

**STORAGE NAME:** h0711z.lgva.doc  
**DATE:** July 1, 2002

**\*\*AS PASSED BY THE LEGISLATURE\*\***  
**VETOED BY THE GOVERNOR**

**HOUSE OF REPRESENTATIVES**

**LOCAL GOVERNMENT & VETERANS AFFAIRS**  
**FINAL ANALYSIS— LOCAL LEGISLATION**

**BILL #:** HB 711  
**RELATING TO:** City of Gainesville/Charter Revision  
**SPONSOR(S):** Representative(s) Jennings and others  
**TIED BILL(S):**

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
  - (2) SMARTER GOVERNMENT COUNCIL YEAS 10 NAYS 0
  - (3)
  - (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 requires the City Commission of the City of Gainesville (City) to appoint an equal opportunity director; and specifies the duties of said director. Additionally, the bill outlines certain duties of City charter officers regarding equal opportunity and related matters.

The bill requires the City auditor to conduct compliance audits on the City's implementation of human relations and equal opportunity provisions and programs. Additionally, the bill establishes certain human relations and equal opportunity responsibilities for charter officers.

The bill also provides that this act does not abrogate any collective bargaining agreement provisions or the City's responsibility to negotiate terms and conditions of employment.

The bill has no impact on state revenues. The Economic Impact Statement anticipates an increased cost to operate city government.

The Governor vetoed this bill on April 30, 2002, noting that the City's Charter could be amended by the adoption of an ordinance followed by a referendum. The Governor's veto message further noted "that while the most recent two charter official positions for the City have been created by acts of the legislature, the subject matter for which an Equal Opportunity Director will be responsible, such as human relations, is one that the citizens should be afforded the opportunity to voice their opinion on, via referendum."

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" 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:

The City Charter, created by Chapter 12760, Laws of Florida (1927), as amended, provides for five charter officers, not including an equal opportunity director. The City currently employs an equal opportunity director that is organizationally within, and answers directly to, the office of the City Manager. Additionally, the City Charter outlines duties for the five charter officers that do not include human relations or equal opportunity responsibilities. Similarly, the City Charter does not currently direct the auditor to conduct compliance audits regarding human relations and equal opportunity issues.

C. EFFECT OF PROPOSED CHANGES:

This bill requires the City Commission to appoint an equal opportunity director, to serve at the will of the Commission and prescribes duties of said director; raising the position to that of a charter officer answerable directly to the City Commission.

The bill outlines certain duties of charter officers with regard to equal opportunity and related matters and directs them to make recommendations as to the effectiveness of City human relations and equal opportunity ordinances and programs.

The bill requires the auditor of the City to conduct compliance audits on the City's implementation of human relations and equal opportunity ordinance, policies and programs.

Further, the bill provides that this act will not abrogate any collective bargaining agreement provisions or the City's responsibility to negotiate terms and conditions of employment.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 3.05, Art. III, ch. 90-394, Laws of Florida. This amendment to the City Charter adds authority to the city auditor to perform compliance audits on the implementation of the city's human relations and equal opportunity ordinances, policies, and programs in accordance with schedules prescribed by the city commission. The section also includes grammatical changes.

Section 2. Creates s. 3.08, including ss. 30.8(1) – (11), Art. III, ch. 90-394, Laws of Florida, amending the City Charter; and requires the City Commission to appoint an equal opportunity director to serve at the will of the Commission. The section also provides the following duties in ss. (1)-(11) as follows:

- (1) Investigate complaints of discrimination, harassment, retaliation, and related matters, and propose remedial action as prescribed in the City human relations and equal opportunity ordinances (the ordinances). Further provides that no City employee shall be retaliated against for filing a complaint, testifying, assisting, or participating in any investigation under the ordinances, and that such complaints shall be confidential to the extent allowed by state and federal law.
- (2) Make reports, including an annual report regarding the year's activities and any need to revise the ordinances, policies, and programs regarding equal opportunity, affirmative action, local minority business and local small business enterprise procurement, fair housing, unlawful harassment and accessibility to the City's programs, services, and activities.
- (3) Propose implementation policies.
- (4) Develop and maintain the City's affirmative action plan.
- (5) Develop and conduct training and propose strategies and initiatives related to diversity and equal opportunity.
- (6) Review for compliance all proposed changes to City employment and purchasing policies, procedures, and guidelines, and job descriptions.
- (7) Monitor for compliance all hires, transfers, demotions, promotions, and terminations.
- (8) Develop monitoring instruments.
- (9) Participate in assessment and review of City employment practices, including recruitment, appointment, and promotion.
- (10) Compile reports for compliance with state and federal equal opportunity and related requirements.
- (11) Perform all other functions as prescribed by ordinance or as directed by the Commission.

Section 3. Amends Art. V, ch. 90-394, Laws of Florida, adding s. 5.07 to the City Charter which provision outlines the duties of City charter officers regarding equal opportunity. Additionally, the amendment directs charter officers to individually and collectively make recommendations to the Commission regarding the effectiveness of City human relations and equal opportunity ordinances and programs.

Section 4. Provides that nothing in the act abrogates any collective bargaining agreement provisions or the City's responsibility to negotiate terms and conditions of employment.

Section 5. Provides an effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN?

December 3, 2001

WHERE?

The Gainesville Sun

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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:

A policy adopted by the Florida House of Representatives requires certification from the local legislative delegation that the purposes of the bill cannot be accomplished at the local level. This bill contained the requisite certification, but the City Charter provides for local amendment of the Charter without an act of the Legislature. The Charter authorizes amendment by ordinance or by petition signed by ten percent of the registered voters of the City followed by referendum.

**House Rule 5.(a) provides that "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 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." The purposes of this bill could be accomplished locally by the charter amendment authority of the City Charter without an act of the Legislature. However, the City Charter authorizes charter amendment by ordinance or by petition signed by ten percent of the registered voters of the City followed by referendum. Therefore, the Committee was authorized to report this local bill.**

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Andrew S. Grayson, Esquire

Joan Highsmith-Smith

AS REVISED BY THE SMARTER GOVERNMENT COUNCIL:

Prepared by:

Staff Director:

Andrew S. Grayson, Esquire

Don Rubottom

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

Prepared by:

Staff Director:

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Andrew S. Grayson, Esquire

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Joan Highsmith-Smith