

073-478—December 21, 1973

MUNICIPAL HOME RULE POWERS ACT

EFFECT ON CHARTERS AND CHARTER AMENDMENTS

To: Charles W. Boyd, Representative, 96th District, Hollywood

Prepared by: Jan Dunn, Assistant Attorney General

QUESTION:

What is the effect of Ch. 73-129, Laws of Florida, on municipal charters and charter amendments?

SUMMARY:

Under Ch. 73-129, Laws of Florida, municipal charter provisions relating to the creation or existence of a municipality, term of elected officials and the manner of their election, distribution of powers among elected officers, matters relating to appointive boards, any change in the form of government, or any rights of municipal employees can only be changed by a referendum of the electorate. Legislation in the areas of annexation, merger, and the exercise of extra-territorial powers must be enacted by the state legislature. All other municipal charter provisions are now either nullified and repealed, or have become ordinances.

Section 166.021(4), F. S., as created by Ch. 73-129, Laws of Florida, provides in part that certain areas of a city's charter cannot be changed without a referendum of the electorate. Such areas include:

. . . the creation or existence of a municipality, the terms of elected officers and the manner of their election, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees

(The subject of annexation, merger, and exercise of extra-territorial power can only be changed by the legislature under Art. VIII, §2(c) of the State Constitution. Section 166.021(3) (a), F. S.). The items listed above become, in effect, the charter of the municipality. They can, as you mention, be changed as provided in §166.031, F. S.: by an ordinance of the governing body of the city or by petition signed by 10 percent of the electors. Under both of these methods, the amendment must be submitted to a referendum vote of the electorate. Any other limitation of powers upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973, is nullified and repealed by Ch. 73-129, *supra* [§166.021(4)], or becomes an ordinance of the municipality subject to modification or repeal as other ordinances. Section 166.021(5), *supra*.

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PROBATE CODE

WHEN WILLS MAY BE SELF-PROVED

To: James L. Redman, Representative, 62nd District, Plant City

Prepared by: Michael Parrish, Assistant Attorney General

QUESTION:

Do the self-proving provisions of Ch. 73-8, Laws of Florida