

STORAGE NAME: h0323.er

DATE: April 7, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 323

RELATING TO: Elections

SPONSOR(S): Representatives Lynn, Kosmas, Wiles & Bainter

STATUTE(S) AFFECTED: amending ss. 101.141 & 228.053, F.S., and repealing s. 230.08, F.S.

COMPANION BILL(S): SB 1072 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) ELECTION REFORM (GRC)

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill amends s. 101.141, F.S., to provide that charter counties may elect the clerk of the circuit court, clerk of the county court (where authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, supervisor of elections, members of the board of county commissioners, and members of the district school board on a nonpartisan basis if the charter or local act so provides.

Additionally, the bill amends s. 230.08, F.S., to provide that charter counties may elect school board members on a nonpartisan basis.

This bill has an indeterminate fiscal impact on local governments and no fiscal impact on the state government.

This bill takes effect on January 1, 1998.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Article VII, section 1(g), Florida Constitution, provides in part:

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 a vote of the electors.

Section 101.141, F.S., provides that the offices of clerk of the circuit court, clerk of the county court (where authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, supervisor of elections, members of the board of county commissioners, and members of the district school board shall appear on the primary election ballot.

The attorney general has determined in Attorney General's Opinion 86-62 (AGO 86-62) that s. 101.141, F.S., prevents a charter county from providing for the election of the supervisor of elections on a non-partisan basis because it requires that county offices appear on primary election ballots.

Section 230.08, F.S., provides that political parties shall nominate persons to be candidates for each school board seat.

B. EFFECT OF PROPOSED CHANGES:

This bill amends s. 101.141, F.S., to provide that where a county charter provides otherwise the offices of clerk of the circuit court, clerk of the county court (where authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, supervisor of elections, members of the board of county commissioners, and members of the district school board are not required to be listed on primary election ballots.

Additionally, the bill repeals s. 230.08, F.S., which requires parties to nominate candidates for school board at primary elections.

Paragraph (a) of subsection (12) of s. 228.05, F.S., is amended to conform a cross-reference.

However, according to AGO 86-61, Art. VIII, s. 1(d), Florida Constitution, provides that a charter county may not change the manner in which local officials are elected. While an Attorney General's Opinion is not binding on any court, such opinions are persuasive. Therefore, this bill may still be unsuccessful in effectuating its intent.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No. However, the bill does provide for a shifting of decision making authority from the state to the county level.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

If a charter county elects local officers on a nonpartisan basis, it may become unnecessary to have as many elections (i.e., first primary, second primary, and general elections). When this occurs and there is not another reason to hold the extra election (a statewide or legislative first primary, second primary, or general election) there will be a savings on the part of local governments. The amount of this savings is indeterminate.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable.

V. COMMENTS:

At the request of the Volusia County School Board, the Volusia County Council proposed an amendment to the Volusia County Charter (chapter 70-966, Laws of Florida), as authorized by the act, providing for the members of the Volusia County School Board to be elected on a non-partisan basis in all elections held after January 1, 1995. The Charter amendment was approved by the referendum election held in Volusia County on November 8, 1994.

Don L. Quinn, Chairman of the Volusia County Republican Executive Committee, filed a complaint against Volusia County and the School Board of Volusia County arguing that the amendment should be void because it was inconsistent with the Florida Constitution and the general laws of Florida. The plaintiffs maintained the Charter amendment unlawfully interferes with the uniform system of free public schools established by Article IX of the Florida Constitution, and is inconsistent with section 230.08, Florida Statutes, which provides for partisan election of school board members.

The Court of the 7th Judicial Circuit declared the amendment to be void because it is inconsistent with the Florida Constitution and the general law of the State of Florida. To avoid disrupting the 1996 election, the Final Judgement was made prospective and did not apply to the 1996 elections, which proceeded on a nonpartisan basis. The County of Volusia and the School Board of Volusia County have appealed the decision to the Fifth District Court of Appeal.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

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Clay Roberts

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