board to look at water resource issues for the region. She confirmed with County Attorney Thiele that the County has no jurisdiction that would overcome state regulations and authority of the Water Management Districts. He also relayed that the County has a very active Water Resources Committee in place.

Catherine Jones moved, seconded by Neil Fleckenstein, approval of Option 3: Take no further action at this time. The motion carried 10-0 (Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

b. Consideration of Constitutional Officer Status

County Administrator Long introduced the item. He noted, as reflected in the analysis, that there is a great deal of diversity in the manner in which constitutional officers are treated on both the national and state levels. He mentioned that a vast majority of charter counties throughout the state have preserved their Constitutional Offices, with only six having modified at least one office. Mr. Long also outlined, as requested by the CRC, a process by which the appointed positions would be filled. He shared that the Constitutional Review Commission is considering a constitutional amendment that would mandate that all constitutionally prescribed county officers be elected and that all functions and duties be restored as originally prescribed in the Constitution. Lastly, Mr. Long conveyed that the County enjoys a very good and strong working relationship with the County's Constitutional Officers.

Ms. Jones expressed her appreciation for the thorough analysis. She asserted that any potential Constitutional amendment should not control how the Committee moves forward on an issue. She submitted that the County is very fortunate to have some "incredible" Constitutional Officers and that her request for the item was not reflective of their performance. She stated that her desire to pursue this issue was threefold: 1) Elected Constitutional Officers remain until they retire; 2) Elections have a tendency to be popularity contests, and 3) Residents have no recourse if the individual does something wrong.

Mr. Thomas voiced his support for the continuance of elected constitutional officers and opined that citizens prefer to have a say in the appointment of their constitutionals. He also submitted that the constitutional offices need to have independence from the Commission. Mr. Thomas also questioned the criteria to be used to hire and evaluate the performance of constitutional offices.

Ted Thomas moved, seconded by Reggie Ellis, approval of Option 3: Take no further action at this time. The motion carried 9-1 (Catherine Jones in opposition and Ken Hart, Shane Hopkins, Gordon Thames and Jay Revell absent).

V. **Adjournment:**

Chairman Hinkle thanked the CRC for its work thus far and reviewed the schedule going forward.

Chairman Hinkle recalled that the CRC has advanced the following proposed amendments to public hearing:

1. Increase campaign contribution limits for local elections.
2. Provide a Code of Ethics in the Leon County Charter.
3. Modify the hiring/firing of the County Attorney.

Due to the progress of the CRC, Chair Hinkle recommended that the CRC begin its public hearings on January 25, 2018. She stated that the hearings would begin at 6:00 p.m. in the Commission Chambers. She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend all three public hearings.

The Committee adjourned at 12:11 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

PUBLIC HEARINGS

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM A**

Citizen Charter Review Committee

Agenda Item A

January 25, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on the proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions*. This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #1: Conduct the first of three public hearings to consider the proposed charter amendment (Attachment #1).

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment
Language Increasing Campaign Contribution Limits for Local Elections
January 25, 2018
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Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (Attachment #2). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing. The three public hearings have been scheduled for January 25, February 1, and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by 65.5% the local electorate.

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals and political committees from \$500 to \$1,000. Of Florida's 67 counties, 64 follow the current state law of a \$1,000 campaign contribution limit.

The Committee's proposed charter amendment would remove Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. These provisions apply to the Leon County Board of County Commissioners and Constitutional Officers respectively, and both provisions read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

If approved by the Leon County electorate, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Section 106.08 of the Florida Statutes which states that, except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of \$1,000 for candidates for county office.

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment
Language Increasing Campaign Contribution Limits for Local Elections
January 25, 2018
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Options:

1. Conduct the first of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. Proposed Charter Amendment
2. January 11, 2018 Item, "Increasing Campaign Contributions for Local Elections"

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item #5A

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* (Attachment #1). This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item (Attachment #1) and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

The Committee also requested that staff bring back additional information regarding the approval rate for the Charter amendment in the 2010 General Election, which limited campaign donations to candidates for County Commission and Constitutional Officers to \$250 per contributor, and the options for the disposition of surplus funds of candidates and campaign fund balances of individual candidates from previous elections.

Analysis:

Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Limitations to campaign contributions was proposed by the 2009-2010 Citizen Charter Review Committee and adopted by the voters in 2010. The final vote count for the amendment during the 2010 General Elections was as follows:

YES: 57,558 (65.53%)

NO: 30,275 (34.47%)

Should Article II sec. 2.2 sub. (7) and Article III sec. 3.4 be stricken from the Charter, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Florida law, Section 106.08 F.S., which sets the campaign finance limit to \$1,000.

Title: Increasing Campaign Contribution Limits for Local Elections
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Analysis of Surplus Funds by Candidates

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles as reflected in Attachment #3. Campaign fund balances are the funds that remain following an election. However if a negative balances remains, it must be addressed by the campaign after an election has ended.

Attachment #3 provides the complete analysis of candidates subject to the County's \$250 campaign limit or the state limit of \$1,000. In addition, the analysis reflects the City of Tallahassee's 2014 Charter Amendment which lowered the contribution limit for City Commission Candidates from \$1,000 to \$250 beginning in 2016. The following provides a brief summary of the data contained in Attachment #3.

Candidates Subject to a \$250 Campaign Limit

- Over the last three election cycles, 30 County Commission candidates and 26 Constitutional Officer candidates were subject to the County's \$250 Campaign Limit.
- On average, 70% of these candidates ended the election cycle with a campaign surplus ranging from \$20 to \$46,765.
- Since 2012, the maximum funds raised by a candidate subject to the County's \$250 limit was \$337,078.
- In 2016, 88% of City candidates subject to the City's \$250 campaign limit ended the election cycle with a campaign surplus ranging from \$25 to \$48,547.

Candidates Subject to the \$1,000 Campaign Limit

- Over the last three election cycles, 77 candidates were subject to the State's \$1,000 Campaign Limit including County Judges, School Board, Superintendent of Schools, Soil and Water Conservation, City Candidates (2012 & 2014) and community development district candidates.
- On average, 69% of these candidates ended the election cycle with a campaign surplus ranging from \$2 to \$135,909.
- Since 2012, the maximum funds raised by a candidate subject to the \$1,000 limit was \$295,839.

Disposition of Surplus Funds by Candidates

The options available to candidates for disposing of surplus funds are outlined Section 106.141, Florida Statutes (Attachment #4), which states:

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

Unopposed candidates for a county office or any election conducted on less than a countywide basis also have the option to transfer to an office account up to \$5,000 multiplied by the number of years the candidate has served in the office he/she is being elected to. Funds transferred to an office account may be used for legitimate expenses related to the candidate's public office such as travel expenses, professional services provided by an accountant or attorney for preparation of financial disclosure filings, or fees/dues to religious, civic, or charitable organizations.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Increasing Campaign Contribution Limits for Local Elections

January 11, 2018

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Attachments:

1. Proposed Charter Amendment
2. November 30, 2017 Item, "Increasing Campaign Contributions for Local Elections"
3. Candidate Campaign Balances - 2012, 2014, 2015 Election Cycles
4. Florida Statute 106.14; Disposition of surplus funds by candidates.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Title: Campaign Contributions for Local Elections
November 30, 2017
Page 3

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

Candidate Campaign Balances-2012 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Cynthia Turner	\$250	Clerk of the Court and Comptroller	\$20,280.33	(\$20,260.61)	\$19.72
Bob Inzer	\$250	Clerk of the Court and Comptroller	\$38,412.68	(\$35,208.59)	\$3,204.09
Bessie Beard	\$250	Leon County Commission, At Large Group 1	\$0.00	\$0.00	\$0.00
Mary Ann Lindley	\$250	Leon County Commission, At Large Group 1	\$112,829.00	(\$112,829.00)	\$0.00
Fred Varn	\$250	Leon County Commission, At Large Group 1	\$39,557.00	(\$39,163.70)	\$393.30
Emily Fritz	\$250	Leon County Commission, At Large Group 1	\$80,479.79	(\$79,847.16)	\$632.63
Akin Akinyemi	\$250	Leon County Commission, At Large Group 1	\$55,250.12	(\$54,455.56)	\$794.56
Harrison Arencibian	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Janes Sauls	\$250	Leon County Commission, District 2	\$29,145.00	(\$26,903.94)	\$2,241.06
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$128,492.00	(\$84,969.80)	\$43,522.20
Bryan Desloge	\$250	Leon County Commission, District 4	\$57,895.00	(\$56,053.49)	\$1,841.51
Bert Hartsfield	\$250	Property Appraiser	\$12,650.00	\$0.00	\$12,650.00
Lisa Ann Sprague	\$250	Sheriff	\$47,812.56	(\$49,267.96)	(\$1,455.40)
Tommy Mills	\$250	Sheriff	\$82,421.00	(\$81,562.80)	\$858.20
Larry Campbell	\$250	Sheriff	\$168,836.00	(\$140,772.16)	\$28,063.84
Ion Sancho	\$250	Supervisor of Elections	\$0.00	\$0.00	\$0.00
Doris Maloy	\$250	Tax Collector	\$14,575.00	(\$15,341.95)	(\$766.95)
Samuel Yozviak	\$250	Tax Collector	\$455.00	(\$119.19)	\$335.81
Barry Brooks	\$1,000	Capital Region CDD, Seat 2	\$0.00	\$0.00	\$0.00
Wayne Toothman	\$1,000	Capital Region CDD, Seat 4	\$0.00	\$0.00	\$0.00
John Ray	\$1,000	Capital Region CDD, Seat 4	\$1,855.00	(\$1,685.98)	\$169.02
Robert Wheeler	\$1,000	Leon County Judge, Seat 1	\$11,230.00	(\$71.91)	\$11,158.09
Judith Hawkins	\$1,000	Leon County Judge, Seat 2	\$8,025.00	(\$8,025.00)	\$0.00
Ronald Flury	\$1,000	Leon County Judge, Seat 3	\$5,600.00	(\$5,486.74)	\$113.26
Augustus Aikens	\$1,000	Leon County Judge, Seat 4	\$100.00	(\$10.00)	\$90.00
Dee Crumpler	\$1,000	Leon County School Board, District 2	\$1,500.00	(\$1,475.80)	\$24.20
DeeDee Rasmussen	\$1,000	Leon County School Board, District 4	\$30,302.00	(\$4,140.61)	\$26,161.39
Bobby Buccellato	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$1,000	Leon Soil and Water Conservation, District 1	\$1,425.00	(\$1,325.00)	\$100.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$2,435.00	(\$2,333.39)	\$101.61
Martha Lang	\$1,000	Leon Soil and Water Conservation, District 1	\$938.00	(\$817.01)	\$120.99
Evan Power	\$1,000	Leon Soil and Water Conservation, District 3	\$8,775.00	(\$8,727.79)	\$47.21
Pyllis Basch Smith	\$1,000	Leon Soil and Water Conservation, District 3	\$125.00	(\$55.12)	\$69.88

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation, District 3	\$2,845.00	(\$2,435.89)	\$409.11
Bill Howell	\$1,000	Leon Soil and Water Conservation, District 5	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 5	\$8,790.00	(\$8,727.79)	\$62.21
Richard Kessler	\$1,000	Piney-Z CDD, Seat 2	\$1,678.70	(\$598.54)	\$1,080.16
Sabrina M. Allen	\$1,000	Superintendent of Schools	\$15,728.00	(\$15,032.21)	\$695.79
Jackie Pons	\$1,000	Superintendent of Schools	\$295,389.00	(\$188,816.17)	\$106,572.83
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					
Robert Fulford	\$1,000	Tallahassee City Commission, Seat 1	\$370.80	(\$370.80)	\$0.00
Daniel Parker	\$1,000	Tallahassee City Commission, Seat 1	\$32,505.09	(\$32,505.09)	\$0.00
Brian Acosta	\$1,000	Tallahassee City Commission, Seat 1	\$2.00	\$0.00	\$2.00
Delaitre Hollinger	\$1,000	Tallahassee City Commission, Seat 1	\$5,806.36	(\$5,601.23)	\$205.13
Erica Friall	\$1,000	Tallahassee City Commission, Seat 1	\$28,430.00	(\$25,976.04)	\$2,453.96
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 1	\$98,360.00	(\$95,392.22)	\$2,967.78
Scott Maddox	\$1,000	Tallahassee City Commission, Seat 1	\$223,971.57	(\$210,415.85)	\$13,555.72
Jacob Eaton	\$1,000	Tallahassee City Commission, Seat 2	\$2,399.12	(\$2,942.43)	(\$543.31)
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 2	\$105,431.55	(\$105,431.55)	\$0.00
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$865.00	(\$831.22)	\$33.78
Nicholas Halley	\$1,000	Tallahassee City Commission, Seat 2	\$4,761.37	(\$1,003.14)	\$3,758.23
* Negative balances for Maloy and Sprague were amended to balance out.					
* Reports for Eaton resulted in follow up with the Florida Elections Commission.					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Curtis Baynes	\$250	Leon County Commission, At Large Group 2	\$27,596.74	(\$23,294.28)	\$4,302.46
Nick Maddox	\$250	Leon County Commission, At Large Group 2	\$61,100.00	(\$58,596.58)	\$2,503.42
Weser Khufu	\$250	Leon County Commission, District 1	\$12,746.80	(\$14,172.24)	(\$1,425.44)
William Curtis Proctor	\$250	Leon County Commission, District 1	\$9,345.00	(\$10,126.00)	(\$781.00)
Keishann Corley	\$250	Leon County Commission, District 3	\$0.00	\$0.00	\$0.00
John Dailey	\$250	Leon County Commission, District 3	\$32,630.00	(\$29,390.65)	\$3,239.35
Kristin Dozier	\$250	Leon County Commission, District 5	\$59,220.29	(\$29,750.06)	\$29,470.23
Patrick Madden	\$1,000	Leon County School Board, District 1	\$4,050.00	(\$3,610.12)	\$439.88
Diana Oropallo	\$1,000	Leon County School Board, District 1	\$44,305.00	(\$4,546.69)	\$39,758.31
Alva Swafford Striplin	\$1,000	Leon County School Board, District 1	\$26,344.70	(\$26,228.16)	\$116.54
Patty Ball Thomas	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Forrest Van Camp	\$1,000	Leon County School Board, District 1	\$68,665.00	(\$62,864.75)	\$5,800.25
Ed Lee	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Maggie Bert Lewis-Butler	\$1,000	Leon County School Board, District 3	\$625.00	(\$223.13)	\$401.87
Georgia Bowen	\$1,000	Leon County School Board, District 5	\$3,425.00	(\$2,575.19)	\$849.81
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Stan Peacock	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Brian Lee	\$1,000	Leon Soil and Water Conservation, District 4	\$8,633.00	(\$6,598.63)	\$2,034.37
Ryan Truchelut	\$1,000	Leon Soil and Water Conservation, District 4	\$4,915.04	(\$3,799.47)	\$1,115.57
Nina Ashenafi Richardson	\$1,000	Leon County Judge, Seat 5	\$9,300.00	(\$6,211.20)	\$3,088.80
Glenda Herrera-Gray	\$1,000	Capital Region CDD, Seat 1	\$0.00	\$0.00	\$0.00
Eli Nortelus	\$1,000	Capital Region CDD, Seat 3	\$4,090.00	(\$1,921.83)	\$2,168.17
Luis K. Rojas	\$1,000	Capital Region CDD, Seat 3	\$8,802.00	(\$7,808.93)	\$993.07
David E. Ramba	\$1,000	Capital Region CDD, Seat 5	\$0.00	\$0.00	\$0.00
Hugh Hauck	\$1,000	Piney-Z CDD, Seat 1	\$49.00	(\$49.00)	\$0.00
Delores Ann Pincus	\$1,000	Piney-Z CDD, Seat 1	\$0.00	\$0.00	\$0.00
Johnny Devine	\$1,000	Piney-Z CDD, Seat 3	\$150.00	(\$58.39)	\$91.61
Cheryl Hudson	\$1,000	Piney-Z CDD, Seat 3	\$0.00	\$0.00	\$0.00
Janetta Morphew	\$1,000	Piney-Z CDD, Seat 5	\$0.00	\$0.00	\$0.00
Michael Lee	\$1,000	Piney-Z CDD, Seat 5	\$50.00	(\$35.00)	\$15.00
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Darren Mason	\$1,000	Tallahassee City Commission, Seat 2	\$0.00	\$0.00	\$0.00
Rick Minor	\$1,000	Tallahassee City Commission, Seat 2	\$19,074.00	(\$1,077.04)	\$17,996.96
Diana Oropallo	\$1,000	Tallahassee City Commission, Seat 2	\$97,258.31	(\$92,321.60)	\$4,936.71
Curtis Richardson	\$1,000	Tallahassee City Commission, Seat 2	\$80,183.00	(\$52,928.89)	\$27,254.11
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$420.00	(\$361.10)	\$58.90
Todd Sperry	\$1,000	Tallahassee City Commission, Seat 2	\$10,500.00	(\$10,500.00)	\$0.00
Rosa Houston Autery	\$1,000	Tallahassee City Commission, Seat 3	\$125.00	\$0.00	\$125.00
Nancy Miller	\$1,000	Tallahassee City Commission, Seat 3	\$124,076.00	(\$111,588.76)	\$12,487.24
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 3	\$23,235.00	(\$17,186.65)	\$6,048.35
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$253,151.09	(\$217,876.90)	\$35,274.19
Larry Hendricks	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$1,075.00	(\$739.40)	\$335.60
Evin Matthews	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$0.00	\$0.00	\$0.00
Zachery Richardson	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$10,495.00	(\$6,290.38)	\$4,204.62
Gil Ziffer	\$1,000	Tallahassee City Commission, Seat 5	\$74,635.00	(\$20,692.56)	\$53,942.44

* Negative balances for Kufu were amended to balance out.

* Reports for Proctor resulted in follow up with the Florida Elections Commission.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Franklin Ayetin	\$250	Clerk of the Court and Comptroller	\$12,007.16	(\$10,892.71)	\$1,114.45
Bill Bogan	\$250	Clerk of the Court and Comptroller	\$33,350.00	(\$22,320.77)	\$11,029.23
Barry Brooks	\$250	Clerk of the Court and Comptroller	\$36,893.83	(\$36,872.67)	\$21.16
Gwendolyn Marshall	\$250	Clerk of the Court and Comptroller	\$16,819.00	(\$16,872.84)	(\$53.84)
Akin Akinyemi	\$250	Property Appraiser	\$20,128.00	(\$16,943.97)	\$3,184.03
Clay Ketcham	\$250	Property Appraiser	\$61,932.54	(\$60,010.72)	\$1,921.82
Robert Lane	\$250	Property Appraiser	\$94,871.00	(\$86,676.82)	\$8,194.18
Doug Will	\$250	Property Appraiser	\$83,289.15	(\$81,809.27)	\$1,479.88
Walt McNeil	\$250	Sheriff	\$199,874.50	(\$192,180.86)	\$7,693.64
Tommy Mills	\$250	Sheriff	\$79,609.97	(\$63,162.71)	\$16,447.26
Charles Strickland	\$250	Sheriff	\$90,445.13	(\$78,366.13)	\$12,079.00
Mike Wood	\$250	Sheriff	\$337,078.32	(\$334,294.55)	\$2,783.77
Mark Earley	\$250	Supervisor of Elections	\$77,917.15	(\$72,554.97)	\$5,362.18
Tina Pate	\$250	Supervisor of Elections	\$18,928.00	(\$14,442.37)	\$4,485.63
Alan Williams	\$250	Supervisor of Elections	\$193,438.00	(\$177,862.57)	\$15,575.43
John Paul Bailey	\$250	Tax Collector	\$24,277.16	(\$23,137.37)	\$1,139.79
Doris Maloy	\$250	Tax Collector	\$51,879.38	(\$45,481.85)	\$6,397.53
Gary Gayle	\$250	Tallahassee City Commission, Seat 1	\$450.00	(\$376.23)	\$73.77
Luther Lee	\$250	Tallahassee City Commission, Seat 1	\$1,056.23	(\$1,056.23)	\$0.00
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$5,630.15	(\$5,360.17)	\$269.98
Rick Minor	\$250	Tallahassee City Commission, Seat 1	\$72,735.23	(\$24,188.18)	\$48,547.05
Gloria Pugh	\$250	Tallahassee City Commission, Seat 1	\$48,732.01	(\$15,151.96)	\$33,580.05
Bruce Strouble	\$250	Tallahassee City Commission, Seat 1	\$6,699.31	(\$6,059.40)	\$639.91
Steven Hougland	\$250	Tallahassee City Commission, Seat 2	\$9,475.00	(\$9,450.51)	\$24.49
Curtis Richardson	\$250	Tallahassee City Commission, Seat 2	\$70,675.00	(\$51,971.39)	\$18,703.61
David Hawkins	\$250	Leon County Commission, At Large Group 1	\$6,115.00	(\$6,086.00)	\$29.00
Mary Ann Linley	\$250	Leon County Commission, At Large Group 1	\$57,504.00	(\$52,282.39)	\$5,221.61
Jeffery Bullock	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Nancy Calhoun	\$250	Leon County Commission, District 2	\$3,130.00	(\$3,033.80)	\$96.20
Howard Font	\$250	Leon County Commission, District 2	\$3,748.00	(\$1,801.06)	\$1,946.94
Margaret Franklin	\$250	Leon County Commission, District 2	\$35,586.00	(\$35,434.11)	\$151.89
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$85,855.00	(\$39,089.11)	\$46,765.89
Jimbo Jackson	\$250	Leon County Commission, District 2	\$26,073.00	(\$25,236.12)	\$836.88

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Manny Joanos	\$250	Leon County Commission, District 2	\$115,719.00	(\$114,712.06)	\$1,006.94
T.J Lewis	\$250	Leon County Commission, District 2	\$13,291.00	(\$13,008.69)	\$282.31
Taurean Lewis	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Bradley Sherman	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$250	Leon County Commission, District 2	\$3,976.12	(\$1,969.21)	\$2,006.91
Bryan Desloge	\$250	Leon County Commission, District 4	\$33,850.00	(\$14,223.94)	\$19,626.06
Rocky Hanna	\$1,000	Leon County Superintendent of Schools	\$288,416.55	(\$275,012.77)	\$13,403.78
Woody Hildebrandt	\$1,000	Leon County Superintendent of Schools	\$22,841.61	(\$22,601.60)	\$240.01
Jackie Pons	\$1,000	Leon County Superintendent of Schools	\$371,970.23	(\$342,440.21)	\$29,530.02
Patricia Ann Sunday	\$1,000	Leon County Superintendent of Schools	\$1,156.70	(\$1,085.49)	\$71.21
Forrest Van Camp	\$1,000	Leon County Superintendent of Schools	\$11,200.00	(\$10,317.17)	\$882.83
Michael Wynn	\$1,000	Leon County Superintendent of Schools	\$0.00	\$0.00	\$0.00
Roger Pinholster	\$1,000	Leon County School Board, District 2	\$14,444.00	(\$14,406.84)	\$37.16
Rosanne Wood	\$1,000	Leon County School Board, District 2	\$71,611.43	(\$62,612.58)	\$8,998.85
Patrick Cannon	\$1,000	Leon County School Board, District 4	\$3,243.91	(\$2,779.46)	\$464.45
Tallie Lee Gainer III	\$1,000	Leon County School Board, District 4	\$3,445.00	(\$2,923.70)	\$521.30
Dee Dee Rasmussen	\$1,000	Leon County School Board, District 4	\$39,327.00	(\$35,320.75)	\$4,006.25
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Bill Helmich	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Anthony Cooper	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Delaitre Hollinger	\$1,000	Leon Soil and Water Conservation District 5	\$145.00	(\$85.00)	\$60.00
William Howell	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Monique Richardson	\$1,000	Leon County Judge, Seat 2	\$142,577.76	(\$121,274.19)	\$21,303.57
Layne Smith	\$1,000	Leon County Judge, Seat 2	\$153,773.73	(\$142,971.59)	\$10,802.14
Dorothy McPherson	\$1,000	State Committee Woman	\$1,083.56	\$0.00	\$1,083.56
Caitlin Murray	\$1,000	State Committee Woman	\$21,130.00	(\$12,073.09)	\$9,056.91
Brian Kelley	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Luis Rojas	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Carl Mikyska	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
John B Ray	\$1,000	Capital Regional CDD, Seat 4	\$3,025.00	\$480.11	\$3,505.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Luis Rojas	\$1,000	Capital Regional CDD, Seat 4	\$0.00	\$0.00	\$0.00
Richard Kessler	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Gerry Cashin	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Arthur Kirby	\$1,000	Piney Z CDD, Seat 4	\$200.00	(\$88.04)	\$111.96
Joseph Didier	\$1,000	Piney Z CDD, Seat 4	\$0.00	\$0.00	\$0.00
<i>Redesignated Campaigns</i>					
Scott Maddox	\$1,000	Leon County Superintendent of Schools	\$216,448.55	(\$80,539.23)	\$135,909.32
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$52,525.00	(\$52,525.00)	\$0.00
* Negative balances for Marshall were amended to balance out.					

Select Year:

The 2017 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.141 Disposition of surplus funds by candidates. –

(1) Except as provided in subsection (6), each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate may not accept any contributions, nor may any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, before such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. [106.11\(5\)\(b\)](#) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign

account to an office account any amount of the funds on deposit in such campaign account up to:

- (a) Fifty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.
- (b) Ten thousand dollars, for a candidate for multicounty office.
- (c) Ten thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- (d) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- (e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.
- (f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.
- (g) Three thousand dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member; personal taxes payable on office account funds by the candidate or elected public official; professional services provided by a certified public accountant or attorney for preparation of the elected public official's financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#); costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in s. [106.011](#); fees or dues to religious, civic, or charitable organizations of which the elected public official is a member; items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral; personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or expenses incurred in the operation of the elected public official's office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall use such funds to pay for professional services provided by a certified public accountant or attorney for preparation of the elected public official's final financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#), or give such funds to a charitable organization that meets the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6)(a) For purposes of this subsection, the term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

(b) A candidate elected to state office or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to \$20,000 in his or her campaign account, or in an interest-bearing account or certificate of deposit, for use in his or her next campaign for the same office, in addition to the disposition methods provided in subsections (4) and (5). All requirements applicable to candidate campaign accounts under this chapter, including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

(c) If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or s. [106.11\(5\)](#) within 90 days after the last day of candidate qualifying for that office. Requirements in this section applicable to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(7) Before disposing of funds pursuant to subsection (4), transferring funds into an office account pursuant to subsection (5), or retaining funds for reelection pursuant to subsection (6), any candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her shall reimburse the state or local governmental entity, whichever is applicable, for such waived fee. If there are insufficient funds in the account to pay the full amount of the fee, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund.

(8)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and, on or before the date by which such disposition is to have been made, shall file with the officer with whom reports are required to be filed pursuant to s. [106.07](#) a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor;
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank, savings and loan association, or credit union in which the office account is located; and
4. The amount of such funds retained pursuant to subsection (6), together with the name and address of the bank, savings and loan association, or credit union in which the retained funds are located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. [106.07](#).

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. [106.07](#) for submitting late termination reports.

(9) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. [106.07\(2\)](#).

(10) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(11) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 15, ch. 2013-37.

¹**Note.**—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution. Page 3 of 3

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

January 25, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This is a public hearing on the proposed charter amendment to provide a “Code of Ethics” requirement in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the first of three public hearings to consider the proposed charter amendment.

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment Language
Providing a “Code of Ethics” in the Leon County Charter
January 25, 2018
Page 2

Report and Discussion

Background:

On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

Following staff’s presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties’ ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a “Code of Ethics” ordinance, with and without applicability to Constitutional Officers.

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance *not* applicable to Constitutional Officers (Attachment #1). The three public hearings have been scheduled for January 25, February 1, and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code.” The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s “Ethics Code” is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven have provisions in their charter that require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

If approved by the Leon County electorate, the Committee’s proposed amendment would require the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the “Code of Ethics” as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments.

Title: First of Three Public Hearings to Consider the Proposed Charter Amendment Language
Providing a “Code of Ethics” in the Leon County Charter
January 25, 2018
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The proposed charter amendment language is included below.

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Conduct the first of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Citizens Charter Review Committee “Code of Ethics” Agenda Item

Citizen Charter Review Committee

Agenda Item #5B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to providing for a “Code of Ethics” in the Leon County Charter. Per the Committee’s request, this item also provides proposed charter amendment language including language for a “Code of Ethics” which applies to Constitutional Officers

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request that staff provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

On November 30, following staff’s presentation of the requested agenda item (Attachment #1), the Committee voted 12-0 to request that staff prepare proposed charter amendment language for consideration at the Committee’s January 11, 2018 meeting. Additionally, the Committee requested information and analysis regarding other counties whose charter requires the adoption of a “Code of Ethics.”

Analysis:

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

Per the committee’s request, staff has attached provisions from each counties’ charter regarding the “Code of Ethics” requirement (Attachment #2). Applicability of these counties’ ethics code to elected Constitutional Officers varies.

- Broward, Clay, and Duval County’s charters specifically state that their “Code of Ethics” applies to all elected Constitutional Officers/“county officers.”
- Palm Beach and Seminole County’s “Code of Ethics” does not apply to elected Constitutional Officers.
- Miami-Dade County’s “Code of Ethics” Ordinance is not applicable to elected Constitutional Officers, with the exception of one provision regarding ethical campaign practices and associated penalties of admonition and/or fines.

Based on the Committee’s direction, staff has prepared proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the Code of Ethics as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. In support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #3) in a continuous effort to provide guidance and assistance to County employees.

Title: Code of Ethics
January 11, 2017
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As previously stated, all local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, Florida Statutes, which is applicable to all public officials, officers, and employees in the state. Accordingly, section 112.326, Florida Statutes states:

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

Per the Committee’s direction, staff has prepared two variations of the proposed amendment one not applicable to Constitutional Officers and one applicable to Constitutional Officers.

Version #1 (**Not** Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019 and shall. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Version #2 (Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, Leon County Constitutional Officers and their employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative

Title: Code of Ethics
January 11, 2017
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standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics” **not** applicable to Constitutional Officers.
Voting Threshold: Simple Majority Vote
2. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule for public hearing the proposed charter amendment language providing for a “Code of Ethics” that is applicable to Constitutional Officers.
3. Request additional information and analysis.
Voting Threshold: Four (4) Votes
4. Take no further action at this time.
Voting Threshold: Simple Majority Vote
5. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. November 30, 2017 Citizen Charter Review Committee “Code of Ethics” Agenda Item
2. Ethical Provisions in Florida Counties’ Charters
3. Leon County Government – Code of Ethics Guide

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

Title: Code of Ethics
November 30, 2017
Page 3

- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Title: Code of Ethics
November 30, 2017
Page 4

Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
 2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
 3. Leon County Board Policy “Code of Ethics”
 4. Leon County’s Lobbyist Regulations Ordinance
- .

Florida Counties' Charter Code of Ethics References

Broward

Section 11.08 BROWARD COUNTY ETHICS COMMISSION

A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

(November 4, 2008: Section 11.08, as proposed by the Charter Review Commission, was created to establish the Broward County Ethics Commission responsible for drafting a Code of Ethics regulating the conduct of County Commissioners, to be considered for passage by the County Commission and/or the County electors.)

Section 11.10 CONSTITUTIONAL OFFICERS SUBJECT TO CODE OF ETHICS

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

(November 2, 2010: Section 11.01 C, as proposed by the County Commission, was amended to establish that a County ordinance shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees through a code of ethics. Section 11.10, as proposed by the County Commission, was created to establish that County constitutional officers are subject to the County Code of Ethics.)

Clay

SECTION 2.2 LEGISLATIVE BRANCH – CODE OF ETHICS

Before July 1, 2007, the Board of County Commissioners shall enact by ordinance a Code of Ethics. The Code of Ethics shall prescribe standards of conduct for members of the Board, the County Manager, the County Attorney, the County Auditor, all other elected or appointed County Officers including the Superintendent of Schools and members of the School Board, and the deputies and employees of all such officers. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics may include, but is not limited to, provisions defining offenses, establishing an ethics board to hear and determine charges, and prescribing penalties within the limits allowed by law. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

(Added November 7, 2006)

Duval

Chapter 2 – ETHICS

Section 1.202. - ETHICS CODE, ETHICS COMMISSION, INSPECTOR GENERAL

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority. The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office; and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

Section 1.203 - ETHICS OVERSIGHT AND COMPLIANCE OFFICE AND OFFICE OF INSPECTOR GENERAL

(a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.

(b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.

(c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.

Miami-Dade

Citizens' Bill of Rights (A) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

Citizens' Bill of Rights (C) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

Orange

Section 706 – CODE OF ETHICS

A. The local code of ethics shall be construed and interpreted in such a way to protect the public's trust and to promote open and accountable government in Orange County. Preserving the public's trust shall be paramount in enforcing the local code of ethics, and it shall be interpreted consistent with the purposes and intent of the local code of ethics.

B. The citizens of Orange County are entitled to a government that embraces best ethical practices and full disclosure of conflicts of interest involving county employees or elected officials. All votes of the board, and actions of the mayor, the county commissioners and county employees, shall be made or taken in the best interests of the citizens of Orange County, free of any undisclosed conflicts of interest.

C. In order to provide a high level of transparency and ethical conduct under charter government, the board shall adopt a local code of ethics applicable to the board of county commissioners and to those employees required to file financial disclosure under state law or who participate in the county procurement process. Such code, though more stringent than general law, shall not place the board of county commissioners or county employees in conflict with the state ethics code, or any other provision of federal or state law, and at a minimum shall provide for:

1. Additional financial and business relationship disclosure;
2. Restrictions on gifts to the board of county commissioners;
3. Under the auspices of an apparent conflict of interest concerning matters involving a prior business associate of any member of the board, disclosure and abstention from voting for a reasonable period of time following termination of the business associate relationship;
4. Approval by the board on development related matters ordinarily subject to final approval by county staff where the applicant or any person having a beneficial interest in the outcome of the matter is a business associate, family member, or employer of a member of the board;
5. Reasonable post-employment restrictions for employees; and
6. Subject to the attainment of the same type of confidentiality provisions available to the state commission on ethics under general law, an enforcement process to provide for due process, penalties, and appeals, all within a reasonable timeframe.

Implementation of the provisions of this subsection shall be by ordinance adopted either prior to the effective date of this provision or by no later than January 1, 2010.

D. The board of county commissioners and those employees required to file financial disclosure under state law or who participate in the county procurement process shall be required to receive at least annual educational sessions on best ethical practices and current trends in ethics issues.

E. The state code of ethics, as provided by general law, shall have full effect on all employees and officeholders under the charter government. Penalty for violation of the state code of ethics shall be as provided by general law.

F. Any local code of ethics adopted prior to the effective date of this section shall, if necessary, be amended so as to comply with the provisions of this section.

Palm Beach

Article VIII Ethics Regulation – Section 8.1 COUNTY CODE OF ETHICS

The county shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 of this charter.

Seminole

Section 5.4 ETHICS

Ordinance Requirements. On or before January 8, 2008, the Board of County Commissioners of Seminole County, shall, by ordinance (the "Ordinance"), require compliance with the following provisions, which shall be supplemental to, but may not diminish the provisions of general law.



LEON COUNTY GOVERNMENT

People Focused. Performance Driven.

THE CODE OF ETHICS GUIDE

An Ethics "Field Manual" for Employees

► **Setting the Standard in Ethics & Public Service**

Vision

A community that is safe, healthy and vibrant.

Mission

To efficiently provide public services which serve and strengthen our community.



ADMINISTRATOR'S LETTER



Vincent S. Long

In every way that Leon County employees touch the lives of our citizens we serve, we consistently strive to set the standard in public service and to uphold the public trust.

Ethics are a core practice in Leon County Government and standards of ethical behavior are detailed in both our "Ethics Code" policy and our "Employee Standards of Conduct" contained in the Human Resources manual. While both of these documents are thorough and complete, the guide you are now holding is intended to be a user-friendly "field manual" for reference, reminders and reinforcement related to the high standards of ethical behavior required to be a Leon County employee.

Understanding that this guide may not answer every question you have now or in the future, I've designated Wanda Hunter, Assistant County Administrator to be your initial point of contact. She is just a phone call or e-mail away should you have a question or concern, require clarification or if you just need a little advice or guidance.

Leon County employees perform many different jobs and fulfill a broad range of responsibilities, but the one thing we must all do every day is practice ethics with great clarity and unwavering consistency. Thank you for all you do to make our community and our organization even better.

Vince



**Just a call
or email
away ...**

Wanda Hunter
Assistant County Administrator
(850) 606-5380
HunterW@LeonCountyFL.gov



With almost 30 years of public service, Wanda Hunter has spent her career dedicated to integrity, honesty and accountability. Beginning her career in Leon County with the Office of Equal Employment Opportunity, Wanda has since worked throughout the County in different roles and levels, giving her vast experience and a unique perspective to help you and address issues of ethics and compliance in coordination with Human Resources and the County Attorney's Office.

A PUBLIC TRUST



Leon County employees fully embrace and live by our core practices, and enhance our people focused, performance driven organizational culture; demonstrate pride in their work and their community; always strive to improve levels of service and performance; and are empowered to help the people they serve. To promote the public interest and maintain the public's trust, Leon County employees are committed to the following Core Practices:

- **Demonstrating Highest Standards of Public Service.** Employees adhere to the highest standards of ethical behavior, avoid circumstances that create even an appearance of impropriety and carry out the public's business in a manner which upholds the public trust. Citizens know that we are on their side.
- **Delivering the "Wow" factor in Customer Service.** Employees deliver exemplary service with pride, passion and determination; anticipating and solving problems in "real time" and exceeding customer expectations. Customers know that they are the reason we are here.
- **Connecting with Citizens.** Employees go beyond customer service to community relevance, engaging citizens as stakeholders in the community's success. Citizens know that they are part of the bigger cause.
- **Accepting Accountability.** Employees are individually and collectively accountable for their performance, adapt to changing conditions and relentlessly pursue excellence beyond the current standard, while maintaining our core values.
- **Exhibiting Respect.** Employees exercise respect for citizens, community partners and each other.
- **Employing Team Approach.** Employees work together to produce bigger and better ideas to seize the opportunities and to address the problems which face our community.
- **Exercising Responsible Stewardship of the Community's Resources.** Employees engage in the continuous effort to create and sustain a place which attracts talent, fosters economic opportunity and offers an unmatched quality of life, demonstrating performance, value and results for our citizenry.
- **Living our "People Focused, Performance Driven" Culture.** Employees have a structure in place to live all of this as our organizational culture and are empowered to help the people they serve.

MISUSE OF POSITION

It is prohibited for any County employee to use or attempt to use his/her position, or any property or resource, that may be within the employee's trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself, herself or others.

Employees shall not be permitted to use County facilities, meeting rooms, or conference rooms, or County equipment for other than County business, unless such facilities or equipment are available in accordance with established policy on a regular basis to the general public in which instance the use of such shall be on the same conditions as for the general public.

Perception is reality

! *Employees should avoid the appearance of inappropriate use of the County's equipment, supplies, facilities, and other resources for their own benefit.*




Q&A

- Q:** I have an outside business providing lawn care service, am I able to share my County business card with possible new clients?
- A:** No. Using your County business card, emailing County contacts and any misuse of County resources is prohibited.

UNAUTHORIZED COMPENSATION

No employee or employee's spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when the employee knows, or with the exercise of reasonable care should know that it was given to influence an employee's official actions.

Delivering the WOW!

 Often our citizens want to express appreciation for work done well. If you have a citizen offer you a gift or money, politely say no. You can suggest they offer appreciation by contacting your supervisor.



Q&A

- Q:** May I take a part-time job from a contractor who currently does work with the County and whose contract I oversee?
- A:** No, you may not take the part time job even if the contractor has no intention of trying to influence how you manage their contract. Taking the job creates an appearance that you are being influenced.

GIVING AND RECEIVING GIFTS

The law prohibits the solicitation or acceptance by any County employee of any gift, loan, favor, or service that would cause a reasonably prudent person to be influenced in the discharge of official duties, or should have known, that it was given to influence an employee's official actions.

Are there gifts I can receive?

? *T-shirts, pencils, raffles, shopping bags and all other "trinkets" are okay to take, as long as it is a County-sponsored or -approved activity and as long as everyone attending the event is offered the same items.*



TIP ▶

County employees are eligible for discounts from vendors as long as the same discount is available to all employees.



Q&A

- Q:** Am I able to accept a dinner that is being offered free at an upcoming office-related event?
- A:** Accepting of food and/or drinks offered at activities where your attendance is associated with your official County duties is okay.

MISUSE OF INFORMATION



n employee may not disclose or use information not available to the general public for his/her personal gain or for the gain of any other person or business entity.

You have a duty to assure confidential information remains confidential. County employees may have possession of citizen's social security, medical, or even individual financial information. It is our job to always be on guard to strictly protect the confidentiality of this information.

Q&A



Q: *I'm aware of an upcoming County bid that a friend of mine might be qualified to bid on. In order to help my friend prepare the lowest bid, can I let her know the timing of the bid and let her know what type of contractor the County wants?*

A: *No. As a County employee, you cannot use your job to benefit another business or person. Giving your friend this information provides them an unfair advantage over other possible contractors that may also want to bid.*



POLITICAL ACTIVITIES

- E**very employee will have the right to express his or her views as a citizen, to cast his or her vote as he or she chooses, to hold membership in and to support a political party, or maintain political neutrality. Employees may also attend political meetings and take an active part in political campaigns during off duty hours. However, every employee is prohibited from:
- a. Using his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
 - b. Directly or indirectly coercing, attempting to coerce, commanding, or advising a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
 - c. Participating in political activities during scheduled work time.
 - d. Participating as a candidate for public elective office in a partisan primary, general, or special election, will prohibit a person from being principally employed in a federally funded program.
 - e. Using Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters.

TIP ▶ Social media requires care when using



Using your own social media accounts (Facebook, Twitter, etc.) to provide political opinions is okay – as long as it is on your own time. When acting on behalf of the County, including using the County’s social media, refrain from expressing your own personal political views.



Q&A

- Q:** I’ve been asked by a neighbor to collect signatures on a petition opposing a neighborhood re-zoning issue. Can I help out and collect signatures?
- A:** Yes, you can address issues that are important to you and as a citizen are permitted. Remember that you must do this on your own time and must not give even the appearance that you are representing the County. And as always, do not provide any confidential information in support of your position.

OUTSIDE EMPLOYMENT

Employees shall not engage in any employment activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their County employment.

Employees may not transact business on behalf of the County with any agency in which either the employee or a member of the employee's immediate family has a "material interest."

Employees may not hold any employment or contractual relationship with any business entity or any agency, which is subject to the regulation of, or is doing business with, Leon County Government.



TIP ►

Accepting work outside of the County is acceptable as long as it doesn't conflict with your County job hours and shifts. Remember, your County job comes first.

Complete an Outside Employment Form



Employees who desire to accept outside employment in addition to their regular County position must complete an outside employment form and submit it to their respective Department/ Division Director for a determination of whether such employment conflicts with the duties and responsibilities of the employee.



Q&A

Q: I'm interested in getting a part time job a couple nights a week. Can I?

A: You may get a part-time job with the following conditions: you've completed the County's outside employment form and received the necessary approvals; your County job comes first and the new job's hours do not conflict; and you cannot use any County equipment, supplies, space, etc. when working at your part time job.

NEPOTISM

A relative of any County employee with supervisory responsibility shall not be eligible for employment in or advancement to any position which reports directly to the supervisory employee.

Likewise, a County employee shall not be eligible for advancement to any position with direct supervisory responsibility over a position in which a relative is employed.

TIP ▶ **“Relative” is a relative term...**

➔ *Leon County’s definition of “relative” includes not only father, mother, son, and daughter, but also brother, sister, uncle, and aunt as well as others – when in doubt, reach out to Human Resources for a complete list.*



Q&A

- Q:** Can my daughter apply for a job with the County?
- A:** Your daughter may apply for and be considered for a job at the County, IF, when hired you are not directly responsible for their supervision.

SOLICITATION AND FUNDRAISING



No employee or other person may solicit or be solicited during working hours or in work areas.

No employee may distribute literature in his/her work area or during work hours.

No person may distribute literature to an employee in that employee's work area or during that employee's working hours.

Charitable solicitations may be permitted upon approval of the County Administrator and subject to the following:

- Solicitation may take place only for charitable purposes and not for private gain, and only on behalf of generally recognized and reputable charitable organizations.
- The specific activities to be utilized in the charitable solicitation must be communicated to and approved by the County Administrator prior to any activity taking place.

TIP ►



As a member of a professional organization you may be subject to their specific code of ethics. As a County employee, the Leon County Code of Ethics sets a benchmark for you. If your professional organization has a more stringent code of ethics, reach out to the Assistant County Administrator to discuss which code you should follow.



REPORTING ETHICS CONCERNS



You are encouraged to report suspected ethics or compliance concerns, waste or abuse of County resources to your supervisor, or the Assistant County Administrator or both, depending on the circumstances.

- b. The Assistant County Administrator is ready and able to discuss any ethics or compliance concerns or issues of waste or abuse of County resources and will make every effort to maintain the confidentiality of the employee.
- c. Employees making a report in good faith, or cooperating in an investigation, shall not suffer any form of retaliation.
- d. Any suspicion of fraud should be reported directly to the fraud, waste, and abuse hotline, toll-free at 850-606-5304. Or, by mail to: Leon County Fraud, Waste, Abuse & Misconduct Hotline, 301 South Monroe Street, 5th Floor Leon County Courthouse, Tallahassee, Florida 32301. Reports may be made anonymously.

Additional information can be found at:
www.LeonCountyFL.gov/Fraud

- e. Any ethics and compliance concerns should be directed to 850-606-5380.



“Ethics is knowing the difference between what you have a right to do and what is right to do.”

—Supreme Court Justice Potter Stewart

AUTHORITY AND ENFORCEMENT



Leon County Policy No. 03-05 “Code of Ethics” applies to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

- b. In addition to the “Code of Ethics”, Leon County’s Human Resources Manual, Section II contains standards for “Employee Conduct”.
- c. The Code of Ethics for public officers and employees as set forth in Part III of Chapter 112, Florida Statutes, applies to all employees and sets forth a baseline of requirements. Where the County Code of Ethics has stricter requirements, employees must adhere to this code. Additionally, County employees may have professional association or licensing ethics requirements, which may impose requirements beyond the County Code of Ethics.
- d. Questions regarding compliance with the Code of Ethics are handled by the Assistant County Administrator, in consultation with the County Attorney and Human Resources as needed. In most cases, violations of the Code of Ethics will be addressed by the department director with assistance from the Assistant County Administrator and Human Resources. Where a violation has been found, discipline can range from corrective counseling to termination.



“The truth of the matter is that you always know the right thing to do. The hard part is doing it.”

—General H. Norman Schwarzkopf



ADDITIONAL RESOURCES



In our continuous efforts to be an employer of choice, Leon County Government seeks to attract and retain high performing, healthy and happy employees. This is not only good for our employees, but key to our success in setting the standard in public service. In addition to assisting our employees in navigating potential ethical situations, we have put in place policies and programs which have garnered national attention for employee well-being, domestic violence and employee assistance. Like the ethics guide, the resources below are intended to serve and support our employees and sustain a workplace where our people can thrive.

Domestic Violence, Sexual Violence and Stalking in the Workplace (Policy 13-2): Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County instituted this

Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.



Violence Prevention and Intervention (Policy 03-12):

Violence in the workplace can have a devastating effect on the productivity of organizations and the quality of life of employees. Recognizing this problem, Leon County has developed procedures to identify, report, intervene, and prevent workplace violence.

Employee Assistance Program (Policy 16-2): The Employee Assistance Program (EAP) has been established to assist employees, who develop

alcohol, drug, behavioral or stress related problems that result in or contribute to substandard job performance, by providing confidential consultation, treatment and rehabilitation.

Leon County Wellness Program (Policy 12-4): The primary purpose of the Leon County Wellness Program shall be to offer programs and services to assist employees in making voluntary behavior changes that improve employee health and enhance individual productivity and well-being or maintaining a healthy lifestyle.





People Focused. Performance Driven.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

January 25, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on a proposed charter amendment to provide a hiring/firing process for County Attorney to match that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the first of three public hearings to consider the proposed charter amendment (Attachment #1).

Title: Hiring/Firing Process for the County Attorney
January 25, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (Attachment #2) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing. The three public hearings have been scheduled for January 25, February 1, and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

If approved by the Leon County electorate, the Committee's proposed charter amendment would provide for a hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator.

The proposed charter amendment language is included below, and Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format. Strike-through represents deletions and underline represents new language to be added.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

The majority of Florida's charter counties (17 of 20) outline the hiring and firing process for the county administrator within their charter. Only eight (8) counties include provisions for the county attorney in their charter and, of these, the following six (6) counties provide the same hiring/firing process for both positions: (1) Brevard County; (2) Clay County; (3) Hillsborough County; (4) Lee County; (5) Seminole County; and (6) Volusia County. As is the case in Leon County, termination provisions for the county attorney are more commonly included as part of a negotiated contract between the county attorney and the board of county commissioners.

Title: Hiring/Firing Process for the County Attorney
January 25, 2018
Page 3

Options:

1. Conduct the first of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. Proposed Charter Amendment
2. January 11, 2018 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item #5C

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language modifying the County Attorney hiring/firing process to match that of the County Administrator in the Leon County Charter (Attachment #1).

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item (Attachment #2). The Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding the hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator. Strike-through represents deletions and underline represents new language to be added. Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 3

Attachment:

1. Proposed Charter Amendment
2. December 7, 2017 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of the of Charter Counties do not include a provision in their charter’s related to the hiring/firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

IV.

ADJOURNMENT

Citizen Charter Review Committee

February 1, 2018

6:00 p.m. - 8:00 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

AGENDA

- I. Call to Order
- II. Approval of January 25, 2018 Meeting Minutes
- III. Public Hearings
 - a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
 - c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
(Vincent S. Long)
- IV. Adjournment

The final public hearing of the Citizen Charter Review Committee will take place on Thursday, February 8, 2018 at 6:00 P.M.

I.

CALL TO ORDER

II.

APPROVAL OF JANUARY 25, 2018 MEETING MINUTES

**2017/2018
Citizen Charter Review Committee
January 25, 2018
First Public Hearing**

The Leon County 2017-2018 Citizens Charter Review Committee (CRC) conducted the first of three public hearings on January 25, 2018 at 6:00 p.m. in the Commission Chambers with Committee members Lee Hinkle, Kim Williams, Ted Thomas, Catherine Jones, Neil Fleckenstein, Michael Eurich, Anice Prosser, Casey Perkins, and Shane Hopkins in attendance. Committee members Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell were absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause.

I. Call to Order: Chairman Hinkle called the first Public Hearing to order at 6:00 p.m. She conveyed that the Committee had over the past three months made significant progress and has reviewed numerous issues. She stated that the Committee will hold three public hearings to receive citizen input on three proposed Charter amendments:

1. Increasing Campaign Contribution Limits for Local Elections
2. Providing a Code of Ethics
3. Modifying the Hiring/Firing Process for the County Attorney

She reminded the CRC that, upon conclusion of the third hearing, a vote to transmit the proposed amendments to the County Commission will be taken; which will require 10 affirmative votes. She encouraged all Committee members to attend the public hearings.

II. Approval of Minutes: *A motion to approve the January 18, 2018 minutes was offered by Michael Eurich and seconded by Kim Williams. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).*

III. Public Hearings:

- a. Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment proposes that the provision on the limitation on campaign contributions be stricken from the Charter. This change would increase local campaign contributions to the State limit of \$1000. He advised that the current \$250 limit was approved through a Charter amendment in 2010. He noted that the State limit at that time was \$500; however, was increased by the Florida Legislature to \$1,000 in 2013. He noted that Leon County is one of only three County Charters that have a local limit on campaign contributions.

County Administrator Long confirmed that there were no speakers on this issue.

Michael Eurich moved, seconded by Lee Hinkle, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- b. Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the policy would apply to all County Commissioners, employees and members of appointed boards and committees. He advised the County's current Ethics Policy exceeds state law in promoting transparency and addressing potential conflicts of interest; however, to elevate the importance and visibility of the County's current Ethics Policy, the Charter amendment would require the County Commission to adopt a Code of Ethics by ordinance. He noted that there are currently six County Charters which require a Code of Ethics by ordinance.

County Administrator Long confirmed that there were no speakers on this issue.

Kim Williams moved, seconded by Michael Eurich, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

- c. Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

County Administrator Long introduced the item. He stated that the amendment provides for the hiring/firing process of the County Attorney to be consistent with that of the County Administrator, as is provided in the County Charter.

County Administrator Long confirmed that there were no speakers on this issue.

Shane Hopkins moved, seconded by Anice Prosser, approval of Option 1: Conduct the first of three public hearings to consider the proposed charter amendment. The motion carried 9-0 (Reginald Ellis, Gordon Thames, Kenneth Hart, William Graham, and Jay Revell absent).

IV. Adjournment

Chairman Hinkle thanked the Committee for its work and reminded members that the second of three public hearing would be held Thursday, February 1, 2018 at 6:00 p.m. in the County Commission Charters.

Chairman Hinkle adjourned the public hearing at 6:07 p.m.

Lee Hinkle, Chair
Leon County Charter Review Committee

Rebecca Vause, Deputy Clerk

III.

PUBLIC HEARINGS

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM A**

Citizen Charter Review Committee

Agenda Item A

February 1, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on the proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions*. This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #1: Conduct the second of three public hearings to consider the proposed charter amendment (Attachment #1).

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the
Citizen Charter Review Committee
February 1, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

On January 11, 2018, staff presented the proposed charter amendment language as well as requested information regarding campaign fund balances of individual candidates from previous elections (Attachment #2). The Committee voted 9-4 to request that staff schedule the proposed charter amendment language for public hearing. The first public hearing was conducted on January 25 and the remaining two public hearings have been scheduled for February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by 65.5% the local electorate.

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals and political committees from \$500 to \$1,000. Of Florida's 67 counties, 64 follow the current state law of a \$1,000 campaign contribution limit.

The Committee's proposed charter amendment would remove Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* from the Leon County Charter. These provisions apply to the Leon County Board of County Commissioners and Constitutional Officers respectively, and both provisions read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

If approved by the Leon County electorate, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Section 106.08 of the Florida Statutes which states that, except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of \$1,000 for candidates for county office.

Title: Increasing Campaign Contribution Limits for Local Elections as Proposed by the
Citizen Charter Review Committee
February 1, 2018
Page 3

Options:

1. Conduct the second of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Item, “Increasing Campaign Contributions for Local Elections”

Citizen Charter Review Committee

Agenda Item #5A

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* (Attachment #1). This change would increase campaign contributions to the state limit of \$1,000.

Staff Recommendation:

Option #4: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 8-4 to request an agenda item related to campaign contribution limits in the Leon County Charter. On November 30, 2017, staff presented the agenda item (Attachment #1) and the Committee voted 7-5 to proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language striking Article II sec. 2.2 sub. (7) and Article III sec. 3.4 both titled *Limitation on Campaign Contributions*.

The Committee also requested that staff bring back additional information regarding the approval rate for the Charter amendment in the 2010 General Election, which limited campaign donations to candidates for County Commission and Constitutional Officers to \$250 per contributor, and the options for the disposition of surplus funds of candidates and campaign fund balances of individual candidates from previous elections.

Analysis:

Article II sec. 2.2 sub. (7) and Article III sec. 3.4 *Limitation on Campaign Contributions* applies to the Leon County Board of County Commissioners and Constitutional Officers respectively. Both provisions of the Leon County Charter read as follows:

No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.

Limitations to campaign contributions was proposed by the 2009-2010 Citizen Charter Review Committee and adopted by the voters in 2010. The final vote count for the amendment during the 2010 General Elections was as follows:

YES: 57,558 (65.53%)

NO: 30,275 (34.47%)

Should Article II sec. 2.2 sub. (7) and Article III sec. 3.4 be stricken from the Charter, candidates for the Leon County Board of County Commissioners or a Constitutional Office would be required to follow Florida law, Section 106.08 F.S., which sets the campaign finance limit to \$1,000.

Title: Increasing Campaign Contribution Limits for Local Elections
January 11, 2018
Page 3

Analysis of Surplus Funds by Candidates

Per the Committee's request, the Supervisor of Elections Office provided campaign fund balances for the 2012, 2014, and 2016 election cycles as reflected in Attachment #3. Campaign fund balances are the funds that remain following an election. However if a negative balance remains, it must be addressed by the campaign after an election has ended.

Attachment #3 provides the complete analysis of candidates subject to the County's \$250 campaign limit or the state limit of \$1,000. In addition, the analysis reflects the City of Tallahassee's 2014 Charter Amendment which lowered the contribution limit for City Commission Candidates from \$1,000 to \$250 beginning in 2016. The following provides a brief summary of the data contained in Attachment #3.

Candidates Subject to a \$250 Campaign Limit

- Over the last three election cycles, 30 County Commission candidates and 26 Constitutional Officer candidates were subject to the County's \$250 Campaign Limit.
- On average, 70% of these candidates ended the election cycle with a campaign surplus ranging from \$20 to \$46,765.
- Since 2012, the maximum funds raised by a candidate subject to the County's \$250 limit was \$337,078.
- In 2016, 88% of City candidates subject to the City's \$250 campaign limit ended the election cycle with a campaign surplus ranging from \$25 to \$48,547.

Candidates Subject to the \$1,000 Campaign Limit

- Over the last three election cycles, 77 candidates were subject to the State's \$1,000 Campaign Limit including County Judges, School Board, Superintendent of Schools, Soil and Water Conservation, City Candidates (2012 & 2014) and community development district candidates.
- On average, 69% of these candidates ended the election cycle with a campaign surplus ranging from \$2 to \$135,909.
- Since 2012, the maximum funds raised by a candidate subject to the \$1,000 limit was \$295,839.

Disposition of Surplus Funds by Candidates

The options available to candidates for disposing of surplus funds are outlined Section 106.141, Florida Statutes (Attachment #4), which states:

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

Unopposed candidates for a county office or any election conducted on less than a countywide basis also have the option to transfer to an office account up to \$5,000 multiplied by the number of years the candidate has served in the office he/she is being elected to. Funds transferred to an office account may be used for legitimate expenses related to the candidate's public office such as travel expenses, professional services provided by an accountant or attorney for preparation of financial disclosure filings, or fees/dues to religious, civic, or charitable organizations.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Increasing Campaign Contribution Limits for Local Elections

January 11, 2018

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Attachments:

1. Proposed Charter Amendment
2. November 30, 2017 Item, "Increasing Campaign Contributions for Local Elections"
3. Candidate Campaign Balances - 2012, 2014, 2015 Election Cycles
4. Florida Statute 106.14; Disposition of surplus funds by candidates.

ARTICLE II. - ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.2. - Legislative branch.

- (1) *The County Commission.* The governing body of the County shall be a Board of County Commissioners composed of seven (7) members serving staggered terms of four (4) years. There shall be one (1) Commissioner elected for each of the five (5) County Commission districts, established pursuant to general law or by ordinance, and they shall be elected by the electors of that district. There shall be two (2) At-large Commissioners elected on a countywide basis by the electors of the County. Elections for all seven (7) members of the County Commission shall be non-partisan. Each candidate for the office of district County Commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each Commissioner shall reside in the district from which such Commissioner ran for office, provided that any Commissioner whose residence is removed from a district by redistricting may continue to serve during the balance of the term of office.
- (2) *Redistricting.* Redistricting of County Commission district boundaries shall be in accordance with general law, changed only after notice and a public hearing as provided by general law.
- (3) *Salaries and Other Compensation.* Salaries and other compensation of the County Commissioners shall be established by ordinance, and salary shall not be lowered during an officer's term in office.
- (4) *Authority.* The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general law or special law approved by a vote of the electorate.
- (5) *Vacancies.* A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.
- (6) *Administrative Code.* The County Commission shall adopt an administrative code in accordance with general law.
- ~~(7) *Limitation on Campaign Contributions.* No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

ARTICLE III. - ELECTED COUNTY CONSTITUTIONAL OFFICERS

Sec. 3.1. - Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Sec. 3.2. - Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. - Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) Audit Committee. There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, sub-committees, meeting schedules and staff support.

~~Sec. 3.4. - Limitation on campaign contributions.~~

~~No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$250 per election.~~

Citizen Charter Review Committee

Agenda Item A

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Increasing Campaign Contribution Limits for Local Elections

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Project Coordinator Sara Pratt, Management Intern

Summary:

To provide for a change in the Charter that increases the current \$250 limitation on campaign contributions.

Staff Recommendation:

Option #4: Committee direction.

Title: Campaign Contributions for Local Elections
November 30, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to campaign contribution limits in the Leon County Charter.

Campaign contribution limitations were not included as part of the original 2002 Charter. At that time, Florida Statutes established \$500 as the campaign contribution limit. The 2009-2010 Charter Review Committee recommended a charter amendment reducing the campaign contribution limit from \$500 to \$250 for County Commission and County Constitutional officers (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot which was approved by the local electorate.

Analysis:

The Leon County Charter, Article II sec. 2.2 sub. (7) *Limitation on Campaign Contributions*, states that no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in any amount in excess of \$250 per election.

Of the 19 other Charter Counties, two have campaign contribution limitations within their charters:

- Alachua: \$250 applicable to County Commissioners and all Constitutional Officers
- Sarasota: \$200 applicable to County Commissioners and all Constitutional Officers

Subsequent to the adoption of the Leon County Charter Amendment in 2010, the Florida Legislature in 2013 increased the campaign contribution limit for individuals from \$500 to \$1,000. Taking into consideration Leon County, of the 67 Florida counties, 64 follow the current state law of the \$1,000 campaign contribution limit.

The Florida Legislature has made several changes to its campaign financing laws that affect the amount allowed for direct contribution to an individual political candidate. In 1991, campaign contribution limits were decreased from \$1,000 to \$500. Campaign contribution limits stayed at the \$500 level until 2013, when Governor Rick Scott signed into law House Bill 569 which restored campaign contribution amounts to \$1,000. This change is reflected in current Florida law, Section 106.08 F.S. (Attachment #2), which sets the campaign finance limit to \$1,000 for a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge.

According to the House bill analysis in 2013 (Attachment #2), most states and the federal government place some sort of limit on campaign contributions. As a charter county, additional limitations on campaign contributions for county commissioners and constitutional officers can be imposed through the charter, however, the maximum amount outlined in state law cannot be exceeded.

Title: Campaign Contributions for Local Elections
November 30, 2017
Page 3

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to campaign contribution limitations for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Attachments:

1. 2010 Charter Amendment Language
2. Florida Statute 106.08 Contributions; limitations on.
3. Bill Analysis of HB 569

Candidate Campaign Balances-2012 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Cynthia Turner	\$250	Clerk of the Court and Comptroller	\$20,280.33	(\$20,260.61)	\$19.72
Bob Inzer	\$250	Clerk of the Court and Comptroller	\$38,412.68	(\$35,208.59)	\$3,204.09
Bessie Beard	\$250	Leon County Commission, At Large Group 1	\$0.00	\$0.00	\$0.00
Mary Ann Lindley	\$250	Leon County Commission, At Large Group 1	\$112,829.00	(\$112,829.00)	\$0.00
Fred Varn	\$250	Leon County Commission, At Large Group 1	\$39,557.00	(\$39,163.70)	\$393.30
Emily Fritz	\$250	Leon County Commission, At Large Group 1	\$80,479.79	(\$79,847.16)	\$632.63
Akin Akinyemi	\$250	Leon County Commission, At Large Group 1	\$55,250.12	(\$54,455.56)	\$794.56
Harrison Arencibian	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Janes Sauls	\$250	Leon County Commission, District 2	\$29,145.00	(\$26,903.94)	\$2,241.06
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$128,492.00	(\$84,969.80)	\$43,522.20
Bryan Desloge	\$250	Leon County Commission, District 4	\$57,895.00	(\$56,053.49)	\$1,841.51
Bert Hartsfield	\$250	Property Appraiser	\$12,650.00	\$0.00	\$12,650.00
Lisa Ann Sprague	\$250	Sheriff	\$47,812.56	(\$49,267.96)	(\$1,455.40)
Tommy Mills	\$250	Sheriff	\$82,421.00	(\$81,562.80)	\$858.20
Larry Campbell	\$250	Sheriff	\$168,836.00	(\$140,772.16)	\$28,063.84
Ion Sancho	\$250	Supervisor of Elections	\$0.00	\$0.00	\$0.00
Doris Maloy	\$250	Tax Collector	\$14,575.00	(\$15,341.95)	(\$766.95)
Samuel Yozviak	\$250	Tax Collector	\$455.00	(\$119.19)	\$335.81
Barry Brooks	\$1,000	Capital Region CDD, Seat 2	\$0.00	\$0.00	\$0.00
Wayne Toothman	\$1,000	Capital Region CDD, Seat 4	\$0.00	\$0.00	\$0.00
John Ray	\$1,000	Capital Region CDD, Seat 4	\$1,855.00	(\$1,685.98)	\$169.02
Robert Wheeler	\$1,000	Leon County Judge, Seat 1	\$11,230.00	(\$71.91)	\$11,158.09
Judith Hawkins	\$1,000	Leon County Judge, Seat 2	\$8,025.00	(\$8,025.00)	\$0.00
Ronald Flury	\$1,000	Leon County Judge, Seat 3	\$5,600.00	(\$5,486.74)	\$113.26
Augustus Aikens	\$1,000	Leon County Judge, Seat 4	\$100.00	(\$10.00)	\$90.00
Dee Crumpler	\$1,000	Leon County School Board, District 2	\$1,500.00	(\$1,475.80)	\$24.20
DeeDee Rasmussen	\$1,000	Leon County School Board, District 4	\$30,302.00	(\$4,140.61)	\$26,161.39
Bobby Buccellato	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$1,000	Leon Soil and Water Conservation, District 1	\$1,425.00	(\$1,325.00)	\$100.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$2,435.00	(\$2,333.39)	\$101.61
Martha Lang	\$1,000	Leon Soil and Water Conservation, District 1	\$938.00	(\$817.01)	\$120.99
Evan Power	\$1,000	Leon Soil and Water Conservation, District 3	\$8,775.00	(\$8,727.79)	\$47.21
Pyllis Basch Smith	\$1,000	Leon Soil and Water Conservation, District 3	\$125.00	(\$55.12)	\$69.88

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation, District 3	\$2,845.00	(\$2,435.89)	\$409.11
Bill Howell	\$1,000	Leon Soil and Water Conservation, District 5	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 5	\$8,790.00	(\$8,727.79)	\$62.21
Richard Kessler	\$1,000	Piney-Z CDD, Seat 2	\$1,678.70	(\$598.54)	\$1,080.16
Sabrina M. Allen	\$1,000	Superintendent of Schools	\$15,728.00	(\$15,032.21)	\$695.79
Jackie Pons	\$1,000	Superintendent of Schools	\$295,389.00	(\$188,816.17)	\$106,572.83
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					
Robert Fulford	\$1,000	Tallahassee City Commission, Seat 1	\$370.80	(\$370.80)	\$0.00
Daniel Parker	\$1,000	Tallahassee City Commission, Seat 1	\$32,505.09	(\$32,505.09)	\$0.00
Brian Acosta	\$1,000	Tallahassee City Commission, Seat 1	\$2.00	\$0.00	\$2.00
Delaitre Hollinger	\$1,000	Tallahassee City Commission, Seat 1	\$5,806.36	(\$5,601.23)	\$205.13
Erica Friall	\$1,000	Tallahassee City Commission, Seat 1	\$28,430.00	(\$25,976.04)	\$2,453.96
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 1	\$98,360.00	(\$95,392.22)	\$2,967.78
Scott Maddox	\$1,000	Tallahassee City Commission, Seat 1	\$223,971.57	(\$210,415.85)	\$13,555.72
Jacob Eaton	\$1,000	Tallahassee City Commission, Seat 2	\$2,399.12	(\$2,942.43)	(\$543.31)
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 2	\$105,431.55	(\$105,431.55)	\$0.00
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$865.00	(\$831.22)	\$33.78
Nicholas Halley	\$1,000	Tallahassee City Commission, Seat 2	\$4,761.37	(\$1,003.14)	\$3,758.23
* Negative balances for Maloy and Sprague were amended to balance out.					
* Reports for Eaton resulted in follow up with the Florida Elections Commission.					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Curtis Baynes	\$250	Leon County Commission, At Large Group 2	\$27,596.74	(\$23,294.28)	\$4,302.46
Nick Maddox	\$250	Leon County Commission, At Large Group 2	\$61,100.00	(\$58,596.58)	\$2,503.42
Weser Khufu	\$250	Leon County Commission, District 1	\$12,746.80	(\$14,172.24)	(\$1,425.44)
William Curtis Proctor	\$250	Leon County Commission, District 1	\$9,345.00	(\$10,126.00)	(\$781.00)
Keishann Corley	\$250	Leon County Commission, District 3	\$0.00	\$0.00	\$0.00
John Dailey	\$250	Leon County Commission, District 3	\$32,630.00	(\$29,390.65)	\$3,239.35
Kristin Dozier	\$250	Leon County Commission, District 5	\$59,220.29	(\$29,750.06)	\$29,470.23
Patrick Madden	\$1,000	Leon County School Board, District 1	\$4,050.00	(\$3,610.12)	\$439.88
Diana Oropallo	\$1,000	Leon County School Board, District 1	\$44,305.00	(\$4,546.69)	\$39,758.31
Alva Swafford Striplin	\$1,000	Leon County School Board, District 1	\$26,344.70	(\$26,228.16)	\$116.54
Patty Ball Thomas	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Forrest Van Camp	\$1,000	Leon County School Board, District 1	\$68,665.00	(\$62,864.75)	\$5,800.25
Ed Lee	\$1,000	Leon County School Board, District 1	\$0.00	\$0.00	\$0.00
Maggie Bert Lewis-Butler	\$1,000	Leon County School Board, District 3	\$625.00	(\$223.13)	\$401.87
Georgia Bowen	\$1,000	Leon County School Board, District 5	\$3,425.00	(\$2,575.19)	\$849.81
Lorin Pratt	\$1,000	Leon Soil and Water Conservation, District 1	\$0.00	\$0.00	\$0.00
William Helmich	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Stan Peacock	\$1,000	Leon Soil and Water Conservation, District 2	\$0.00	\$0.00	\$0.00
Brian Lee	\$1,000	Leon Soil and Water Conservation, District 4	\$8,633.00	(\$6,598.63)	\$2,034.37
Ryan Truchelut	\$1,000	Leon Soil and Water Conservation, District 4	\$4,915.04	(\$3,799.47)	\$1,115.57
Nina Ashenafi Richardson	\$1,000	Leon County Judge, Seat 5	\$9,300.00	(\$6,211.20)	\$3,088.80
Glenda Herrera-Gray	\$1,000	Capital Region CDD, Seat 1	\$0.00	\$0.00	\$0.00
Eli Nortelus	\$1,000	Capital Region CDD, Seat 3	\$4,090.00	(\$1,921.83)	\$2,168.17
Luis K. Rojas	\$1,000	Capital Region CDD, Seat 3	\$8,802.00	(\$7,808.93)	\$993.07
David E. Ramba	\$1,000	Capital Region CDD, Seat 5	\$0.00	\$0.00	\$0.00
Hugh Hauck	\$1,000	Piney-Z CDD, Seat 1	\$49.00	(\$49.00)	\$0.00
Delores Ann Pincus	\$1,000	Piney-Z CDD, Seat 1	\$0.00	\$0.00	\$0.00
Johnny Devine	\$1,000	Piney-Z CDD, Seat 3	\$150.00	(\$58.39)	\$91.61
Cheryl Hudson	\$1,000	Piney-Z CDD, Seat 3	\$0.00	\$0.00	\$0.00
Janetta Morphew	\$1,000	Piney-Z CDD, Seat 5	\$0.00	\$0.00	\$0.00
Michael Lee	\$1,000	Piney-Z CDD, Seat 5	\$50.00	(\$35.00)	\$15.00
<i>City Commission contribution limits were \$1000 at this time--They were reduced to \$250 in 2014 by the passing of a City Charter Amendment (passed 67%-33%)</i>					

Candidate Campaign Balances- 2014 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Darren Mason	\$1,000	Tallahassee City Commission, Seat 2	\$0.00	\$0.00	\$0.00
Rick Minor	\$1,000	Tallahassee City Commission, Seat 2	\$19,074.00	(\$1,077.04)	\$17,996.96
Diana Oropallo	\$1,000	Tallahassee City Commission, Seat 2	\$97,258.31	(\$92,321.60)	\$4,936.71
Curtis Richardson	\$1,000	Tallahassee City Commission, Seat 2	\$80,183.00	(\$52,928.89)	\$27,254.11
David Riddle	\$1,000	Tallahassee City Commission, Seat 2	\$420.00	(\$361.10)	\$58.90
Todd Sperry	\$1,000	Tallahassee City Commission, Seat 2	\$10,500.00	(\$10,500.00)	\$0.00
Rosa Houston Autery	\$1,000	Tallahassee City Commission, Seat 3	\$125.00	\$0.00	\$125.00
Nancy Miller	\$1,000	Tallahassee City Commission, Seat 3	\$124,076.00	(\$111,588.76)	\$12,487.24
Steve Stewart	\$1,000	Tallahassee City Commission, Seat 3	\$23,235.00	(\$17,186.65)	\$6,048.35
Andrew Gillum	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$253,151.09	(\$217,876.90)	\$35,274.19
Larry Hendricks	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$1,075.00	(\$739.40)	\$335.60
Evin Matthews	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$0.00	\$0.00	\$0.00
Zachery Richardson	\$1,000	Tallahassee City Commission, Seat 4/Mayor	\$10,495.00	(\$6,290.38)	\$4,204.62
Gil Ziffer	\$1,000	Tallahassee City Commission, Seat 5	\$74,635.00	(\$20,692.56)	\$53,942.44

* Negative balances for Kufu were amended to balance out.

* Reports for Proctor resulted in follow up with the Florida Elections Commission.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Franklin Ayetin	\$250	Clerk of the Court and Comptroller	\$12,007.16	(\$10,892.71)	\$1,114.45
Bill Bogan	\$250	Clerk of the Court and Comptroller	\$33,350.00	(\$22,320.77)	\$11,029.23
Barry Brooks	\$250	Clerk of the Court and Comptroller	\$36,893.83	(\$36,872.67)	\$21.16
Gwendolyn Marshall	\$250	Clerk of the Court and Comptroller	\$16,819.00	(\$16,872.84)	(\$53.84)
Akin Akinyemi	\$250	Property Appraiser	\$20,128.00	(\$16,943.97)	\$3,184.03
Clay Ketcham	\$250	Property Appraiser	\$61,932.54	(\$60,010.72)	\$1,921.82
Robert Lane	\$250	Property Appraiser	\$94,871.00	(\$86,676.82)	\$8,194.18
Doug Will	\$250	Property Appraiser	\$83,289.15	(\$81,809.27)	\$1,479.88
Walt McNeil	\$250	Sheriff	\$199,874.50	(\$192,180.86)	\$7,693.64
Tommy Mills	\$250	Sheriff	\$79,609.97	(\$63,162.71)	\$16,447.26
Charles Strickland	\$250	Sheriff	\$90,445.13	(\$78,366.13)	\$12,079.00
Mike Wood	\$250	Sheriff	\$337,078.32	(\$334,294.55)	\$2,783.77
Mark Earley	\$250	Supervisor of Elections	\$77,917.15	(\$72,554.97)	\$5,362.18
Tina Pate	\$250	Supervisor of Elections	\$18,928.00	(\$14,442.37)	\$4,485.63
Alan Williams	\$250	Supervisor of Elections	\$193,438.00	(\$177,862.57)	\$15,575.43
John Paul Bailey	\$250	Tax Collector	\$24,277.16	(\$23,137.37)	\$1,139.79
Doris Maloy	\$250	Tax Collector	\$51,879.38	(\$45,481.85)	\$6,397.53
Gary Gayle	\$250	Tallahassee City Commission, Seat 1	\$450.00	(\$376.23)	\$73.77
Luther Lee	\$250	Tallahassee City Commission, Seat 1	\$1,056.23	(\$1,056.23)	\$0.00
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$5,630.15	(\$5,360.17)	\$269.98
Rick Minor	\$250	Tallahassee City Commission, Seat 1	\$72,735.23	(\$24,188.18)	\$48,547.05
Gloria Pugh	\$250	Tallahassee City Commission, Seat 1	\$48,732.01	(\$15,151.96)	\$33,580.05
Bruce Strouble	\$250	Tallahassee City Commission, Seat 1	\$6,699.31	(\$6,059.40)	\$639.91
Steven Hougland	\$250	Tallahassee City Commission, Seat 2	\$9,475.00	(\$9,450.51)	\$24.49
Curtis Richardson	\$250	Tallahassee City Commission, Seat 2	\$70,675.00	(\$51,971.39)	\$18,703.61
David Hawkins	\$250	Leon County Commission, At Large Group 1	\$6,115.00	(\$6,086.00)	\$29.00
Mary Ann Linley	\$250	Leon County Commission, At Large Group 1	\$57,504.00	(\$52,282.39)	\$5,221.61
Jeffery Bullock	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Nancy Calhoun	\$250	Leon County Commission, District 2	\$3,130.00	(\$3,033.80)	\$96.20
Howard Font	\$250	Leon County Commission, District 2	\$3,748.00	(\$1,801.06)	\$1,946.94
Margaret Franklin	\$250	Leon County Commission, District 2	\$35,586.00	(\$35,434.11)	\$151.89
Kirk Headley-Perdue	\$250	Leon County Commission, District 2	\$85,855.00	(\$39,089.11)	\$46,765.89
Jimbo Jackson	\$250	Leon County Commission, District 2	\$26,073.00	(\$25,236.12)	\$836.88

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Manny Joanos	\$250	Leon County Commission, District 2	\$115,719.00	(\$114,712.06)	\$1,006.94
T.J Lewis	\$250	Leon County Commission, District 2	\$13,291.00	(\$13,008.69)	\$282.31
Taurean Lewis	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Bradley Sherman	\$250	Leon County Commission, District 2	\$0.00	\$0.00	\$0.00
Ryan Terrell	\$250	Leon County Commission, District 2	\$3,976.12	(\$1,969.21)	\$2,006.91
Bryan Desloge	\$250	Leon County Commission, District 4	\$33,850.00	(\$14,223.94)	\$19,626.06
Rocky Hanna	\$1,000	Leon County Superintendent of Schools	\$288,416.55	(\$275,012.77)	\$13,403.78
Woody Hildebrandt	\$1,000	Leon County Superintendent of Schools	\$22,841.61	(\$22,601.60)	\$240.01
Jackie Pons	\$1,000	Leon County Superintendent of Schools	\$371,970.23	(\$342,440.21)	\$29,530.02
Patricia Ann Sunday	\$1,000	Leon County Superintendent of Schools	\$1,156.70	(\$1,085.49)	\$71.21
Forrest Van Camp	\$1,000	Leon County Superintendent of Schools	\$11,200.00	(\$10,317.17)	\$882.83
Michael Wynn	\$1,000	Leon County Superintendent of Schools	\$0.00	\$0.00	\$0.00
Roger Pinholster	\$1,000	Leon County School Board, District 2	\$14,444.00	(\$14,406.84)	\$37.16
Rosanne Wood	\$1,000	Leon County School Board, District 2	\$71,611.43	(\$62,612.58)	\$8,998.85
Patrick Cannon	\$1,000	Leon County School Board, District 4	\$3,243.91	(\$2,779.46)	\$464.45
Tallie Lee Gainer III	\$1,000	Leon County School Board, District 4	\$3,445.00	(\$2,923.70)	\$521.30
Dee Dee Rasmussen	\$1,000	Leon County School Board, District 4	\$39,327.00	(\$35,320.75)	\$4,006.25
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Lorin Pratt	\$1,000	Leon Soil and Water Conservation District 1	\$0.00	\$0.00	\$0.00
Bill Helmich	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Anthony Cooper	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Tabitha Frazier	\$1,000	Leon Soil and Water Conservation District 3	\$0.00	\$0.00	\$0.00
Brooke Bustle	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Delaitre Hollinger	\$1,000	Leon Soil and Water Conservation District 5	\$145.00	(\$85.00)	\$60.00
William Howell	\$1,000	Leon Soil and Water Conservation District 5	\$0.00	\$0.00	\$0.00
Monique Richardson	\$1,000	Leon County Judge, Seat 2	\$142,577.76	(\$121,274.19)	\$21,303.57
Layne Smith	\$1,000	Leon County Judge, Seat 2	\$153,773.73	(\$142,971.59)	\$10,802.14
Dorothy McPherson	\$1,000	State Committee Woman	\$1,083.56	\$0.00	\$1,083.56
Caitlin Murray	\$1,000	State Committee Woman	\$21,130.00	(\$12,073.09)	\$9,056.91
Brian Kelley	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Luis Rojas	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
Carl Mikyska	\$1,000	Capital Regional CDD, Seat 2	\$0.00	\$0.00	\$0.00
John B Ray	\$1,000	Capital Regional CDD, Seat 4	\$3,025.00	\$480.11	\$3,505.

Candidate Campaign Balances-2016 Election Cycle, Leon County Florida

Candidate	Contribution Limit	Office	Contributions	Expenditures	Final Balance
Luis Rojas	\$1,000	Capital Regional CDD, Seat 4	\$0.00	\$0.00	\$0.00
Richard Kessler	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Gerry Cashin	\$1,000	Piney Z CDD, Seat 2	\$0.00	\$0.00	\$0.00
Arthur Kirby	\$1,000	Piney Z CDD, Seat 4	\$200.00	(\$88.04)	\$111.96
Joseph Didier	\$1,000	Piney Z CDD, Seat 4	\$0.00	\$0.00	\$0.00
<i>Redesignated Campaigns</i>					
Scott Maddox	\$1,000	Leon County Superintendent of Schools	\$216,448.55	(\$80,539.23)	\$135,909.32
Scott Maddox	\$250	Tallahassee City Commission, Seat 1	\$52,525.00	(\$52,525.00)	\$0.00

* Negative balances for Marshall were amended to balance out.

Select Year:

The 2017 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.141 Disposition of surplus funds by candidates. –

(1) Except as provided in subsection (6), each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate may not accept any contributions, nor may any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, before such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. [106.11\(5\)\(b\)](#) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign

account to an office account any amount of the funds on deposit in such campaign account up to:

- (a) Fifty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.
- (b) Ten thousand dollars, for a candidate for multicounty office.
- (c) Ten thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- (d) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.
- (e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.
- (f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.
- (g) Three thousand dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member; personal taxes payable on office account funds by the candidate or elected public official; professional services provided by a certified public accountant or attorney for preparation of the elected public official's financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#); costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in s. [106.011](#); fees or dues to religious, civic, or charitable organizations of which the elected public official is a member; items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral; personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or expenses incurred in the operation of the elected public official's office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall use such funds to pay for professional services provided by a certified public accountant or attorney for preparation of the elected public official's final financial disclosure filing pursuant to s. [112.3144](#) or s. [112.3145](#), or give such funds to a charitable organization that meets the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6)(a) For purposes of this subsection, the term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

(b) A candidate elected to state office or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to \$20,000 in his or her campaign account, or in an interest-bearing account or certificate of deposit, for use in his or her next campaign for the same office, in addition to the disposition methods provided in subsections (4) and (5). All requirements applicable to candidate campaign accounts under this chapter, including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

(c) If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or s. [106.11\(5\)](#) within 90 days after the last day of candidate qualifying for that office. Requirements in this section applicable to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(7) Before disposing of funds pursuant to subsection (4), transferring funds into an office account pursuant to subsection (5), or retaining funds for reelection pursuant to subsection (6), any candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her shall reimburse the state or local governmental entity, whichever is applicable, for such waived fee. If there are insufficient funds in the account to pay the full amount of the fee, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund.

(8)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and, on or before the date by which such disposition is to have been made, shall file with the officer with whom reports are required to be filed pursuant to s. [106.07](#) a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor;
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank, savings and loan association, or credit union in which the office account is located; and
4. The amount of such funds retained pursuant to subsection (6), together with the name and address of the bank, savings and loan association, or credit union in which the retained funds are located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. [106.07](#).

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. [106.07](#) for submitting late termination reports.

(9) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. [106.07\(2\)](#).

(10) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(11) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 15, ch. 2013-37.

¹**Note.**—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution. Page 3 of 3

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B**

Citizen Charter Review Committee

Agenda Item B

February 1, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This is a public hearing on the proposed charter amendment to provide a “Code of Ethics” requirement in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the second of three public hearings to consider the proposed charter amendment.

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
February 1, 2018
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Report and Discussion

Background:

On November 16, 2017, the Leon County Charter Review Committee voted 12-0 to request staff to provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

Following staff’s presentation of the requested item on November 30, the Committee voted 12-0 to request that staff provide additional analysis regarding other charter counties’ ethics requirements and applicability to Constitutional Officers. In addition, the Committee requested two variations of proposed charter amendment language requiring the adoption of a “Code of Ethics” ordinance, with and without applicability to Constitutional Officers.

On January 11, following consideration of both variations of language, the Committee voted 13-0 to request that staff schedule the public hearings for the proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance *not* applicable to Constitutional Officers (Attachment #1). The first public hearing was conducted on January 25 and the remaining two public hearings have been scheduled for February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code.” The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s “Ethics Code” is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven have provisions in their charter that require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

If approved by the Leon County electorate, the Committee’s proposed amendment would require the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the “Code of Ethics” as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments.

Title: Code of Ethics Requirement as Proposed by the Citizen Charter Review Committee
February 1, 2018
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The proposed charter amendment language is included below.

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Conduct the second of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Citizens Charter Review Committee “Code of Ethics” Agenda Item

Citizen Charter Review Committee

Agenda Item #5B

January 11, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item provides additional information and analysis related to providing for a “Code of Ethics” in the Leon County Charter. Per the Committee’s request, this item also provides proposed charter amendment language including language for a “Code of Ethics” which applies to Constitutional Officers

Staff Recommendation:

Option #5: Committee direction.

Title: Code of Ethics
January 11, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the Committee voted 12-0 to request that staff provide an agenda item with analysis related to providing for a “Code of Ethics” in the County Charter.

On November 30, following staff’s presentation of the requested agenda item (Attachment #1), the Committee voted 12-0 to request that staff prepare proposed charter amendment language for consideration at the Committee’s January 11, 2018 meeting. Additionally, the Committee requested information and analysis regarding other counties whose charter requires the adoption of a “Code of Ethics.”

Analysis:

All local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, F.S., which is applicable to all public officials, officers, and employees in the state. However, charter counties may adopt provisions more stringent than state law. Of the 20 charter counties in Florida, seven require the adoption of an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, (7) Orange County, includes the specific provisions of their “Code of Ethics” within the county charter.

Per the committee’s request, staff has attached provisions from each counties’ charter regarding the “Code of Ethics” requirement (Attachment #2). Applicability of these counties’ ethics code to elected Constitutional Officers varies.

- Broward, Clay, and Duval County’s charters specifically state that their “Code of Ethics” applies to all elected Constitutional Officers/“county officers.”
- Palm Beach and Seminole County’s “Code of Ethics” does not apply to elected Constitutional Officers.
- Miami-Dade County’s “Code of Ethics” Ordinance is not applicable to elected Constitutional Officers, with the exception of one provision regarding ethical campaign practices and associated penalties of admonition and/or fines.

Based on the Committee’s direction, staff has prepared proposed charter amendment language requiring the Board of County Commissioners to adopt a “Code of Ethics” ordinance. Similar to the County’s Lobbying Regulations Ordinance, the adoption of the Code of Ethics as an ordinance elevates the importance and visibility of the County’s existing ethics policy. In addition, a “Code of Ethics” ordinance preserves the County’s ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. In support of the County’s existing policy, the County recently produced and distributed *The Code of Ethics Guide – An Ethics “Field Manual for Employees* (Attachment #3) in a continuous effort to provide guidance and assistance to County employees.

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January 11, 2017
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As previously stated, all local “Code of Ethics” must be at least as stringent as Chapter 112, Part III, Florida Statutes, which is applicable to all public officials, officers, and employees in the state. Accordingly, section 112.326, Florida Statutes states:

Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

Unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s Office opinion that the County can only impose a “Code of Ethics” on their *own* officers and employees and that same cannot be imposed on Constitutional Officers.

Per the Committee’s direction, staff has prepared two variations of the proposed amendment one not applicable to Constitutional Officers and one applicable to Constitutional Officers.

Version #1 (**Not** Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019 and shall. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Version #2 (Applicable to Constitutional Officers):

SECTION X.X CODE OF ETHICS

In order to provide a high level of transparency and ethical conduct under charter government, the Board of County Commissioners shall enact by ordinance a Code of Ethics no later than the first County Commission meeting in December 2019. The Code of Ethics shall prescribe standards of conduct for members of the Board of County Commissioners and its employees, Leon County Constitutional Officers and their employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative

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January 11, 2017
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standards of conduct which apply to any such officer or employee. The Code of Ethics shall include, but is not limited to, standards of conduct, provisions defining offenses, prescribing penalties within the limits allowed by law, and establishing lobbyist regulations. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics” **not** applicable to Constitutional Officers.
Voting Threshold: Simple Majority Vote
2. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule for public hearing the proposed charter amendment language providing for a “Code of Ethics” that is applicable to Constitutional Officers.
3. Request additional information and analysis.
Voting Threshold: Four (4) Votes
4. Take no further action at this time.
Voting Threshold: Simple Majority Vote
5. Committee direction.

Recommendation:

Option #5: Committee direction.

Attachments:

1. November 30, 2017 Citizen Charter Review Committee “Code of Ethics” Agenda Item
2. Ethical Provisions in Florida Counties’ Charters
3. Leon County Government – Code of Ethics Guide

Citizen Charter Review Committee

Agenda Item B

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Code of Ethics

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Nicki Paden, Management Analyst

Summary:

This item considers providing for a Code of Ethics in the Leon County Charter.

Staff Recommendation:

Option #5: Committee direction.

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to the Code of Ethics in the County Charter.

Article II, Section 8 of the Florida Constitution provides for “Ethics in Government.” (Attachment #1). The Constitution prescribes under Section 8 (g), that a code of ethics shall be prescribed by law. In fulfilling the Constitutional requirement, Section 112, Part III, of Florida Statutes, establishes a “Code of Ethics for Public Officers and Employees” (Attachment #2), which applies to all county governments. The statute provides ethical standards including, but not limited to:

- Standards of Conduct;
- Ethics Training Requirements;
- Voting Conflict of Interest Restrictions;
- Financial Disclosure Requirements; and
- Penalties.

In July 2002, to provide further specification related to ethical standards for Leon County Commissioners and employees, the Board adopted the Leon County Policy 03-05 “Ethics Code” (Attachment #3). The policy has been amended three times to further promote transparency and address potential conflicts including the addition of provisions related to real estate transactions. The County’s Code of Ethics is applicable to the Board of County Commissioners, County employees, and members of appointed boards and committees.

Following the adoption of amendments to the Code of Ethics Board Policy, the Board hosted a workshop to consider further ethical provisions related to lobbyists. In December 2007, the Board adopted an Ordinance to codify the County’s lobbyist registration process and provide additional provisions which require lobbyist to file quarterly compensation reports with the Clerk of the Board, prohibit County officials and employees from certain conduct and communication, and provide the associated penalties.

Analysis:

A “Code of Ethics” sets clear expectations governing the behavior of the individuals of an organization. However, while Leon County has a strong ethics policy, the current policy is neither included nor referenced in the Leon County Charter.

The National Association of Counties (NACo) encourages counties to adopt a local code of ethics to provide a framework for acceptable behavior in order to eliminate ethical misunderstandings and increase accountability. In addition, Section 112.326 Florida Statutes prescribes that nothing in statute prohibits local governments from imposing additional or more stringent standards of conduct or disclosure than Florida law as long as the requirements do not conflict with state law. In addition to provisions outlined in state statute, Leon County’s Code of Ethics goes beyond those provided by state statute related to:

- Post-employment restrictions for county officers and employees (e.g. Two-year lobbying prohibition);

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- Specific standards related to County Real Estate Transactions.

Leon County's Code of Ethics adheres to state law in regard to the investigation for violations and enforcement of the Code. Florida Statute 112.317 outlines these penalties, which include but are not limited to: Removal from office, suspension from office, public censure and reprimand, and a civil penalty not to exceed \$10,000. In addition, the Florida Constitution prescribes that any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to loss of their public pension.

Of the 20 charter counties, six charters require the County adopt an ethics ordinance: (1) Broward, (2) Clay, (3) Duval, (4) Miami-Dade, (5) Palm Beach and (6) Seminole. In addition, Orange County is the only county that includes the specific provisions of their code of ethics within the county charter. The applicability of the ethics provisions varies by charter to include county commissioners, appointed officials, constitutional officers, and/or employees. As Board Policy, the County's Code of Ethics visibility and importance can be elevated through inclusion in the County's Charter. Inclusion in the County's Charter can be achieved by either requiring an ethics code be adopted by a local ordinance or by placing the full ethics code within the Charter. While the inclusion of the entire code of ethics in the Charter can be done, it would require future charter amendments to make any changes.

Alternatively, a charter requirement to adopt a "Code of Ethics" ordinance elevates the importance and visibility of the County's ethic's policy similar to the Lobbying regulations Ordinance. In addition, a "Code of Ethics" ordinance preserves the County's ability to be responsive to the needs of the community by allowing future changes to be made by ordinance rather than charter amendments. This approach is similar to how the Florida Constitution addresses ethics by providing broad ethical standards and requiring a code of ethics be adopted as state law. To ensure compliance, a local Charter amendment can require a date certain for an ordinance to be enacted. In addition, the Charter amendment may prescribe requirements of an ethics ordinance, such as: who the code applies to, requiring for lobbying regulations, offenses, and prescribing for penalties.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff to prepare proposed charter amendment language related to a "Code of Ethics" for the January 18, 2017 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

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Recommendation:

Option #5: Committee direction.

Attachments:

1. Florida Constitution Article II, Section 8
 2. Florida Statute Section 112, Part III, “Code of Ethics for Public Officers and Employees”
 3. Leon County Board Policy “Code of Ethics”
 4. Leon County’s Lobbyist Regulations Ordinance
- .

Florida Counties' Charter Code of Ethics References

Broward

Section 11.08 BROWARD COUNTY ETHICS COMMISSION

A. There shall be a Broward County Ethics Commission whose sole purpose shall be to establish a Code of Ethics for the Broward County Commission. The Broward County Ethics Commission shall work in a collaborative and communicative nature with the County Commission in drafting the Code of Ethics.

The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than at the first County Commission meeting in March 2010 (the "Proposed Ethics Code"). If the Broward County Commission fails to adopt the Proposed Ethics Code as proposed by the Broward County Ethics Commission within one hundred eighty (180) days of its receipt of the proposal, the Proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the Proposed Ethics Code shall become part of the Broward County Code of Ordinances.

(November 4, 2008: Section 11.08, as proposed by the Charter Review Commission, was created to establish the Broward County Ethics Commission responsible for drafting a Code of Ethics regulating the conduct of County Commissioners, to be considered for passage by the County Commission and/or the County electors.)

Section 11.10 CONSTITUTIONAL OFFICERS SUBJECT TO CODE OF ETHICS

The Broward County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court are elected officials subject to the Broward County Code of Ethics.

(November 2, 2010: Section 11.01 C, as proposed by the County Commission, was amended to establish that a County ordinance shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees through a code of ethics. Section 11.10, as proposed by the County Commission, was created to establish that County constitutional officers are subject to the County Code of Ethics.)

Clay

SECTION 2.2 LEGISLATIVE BRANCH – CODE OF ETHICS

Before July 1, 2007, the Board of County Commissioners shall enact by ordinance a Code of Ethics. The Code of Ethics shall prescribe standards of conduct for members of the Board, the County Manager, the County Attorney, the County Auditor, all other elected or appointed County Officers including the Superintendent of Schools and members of the School Board, and the deputies and employees of all such officers. The Code of Ethics shall supplement and not contradict or supersede any statutory or administrative standards of conduct which apply to any such officer or employee. The Code of Ethics may include, but is not limited to, provisions defining offenses, establishing an ethics board to hear and determine charges, and prescribing penalties within the limits allowed by law. The Code shall not conflict with the power of the Governor to suspend county officers or of the Senate to remove them from office, or the power of the people to recall them from office.

(Added November 7, 2006)

Duval

Chapter 2 – ETHICS

Section 1.202. - ETHICS CODE, ETHICS COMMISSION, INSPECTOR GENERAL

The City of Jacksonville, acting in its capacity as a county, shall enact an ethics code with jurisdiction over the officers and employees of the consolidated government of the City of Jacksonville, its constitutional officers, and independent agencies and districts, whether elected or appointed, paid or unpaid, and to the officers and employees of the school district. Jurisdiction shall include, but not be limited to the following: The Mayor, the Sheriff, the Supervisor of Elections, the Property Appraiser, the Clerk of the Courts, the Tax Collector, City Council, JEA, the Police and Fire Pension Fund, Jacksonville Aviation Authority, Jacksonville Port Authority, Jacksonville Housing Authority, Jacksonville Housing Finance Authority, Jacksonville Transportation Authority, and the Jacksonville Health Facilities Authority. The ethics code may, as allowed by law, supplement state ethics laws. The ethics code shall provide for an independent ethics commission, whose membership shall have appropriate subject matter expertise, and which shall:

- (a) manage a citywide ethics hotline for intakes of allegations of violations of the ethics code;
- (b) manage and coordinate the training and education of local officers and employees in state and local ethics;
- (c) have the authority to refer ethics matters to appropriate enforcement agencies;
- (d) recommend changes in legislation to City Council in the areas of ethics laws and administration, conflicts of interests, hotline policies, ethics education, ethics in procurement, campaign ethics, and lobbying;
- (e) have jurisdiction to levy those civil fines or penalties authorized by the City Council for violations of the City's ethics code;
- (f) act as the hiring committee for the administrative staff of the ethics oversight and compliance office; and whose enforcement power is limited to the ethics code authorized by this section and enacted by city council. A structure shall be established for the ethics commission that ensures independence and impartiality

Section 1.203 - ETHICS OVERSIGHT AND COMPLIANCE OFFICE AND OFFICE OF INSPECTOR GENERAL

- (a) The ethics code provided for in section 1.202 of the Charter shall include the establishment of an independent citywide Ethics Oversight and Compliance office and an independent Office of Inspector General, each with jurisdiction over the City of Jacksonville, its constitutional officers, and its independent agencies.
- (b) The Ethics Office shall coordinate ethics training, ethics compliance, and ethics oversight issues and to staff the ethics commission.
- (c) The Office of Inspector General shall provide independent oversight of publicly funded activities and transactions and other local government operations. The office shall have jurisdiction to investigate, audit, and provide contract oversight, and to promote economies and efficiencies, improve agency operations, and prevent and deter waste, fraud and abuse.

Miami-Dade

Citizens' Bill of Rights (A) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

Citizens' Bill of Rights (C) 17. COMMISSION ON ETHICS AND PUBLIC TRUST

The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

Orange

Section 706 – CODE OF ETHICS

A. The local code of ethics shall be construed and interpreted in such a way to protect the public's trust and to promote open and accountable government in Orange County. Preserving the public's trust shall be paramount in enforcing the local code of ethics, and it shall be interpreted consistent with the purposes and intent of the local code of ethics.

B. The citizens of Orange County are entitled to a government that embraces best ethical practices and full disclosure of conflicts of interest involving county employees or elected officials. All votes of the board, and actions of the mayor, the county commissioners and county employees, shall be made or taken in the best interests of the citizens of Orange County, free of any undisclosed conflicts of interest.

C. In order to provide a high level of transparency and ethical conduct under charter government, the board shall adopt a local code of ethics applicable to the board of county commissioners and to those employees required to file financial disclosure under state law or who participate in the county procurement process. Such code, though more stringent than general law, shall not place the board of county commissioners or county employees in conflict with the state ethics code, or any other provision of federal or state law, and at a minimum shall provide for:

1. Additional financial and business relationship disclosure;
2. Restrictions on gifts to the board of county commissioners;
3. Under the auspices of an apparent conflict of interest concerning matters involving a prior business associate of any member of the board, disclosure and abstention from voting for a reasonable period of time following termination of the business associate relationship;
4. Approval by the board on development related matters ordinarily subject to final approval by county staff where the applicant or any person having a beneficial interest in the outcome of the matter is a business associate, family member, or employer of a member of the board;
5. Reasonable post-employment restrictions for employees; and
6. Subject to the attainment of the same type of confidentiality provisions available to the state commission on ethics under general law, an enforcement process to provide for due process, penalties, and appeals, all within a reasonable timeframe.

Implementation of the provisions of this subsection shall be by ordinance adopted either prior to the effective date of this provision or by no later than January 1, 2010.

D. The board of county commissioners and those employees required to file financial disclosure under state law or who participate in the county procurement process shall be required to receive at least annual educational sessions on best ethical practices and current trends in ethics issues.

E. The state code of ethics, as provided by general law, shall have full effect on all employees and officeholders under the charter government. Penalty for violation of the state code of ethics shall be as provided by general law.

F. Any local code of ethics adopted prior to the effective date of this section shall, if necessary, be amended so as to comply with the provisions of this section.

Palm Beach

Article VIII Ethics Regulation – Section 8.1 COUNTY CODE OF ETHICS

The county shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 of this charter.

Seminole

Section 5.4 ETHICS

Ordinance Requirements. On or before January 8, 2008, the Board of County Commissioners of Seminole County, shall, by ordinance (the "Ordinance"), require compliance with the following provisions, which shall be supplemental to, but may not diminish the provisions of general law.



LEON COUNTY GOVERNMENT

People Focused. Performance Driven.

THE CODE OF ETHICS GUIDE

An Ethics "Field Manual" for Employees

► **Setting the Standard in Ethics & Public Service**

Vision

A community that is safe, healthy and vibrant.

Mission

To efficiently provide public services which serve and strengthen our community.



ADMINISTRATOR'S LETTER



Vincent S. Long

In every way that Leon County employees touch the lives of our citizens we serve, we consistently strive to set the standard in public service and to uphold the public trust.

Ethics are a core practice in Leon County Government and standards of ethical behavior are detailed in both our "Ethics Code" policy and our "Employee Standards of Conduct" contained in the Human Resources manual. While both of these documents are thorough and complete, the guide you are now holding is intended to be a user-friendly "field manual" for reference, reminders and reinforcement related to the high standards of ethical behavior required to be a Leon County employee.

Understanding that this guide may not answer every question you have now or in the future, I've designated Wanda Hunter, Assistant County Administrator to be your initial point of contact. She is just a phone call or e-mail away should you have a question or concern, require clarification or if you just need a little advice or guidance.

Leon County employees perform many different jobs and fulfill a broad range of responsibilities, but the one thing we must all do every day is practice ethics with great clarity and unwavering consistency. Thank you for all you do to make our community and our organization even better.

Vince



**Just a call
or email
away ...**

Wanda Hunter
Assistant County Administrator
(850) 606-5380
HunterW@LeonCountyFL.gov



With almost 30 years of public service, Wanda Hunter has spent her career dedicated to integrity, honesty and accountability. Beginning her career in Leon County with the Office of Equal Employment Opportunity, Wanda has since worked throughout the County in different roles and levels, giving her vast experience and a unique perspective to help you and address issues of ethics and compliance in coordination with Human Resources and the County Attorney's Office.

A PUBLIC TRUST



Leon County employees fully embrace and live by our core practices, and enhance our people focused, performance driven organizational culture; demonstrate pride in their work and their community; always strive to improve levels of service and performance; and are empowered to help the people they serve. To promote the public interest and maintain the public's trust, Leon County employees are committed to the following Core Practices:

- **Demonstrating Highest Standards of Public Service.** Employees adhere to the highest standards of ethical behavior, avoid circumstances that create even an appearance of impropriety and carry out the public's business in a manner which upholds the public trust. Citizens know that we are on their side.
- **Delivering the "Wow" factor in Customer Service.** Employees deliver exemplary service with pride, passion and determination; anticipating and solving problems in "real time" and exceeding customer expectations. Customers know that they are the reason we are here.
- **Connecting with Citizens.** Employees go beyond customer service to community relevance, engaging citizens as stakeholders in the community's success. Citizens know that they are part of the bigger cause.
- **Accepting Accountability.** Employees are individually and collectively accountable for their performance, adapt to changing conditions and relentlessly pursue excellence beyond the current standard, while maintaining our core values.
- **Exhibiting Respect.** Employees exercise respect for citizens, community partners and each other.
- **Employing Team Approach.** Employees work together to produce bigger and better ideas to seize the opportunities and to address the problems which face our community.
- **Exercising Responsible Stewardship of the Community's Resources.** Employees engage in the continuous effort to create and sustain a place which attracts talent, fosters economic opportunity and offers an unmatched quality of life, demonstrating performance, value and results for our citizenry.
- **Living our "People Focused, Performance Driven" Culture.** Employees have a structure in place to live all of this as our organizational culture and are empowered to help the people they serve.

MISUSE OF POSITION

It is prohibited for any County employee to use or attempt to use his/her position, or any property or resource, that may be within the employee's trust, or perform his/her official duties, to secure a special privilege, benefit, or exemption for himself, herself or others.

Employees shall not be permitted to use County facilities, meeting rooms, or conference rooms, or County equipment for other than County business, unless such facilities or equipment are available in accordance with established policy on a regular basis to the general public in which instance the use of such shall be on the same conditions as for the general public.

Perception is reality

! *Employees should avoid the appearance of inappropriate use of the County's equipment, supplies, facilities, and other resources for their own benefit.*




Q&A

- Q:** I have an outside business providing lawn care service, am I able to share my County business card with possible new clients?
- A:** No. Using your County business card, emailing County contacts and any misuse of County resources is prohibited.

UNAUTHORIZED COMPENSATION

No employee or employee's spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when the employee knows, or with the exercise of reasonable care should know that it was given to influence an employee's official actions.

Delivering the WOW!

 Often our citizens want to express appreciation for work done well. If you have a citizen offer you a gift or money, politely say no. You can suggest they offer appreciation by contacting your supervisor.



Q&A

- Q:** May I take a part-time job from a contractor who currently does work with the County and whose contract I oversee?
- A:** No, you may not take the part time job even if the contractor has no intention of trying to influence how you manage their contract. Taking the job creates an appearance that you are being influenced.

GIVING AND RECEIVING GIFTS

The law prohibits the solicitation or acceptance by any County employee of any gift, loan, favor, or service that would cause a reasonably prudent person to be influenced in the discharge of official duties, or should have known, that it was given to influence an employee's official actions.

Are there gifts I can receive?

? *T-shirts, pencils, raffles, shopping bags and all other "trinkets" are okay to take, as long as it is a County-sponsored or -approved activity and as long as everyone attending the event is offered the same items.*



TIP ►

County employees are eligible for discounts from vendors as long as the same discount is available to all employees.



Q&A

- Q:** Am I able to accept a dinner that is being offered free at an upcoming office-related event?
- A:** Accepting of food and/or drinks offered at activities where your attendance is associated with your official County duties is okay.

MISUSE OF INFORMATION

An employee may not disclose or use information not available to the general public for his/her personal gain or for the gain of any other person or business entity.

You have a duty to assure confidential information remains confidential. County employees may have possession of citizen's social security, medical, or even individual financial information. It is our job to always be on guard to strictly protect the confidentiality of this information.

Q&A



Q: *I'm aware of an upcoming County bid that a friend of mine might be qualified to bid on. In order to help my friend prepare the lowest bid, can I let her know the timing of the bid and let her know what type of contractor the County wants?*

A: *No. As a County employee, you cannot use your job to benefit another business or person. Giving your friend this information provides them an unfair advantage over other possible contractors that may also want to bid.*



POLITICAL ACTIVITIES

- E**very employee will have the right to express his or her views as a citizen, to cast his or her vote as he or she chooses, to hold membership in and to support a political party, or maintain political neutrality. Employees may also attend political meetings and take an active part in political campaigns during off duty hours. However, every employee is prohibited from:
- a. Using his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
 - b. Directly or indirectly coercing, attempting to coerce, commanding, or advising a County employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
 - c. Participating in political activities during scheduled work time.
 - d. Participating as a candidate for public elective office in a partisan primary, general, or special election, will prohibit a person from being principally employed in a federally funded program.
 - e. Using Leon County resources, including but not limited to material goods and the use of office staff and/or County personnel, for either political campaign purposes or other personal matters.

TIP ► Social media requires care when using



Using your own social media accounts (Facebook, Twitter, etc.) to provide political opinions is okay – as long as it is on your own time. When acting on behalf of the County, including using the County’s social media, refrain from expressing your own personal political views.



Q&A

- Q:** I’ve been asked by a neighbor to collect signatures on a petition opposing a neighborhood re-zoning issue. Can I help out and collect signatures?
- A:** Yes, you can address issues that are important to you and as a citizen are permitted. Remember that you must do this on your own time and must not give even the appearance that you are representing the County. And as always, do not provide any confidential information in support of your position.

OUTSIDE EMPLOYMENT



Employees shall not engage in any employment activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of their County employment.

Employees may not transact business on behalf of the County with any agency in which either the employee or a member of the employee's immediate family has a "material interest."

Employees may not hold any employment or contractual relationship with any business entity or any agency, which is subject to the regulation of, or is doing business with, Leon County Government.



TIP ►

Accepting work outside of the County is acceptable as long as it doesn't conflict with your County job hours and shifts. Remember, your County job comes first.

Complete an Outside Employment Form



Employees who desire to accept outside employment in addition to their regular County position must complete an outside employment form and submit it to their respective Department/ Division Director for a determination of whether such employment conflicts with the duties and responsibilities of the employee.



Q&A

Q: I'm interested in getting a part time job a couple nights a week. Can I?

A: You may get a part-time job with the following conditions: you've completed the County's outside employment form and received the necessary approvals; your County job comes first and the new job's hours do not conflict; and you cannot use any County equipment, supplies, space, etc. when working at your part time job.

NEPOTISM

A relative of any County employee with supervisory responsibility shall not be eligible for employment in or advancement to any position which reports directly to the supervisory employee.

Likewise, a County employee shall not be eligible for advancement to any position with direct supervisory responsibility over a position in which a relative is employed.

TIP ▶ **“Relative” is a relative term...**

➔ *Leon County’s definition of “relative” includes not only father, mother, son, and daughter, but also brother, sister, uncle, and aunt as well as others – when in doubt, reach out to Human Resources for a complete list.*



Q&A

- Q:** Can my daughter apply for a job with the County?
- A:** Your daughter may apply for and be considered for a job at the County, IF, when hired you are not directly responsible for their supervision.

SOLICITATION AND FUNDRAISING



No employee or other person may solicit or be solicited during working hours or in work areas.

No employee may distribute literature in his/her work area or during work hours.

No person may distribute literature to an employee in that employee's work area or during that employee's working hours.

Charitable solicitations may be permitted upon approval of the County Administrator and subject to the following:

- Solicitation may take place only for charitable purposes and not for private gain, and only on behalf of generally recognized and reputable charitable organizations.
- The specific activities to be utilized in the charitable solicitation must be communicated to and approved by the County Administrator prior to any activity taking place.

TIP ►



As a member of a professional organization you may be subject to their specific code of ethics. As a County employee, the Leon County Code of Ethics sets a benchmark for you. If your professional organization has a more stringent code of ethics, reach out to the Assistant County Administrator to discuss which code you should follow.



REPORTING ETHICS CONCERNS



You are encouraged to report suspected ethics or compliance concerns, waste or abuse of County resources to your supervisor, or the Assistant County Administrator or both, depending on the circumstances.

- b. The Assistant County Administrator is ready and able to discuss any ethics or compliance concerns or issues of waste or abuse of County resources and will make every effort to maintain the confidentiality of the employee.
- c. Employees making a report in good faith, or cooperating in an investigation, shall not suffer any form of retaliation.
- d. Any suspicion of fraud should be reported directly to the fraud, waste, and abuse hotline, toll-free at 850-606-5304. Or, by mail to: Leon County Fraud, Waste, Abuse & Misconduct Hotline, 301 South Monroe Street, 5th Floor Leon County Courthouse, Tallahassee, Florida 32301. Reports may be made anonymously.

Additional information can be found at:
www.LeonCountyFL.gov/Fraud

- e. Any ethics and compliance concerns should be directed to 850-606-5380.



“Ethics is knowing the difference between what you have a right to do and what is right to do.”

—Supreme Court Justice Potter Stewart

AUTHORITY AND ENFORCEMENT



Leon County Policy No. 03-05 “Code of Ethics” applies to the members of the Board of County Commissioners and its employees, as well as to all members of appointed boards and committees that have been created by the Board of County Commissioners.

- b. In addition to the “Code of Ethics”, Leon County’s Human Resources Manual, Section II contains standards for “Employee Conduct”.
- c. The Code of Ethics for public officers and employees as set forth in Part III of Chapter 112, Florida Statutes, applies to all employees and sets forth a baseline of requirements. Where the County Code of Ethics has stricter requirements, employees must adhere to this code. Additionally, County employees may have professional association or licensing ethics requirements, which may impose requirements beyond the County Code of Ethics.
- d. Questions regarding compliance with the Code of Ethics are handled by the Assistant County Administrator, in consultation with the County Attorney and Human Resources as needed. In most cases, violations of the Code of Ethics will be addressed by the department director with assistance from the Assistant County Administrator and Human Resources. Where a violation has been found, discipline can range from corrective counseling to termination.



“The truth of the matter is that you always know the right thing to do. The hard part is doing it.”

—General H. Norman Schwarzkopf



ADDITIONAL RESOURCES



In our continuous efforts to be an employer of choice, Leon County Government seeks to attract and retain high performing, healthy and happy employees. This is not only good for our employees, but key to our success in setting the standard in public service. In addition to assisting our employees in navigating potential ethical situations, we have put in place policies and programs which have garnered national attention for employee well-being, domestic violence and employee assistance. Like the ethics guide, the resources below are intended to serve and support our employees and sustain a workplace where our people can thrive.

Domestic Violence, Sexual Violence and Stalking in the Workplace (Policy 13-2): Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County instituted this

Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.



Violence Prevention and Intervention (Policy 03-12):

Violence in the workplace can have a devastating effect on the productivity of organizations and the quality of life of employees. Recognizing this problem, Leon County has developed procedures to identify, report, intervene, and prevent workplace violence.

Employee Assistance Program (Policy 16-2): The Employee Assistance Program (EAP) has been established to assist employees, who develop

alcohol, drug, behavioral or stress related problems that result in or contribute to substandard job performance, by providing confidential consultation, treatment and rehabilitation.

Leon County Wellness Program (Policy 12-4): The primary purpose of the Leon County Wellness Program shall be to offer programs and services to assist employees in making voluntary behavior changes that improve employee health and enhance individual productivity and well-being or maintaining a healthy lifestyle.





People Focused. Performance Driven.

**LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM C**

Citizen Charter Review Committee

Agenda Item C

February 1, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herbert W.A. Thiele, County Attorney

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee

Review and Approval:	Vincent S. Long, County Administrator Herbert W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peeples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This is a public hearing on a proposed charter amendment to provide a hiring/firing process for County Attorney to match that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #1: Conduct the second of three public hearings to consider the proposed charter amendment (Attachment #1).

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
February 1, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item and the Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language. Staff presented the proposed language at the January 11, 2018 meeting (Attachment #2) and the Committee voted 13-0 to request that staff schedule the proposed charter amendment language for public hearing. The first public hearing was conducted on January 25 and the remaining two public hearings have been scheduled for February 1 and February 8, 2018 at 6:00 p.m. in the Leon County Commission Chambers.

Analysis:

If approved by the Leon County electorate, the Committee's proposed charter amendment would provide for a hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator.

The proposed charter amendment language is included below, and Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format. Strike-through represents deletions and underline represents new language to be added.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

The majority of Florida's charter counties (17 of 20) outline the hiring and firing process for the county administrator within their charter. Only eight (8) counties include provisions for the county attorney in their charter and, of these, the following six (6) counties provide the same hiring/firing process for both positions: (1) Brevard County; (2) Clay County; (3) Hillsborough County; (4) Lee County; (5) Seminole County; and (6) Volusia County. As is the case in Leon County, termination provisions for the county attorney are more commonly included as part of a negotiated contract between the county attorney and the board of county commissioners.

Title: Employment of the County Attorney as Proposed by the Citizen Charter Review Committee
February 1, 2018
Page 3

Options:

1. Conduct the second of three public hearings to consider the proposed charter amendment.
Voting Threshold: Simple Majority Vote
2. Provide staff with additional direction.
Voting Threshold: Simple Majority Vote

Recommendation:

Option #1.

Attachments:

1. January 11, 2018 Item, "Hiring/Process for the County Attorney"

Citizen Charter Review Committee

Agenda Item #5C

January 11, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggans, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

This item provides proposed charter amendment language modifying the County Attorney hiring/firing process to match that of the County Administrator in the Leon County Charter (Attachment #1).

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee voted 12-0 to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

On December 7, 2017, staff presented the agenda item (Attachment #2). The Committee voted 12-0 to proceed to the next step in the proposed charter amendment process and request that staff bring back draft Charter amendment language to the Committee's January 11, 2017 meeting.

Analysis:

Per the Committee's request, staff has prepared the following proposed Charter amendment language regarding the hiring/firing process for the County Attorney which is consistent with the existing Charter language for the County Administrator. Strike-through represents deletions and underline represents new language to be added. Attachment #1 shows the complete Charter Section 2.4 including the proposed changes in strike-through underlined format.

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
January 11, 2018
Page 3

Attachment:

1. Proposed Charter Amendment
2. December 7, 2017 Item, "Hiring/Process for the County Attorney"

Sec. 2.4. - County attorney.

(1) There shall be a County Attorney selected by the Board of County Commissioners who shall ~~serve at the pleasure of, and~~ report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.

(A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.

(B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position with performance appraisals conducted by the Board of County Commissioners at least annually.

(C) The County Attorney shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Attorney shall serve at the pleasure of the Board of County Commissioners until such time as the County Attorney shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring after a meeting of the Board at which a motion expressing the intent of the Board to remove the County Attorney was adopted by majority vote of those present and voting.

Citizen Charter Review Committee

Agenda Item B

December 7, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Hiring/Firing Process for the County Attorney

Review and Approval:	Vincent S. Long, County Administrator Herb W.A. Thiele, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator LaShawn Riggins, Deputy County Attorney
Lead Staff/ Project Team:	Heather Peoples, Special Projects Coordinator Sara Pratt, Management Intern

Summary:

To provide for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 2

Report and Discussion

Background:

At the Leon County Charter Review Committee meeting on November 30, 2017, the Committee passed a motion to request an agenda item related to providing for a County Attorney hiring/firing process consistent with that of the County Administrator in the Leon County Charter.

The 2009-2010 Citizen Charter Review Committee recommended the charter amendment providing for the appointment and removal of the County Administrator (Attachment #1). The Board of County Commissioners placed the proposed charter amendment on the November 2010 General Election ballot, and the amendment was subsequently approved by the local electorate with 58.40% in favor.

Regarding the County Administrator, Section 2.3. (1)(A) of the Leon County Charter states:

“The County Administrator shall be appointed by an affirmative vote of a majority plus one (1) of the entire membership of the Board of County Commissioners. The County Administrator shall serve at the pleasure of the Board of County Commissioners until such time as the County Administrator shall be removed by a vote for removal of a majority plus one (1) of the entire membership of the Board of County Commissioners voting during the first regularly scheduled meeting occurring 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 of those present and voting. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.”

Analysis:

The process for terminating the County Attorney is not specified in the County’s Charter. Article I, sec. 2.4 of the Charter provides the following direction regarding the hiring of the County Attorney:

- “(1) There shall be a County Attorney selected by the Board of County Commissioners who shall serve at the pleasure of, and report directly to, the Board of County Commissioners, and shall reside within the County during his/her tenure as County Attorney.
 - (A) The County Attorney shall provide legal services to the Board of County Commissioners, the County Administrator, and County departments, boards and agencies organized under the Board of County Commissioners.
 - (B) The compensation of the County Attorney shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 3

of the position with performance appraisals conducted by the Board of County Commissioners at least annually.”

The existing employment contract with the County Attorney includes a process for termination of employment whereby the County Attorney may be removed at any time by a majority vote of the full seven members of the Board of County Commissioners at any lawfully scheduled meeting.

Of the 19 other Charter Counties, eight outline the hiring and firing process for both the county administrator and county attorney in their charters. Of these counties, the following six provide the same hiring/firing process for both positions:

- Brevard County;
- Clay County;
- Hillsborough County;
- Lee County;
- Seminole County; and
- Volusia County.

The remaining two counties have differing hiring/firing processes for the county administrator and county attorney:

- Broward County; and
- Polk County.

As noted, the majority of the of Charter Counties do not include a provision in their charter’s related to the hiring/firing provisions of the County Attorney. Typically, the termination provisions are included as part of a negotiated contract between the County Attorney and a Board.

Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the hiring and firing of the County Attorney for the January 18, 2018 meeting.
Voting Threshold: Simple Majority Vote
2. Request additional information and analysis.
Voting Threshold: Four (4) Votes
3. Take no further action at this time.
Voting Threshold: Simple Majority Vote
4. Committee direction.

Recommendation:

Option #4: Committee direction.

Title: Hiring/Firing Process for the County Attorney
December 7, 2017
Page 4

Attachment:

1. 2010 Charter Amendment Language, Ordinance No. 2010-24

IV.

ADJOURNMENT

VI.

ADJOURNMENT