



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 at the Hillsborough BOCC meeting dated 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, 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 only once every 20 years. This is the third CRC. Florida is the only state in the nation that offers this unique process. Through the CRC, Floridians can speak directly before Commissioners and propose constitutional amendments that could potentially go onto Florida's 2018 General Election ballot for voter consideration. The 2017-2018 CRC, chaired by Carlos Beruff. 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 Commission 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 by 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 at the Hillsborough BOCC meeting dated 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 the BOCC discusses on February 21st the BOCC policy entitled "Board of County Commissioners Taking Position on Constitutional Amendments" (#02.09.00.00).

EPC RESOLUTION NO. R18-01

**A RESOLUTION OF THE ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH COUNTY
IN OPPOSITION TO CONSTITUTIONAL AMENDMENTS THAT PRE-
EMPT LOCAL REGULATIONS**

Upon a motion by Commissioner _____, seconded by Commissioner _____, the following Resolution was adopted by a vote of _____ to _____, with Commissioner(s) _____ voting “No” and Commissioner _____ being absent.

WHEREAS, the Constitution Revision Commission (CRC) Proposal #95 proposes to amend the Florida Constitution to prohibit local government regulations that may intrude upon or impede commerce, trade, or labor across the local government’s boundaries;

WHEREAS, CRC Proposal #95 is an overly broad proposal that will potentially invalidate a large portion of local government regulations intended to meet community specific needs;

WHEREAS, CRC Proposal #95 is vague and may lead to litigation to interpret its intent;

WHEREAS, CRC Proposal #95 may be considered by the CRC in its current or in a revised format; and

WHEREAS, on February 21, 2018, pursuant to a motion duly made and carried, the Environmental Protection Commission of Hillsborough County (Commission) approved this resolution in opposition to CRC Proposal #95 and any similar efforts to pre-empt local government regulation in the Florida Constitution; and

NOW THEREFORE, BE IT RESOLVED BY THE ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY, FLORIDA:

1. That the Commission opposes CRC Proposal #95 and any similar efforts to pre-empt local government regulation in the Florida Constitution.
2. That the Commission respectfully requests that the CRC refuse to approve Proposal #95 or any similar efforts to pre-empt local government regulation in the Florida Constitution.

3. That the Commission and Commission staff and its agents are empowered to communicate their opposition to CRC Proposal #95 and any similar efforts to pre-empt local government regulation in the Florida Constitution.

4. That this Resolution shall be effective immediately upon its adoption.

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, Pat Frank, Clerk of the Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Environmental Protection Commission of Hillsborough County at a special meeting of the Commission dated February 21, 2018 as the same appears of record in Minute

Book _____ Page _____ of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this _____ day of _____, 2018.

PAT FRANK
CLERK OF THE CIRCUIT COURT

Approved as to form
and legal sufficiency

General Counsel

By: _____
Deputy Clerk