



2024 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Governmental Structure Committee

Section 605 – Effect of Write-In Candidates Final Report and Recommendation to the Charter Review Commission

April 24, 2024

Committee Members:

Angel de la Portilla, Chair
Mark Arias
Tom Callan
Chuck O’Neal
Cornita Riley
Eugene Stoccardo
Beverly Winesburgh
Dotti Wynn

Summary of Recommendation

At its November 9, 2023 meeting, the 2024 Orange County Charter Review Commission (“CRC”) assigned to the Governmental Structure Committee (the “Committee”) a topic proposed by CRC Member O’Neal, initially framed as “doing away with all charter provisions that enable commissioners, mayors and charter officers from winning election in a primary by receiving 50% plus one vote.”

Section 605 of the Charter provides for nonpartisan elections for all elected charter officers (currently the County Mayor and County Commissioners). The second paragraph of that section provides that in the event “more than two” candidates (in other words, three or more candidates) have qualified for a single office, an election will be held at the August primary election, rather than the November general election. In the event of such an election held at the August primary, if a candidate receives a majority of the votes cast, that candidate wins; otherwise, the two candidates receiving the most votes are placed on the November general election ballot.

After review and discussion of the issue, the Committee focused on a particular aspect of the August primary/November general election dynamic: the effect of write-in candidates on the timing of such elections.

In 2002, the County Attorney’s office rendered an opinion that, under the current language of Section 605, a write-in candidate for a charter office constituted a candidate that had qualified, and that as a result, write-in candidates would count toward number of qualified candidates necessary to trigger an election at the August primary. The County and the

Orange County Supervisor of Elections office have thereafter conducted elections consistent with this interpretation.

The Committee discussed at length the fact that in a number of past Orange County Commission election cycles, the filing of a write-in candidate has had the effect of moving a County Commission election from the November general election (with historically higher voter turnout) to the August primary election (with generally lower voter turnout).

Specifically, there have been a number of instances where two candidates for an office qualified in a manner securing them ballot placement (by collecting signatures or paying the filing fee), which would otherwise result in an election at the November general election, but that because a write-in candidate also filed, the election was moved to the August primary. In such instances, with only two candidates with their names placed on the August ballot, one of the two inevitably receives a majority of the total votes cast.

After discussing these dynamics, the Committee concluded that it would be appropriate to propose a charter amendment that provides that write-in candidates not count toward the number of qualified candidates necessary to trigger an election at the August primary. Such an exclusion of write-in candidates from the count of qualified candidates necessary to trigger an election at the August primary would be similar to provisions of Sec. 105.051, Fla. Stat., governing the nonpartisan elections of school board members.

Accordingly, after consideration of the information presented, the Committee voted 6-0 to recommend to the full CRC an amendment to the Orange County Charter to provide that in elections for Charter offices (currently the County Mayor and County Commissioners), write-in candidates shall not count toward the number of qualified candidates (three or more) necessary to trigger an election at the August primary, as shown at Exhibit "A".

Exhibit “A”

Ballot Proposal: The ballot title and ballot summary for this question are as follows:

**WRITE-IN CANDIDATE EFFECT ON
TIMING OF CHARTER OFFICER
ELECTIONS**

Amending the Orange County Charter to provide that in elections for Charter offices (currently the County Mayor and County Commissioners), write-in candidates shall not count toward the number of qualified candidates (three or more) necessary to trigger an election at the August primary.

_____ Yes
_____ No

Text Revisions: Upon approval of this question at referendum, the following portions of the Orange County Charter are amended to read as follows:

Sec. 605. Nonpartisan elections.

Elections for all Charter offices shall be nonpartisan. No candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All candidates' names shall be placed on the ballot without reference to political party affiliation.

In the event that more than two (2) candidates, not counting write-in candidates, have qualified for any single office under the chartered government, an election shall be held at the time of the ~~first~~ primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.