

STORAGE NAME: h1073z.lgva.doc
DATE: July 1, 2002

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2002-377, Laws of Florida

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION

BILL #: HB 1073
RELATING TO: Alachua Co. Home Rule Charter
SPONSOR(S): Representative McGriff
TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
- (2) RULES, ETHICS & ELECTIONS (PRC) YEAS 10 NAYS 0
- (3) PROCEDURAL & REDISTRICTING COUNCIL YEAS 6 NAYS 4
- (4)
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill provides for an amendment to the Alachua County Home Rule Charter to authorize the County to adopt more stringent campaign financing provisions than those provided for in general law.

The bill is effective contingent upon majority voter approval at the 2002 general election, except the section providing for the referendum becomes effective upon becoming a law.

According to the Economic Impact Statement no State or local budget impact is anticipated.

Pursuant to House Rule 5.6(a) "if a committee or council determines that the substance of a local bill may be enacted into law by ordinance of a local governing body, the committee or council shall not report the bill to the Clerk. However, if a local governing body would be required to call a referendum to enact the substance of a local bill into law, the committee or council may report the local bill." Because a referendum appears to be required by the Alachua County Home Rule Charter., House Rule 5.6(a) appeared not to prohibit the committee from reporting this bill to the Clerk. (See Section IV.C. "OTHER COMMENTS")

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | N/A <input 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:

This bill provides possible additional governmental regulation of the conduct of one's life and personal choices.

B. PRESENT SITUATION:

Campaign Financing

Campaign financing is addressed primarily in chapter 106, F.S., and applies to all "candidates." A candidate is defined, at s. 106.011(16), F.S. (2001), as any person who:

- Seeks to qualify for nomination or election by means of the petitioning process.
- Seeks to qualify for election as a write-in candidate.
- Receives contributions or makes expenditures, or consents for any other person to receive contributions or make expenditures, with a view to bring about his or her nomination or election to, or retention in, public office.
- Appoints a treasurer and designates a primary depository.
- Files qualification papers and subscribes to a candidate's oath as required by law.

Chapter 106, F.S. provides for the establishment of campaign organizations; depositories for campaign finances; financial record keeping and reporting requirements; and limitations on contributions.

Candidates for local elected offices are subject to these general law provisions.

C. EFFECT OF PROPOSED CHANGES:

This bill provides for an amendment to the Alachua County Home Rule Charter contingent upon a majority voter approval at an election held in conjunction with the 2002 general election. The amendment provides that the County may adopt, by charter amendment, campaign financing restrictions that are more stringent than those provided by general law.

The bill provides that the charter amendment takes effect upon a majority voter approval at a referendum held in conjunction with the 2002 general election; however, the section requiring the referendum takes effect upon becoming law.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates Art. I, s. 1.6, of the Alachua County Home Rule Charter (Charter). Section 1.6 of the Charter:

- Provides for campaign finance regulation.
- Provides that the County may adopt, by charter amendment, more stringent restrictions regarding the financing of campaigns than those imposed by general law.
- Provides that the more stringent provisions would apply to candidates for elective county offices as identified in the Charter at Art. II, s. 2.2 (Legislative Branch) and Art. III, s. 3.1 (Elected county constitutional offices).
- Provides for the scope of the additional restrictions.
- Provides that the initial restrictions shall be proposed by charter amendment at the general election held in either 2004 or 2006.
- Provides that thereafter the restrictions shall be adopted if approved by a majority vote of the Alachua County electors in a general election.
- Provides that all additional restrictions shall be proposed by charter amendment at subsequent general elections and adopted if approved by a majority of Alachua County voters.
- Provides that general law shall not preempt charter amendments adopted pursuant to the authority of this provision unless such special law specifically supercedes all special acts authorizing county charter home rule power for campaign financing.

Section 2. Provides for a contingent effectiveness of the bill upon a majority voter approval; however, section 2 shall become effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

General election, 2002

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:

Section 4.2 of the Alachua County Home Rule Charter provides for three methods of charter amendment: by petition; by charter review commission; or by board of county commissioners. In all cases, charter review must be approved by a majority of the electorate.

House Rule 5.6(a)

Pursuant to House Rule 5.6(a) "if a committee or council determines that the substance of a local bill may be enacted into law by ordinance of a local governing body, the committee or council shall not report the bill to the Clerk. However, if a local governing body would be required to call a referendum to enact the substance of a local bill into law, the committee or council may report the local bill." Because a referendum appears to be required by Section 4.2, the Alachua County Home Rule Charter, House Rule 5.6(a) appears not to prohibit the committee from reporting this bill to the Clerk.

Comments by the Committee on Rules, Ethics & Elections:

There are at least two other counties that have enacted local campaign finance provisions – Miami-Dade and Sarasota Counties.

Miami-Dade County: Miami-Dade is the only county that has express constitutional authority to enact local ordinances relating to the operation of county government. Art. VIII, s. 6(e), Fla. Const. Miami-Dade has enacted several campaign reform measures since 1998; all of which were enacted by ordinance of the Metro-Dade Commission. Included in the ordinances is a ban on corporate contributions, a limit on contributions to \$250, some local public financing, filing of financial reports at \$5,000 increments in the last 14 days before an election, and electronic filing of financial reports.

Sarasota County: In 1990 the Sarasota County Charter Review Board placed several amendments to their charter regarding local campaign regulation on the ballot. The voters of Sarasota adopted those amendments, effective for the 1992 elections. In 1999 the charter amendments relating to campaign regulation were challenged in circuit court. All but one measure limiting contribution amounts to \$200 were invalidated by the court, which ruled that the \$200 limit did not conflict with state law. *Ciaravella v. Board of County Commissioners*, Case No. 99-420 I-CA (Fla. 12th Cir. Ct., Sept. 10, 1999).

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Andrew S. Grayson, Esquire

Staff Director:

Joan Highsmith-Smith

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AS REVISED BY THE COMMITTEE ON RULES, ETHICS & ELECTIONS (PRC):

Prepared by:

Staff Director:

Emmett Mitchell, IV

Richard Hixson

AS REVISED BY THE PROCEDURAL & REDISTRICTING COUNCIL:

Prepared by:

Council Director:

Emmet Mitchell, IV

P.K. Jameson, J.D.

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Andrew S. Grayson, Esq.

Joan Highsmith-Smith