

**STORAGE NAME:** h0937a.lgva.doc  
**DATE:** April 4, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
ANALYSIS – LOCAL LEGISLATION**

**BILL #:** HB 937  
**RELATING TO:** Escambia County/City of Pensacola  
**SPONSOR(S):** Representative Miller & others  
**TIED BILL(S):** None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
  - (2) RULES, ETHICS & ELECTIONS (PRC)
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

This bill amends the City of Pensacola's charter to clarify that the durational residency and registered voter requirement for candidates to the City Council applies to candidates for appointment to fill vacancies on the City Council as well as candidates for election.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**City of Pensacola**

The charter for the City of Pensacola was reenacted in 1931 by chapter 15425, Laws of Florida, 1931, replacing chapter 4513, Laws of Florida, 1895, and has been amended since that time by legislative acts and city ordinances. The city is granted all powers relating to municipal affairs. All powers of the city are vested in a city council.

Section four of the City's charter provides for the City Council. The City Council consists of ten members, with seven members being elected from single-member districts. Each candidate for City Council is required to be a resident and qualified voter within the district that the candidate seeks to be elected from for at least six months prior to the date the candidate qualifies to run for office. To be qualified as a candidate for one of the three at-large seats, the candidate must be a resident and qualified voter of the City at least six months prior to the date the candidate qualifies to run for office. The current charter is silent as to the qualifications for potential candidates for appointment to fill a vacancy on the City Council.

**Election Code**

The Election Code doesn't distinguish between "registered" and "qualified" voter and, in fact, states in section 97.021(10), Florida Statutes, by definition that "elector" is synonymous with "voter" or "qualified elector or voter." In addition, section 97.021(1), Florida Statutes, provides that the definition of "absent elector" means any "registered and qualified voter...." The Election Code further uses "qualified voter" and "registered voter" in the various oaths that voters must sign. See sections 101.111, 101.47, 101.49, and 101.6103, Florida Statutes.

**Chapter 166**

Chapter 166, Florida Statutes, is the "Municipal Home Rule Powers Act (Act)." This Act provides for the following regarding municipalities: powers, charter amendments, ordinances and resolutions, code inspections, services, law enforcement agencies and services, municipal borrowing, finance and taxation, and eminent domain.

Municipalities are granted governmental, corporate, and proprietary powers, including any legally authorized power. In general, municipalities are endowed with broad home rule powers under Article VIII of the State Constitution. Nevertheless, the following exceptions limit this authority: actions involving annexation, merger, and exercise of extraterritorial power (which require general or special law), any subject inconsistent with the constitution, any subject expressly preempted to state or county government by the constitution or general law, or any subject preempted to a county pursuant to a county charter. The following changes to special law or municipal charter require referendum approval: changes affecting the exercise of extraterritorial powers or that affect the creation or existence of a municipality, *elected officer issues except for limited procedures*, distribution of powers among elected officers, issues addressed by the charter relating to appointive boards, form of government issues, and employee rights. The “except for limited procedures” referenced above refers to changes relating to the selection of election dates and qualifying periods for candidates, and changes in terms of officers necessitated by changed election dates.

Charter amendments that redefine boundaries of only previously annexed lands can be accomplished through ordinance, or by referendum, pursuant to section 166.031, Florida Statutes. Charters may otherwise be amended following a referendum approved by the electors of the municipality. This section prohibits any referendum restricting employees’ rights to engage in non-work time, political activity. By unanimous vote of the governing body, a municipality may abolish municipal departments provided for in the charter and can amend provisions judicially found to be unconstitutional. Ordinance or charter provisions must provide procedures for the filling of officer vacancies.

Section 166.032, Florida Statutes, defines a qualified elector of a municipality as a person who is a resident of a municipality, who is qualified as an elector of the state, and has registered in the manner prescribed by general law and ordinance.

### **Other Municipal definitions**

Both chapter 165, Florida Statutes, providing for local government formations, and chapter 171, Florida Statutes, providing for municipal annexations, define qualified voter as any person registered to vote in accordance with law.

#### **C. EFFECT OF PROPOSED CHANGES:**

This bill amends the City of Pensacola’s charter to clarify that the durational residency and registered voter requirement for candidates to the City Council applies to candidates for appointment to fill vacancies on the City Council as well as candidates for election. To be eligible for appointment to fill a vacancy on the City Council, a candidate for appointment must be a resident and registered voter within the district or the county at least six months prior to the date of appointment.

This bill is intended to avoid future confusion when trying to fill a vacancy on the City Council. When trying to fill a vacancy on the City Council in 2000, there was some question regarding the applicable qualifications of candidates for appointment to fill the vacancy.

#### **D. SECTION-BY-SECTION ANALYSIS:**

Section 1: This section amends section 4(1)(a) of chapter 15425, Laws of Florida, 1931, as amended, which provides the City of Pensacola’s charter. The durational residency, six months prior to qualifying, and registered voter requirement for candidates to the City Council applies to candidates for appointment to fill vacancies on the City Council as well as candidates for election.

Section 2: The act is effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?

February 2, 2001

WHERE?

Pensacola News Journal; Pensacola, Escambia County

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

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Laura Jacobs, Esq.

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Joan Highsmith-Smith