

## Nonpartisan Elections

### **Question:**

Should the City of Jacksonville Charter be amended to change the election of our local officers to nonpartisan elections?

### **Background and Findings:**

Any deliberation of nonpartisan elections must consider both the Florida Election Code and an April 2019 Florida Supreme Court ruling.

#### *Florida Election Code*

Florida Election Code states certain elections must be nonpartisan, specifying judicial officers and school board members are nonpartisan offices.<sup>1</sup>

#### *Orange County, FL v. Singh*

In 2014, Orange County, FL voters supported an Orange County charter change to include nonpartisan elections. This change was then challenged in the courts. On April 18, 2019, the Florida Supreme Court ruled that partisan elections must remain for constitutional officers and that the Florida Election Code preempted any locally adopted electoral provisions.<sup>2</sup>

#### *Office of General Counsel Informal Opinion*

The Office of General Counsel (OGC) has provided an informal opinion to the Subcommittee that Orange County v. Singh, 268 So. 3d 668 (Fla. 2019), would not create binding precedence if the City of Jacksonville were to consider nonpartisan elections under the Charter. Given the unique nature of the Charter in that it was authorized in the State Constitution and adopted by the Florida Legislature in Laws of Florida Chapter 67-1320, and readopted by Chapter 92-341, it creates a standalone structure of government unlike any other local government in Florida and the officers established in the Charter are treated generally as municipal officers (except in limited provisions e.g., regarding State Ethics Laws and financial filing requirements). Notwithstanding the foregoing, if the City were to consider nonpartisan elections, there may be potential arguments that such process violates a candidate's First Amendment right of free speech and/or association. OGC's analysis did not extend to this area of review.

#### *Unitary Elections*

A proposal to establish unitary elections, was passed by referendum in November 1992 by a vote of 73% to 27%. As such, the City of Jacksonville has held elections under the unitary system since 1995. The unitary election system is unique as it allows for all registered voters to participate in local elections, regardless of party affiliation. The unitary elections are open to all voters and there is no closed primary. The voters can vote in all the races relevant to them based on where they live. The First Unitary election allows for all candidates on the same one ballot. If a candidate gets 50% plus one of the votes, then there is no second election. If no candidate gets 50% plus one, then the top two advance to the General

<sup>1</sup> Florida Statute Chapter 105, Nonpartisan Elections

<sup>2</sup> Florida Supreme Court SC18-79, Orange County v. Singh

Unitary Election, where the winner will be decided. Our unitary election system allows for more voter participation because voters are not limited to a party-specific ballot. This unitary election system solves the problem many proponents for nonpartisan elections advocate for, being all voter participation.

*Party Affiliation*

Allowing for party affiliation on a ballot could be a useful piece of information for a voter. Voter information in Florida is also public record. Because this information is available to the public, voters can take the additional steps to see a candidate's party affiliation. Nonpartisan candidates have also noted that voters will ask them party affiliation and are interested to know that information. Moving towards nonpartisan elections might eliminate an important indicator for voters to gauge their support for a candidate.

*Previous Charter Recommendations*

It is important to note that neither the 2009 Charter Revision Commission nor the 2014 Task Force on Consolidated Government recommended to move to nonpartisan elections.

**Conclusion:**

In conclusion, Jacksonville's unique unitary election system has increased voter participation and addresses the issue raised by many nonpartisan election supporters by allowing all registered voters to participate.

**Recommendation:**

This Subcommittee does not recommend changing our elections to nonpartisan.

DRAFT