



2016 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Initiative Petitions Work Group

Final Report and Recommendation to the Charter Review Commission Dated January 27, 2016

Work Group Members:

Rob Mellen, Chair
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The 2016 Charter Review Commission created the Initiative Petitions Work Group to investigate the conflicting views and expressed concerns about initiative petitions. The Work Group was directed to review the current initiative petition process and practice, and determine whether to recommend changes to the Orange County Charter, in particular Sections 601 and 602, to address these issues. Depending on the outcome of their investigation, the Work Group was requested to bring any recommended changes back to the full Charter Review Commission for consideration.

Based on its investigation, the Initiative Petitions Work Group recommends certain substantive changes in the initiative petition process, as well as certain administrative and procedural changes. The Work Group's recommendation provides a clear and concise guide for petitioners to follow in seeking to amend the Charter and adopt or amend ordinances. What follows is a detailed summary of the Work Group's recommended changes and the reasons for them.

In short, the Work Group recommends changes to Sections 601 and 602 of the Charter (and a corresponding change to Section 603 of the Charter) relating to initiative petitions, the adoption by the County Commission of an ordinance to carry out the intent of the recommended changes, and a codification of existing laws and procedures.

Introduction and Overview of Work Group Process

Over the past nine months, the Initiative Petitions Work Group held 16 meetings, averaging two hours per meeting, assembling and evaluating proposals to revise and reform Orange County's initiative petition process. The Work Group's meetings were well attended with 10-15 members of the public in attendance at many of the meetings, as well as elected officials and their representatives who participated from time to time. The Work Group considered input from the public and elected officials who appeared before the Charter Review Commission, including Mayor Teresa Jacobs, Mayor Gary Bruhn (on behalf of the Orange County Council of Mayors), Supervisor of Elections Bill Cowles, and representatives of Comptroller Martha Haynie.

The Work Group reviewed the initiative petition provisions of Florida's 19 other charter counties, as well as select provisions from other states, and heard substantial public comment. Common themes centered upon concerns about "outside interests" and "outside money" coming into Orange County to push initiative petitions, as well as a desire for transparency, particularly relating to the funding of paid petition gathering efforts and the paid or volunteer status of petition gatherers.¹ Supervisor of Elections Cowles regularly participated in the Work Group's discussions, either personally or through staff, providing recommendations, insight, and research to the Work Group.

Based on all of these sources, the Work Group assembled a list of potential initiative petition proposals², which the Work Group then evaluated and discussed throughout its subsequent meetings. A number of the proposals were rejected by the Work Group for legal and policy reasons. The remaining proposals were found to merit recommendation to the full Charter Review Commission.³

As noted, the Work Group's recommendation is divided into three categories; substantive changes to the initiative petition process; administrative or procedural changes; and codification of existing law and procedure. The recommended changes constitute a single proposal. They are interconnected and dependent on one another to achieve their intent. Accordingly, the Work Group recommends that the CRC consider the following a comprehensive plan of reform, rather than a menu from which to pick and choose.

¹ A complete summary of the public comments heard by the Work Group throughout its deliberations is attached as Exhibit "A."

² A copy of this comprehensive list, containing all proposals considered, including those rejected by the Work Group (indicated with ~~striketrough~~), is attached as Exhibit "B."

³ A comprehensive list of all proposed charter changes discussed in this recommendation, tracking the existing structure of Sections 601 and 602 of the Orange County Charter and written to facilitate the drafting of charter language, is attached hereto as Exhibit "C."

Recommended Substantive Changes
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Single Subject Requirement

The Work Group recommends that proposed initiative petitions (for both Charter amendments and ordinances) be subject to a single subject requirement, namely that they “shall embrace but one subject and matter directly connected therewith.” This requirement provides consistency with the standard for state constitutional amendments by initiative. It promotes clarity and makes it easier for a voter to understand what is being proposed, and helps prevent voter confusion. Finally, adding a single subject requirement brings Orange County (one of the few charter counties in the state without a single subject requirement) into line with the majority of charter counties.

Petition Gatherer Badge Requirement Identifying Whether Volunteer or Paid

The Work Group recommends that each petition gatherer circulating a county initiative petition be required to wear a badge that states “Volunteer Gatherer” or “Paid Gatherer,” as the case may be, in a form and manner specified by ordinance. The Work Group extensively researched the constitutional permissibility of a badge requirement, and limited the scope of its recommendation (only disclosure of paid or volunteer status) to be consistent with the findings of that research.

The badge requirement provides a level of needed transparency to the initiative petition process. A potential signer will be able to assess whether the petition gatherer is motivated by principle or profit. The Work Group believes the requirement helps identify whether an initiative is “grassroots” based on popular local support, and conversely helps address the issue of “outside interests” coming into the county to propose issues that may not be in the best interest of the county’s citizens.

This provision is also designed to be flexible, since the County Commission will specify the form and manner of wearing the badge by ordinance, and thus can tailor requirements so they are not burdensome or costly.

A badge requirement is an additional requirement on a petition sponsor not currently imposed, and it does add a burden, albeit minor, on petition gatherers. Overall, the Work Group believes that the benefits of transparency and petition signer education far outweigh this burden.

Petition Gatherer’s Affidavit

The Work Group recommends that the circulated petition form contain an affidavit to be completed and signed by the petition gatherer for each petition circulated, providing the name and address of the petition gatherer, whether he or she was paid or volunteer, and, if paid, by whom and on what basis (hourly, per-signature, other). The petition gatherer will also affirm that the petition was signed in the petition gatherer’s presence, the petition signer had sufficient time to read the petition language, and the signature on

the petition is believed to be the genuine signature of the petition signer. All of these requirements were gathered from similar provisions in other county charters, or from requirements of other states that have withstood constitutional challenge. The Work Group's recommendation includes using the statutory written declaration "under penalty of perjury," rather than a notary acknowledgment.

An affidavit requirement for petition gatherers again provides a degree of desired transparency to the initiative petition process. It discloses to the public in a documented way whether a petition gatherer has been paid or was a volunteer, who is paying the petition gatherer and on what basis. It fosters a better understanding by the signer of the subject matter of the petition by encouraging an opportunity to read it before signing. Finally, it promotes honesty on the part of the petition gatherer and helps prevent fraud in signature gathering.

Legal Review, Financial Impact Statement, and Public Hearing – Upon Reaching 1% Signature Threshold

The Work Group recommends that a legal review requirement, a financial impact statement requirement, and a public hearing requirement be added to Orange County's initiative petition process. The details of these requirements are described below, but all three are triggered when the Supervisor of Elections verifies that a petition has been signed by 1% of the electors in each of the county commission districts. The Work Group believes that setting a minimum number of petitions necessary to trigger these requirements provides a safeguard against the waste of county resources on frivolous petitions if the minimum required number of signatures cannot be obtained.

Legal Review

The legal review will be conducted by a Legal Review Panel, comprised of three attorneys licensed to practice law in Florida who have demonstrated experience in Florida local government law and who are selected on a bi-annual basis through the county's purchasing process applicable to legal services. Within 20 days after the 1% signature requirement is met, the Legal Review Panel will meet and render a written determination whether the proposed initiative petition satisfies the single subject requirement and is consistent with the Florida Constitution, general law and restrictions of the Charter. If at least two members of the Legal Review Panel find that the petition satisfies these requirements, the petition process continues. If, however, two or more panelists find that it does not satisfy the requirements, the current petition drive ends and the petition must be corrected to satisfy the requirements before a new petition drive starts.

The Legal Review Panel will also be charged with ensuring the petition language is clear and not misleading. This legal requirement provides a mechanism for review of the petition language other than by going to court, which is more costly and time-consuming. The legal review benefits the sponsor of an initiative petition by passing on the legality of the petition early in the process so it can be withdrawn and/or corrected. It

also may benefit the sponsor by making the initiative less likely to be challenged upon completion. The requirement for a legal review early in the process can save county resources on costly legal challenges which might otherwise occur later in the process. Finally, the requirement follows the lead of a neighboring charter county (Brevard), which has had a legal review panel process in place for some time and, based on inquiry, has found it to be beneficial.

The legal review process admittedly has the potential to kill a petition drive. It adds cost to the county to conduct an RFP process for selection of the Legal Review Panel and compensating them for their work, but potentially saves costs and avoids challenges later in the process. Also, the Legal Review Panel decision may still be overturned later in the process if challenged in court. Overall, the Work Group believes that the substantial benefits of a legal review that potentially avoids litigation and provides valuable legal feedback to petition sponsors and the public far outweigh the risks.

Financial Impact Statement

Within 20 days after the 1% signature requirement is met, the Comptroller will prepare and transmit to the sponsor of the petition, the Board of County Commissioners, and the Supervisor of Elections, a separate financial impact statement, not exceeding 75 words. The impact statement will estimate the increase or decrease in any revenues or costs to the county, local governments or to the citizens resulting from the approval of the proposed initiative petition. This financial impact statement will be placed on the ballot immediately following the ballot question.

In addition, upon receipt of the financial impact statement, the sponsor of the petition will prepare and submit to the Supervisor of Elections a revised petition form containing the financial impact statement. The Supervisor of Elections, within 15 days after submittal of the revised petition form containing the financial impact statement, then renders a determination on the form of the revised petition. At least 75% of the signed petitions verified by the Supervisor of Elections must include the financial impact statement.

The Work Group believes that a financial impact statement helps educate the public on the cost of an initiative, in taxpayer dollars and otherwise. Requiring that the financial impact statement be placed on a revised petition form provides transparency by informing petition signers of the financial impact of the initiative if adopted. Placing the financial impact statement on the ballot helps ensure that the financial impact of a proposal is considered by voters at the critical time of voting. Lastly, specifying that the financial impact analysis be prepared by the Orange County Comptroller ensures that the analysis is prepared by an office equipped with sufficient expertise that acts independently from the Board of County Commissioners.

This requirement imposes an obligation on the Comptroller and adds the cost to the Comptroller's office of reviewing the initiative and preparing the financial impact statement that does not presently exist. In addition, requiring that the petition form be

revised to incorporate the financial impact statement also imposes an additional obligation and expense on the petition sponsor that doesn't presently exist. However, the Work Group believes that the substantial educational benefits of a financial impact statement independently prepared and placed before the voters on the petition form and ballot far outweigh the additional obligations and costs.

Public Hearing

Within 60 days after notification of legality by the Legal Review Panel, a public hearing will be required to be held on the petition before the Board of County Commissioners. Holding a public hearing to address the merits of the proposal early in the initiative petition process helps educate the public and provides transparency by allowing a longer period of time for the community to review, discuss and fully understand the pros and cons of the initiative. It also allows the County Commission to consider the merits of the proposal and act independently upon it if appropriate.

Number of Signatures Necessary for Charter Amendment Initiative – 10% of Electors in Each Commission District

The Work Group recommends that the number of signatures necessary for a charter amendment by initiative be changed from 10 percent of the county electors in a majority of the commission districts to 10 percent of the county electors in each commission district. Such a change makes charter amendments by initiative consistent with ordinances by initiative under the Orange County Charter, which requires a requisite number of signatures from all County Commission districts. It closes the current loophole that effectively allows only 6.67% of registered voters in the County to approve a petition drive (due to the present requirement that the requisite signatures be obtained only in a majority of the commission districts), and brings Orange County in line with other charter counties. (Orange County is unique in its “percentage from a majority of districts” structure.)⁴

This recommendation was strongly supported in public comments based on concerns that some districts have intentionally been avoided in past petition drives. The recommendation provides for better public input across all districts on charter amendment petitions, and for equal participation and representation of all districts, thereby avoiding disenfranchisement of districts. In other words, it preserves the principle of “One Person, One Vote.” Finally, the Work Group received substantial public comment that the Charter should not be easily amended, and certainly should not be easier to amend than an ordinance.

The recommendation makes it harder to amend the Charter and it necessarily adds extra time, effort and cost to the initiative process. Overall, however, the Work Group

⁴ A breakdown for Florida's 20 charter counties of the required percentage of registered voters, and from how many districts, for ordinances by initiative and charter amendments by initiative, is attached hereto as Exhibit "D".

believes the substantial benefit of providing for equal participation and representation of all districts far outweighs these impacts.

No Amendment or Repeal of a Successful Charter Amendment by Initiative for One Year After Effective Date.

The Work Group recommends that a successful charter amendment by initiative petition not be subject to amendment or repeal for a period of one year after its effective date. Such protection for charter amendments by initiative provides consistency between charter amendments and ordinances by initiative, which presently have the one year protection. It allows a reasonable time to determine whether an amendment works. Finally, it benefits the sponsor of a successful initiative petition by protecting the amendment for at least a year from repeal or change.

A potential consequence of the recommendation is that bad policy cannot be repealed or changed in a timely manner, and the protection may lead to unintended consequences. However, the Work Group believes, in light of the overall improvement and strengthening of the initiative petition process which results from the Work Group's recommendations, a successful charter amendment by initiative should be entitled to operate for a reasonable period of time without interference.

Recommended Administrative/Procedural Changes
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Sponsor to Submit Petitions Signed Each Month No Later than 5th Day of the Following Month

The Work Group recommends that the petition sponsor be required to submit all signed petitions gathered during each month to the Supervisor of Elections no later than the 5th day of the following month. This requirement provides transparency by disclosing how far along the sponsor of an initiative petition is in the signature gathering process (i.e., no holding back of signed petitions), thereby benefiting both the sponsor of the initiative and the community as a whole. Supervisor of Elections Cowles supported this requirement because it promotes efficiency for the Supervisor of Elections' office providing predictability and spreading out the necessary verification. It also facilitates the withdrawal by a petition signer of his/her signature on a petition, as discussed below. Finally, regular submittal of signed petitions helps satisfy the "1% signature requirement" that initiates the legal review, financial impact statement and public hearing requirements as early in the process as possible.

The requirement is one that is not currently applicable to the initiative petition process, and it may void otherwise valid signatures if the petitions are not timely submitted, although this will be as a result of sponsor's inaction. Overall, the Work Group believes that the substantial benefits of transparency and efficiency that this requirement fosters far outweigh the consequences of untimely submission of signed petitions.

Sponsor May Formally Terminate Its Petition Drive

The Work Group recommends that a sponsor of an initiative petition be able to terminate the sponsor's petition drive by filing a form, promulgated by the Supervisor of Elections, with the Supervisor of Elections' office. This change is based on a recommendation from Supervisor of Elections Cowles who advised the Work Group there is presently no clear way for a sponsor of an initiative petition to voluntarily terminate its petition drive. Mr. Cowles indicated that, in his experience, petition sponsors have sometimes wanted to end their petition drives, and the lack of a formal mechanism to do so led to substantial frustration and confusion.

Petition Signer May Withdraw Signature on a Petition

The Work Group recommends allowing a petition signer to withdraw his/her signature on an initiative petition by filing a withdrawal form with the Supervisor of Elections' office. The form will be promulgated by the Supervisor of Elections and made available on the Supervisor's website.

The Work Group believes allowing a petition signer to withdraw his/her signature provides an opportunity for the petition signer to reconsider the decision to sign the petition after additional information is publicly disseminated. Although it adds an incremental amount of work to the Supervisor of Elections' office, Mr. Cowles confirmed that the recordkeeping system used by the Supervisor's office, which ties each signed petition to the voter's record, makes this recommendation easy to implement.

Removal of Requirement for BCC to Call Referendum / Automatic Placement on Ballot Upon Verification of Sufficient Signatures

The Work Group recommends removal of the requirement that the Board of County Commissioners affirmatively vote to place a qualified initiative petition on the ballot based on the recommendation of County Mayor Teresa Jacobs. Rather, the Charter will specify that the initiative will be automatically placed on the ballot after verification of sufficient signatures by the Supervisor of Elections.⁵

⁵ This change also entails the removal of Section 603C of the Orange County Charter, which prohibits the Board of County Commissioners from calling a referendum on any initiative petition that violates Florida law or the restrictions of the Charter. Because the BCC will no longer call a referendum on an initiative petition in any event, the section is no longer effective. In addition, the Work Group's proposal provides for another mechanism to address illegal initiative petitions (the Legal Review Panel process), thus addressing the policy interest served by Section 603C.

Remove Special Election from Elections at Which Initiative Petition Can Be Held

The Work Group recommends that “special elections” be removed as elections at which a referendum can be held on an initiative petition. With this removal, the Charter more simply provides that a referendum be held at the next primary or general election occurring at least 150 days after verification of sufficient signatures. Such change provides clarity and predictability as to when the question will be placed on the ballot. It allows the petition sponsor to more effectively select the election at which the initiative will be considered by the voters and simplifies the initiative petition process overall. Supervisor Cowles concurred that the change can provide clarity and predictability and simplify the process.

Labeling and Ordering Guidance for Charter Amendment Ballot Order

The Work Group recommends that labeling and ballot ordering guidance be provided to the Supervisor of Elections for charter amendments appearing on the ballot. Specifically, charter amendments appearing on the ballot will be labeled using alphabet lettering (A, B, C, etc.), and placed in the following order: first, amendments proposed by the Charter Review Commission; next, amendments proposed by the County Commission; and last, amendments proposed by the initiative petition process; in each case, identifying the section of the Charter being amended along with the title. This recommendation is based on a request from Supervisor of Elections Cowles who indicated that in recent elections questions have arisen as to identifying and ordering charter amendments and, lacking any guidance, he has had to exercise his own judgment to resolve them. Clear guidance in these matters will reduce confusion and improve predictability for petition sponsors and the public. In addition, labeling charter amendments with alphabet lettering provides clarity to the public in distinguishing charter amendments from constitutional amendments.

Recommended Codification of Existing Law/Procedure

Require Petition Sponsor’s Registration as a Political Committee

The Work Group recommends that language be added to the Charter that the sponsor of an initiative petition must “register as a political committee as required by general law.” This requirement has long been the law under Florida election law, but a number of county charters state it expressly in order to help those pursuing charter and ordinance amendments by providing a single source for guidance in working through the process.

Form of Petition

The Work Group recommends that the Charter specify that the petition form used by the petition sponsor contain the ballot title, ballot summary, and proposal language. Once again, this is the existing law and practice pursuant to the Supervisor of Elections’

application of relevant Florida Administrative Code provisions. Adding these provisions to the Charter helps guide petition sponsors through the initiative petition process.

Sponsor Translation of Ballot Title and Summary

The Work Group recommends that the sponsor of an initiative petition provide a translation of the ballot title and ballot summary in the language(s) required by law at the time the petition form is filed with the Supervisor of Elections for review. This recommendation provides clarity to the current initiative petition process by codifying the practice of the Supervisor of Elections and facilitates compliance with federal law requirements.

Supervisor of Elections to Render Determination on Form of Petition Within 15 Days

The Work Group recommends that the Supervisor of Elections be required, within 15 days after submittal, to render a determination on the form of the proposed petition. Currently, there is no established time period for the Supervisor of Elections to complete review and make a determination on the petition form. Supervisor of Elections Cowles has historically rendered a determination on petition forms almost immediately, but providing a specific time limit for the Supervisor to do so provides a procedural safeguard for petition sponsors while codifying existing practice.

Supervisor of Elections to Verify Validity of Signatures within 30 Days After Submittal and to Post Tally on Website

The Work Group recommends that the Supervisor of Elections be required to verify the validity of the signatures submitted within 30 days after submittal, and to post a tally of the number of signatures verified on the Supervisor of Elections' website for public view. Once again, this recommendation codifies the Supervisor of Elections' current practice. It provides transparency by disclosing how far along the sponsor of an initiative petition is in the signature gathering process, thereby benefiting both the sponsor of the initiative petition and the community as a whole. The recommendation also benefits the sponsor by providing certainty as to the total number of valid signatures submitted as the process progresses, so the petition sponsor can determine the number of additional petitions needed.

Conclusion

The Work Group believes that the proposed substantive, procedural and administrative changes to the initiative petition process outlined in this recommendation are responsive to the conflicting views and expressed concerns raised in regard to the current initiative process and practice. The Work Group further believes that, if adopted by the Charter Review Commission and approved by the voters, the initiative process in Orange County will be significantly improved and provide much needed clarity, transparency and guidance.

FINAL REPORT AND RECOMMENDATION
INITIATIVE PETITIONS WORK GROUP
EXHIBIT “A”

Date Presented	Presented by	Topic(s)
3/12/2015	Doug Head	a) Expectations for the public to prepare ballot initiative language are unreasonable b) Issues that tend to limit the capacity of minorities is unacceptable
4/9/2015	Mayor Bruhn Chair, Orange County Council of Mayors	a) Provide fixed date by which petition process must be completed b) Include a mechanism to withdraw/end a petition process Note: Letter dated March 26, 2015, provided to CRC
4/9/2015	Linda O'Keefe	a) Need 150 day filing time b) Possible misleading language of initiative itself needs legal review c) Outside interests funding petition process d) Need transparency and financial disclosure e) Need fair representation across all districts
4/9/2015	Bill Barnette	a) Big national groups coming into Orange County and funding their own interests b) Need to make it for citizens by citizens
4/9/2015	Emmett Odell	a) Do not make initiatives any more difficult b) CRC considers/vets an issue for a long time before putting on ballot
4/9/2015	Dana Gowen	a) Limit ballot questions to 75 words b) Changing Orange County constitution/charter should be hard c) Keep questions direct and simple
4/9/2015	Doug Head	a) Object to constrain citizen's input by making ballot initiatives harder b) Keep ballot questions to one topic (single issue)
4/9/2015	Chadwick Hardee	a) Concerned about outside groups funding ballot initiatives b) Need to include all districts in signatures c) Keep ballot questions to single issue
4/30/2015	Summary Report does not reflect Public Comments	
5/14/2015	Cynthia Ellenberg	a) Ballot language – citizens need to understand what the ballot is asking b) Concerned that signatures are not collected in the majority of the districts c) Interested in bifurcation – citizens should know who is collecting the signatures

Date Presented	Presented by	Topic(s)
5/28/2015	Summary Report does not reflect Public Comments	
6/9/2015	Barbara Seidenberg	<ul style="list-style-type: none"> a) Transparency - Paid petition gatherers b) Outside Interest - Threshold higher for paid gatherers
6/9/2015	Todd Catella	Petition initiative is important because the county school run from within, the issues should be driven from within and not from without
6/25/2015	Summary Report does not reflect Public Comments	
7/9/2015	Bill Barnett	Limit outside money that comes into Orange County to implement outside national ideas
7/9/2015	Linda O'Keefe	Discussion at the work group meeting are in the interest of finding a way to bring accountability and transparency to the petition process
7/9/2015	Kelli McNair-Lee	The goal is to eliminate cheating and try to make the process fair
7/9/2015	Tom Tillison	Transparency in the process is what everyone is looking for
7/9/2015	Todd Catella	<ul style="list-style-type: none"> a) In favor of the restriction on the initiatives on paid and unpaid b) As well as the other topics that have been mentioned
7/16/2015	Meeting Cancelled	
7/21/2015	Summary Report does not reflect Public Comments	
8/13/2015	David Siegel	Likes the discussion on disclosure by putting measures on the ballot
8/13/2015	Linda O'Keefe	<ul style="list-style-type: none"> a) Concerned with the funding of local petition efforts in Orange County by outside interest b) Request the requirement of all districts be represented in the petition initiative drive, not just the majority c) Request affidavits, disclosures, and badges for paid circulators d) Keep the 150 day requirement e) Raise the threshold for paid circulators
8/13/2015	Frank Caprio	<ul style="list-style-type: none"> a) Encourage the CRC to make the petition process as difficult as possible b) Designate between paid and unpaid circulators

Date Presented	Presented by	Topic(s)
8/13/2015	Chadwick Hardee	Outside money coming into the district should have a tighter restriction
8/13/2015	Bill Barnett	<ul style="list-style-type: none"> a) The process should not be easy b) Should not have paid outside influences
8/13/2015	Emily Bonilla	The petition process should not be made too difficult because it's the job of the people to create law and the government to enforce the law
8/20/2015	Summary Report does not reflect Public Comments	
8/27/2015	Summary Report does not reflect Public Comments	
9/10/2015	Barbara Seidenberg	<ul style="list-style-type: none"> a) Against outside interest funding petition process b) Need for affidavit requirements c) Circulators should wear badges d) Need for disclosure e) Need for a way to withdraw a signature on a petition
9/10/2015	Linda O'Keefe	<p>Thanked the work group for:</p> <ul style="list-style-type: none"> a) Making sure the process works for the residents of the county b) Considering concerns brought to their attention by the public c) Researching many practices from other counties and states d) Seeking the input from the Supervisor of Elections
9/10/2015	Cynthia Ellenberg	<ul style="list-style-type: none"> e) Disclose the sponsor of a petition f) Disclose if paid or a volunteer g) Need for badges h) Need to educate the public on the process a) Create a mechanism to remove a signature on a petition

Date Presented	Presented by	Topic(s)
9/10/2015	Mike Ketchum	Commended the work group and Counsel on their efforts towards addressing topics such as: a) Outside interest b) Misleading language on ballots c) Hidden agendas d) Greater transparency
9/10/2015	Todd Catella	In support of knowing who brings forward citizen petitions
9/24/2015	Mike Ketchum	a) Legal Review Process – supports the direction of the work group b) Financial Impact Statement - the statement should include the impact on the private sector or individual tax payers c) Agrees the topics of a period of time during which a charter amendment cannot be disturbed/provide a period of time after an initiative petition has failed to pass on the ballot should be addressed
9/24/2015	Michelle Levy	a) Legal Review Process - the League of Women Voters would not be comfortable with the RFP process b) Financial Impact Statement - asked for clarification as to what impacts should be addressed
9/24/2015	Bill Cowles	a) Legal Review Process - the legal review should not stop or delay the petition process b) Financial Impact Statement - a panel can also be commissioned to complete a financial impact statement c) Documents need to be prepared in English and Spanish
9/24/2015	Cynthia Ellenberg	a) Legal Review Process - agrees with Mike Ketchum's statements b) Financial Impact Statement - prefers the Orange County Charter language because it includes the impact on the citizens.
9/24/2015	Todd Catella	Asked what issues have been raised in the past to create the need to consider a period of time during which a charter amendment cannot be disturbed/provide a period of time after an initiative petition has failed to pass on the ballot
10/1/2015	Todd Catella	a) Asked if the one (1) year protection of a period of time during which a charter amendment cannot be disturbed would be a separate clarification from the requirement for additional petition signatures. b) Likes the decision of having the public hearing early in the initiative petition process; however, what is the purpose for the maximum of 30 days for the BCC to call a referendum by resolution c) Likes the thought of petitions being submitted in a timely manner and suggested that the group organizing the petition indicate which election date they would prefer their petition to be placed on the ballot and possibly specify a secondary option as well

Date Presented	Presented by	Topic(s)
10/1/2015	Nick Shannin	<ul style="list-style-type: none"> a) The office of the Supervisor of Elections appreciates the work groups' decision not to move forward on the topic of a period of time after an initiative petition has been placed on the ballot and failed to pass during which an identical or substantially similar initiative may not be placed on the ballot b) The Supervisor of Elections does not have the power to put an initiative petition on the ballot c) The BCC must place the initiative petition on the ballot even if an affirmative vote does not have to take place to do so d) The Charter provides the BCC the opportunity to call for a referendum by resolution
10/1/2015	Bill Barnett	<ul style="list-style-type: none"> a) There are outside groups that would spend money a second time b) The Commission serves a purpose to ensure the County does not implement something that is damaging to the County
10/1/2015	Terri Falbo	Asked if the group circulating a petition is aiming to be on the November ballot but because of the rolling time period they may get enough signatures sooner, would that cause the petition to be placed on an earlier ballot. Is this a possible scenario and is anyone concerned with this type of issue
10/1/2015	Linda O'Keefe	In favor of making sure the initiative process is followed correctly by having the BCC vote on the petition as a last measure
10/22/2015	Linda O'Keefe	Having a requirement of a financial impact statement is a good idea to be placed on the ballot and encourages the work group members to vote for it
10/22/2015	John Lina	Asked if the impact statement will include opportunity cost
10/2220/15	Bill Barnett	Concerned with the opportunity cost, encourages the members to support the original motion
10/22/2015	Bill Cowles	<ul style="list-style-type: none"> a) In regards to the opportunity cost, if it goes to electioneering depending on how it is written, it could be a challenge putting it on the ballot b) Asked was the motion for a financial impact statement only for the CRC to the ballot, the BCC to the ballot, or from the citizens c) Require the organization of the initiative petition to submit the financial impact statement when they file their petition with the Supervisor of Elections Office
10/22/2015	Lorraine Tuliano	It seems to be a long laborious process to find someone to craft a financial impact statement when you have a qualified Comptroller available

Date Presented	Presented by	Topic(s)
10/22/2015	Todd Catella	<ul style="list-style-type: none"> a) When placing the amendments in sections in order of CRC, Board, and initiative; there should not be an identification mark separating the sections to ensure people are assessing the merit of the question and not where they came from b) Likes the thought of a back-up person being allowed to withdraw or terminate a petition in case the other party is not available and question if the form created by the Supervisor of Elections can be challenged c) The November 3rd meeting is important to attend from the public side
11/03/2015	Trini Quiroz	Asked what are the things excluded, what is the exception of the initiative petitions process
11/03/2015	Michelle Levy	Asked who will pay for the volunteers' badges
11/03/2015	Mike Ketchum	<ul style="list-style-type: none"> a) Thanked the work group members for their efforts by generating greater transparency b) The members have kept a really good balance, looking forward to seeing the process move ahead
11/03/2015	Bill Barnett	<ul style="list-style-type: none"> a) Include the words "clearly visible" to ensure the badges are clearly displayed b) Need for transparency and disclosure c) The transparency of the process is the important factor d) The report specifies no action was taken; however, other actions have been taken that address this issue of the impact and influence of money from outside of Orange County on the Orange County initiative petition process
11/03/2015	Linda O'Keefe	<ul style="list-style-type: none"> a) Agrees with the idea of stating paid or volunteer on the badge; however, the badge should also include the name of the political committee b) Disclosure for the public is very important c) The members haven't really addressed the impact of money from outside groups; however, enough has been done to create some transparency in the system d) Suggested adopting a residency requirement for sponsors; although, understands it can cause a legal battle
11/03/2015	Debra Sumner	Include a 75 word limit to help citizens get an overview of what they are voting for
11/19/2015	No One Addressed the Work Group	

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INITIATIVE PETITIONS WORK GROUP
EXHIBIT “B”

Proposals Received for Initiative Petition Related Charter Amendments

- **Number of signed petitions required to qualify an initiative petition for the ballot:**
 - Increase the percentage of signed petitions required to qualify an initiative petition for the ballot:
 - ~~Ordinance by initiative;~~
 - Charter amendment by initiative; or
 - ~~Both.~~
 - ~~Provide for a higher and lower required percentage of signed petitions depending on whether the initiative is a paid petition-gathering effort or non-paid, respectively.~~
 - ~~Require notarized affidavits from the initiative petition sponsor and petition-gatherers certifying that the petition-gathering effort is unpaid.~~
 - ~~With savings language to specify that in the event the higher required percentage for paid petition-gathering efforts is invalidated by court order, the required percentage of signed petitions, whether the effort was paid or unpaid, would then default to be the higher required percentage.~~
 - With respect to charter amendments by initiative, require a specified minimum percentage of signed petitions from each county commission district, rather than from only a majority of districts.
- **Requirements and regulations concerning petition gathering and petition-gatherers:**
 - Identify sponsor on the face of the petition
 - Sponsor registration as a political committee
 - ~~Qualifications of petition-gatherers~~
 - Require a declaration under penalty of perjury ~~notarized affidavit~~ from each petition-gatherer with respect to each signed petition, specifying:
 - The name and address of the petition-gatherer;
 - Whether the petition-gatherer was paid for his or her work in gathering that petition;
 - By whom the petition-gatherer was paid;
 - If paid, whether the petition-gather was paid on:
 - An hourly basis;
 - A per-signature basis; or
 - Some other basis therein described.
 - That the petition was signed in the petition-gatherer's presence;
 - That the petition signer had enough time to read the petition language. (Potentially modeled on Duval County and Broward County Charter language.)
 - Require that petition-gatherers wear a badge indicating whether they are paid or unpaid, ~~and if paid, by whom.~~
 - Signature requirements on petition
 - Name, address, date, ~~county commission district~~, etc.

(~~strike out~~ indicates proposals that the workgroup decided not to include; underline indicates changes or additions made by workgroup to proposals)

- Provide for a procedure for a petition signer to withdraw his or her signature from an initiative petition effort.
 - ~~Which might implicate the need to~~ add a requirement that petitions be submitted to the Supervisor of Elections monthly within a specified number of days after the date of signature.
- ~~Address electronic petition-gathering~~
- ~~Address petitions in other languages~~
- Additional concerns specified by the Supervisor of Election's Office
- **Substantive Requirements for Initiative Petitions**
 - Provide for a single subject requirement for:
 - ~~Charter amendments by initiative;~~
 - ~~Ordinances by initiative; or~~
 - Both.
 - ~~Provide for a 75 (or other number) word limit on the textual revision to the county charter or code of ordinances proposed by initiative petition.~~
 - Provide for a legal review process for initiative petitions (Potentially modeled on Brevard County Charter language):
 - Who would conduct this review? Legal Review Panel
 - ~~If those persons are appointed, who would appoint them?~~
 - At what point in the process would the legal review occur?
 - Potentially, upon attaining a minimum threshold percentage of signed petitions.
 - Require that a Financial Impact Statement prepared by the County Comptroller Commission ~~or other body~~ be included with an initiative petition ballot summary on the ballot. (Potentially modeled on Hillsborough County Charter language, Section 8.05)
 - Provide for a period of time after a charter amendment by initiative petition is passed, during which such charter amendment cannot be disturbed, i.e., amended or repealed.
 - ~~Provide for a period of time after an initiative petition is placed on the ballot and fails to pass, during which an identical or substantially similar initiative petition:~~
 - ~~May not be placed on the ballot; or~~
 - ~~Is made subject to a higher percentage petition requirement (as in the Duval County Charter, providing for a 10% threshold rather than 5% in such a case.)~~
- **Procedural Requirements for Initiative Petitions**
 - Time periods for process
 - ~~Moving due date for petitions to qualifying period for election~~ Removed special elections.
 - Provide for a mandatory public hearing on initiative petition proposals ~~charter amendments by initiative petition.~~
 - Provide guidance to the Supervisor of Elections concerning ballot order, placement, labeling, and format relating to charter amendments.

(~~strike out~~ indicates proposals that the workgroup decided not to include; underline indicates changes or additions made by workgroup to proposals)

- Specify who is responsible for ballot translation.
- Provide for a formal mechanism by which a sponsor of an initiative petition can withdraw or terminate its initiative petition effort.
- ~~Process by which the BCC may place an amendment on the ballot~~
- Sec. 601 - Initiatives and Referendum
- **Use of Initiative Petition Process**
 - ~~Amend charter only through charter review process~~
 - ~~No ordinance by initiative process~~
 - Address the impact and influence of money from outside of Orange County on the Orange County initiative petition process.

(~~strike out~~ indicates proposals that the workgroup decided not to include; underline indicates changes or additions made by workgroup to proposals)

FINAL REPORT AND RECOMMENDATION
INITIATIVE PETITIONS WORK GROUP
EXHIBIT “C”



2016 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Exhibit "C" – Comprehensive List of All Proposed Charter Changes Set Forth in Final Report and Recommendation of the Initiative Petitions Work Group

The following is a comprehensive list of all proposed charter changes discussed in the Final Report and Recommendation of the Initiative Petitions Work Group, tracking the existing structure of Sections 601, 602, and 603 of the Orange County Charter, written to facilitate the drafting of charter language. The list incorporates the existing language of Sections 601 and 602 of the Orange County Charter, with existing charter language italicized, and proposal elements in plain text and bulleted. Section 602 has been split into seven subsections, lettered A through G. The existing language of Section 602 has been divided in the presentation below, with the language of existing Subsections A and B (dealing with the referendum processes for both charter amendments and ordinances by initiative) moved to Subsection 602.G. Referendum.

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL

Sec. 601. - Initiative and referendum.

The power to propose amendment or repeal of this Charter, or to propose enactment, amendment or repeal of any county ordinance by initiative is reserved to the people of the county.

- A. *Charter. A petition seeking to amend or repeal the Charter of Orange County shall be signed by ten (10) percent of the county electors in each commission district ~~a majority of the commission districts~~ as of January 1 of the year in which the petition is initiated.*
- B. *Ordinance. A petition seeking to enact, amend or repeal an ordinance shall be signed by seven (7) percent of the county electors in each commission district as of January 1 of the year in which petition is initiated.*

-- Change the number of signatures necessary for a charter amendment by initiative from 10 percent of the county electors in a majority of the commission districts to 10 percent of the county electors in each commission district.

Sec. 602. - Procedure for initiative and referendum.

The sponsor of an initiative petition shall, prior to obtaining any signatures, submit the text of the proposed petition to the supervisor of elections, with the form on

which signatures will be affixed, and shall obtain the approval of the supervisor of elections of such form. The style and requirements of such form may be specified by ordinance. The beginning date of any petition drive shall commence upon the date of approval by the supervisor of elections of the form on which signatures will be affixed, and said drive shall terminate one hundred eighty (180) days after that date. In the event sufficient signatures are not acquired during that one-hundred-eighty-day period, the petition drive shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition. If sufficient signatures are obtained, the sponsor shall submit signed and dated forms to the supervisor of elections who shall within thirty (30) days verify the signatures thereon and submit a written report to the board.

602.A. Initiation of Process

- Require that the sponsor of an initiative petition “register as a political committee as required by general law.”
- Require that the sponsor of an initiative petition provide a translation of the ballot title and ballot summary in the language(s) required by law at the time the petition form is filed with the Supervisor of Elections for review.
- Specify that the Supervisor of Elections shall, within 15 days after submittal, render a determination on the form of the proposed petition.
- Specify that each proposed charter amendment by initiative and each ordinance by initiative “shall embrace but one subject and matter directly connected therewith.”

602.B. Form of Petition

- Specify that the petition form shall contain the ballot title, ballot summary, and proposal language.
- Require that the petition form contain an affidavit to be completed by a petition gatherer, signed and verified by the petition gatherer pursuant to Section 92.525(1)(c), Fla. Stat., for each petition gathered by a petition gatherer, specifying:
 - Name and address of the petition gatherer;
 - Whether the petition gatherer was a paid gatherer or volunteer gatherer;
 - If paid, by whom;
 - If paid, whether paid on:
 - An hourly basis;
 - A per-signature basis; or
 - Some other basis therein described;
 - That the petition was signed in the petition gatherer’s presence;
 - That the petition signer had sufficient time to read the petition language;
 - That the petition gatherer believes the signature on the petition to be the genuine signature of the petition signer.

602.C. Petition Gathering

- Require that a petition gatherer gathering a county initiative petition who is not being paid to do so shall display a badge that states the words "VOLUNTEER GATHERER", in a form and manner specified by ordinance.
- Require that a petition gatherer gathering a county initiative petition who is being paid to do so shall display a badge that states the words "PAID GATHERER", in a form and manner specified by ordinance.
- Require that a petition gatherer sign and verify the affidavit required on the petition form for each petition gathered by the petition gatherer.

602.D. Submission of Signed Petitions; Verification of Requisite Signatures

- Require that all signed petitions gathered by petition gatherers in a month be submitted to the Supervisor of Elections no later than the 5th day of the following month.
- Require that the Supervisor of Elections verify the validity of the signatures submitted within 30 days after submittal.
- Require that the Supervisor of Elections post a tally of the number of signatures verified on the Supervisor of Elections' website for public view.

602.E. Legal Review, Financial Impact; Public Hearing

- Specify that upon verification by the Supervisor of Elections that a petition has been signed by at least 1% of the county electors in each of the commission districts, the Supervisor of Elections shall so notify the Comptroller and the Legal Review Panel.

Legal Review

- Specify that the Legal Review Panel shall be a panel of three attorneys licensed to practice law in the state of Florida who have demonstrated experience in Florida local government law, and who shall be selected on a bi-annual basis through the county's purchasing process applicable to legal services.
- Specify that the Legal Review Panel shall meet and render a determination, within 20 days after notification by the Supervisor of Elections, whether the proposed initiative petition, including ballot title, ballot summary, petition language, and ballot language translations, embraces but one subject and matter directly connected therewith, and is consistent with the Florida Constitution, general law, and the restrictions of the Charter.
- Specify that if at least two members of the Legal Review Panel determine that the proposed initiative petition embraces but one subject and matter directly connected

therewith, and is consistent with the Florida Constitution, general law, and the restrictions of the Charter, then the Legal Review Panel shall render a written opinion setting forth the reasons therefor, and so notify the Board of County Commissioners, the Supervisor of Elections, and the sponsor of the petition.

-- Specify that if at least two members of the Legal Review Panel determine that the proposed initiative petition does not embrace but one subject and matter directly connected therewith, or is inconsistent with the Florida Constitution, general law, or the restrictions of the Charter, then the Legal Review Panel shall render a written opinion setting forth the reasons therefor, so notify the Board of County Commissioners, the Supervisor of Elections, and the sponsor of the petition, and the petition drive shall thereafter terminate. None of the signatures acquired in such a petition drive may be carried over into another identical or similar petition.

Financial Impact Statement

-- Specify that within 20 days after notification by the Supervisor of Elections, the Comptroller shall prepare and transmit to the Board of County Commissioners, Supervisor of Elections and the sponsor of the petition, a separate financial impact statement, not exceeding 75 words, including the estimated increase or decrease in any revenues or costs to the county or local governments or to the citizens resulting from the approval of the proposed initiative petition. The Comptroller shall also prepare translations of the financial impact statement into the language(s) required by law.

-- Specify that the 75-word financial impact statement shall be placed on the ballot immediately following the ballot question.

-- Require that the sponsor of the petition, upon receipt of the financial impact statement, shall prepare and submit to the Supervisor of Elections for review and approval a revised petition form containing the financial impact statement.

-- Specify that the Supervisor of Elections shall, within 15 days after submittal of the revised petition form containing the financial impact statement, render a determination on the form of the revised petition.

-- Require that least 75% of the signed petitions include the 75-word financial impact statement.

Public Hearing

-- Specify that within 60 days after notification of legality by the Legal Review Panel, a public hearing shall be held on the petition before the Board of County Commissioners.

602.F. Termination of Petition Drive by Sponsor; Withdrawal of Signature by Petition Signer

-- Specify that a sponsor of an initiative petition may terminate a petition drive by filing a completed form so stating, in a form promulgated by the Supervisor of Elections, with the Supervisor of Elections.

-- Authorize a petition signer to withdraw his or her signature by filing, with the Supervisor of Elections, a completed form so stating, in a form promulgated by the Supervisor of Elections and available to print from the Supervisor of Elections website, adequately identifying the petition signer and petition drive, prior to the verification of signatures by the Supervisor of Elections.

602.G. Referendum

- A. *Charter. Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the supervisor of elections. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1 of the succeeding year.*
- B. *Ordinance. Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall notice and hold a public hearing on the proposed petition according to law and vote on it. If the board fails to adopt the proposed petition, it shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the supervisor of elections. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be declared by resolution of the board to be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1, of the succeeding year. The board shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance.*
- C. *The initiative power shall not be restricted, except as provided by general law and this Charter.*

-- Remove the requirement that the Board of County Commissioners call a referendum on the question of the adoption of the petition, and specify that a referendum will be held on the question automatically after verification of sufficient signatures by the Supervisor of Elections.¹

-- Remove "special election" as an election at which a referendum can be held on an initiative petition, thereby providing that the referendum will be held at the next primary or general election occurring at least 150 days after verification of sufficient signatures by the Supervisor of Elections.

-- Specify that charter amendments appearing on the ballot be labeled using alphabet lettering (A, B, C, etc.), and placed in the following order: first, amendments proposed by the Charter Review Commission; next, amendments proposed by the County Commission; and last, amendments proposed by the initiative petition process; in each case, identifying the section of the charter being amended along with the title.

-- Provide that successful charter amendments proposed by initiative petition may not be amended or repealed for a period of one year after its effective date.

¹ This change also entails the removal of Section 603C of the Orange County Charter, which states:

C. Notwithstanding any other provision of this charter, the board is prohibited from calling a referendum on the question of the adoption of any proposed charter amendment or ordinance by initiative which, in the determination of the board, is wholly or partially violative of the limitations of this section or Florida law.

Because the BCC will no longer call a referendum on an initiative petition in any event, the section will no longer be effective.

FINAL REPORT AND RECOMMENDATION
INITIATIVE PETITIONS WORK GROUP
EXHIBIT “D”

**Breakdown of Required Percentage of Registered Voters, and from How Many Districts
for Ordinances by Initiative and Charter Amendments by Initiative under Florida's 20 County Charters**

<u>Charter County</u>	<u>Population</u>	<u>Ordinance by Initiative</u> % of Reg. Voters Req. on Petition, and from How Many Commission Districts	<u>Charter Amend. by Initiative</u> % of Reg. Voters Req. on Petition, and from How Many Commission Districts
Alachua	247,337	7%, county as a whole	10%, county as a whole
Brevard	545,184	5%, county as a whole, with 5% from 3 of 5 districts	4% from each of 5 districts
Broward	1,753,162	7%, county as a whole, with no more than 25% from any one of 9 districts	7%, county as a whole, with no more than 25% from any one of 9 districts
Charlotte	160,463	10%, county as a whole	10%, county as a whole
Clay	191,143	10%, county as a whole	10%, county as a whole
Columbia	67,528	7%, county as a whole, with 7% from 3 of 5 districts	10%, county as a whole, with 10% from 3 of 5 districts
Duval	864,601	(No Ordinance by Initiative Process)	5%, county as a whole, or 10%, county as a whole, if proposed a second time within a 12 month period
Hillsborough	1,238,951	(No Ordinance by Initiative Process)	8%, county as a whole, with 8% from 2 of 4 districts
Lee	625,310	5%, county as a whole, with no more than 30% from any one of 5 districts	7%, county as a whole
Leon	276,278	10% from each of 5 commission districts	10% from each of 5 commission districts
Miami-Dade	2,516,515	4%, county as a whole, with no more than 25% from any one of 13 districts	10%, county as a whole
Orange	1,157,342	7% from each of 6 commission districts	10% from each of 4 of 6 commission districts [10% x (4/6) = 6.67%]
Osceola	273,867	7%, county as a whole	10%, county as a whole
Palm Beach	1,325,758	7%, county as a whole	7%, county as a whole
Pinellas	918,496	(No Ordinance by Initiative Process)	10%, county as a whole, with no more than 40% from any one of 3 at-large districts, and no more than 30% from any one of 4 single member districts
Polk	604,792	6% from each of 5 commission districts	7% from each of 5 commission districts
Sarasota	381,319	(No Ordinance by Initiative Process)	5%, county as a whole
Seminole	424,587	5%, county as a whole, with 5% from 3 of 5 districts	7.5%, county as a whole, with 7.5% from 3 of 5 districts
Volusia	495,400	(No Ordinance by Initiative Process)	5% from each of 5 commission districts
Wakulla	30,877	30% from each of 5 commission districts	30% from each of 5 commission districts