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June 8, 2010

Via Electronic Mail

Alachua County Charter
Review Commission
County Administration Building
12 S.E. 1st Street
Gainesville, Florida 32602

Re: Single Member Districts for County Commissioners and Charter
Commissioners

Ladies and Gentlemen:

You have asked whether the charter may require county commissioners or charter commissioners to be elected from single member districts with no more than three districts touching the county line. In our view, a charter amendment cannot impose such a requirement for county commissioners, but a charter amendment may impose such a requirement for charter commissioners, assuming the requirement does not violate federal law.

As discussed in our March 19, 2010 correspondence, section 124.011, Florida Statutes, authorizes the board of county commissioners to adopt a resolution placing a single member district question on the ballot. We opined that because the Alachua County Charter requires the board of county commissioners to adopt a resolution to place the Charter Review Commission's ("CRC") issues on the ballot, a CRC charter amendment may lawfully propose single member districts which the board of county commissioners must place on the ballot by resolution.

Our earlier correspondence did not discuss the issue of whether the CRC may require that the single member district requirement be qualified by no more than three districts touching the county line. The statute mandates a specific single member district question be placed on the ballot. Section 124.011(9)(a), Florida Statutes, provides:

In a county in which the board of county commissioners is composed of five members, each to be elected from single-member districts, the wording of the proposition on the ballot shall be as follows:

Shall the five members of the board of county commissioners of _____ County, Florida, be elected to office from single-member districts by electors residing in each of those districts only?

_____yes

_____no

Because the statutory provision prescribes the ballot question, it is our view that the CRC may not deviate from it and impose an additional requirement, such as no more than three districts may touch the county line. Such a provision would be inconsistent with general law and consequently, it would violate Article VIII, section 1(g), Florida Constitution.

However, under the charter commissioner concept, the CRC is not limited by the wording of the statute, as the manner of election of charter commissioners is not controlled by the Legislature as it is for county commissioners pursuant to Article VIII, section 1(e), Florida Constitution. Thus, it is our view that the Florida Constitution allows the CRC to propose a charter amendment requiring single member districts for charter commissioners with no more than three districts touching the county line.

Best regards,

Sarah M. Bleakley

Sarah M. Bleakley

SMB:sib