

County charter, commissioners' salary and term limits

Number: INFORMAL

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The Honorable Dennis A. Ross
Representative, District 63
4416 Florida National Drive
Lakeland, Florida 33813

Dear Representative Ross:

You ask about the authority of citizens to amend a county charter by initiative to reduce the salaries of county constitutional officers and to impose term limits.

I am enclosing a copy of a recent decision by the Second District Court of Appeal which upheld the validity of an initiative amendment to impose term limits. In *Pinellas County v. Eight is Enough in Pinellas*,^[1] the county and county officials brought suit contesting the validity of two ballot initiatives that amended the county charter by adding term limits. The district court held that the county charter could be amended by ballot initiative and that the constitution, statutes, or charter did not prohibit term limits amendments. The Pinellas County Charter permitted amendment by initiative. Review has been granted by the Florida Supreme Court.^[2]

The Pinellas County Charter under consideration in the above case permitted charter amendments by initiative. It appears that the Polk County Charter also permits that county's charter to be amended by initiative.^[3] The charter provides that this right to amend the charter by initiative does not extend to "budgets, debt obligations, capital improvement programs, salaries of non-elected county officers and employees, the assessment or collection of taxes, or the rezoning of land." It does not, however, preclude term limits.

You also inquire about the salaries of county constitutional officers. While Chapter 145, Florida Statutes, generally sets the salaries of county constitutional officers, section 145.012, Florida Statutes, states:

"This chapter applies to all officials herein designated in all counties of the state, *except those officials whose salaries are not subject to being set by the Legislature because of the provisions of a county home rule charter* and except officials (other than the property appraiser, clerk of the circuit court, superintendent of schools, sheriff, supervisor of elections, and tax collector who if qualified shall receive in addition to their salaries a special qualification salary as provided in this chapter) of counties which have a chartered consolidated form of government as provided in chapter 67-1320, Laws of Florida." (e.s.)

I would note, for example, that section 2.5 of the Polk County Charter sets forth the salary and other compensation of the county commissioners.^[4] This charter provision sets the salary of the commissioners at \$33,500, effective with the commissioner's term of office beginning in November, 2000. The board of county commissioners, however, may, subject to certain

limitations, amend the salary established in the charter by ordinance, passed by the unanimous vote of the entire board. This charter provision has been amended in the past.

The Polk County Charter provision authorizing charter amendments by initiative only prohibits initiative amendments relating to salaries of *non-elected* county officers and employees.

I trust that the above informal advisory comments and enclosed material may be of assistance to you.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

Enclosure

[1] 775 So. 2d 317 (Fla. 2d DCA 2000).

[2] See *Pinellas County v. Eight is Enough in Pinellas*, 786 So. 2d 1188 (Fla. 2001).

[3] See s. 8.3.2, Polk County Charter, providing:

"Amendments to this Charter, not inconsistent with the State Constitution or with general law, may be proposed by a petition signed by at least seven per cent of the qualified electors from each county commission district, provided that any such amendment shall embrace but one subject and matter directly connected therewith. The sponsor of an amendment shall, prior to obtaining any signatures, submit the text of the proposed amendment to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed. The procedures for initiative petitions set forth in Section 6.1.1 of this Charter shall thereafter be followed. The power to amend this Charter by initiative shall not extend to budgets, debt obligations, capital improvement programs, salaries of non-elected county officers and employees, the assessment or collection of taxes, or the rezoning of land."

[4] See s. 2.5, Polk County Charter, stating:

"The yearly salary and other compensation of Commissioners serving on the Board of County Commissioners shall be \$33,500 effective with the Commission term of office beginning in November, 2000. The Board of County Commissioners may amend the salary established in this Charter by ordinance, which requires, for passage, the unanimous vote of the members of the entire Board of County Commissioners. Any increase shall not exceed the average percentage increase in the salaries of county employees for the fiscal year just concluded, or the percentage change in the U.S. consumer price index for the previous year, whichever is less. Any salary increase shall not be effective until the first day of January in the year following the adoption of

the increase."