



Florida Constitution Revision Commission **PROPOSAL 61** Florida Chamber of Commerce **STAFF ANALYSIS**

Proposal 61: Limiting the Powers of Local Government

Proposal 61 has been introduced by Chris Smith for consideration by the Constitution Revision Commission. This proposal seeks to limit the existing authority of the legislature to preempt local governments and creates a new set of criteria for preemption legislation. Local governments largely have "home rule" authority to carry out the functions of government, "except as otherwise provided by law." The Florida Legislature has served as a check on local government's power, preempting local regulations that conflict with the state's interest.

The proposal makes it harder for the legislature to preempt burdensome local government regulations. The relevant portion of the proposal is as follows: "A law enacted by the legislature which restricts power granted to a municipality under this subsection must: (1) Pass by a two-thirds vote of each house of the legislature; (2) State with specificity the statewide necessity justifying the restriction; (3) Be no broader than necessary to accomplish the statewide necessity expressed; (4) Contain only one restriction of a power granted herein; (5) Relate to one subject; and (6) Be considered by at least one committee of each house, each of which must publicly notice the legislation for at least forty-eight hours before it's consideration."

The Florida Chamber of Commerce urges opposition to this proposal for the following reasons:

1. The proposal ignores that local governments are given powers by the state. Municipalities are formed through special laws passed by the legislature and are given powers through the state constitution. The constitution also gives the legislature the ability to limit those powers by law, and local ordinances that conflict with state law are considered null. The proposal does not consider what happens if the legislature acts in a way that conflicts with municipalities, opening up the potential for litigation. The proposal also fundamentally ignores that local governments are a construct of the state. Because of this, it's important that the state maintains the authority to limit its ancillary governments.

DID YOU KNOW?

There are 412 municipalities in Florida, all of which have the power to adopt local ordinances that impact job creators and local economies.

2. The proposal allows for a patchwork of unnecessary regulations. There are 412 municipalities in Florida, all of which have the power to adopt local ordinances that impact job creators and local economies. For businesses that have multiple locations, operating in different localities means navigating the laws that come with each location. While some local regulations make sense, others that impact the business's ability to do business across different locations are problematic. Having one statewide standard gives businesses certainty and consistency, which allows for greater reinvestment into the business in the form of capital, equipment and more or better jobs.

3. The proposal restricts the legislature's ability to limit local authority. It's important the legislature maintains the ability to react to local regulations that conflict with a state interest. In the past, the state has preempted local regulations regarding ridesharing companies, tobacco and nicotine products, firearms, employment benefits, styrofoam products, disposable plastic bags and public lodging and public food establishments. These preemption efforts have been a reaction to local regulations that have placed a significant burden on businesses. This proposal creates an impediment to preempting local regulations, making it harder for the legislature to react to policies set by local authorities that may inhibit economic growth and job creation.

The Florida Chamber has previously supported measures that would preempt local actions and set a statewide standard in order to avoid the furtherance of a patchwork regulatory environment. Therefore, the Florida Chamber opposes Proposal 61.

"Regulatory certainty and consistency allow job creators to focus their resources on growing their business and more jobs. The Florida Chamber urges you to oppose this proposal, which would handcuff the Legislature's ability to limit the further spread of a burdensome, patchwork regulatory environment across our state."

MARK WILSON, President and CEO
Florida Chamber of Commerce