



ENVIRONMENTAL PROTECTION COMMISSION

SPECIAL MEETING AGENDA ITEM COVER SHEET

Date of EPC Meeting: February 21, 2018

Subject: Constitution Revision Commission and Local Government Pre-emption

Agenda Section: Regular Agenda

Division: Legal and Administrative Services Division

Recommendation: Approve a resolution in opposition to local government pre-emption.

Brief Summary: On February 15, 2018, the EPC Commission voted to hold a Special EPC meeting during the Hillsborough County BOCC meeting on Wednesday Feb. 21, 2018. The EPC Commission requested the special meeting to consider and approve a resolution in opposition to proposed Constitution Revision Commission Proposal #95, which is a broad local government pre-emption constitutional amendment. Staff will recommend the Commission oppose any further pre-emption of local government in the Florida Constitution.

Financial Impact: No Financial Impact

List of Attachments: Draft Resolution R18-01

Background:

Florida's Constitution Revision Commission (CRC) convenes once every 20 years to examine the Florida Constitution and propose changes for voter consideration. This is the third CRC since its ratification in 1968. Florida is the only state in the nation that offers this unique process. Floridians can speak directly to CRC Commissioners and propose constitutional amendments that could potentially go onto Florida's 2018 General Election ballot for voter consideration. The CRC must complete its work and submit its final report and proposed Constitutional amendments to the Florida Secretary of State by May 10, 2018.

Senator Tom Lee is an appointed Commissioner on the CRC and he filed CRC Proposal #95 which states as follows:

ARTICLE VIII. LOCAL GOVERNMENT. SECTION 6.

Regulation of commerce, trade, or labor.—A county, municipality, or special district may only regulate commerce, trade, or labor occurring exclusively within the respective entity's own boundaries in a manner not prohibited by law. A regulation enacted by a county, municipality, or special district may not intrude upon or impede commerce, trade, or labor across the respective entity's boundaries.

CRC Proposal #95 did not get approval from the Local Government Committee, a CRC sub-committee. Nonetheless, the full CRC can revive the proposal in its current form or amend it.

Many local governments and the Florida Association of Counties have expressed their opposition to this proposal. Among other things, the proposal is overly broad and may invalidate a large portion of local government regulations intended to meet community specific needs. Arguably, any local ordinance that is different from another community's ordinance could be deemed to impede commerce. Furthermore, the proposal is vague and may lead to litigation to interpret its intent.

At the regular meeting of the Environmental Protection Commission (EPC) on February 15, 2018, the EPC Commission voted to hold a Special EPC meeting during the Hillsborough BOCC meeting on Wednesday Feb. 21, 2018. The EPC Commission requested the special meeting to consider and approve a resolution in opposition to Constitution Revision Commission Proposal #95. The EPC Commission did not want to take action until February 21, 2018 when the BOCC is scheduled to discuss the BOCC policy #02.09.00.00 entitled "Board of County Commissioners Taking Position on Constitutional Amendments".