

Item # 83₍₂₎

**Final Proposed Resolution for
Board's Consideration**

ADDITIONAL MATERIAL

Regular Meeting

JUNE 16, 2020

SUBMITTED AT THE REQUEST OF

**OFFICE of the COUNTY
ATTORNEY**

RESOLUTION NO. 2020-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PROVIDING FOR A REFERENDUM ELECTION TO BE HELD ON NOVEMBER 3, 2020, TO DETERMINE WHETHER TO APPROVE A SPECIAL LAW PERMITTING COUNTY TO TRANSFER THE DUTY OF THE RECORDER TO BROWARD COUNTY CLERK OF COURTS, TRANSFERRING DUTIES OF THE AUDITOR AND CUSTODIAN OF COUNTY FUNDS FROM THE FINANCE AND ADMINISTRATIVE SERVICES DEPARTMENT TO THE COUNTY ADMINISTRATOR, AND PROVIDING THAT THE COUNTY ADMINISTRATOR WILL REMAIN EX OFFICIO CLERK OF THE BOARD OF COUNTY COMMISSIONERS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on November 5, 1974, a majority of the electors of Broward County (the "County") approved the Broward County Charter, which became effective on January 1, 1975;

WHEREAS, the Broward County Charter, pursuant to Article VIII, section 1(d) of the Florida Constitution, transferred the Clerk of the Circuit Court's constitutional duty as ex officio clerk of the Board of County Commissioners to the County Administrator, and also transferred the Broward County Clerk of Court's duties as custodian and auditor of County funds and duties as the recorder of public documents to what is now the County's Finance and Administrative Services Department;

WHEREAS, the County Administrator and the Finance and Administrative Services Department still perform the duties assigned to them by the County Charter, and the County Charter further provides for an independent County Auditor;

WHEREAS, the County is a diligent custodian of the public's money;

1 WHEREAS, in 2018, the Florida Constitution Revision Commission, a body
2 created under Article XI, section 2, of the Florida Constitution, submitted Amendment 10
3 to the Florida electorate;

4 WHEREAS, Amendment 10 eliminated local voters' authority to transfer the duties
5 of certain constitutional officers to another office, but left intact the Florida Legislature's
6 authority to transfer certain duties of the Clerk of the Circuit Court through enactment of
7 a special law, provided that such is approved by the local electorate;

8 WHEREAS, Florida voters approved Amendment 10 on November 6, 2018, and
9 Amendment 10 will become effective in Broward County and Miami-Dade County on
10 January 7, 2025;

11 WHEREAS, in both 2019 and 2020, the Board of County Commissioners included
12 in its State Legislative Program a proposal for the Florida Legislature to enact a special
13 law that would ensure the County is able to control its own finances by continuing to
14 perform the duties of custodian and the auditor of all County funds, as has been the case
15 since voters approved the adoption of the County Charter in 1974, which became
16 effective in 1975;

17 WHEREAS, the Florida Legislature approved Committee Substitute for
18 House Bill 989 (the "Special Law") during the 2020 legislative session, which, if approved
19 by a majority of the electorate of Broward County, would maintain the current role of the
20 County Administrator as ex officio clerk of the Board of County Commissioners, and would
21 ensure the County is able to control its own finances by permitting the County
22 Administrator to perform the duties of custodian and the auditor of County funds;

1 WHEREAS, if the Special Law is not approved by the voters of Broward County,
2 the Broward County Clerk of Courts will assume the duties of custodian and the auditor
3 of County funds and ex officio clerk of the Board of County Commissioners on
4 January 7, 2025;

5 WHEREAS, the Broward County Clerk of Court's assumption of such duties would
6 be a departure from provisions of the County Charter, which assigned such duties to the
7 County.

8 WHEREAS, if the Special Law is approved, it would not affect the powers of the
9 County Auditor set forth in Article IV of the Broward County Charter; and

10 WHEREAS, the Special Law further authorizes the Board of County
11 Commissioners to transfer the duties of the County recorder from the County's Finance
12 and Administrative Services Department to the Broward County Clerk of Courts prior to
13 January 7, 2025, upon agreement by the County and the Broward County Clerk of Courts,
14 NOW, THEREFORE,

15 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
16 BROWARD COUNTY, FLORIDA:

17
18 Section 1. A referendum election is called for the General Election on
19 November 3, 2020, and at such other times as permitted for voting under Chapter 101,
20 Florida Statutes, to determine whether to approve the Special Law, which is attached as
21 Exhibit A and made a part hereof.

22
23 Section 2. In accordance with Section 100.342, Florida Statutes, at least thirty
24 (30) days' notice of the referendum election shall be published by the County

1 Administrator in a newspaper of general circulation in Broward County. The publication
2 shall be made at least twice, including once in the fifth week and once in the third week
3 prior to the week in which the referendum is to be held. The notice is hereby attached as
4 Exhibit B and made a part hereof.

5
6 Section 3. Said referendum election shall be held between the hours of
7 7:00 a.m. and 7:00 p.m. on Tuesday, November 3, 2020, and at such other days and
8 times as provided under applicable law, including early voting as provided by
9 Section 101.657, Florida Statutes, at polling places established in Broward County. All
10 registered and qualified electors in Broward County shall be eligible to vote in the
11 referendum election. Vote-by-mail ballots and early voting access for the referendum
12 shall be made available as provided by law.

13
14 Section 4. The election boards consisting of the clerks and inspectors
15 appointed to serve for the General Election on November 3, 2020, are hereby appointed
16 to serve in the referendum election in the manner provided by law.

17
18 Section 5. The Broward County Canvassing Board shall canvass the returns in
19 said election and shall certify the results of the referendum election as provided by law.

20
21 Section 6. The County Administrator shall furnish a certified copy of this
22 adopted Resolution to the Supervisor of Elections for Broward County on or before
23 July 1, 2020.

1 Section 7. The title and summary of the referendum question to appear on the
2 General Election on November 3, 2020, as embodied in this enabling Resolution, shall
3 be as follows, with the appropriate Chapter reference to the Laws of Florida, when
4 available, inserted:

5 **APPROVES LAWS OF FLORIDA, CHAPTER __-__, RELATING TO**
6 **GOVERNMENTAL DUTIES OF BROWARD COUNTY**

7 “Approves special law enabling County Administrator to continue serving as ex
8 officio clerk of the County Commission and enabling County to continue serving as auditor
9 and custodian of all County funds, which duties County has performed since 1975 and
10 would otherwise be required to be transferred to the Clerk of Courts in 2025; and
11 authorizing agreement to transfer County recorder duties to the Clerk of Courts
12 before 2025, when such duties would otherwise automatically transfer.”

13 YES _____

14 NO _____

15
16 Section 8. Severability.

17 If any portion of this Resolution is determined by any court to be invalid, the invalid
18 portion will be stricken, and such striking will not affect the validity of the remainder of this
19 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
20 legally applied to any individual, group, entity, property, or circumstance, such
21 determination will not affect the applicability of this Resolution to any other individual,
22 group, entity, property, or circumstance. If the County determines any part of the ballot
23 statement is contrary to state law, the County Attorney is authorized to request that the
24

Supervisor of Elections remove the applicable language from the proposed ballot proposal and the Supervisor of Elections is authorized to remove such language.

Section 9. Effective Date.

This Resolution shall be in force and take effect immediately upon its adoption by the Broward County Board of County Commissioners.

ADOPTED this day of , 2020.

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ (in italics) 06/15/2020
Joseph K. Jarone (date)
Assistant County Attorney

By /s/ (in italics) 06/15/2020
René D. Harrod (date)
Deputy County Attorney

JKJ/ck
Clerk Duties Charter Amendment
06/15/2020
#511599v5

Exhibit A

[HB 989 will be inserted here in final approved version.]

Exhibit B

NOTICE OF REFERENDUM ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, AND AT SUCH OTHER TIMES AS PROVIDED FOR EARLY VOTING BY SECTION 101.657, FLORIDA STATUTES, TO DETERMINE WHETHER TO APPROVE A SPECIAL LAW PERMITTING COUNTY TO TRANSFER THE DUTY OF THE RECORDER TO BROWARD COUNTY CLERK OF COURTS, TRANSFERRING DUTIES OF THE AUDITOR AND CUSTODIAN OF COUNTY FUNDS FROM THE FINANCE AND ADMINISTRATIVE SERVICES DEPARTMENT TO THE COUNTY ADMINISTRATOR, AND PROVIDING THAT THE COUNTY ADMINISTRATOR WILL REMAIN EX OFFICIO CLERK OF THE BOARD OF COUNTY COMMISSIONERS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

A countywide referendum election will be held on Tuesday, November 3, 2020, and at such other times as provided for by Chapter 101, Florida Statutes, for the purpose of determining whether to approve House Bill 989.

As set forth in enabling Resolution No. 2020-____, adopted on ____, by the Board of County Commissioners of Broward County, Florida, the title and summary to appear on the referendum ballot shall be as follows, with the appropriate Chapter reference to the Laws of Florida, when available, inserted:

**APPROVES LAWS OF FLORIDA, CHAPTER __ - __, RELATING TO
GOVERNMENTAL DUTIES OF BROWARD COUNTY**

Approves special law enabling County Administrator to continue serving as ex officio clerk of the County Commission and enabling County to continue serving as auditor and custodian of all County funds, which duties County has performed since 1975 and would otherwise be required to be transferred to the Clerk of Courts in 2025; and authorizing agreement to transfer County recorder duties to the Clerk of Courts before 2025, when such duties would otherwise automatically transfer.

YES _____

NO _____

A complete copy of House Bill 989 is available at
<https://www.flsenate.gov/Session/Bill/2020/989/BillText/er/PDF>.

The referendum shall be held on November 3, 2020, between the hours of 7:00 a.m. and 7:00 p.m., and at such other days and times as provided under applicable law, including for early voting as provided by Section 101.657, Florida Statutes, at the polling places established in Broward County. All registered and qualified electors of Broward County shall be eligible to vote in said referendum election. Vote-by-mail ballots for the referendum election shall be prepared and made available as provided by law.

The Broward County Canvassing Board shall canvass the returns and certify the results of the referendum election to the Board of County Commissioners of Broward County, Florida, the Broward County Administrator, and the Florida Department of State, to be recorded and filed in appropriate public records.

Instructions:

A. Publish two (2) times:

Once on: September 29, 2020
Once on: October 13, 2020

B. Furnish two (2) proofs of publication and invoice to:

Mary Ann Darby, Deputy Clerk
Records, Taxes and Treasury Division
Broward County Governmental Center
115 S. Andrews Avenue, Room 336-U
Fort Lauderdale, Florida 33301

C. Furnish one (1) proof of publication and invoice to:

Board of County Commissioners
Accounting Division, Room 201
Governmental Center
115 S. Andrews Avenue
Fort Lauderdale, Florida, 33301