



May 20, 2009

The Honorable Charlie Crist
Governor, State of Florida
PL 05 Capitol
400 S. Monroe Street
Tallahassee, Florida 32399-0001

Dear Governor Crist:

As a follow up to our previous meeting on May 6, 2009, I am writing to express the Florida Association of Counties' (FAC) opposition to SB 216 and to respectfully request that you exercise your discretion to not allow this legislation to become law. The proposed legislation prohibits local governments from spending "public funds" on statewide ballot initiatives, constitutional amendments or local referenda that will be voted on by the electorate. The inherent premise of the bill purports or assumes that it is a misuse of "public funds" to educate and thus for public entities to suggest to the electorate whether an issue will have a positive or negative impact on the community. FAC takes issue with this inherent premise and suggests that while varying opinions on the subject may exist, the use of local public funds for this purpose is a matter worthy of public debate within each community, not a matter for absolute state preemption.

In Florida, the people have granted local elected officials the authority to make a majority of the policy decisions (laws, rules, and regulations) of a particular community. As such, elected officials research, gather data and information, and get the opinion and recommendations of interested parties relevant to a particular issue. Often times, this information may accompany analysis provided by an appointed committee, workgroup or task force. Sometimes the staff of a local government will prepare background materials. Many times, such materials will include a suggested or recommended action to the governing body. The expense of this analytical process is financed through the use "public funds" to ensure that elected officials have all the appropriate and most timely information to support an informed decision.

However, in many specific instances, Florida law requires that certain decisions be approved by the electorate. Some of the most common examples are pledging tax dollars, the levy of a local tax, changes to the governmental structure or scope of authority and annexation. On a statewide basis, a proposed constitutional amendment is a good example. The proponents of SB 216 would suggest that it is a misuse

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of "public funds" to provide the same information and recommendations to the electorate at large when they are petitioned to approve a new policy or change in policy. Again, FAC takes issue with such a position and suggests further that the electorate has a right to petition and expect their local government to provide such information.

Secondarily, the proponents of SB 216 suggests that the electorate would be somehow harmed or unduly influenced by the involvement of information and recommendations by a governmental entity versus a private or not for profit entity. For some it might be a favorable condition if the electorate was predisposed to consider the information and recommendations provided by their government. However, we know that this is not true. The electorate is either predisposed to favorable or unfavorable consideration based on a variety of factors. Furthermore, the manner in which such information is provided is similar to if not enhanced when local governments are involved versus the alternative and wholly private campaigning and electioneering options.

Another point of contention for the proponents of SB 216 is centered on making a distinction between factual information and advocacy which may include opinions or recommendations. Again, the premise of this distinction is that the electorate doesn't want to hear the opinion or the recommendation, shouldn't hear them, or that they don't want the distribution of such information being financed by public funds. One of the primary examples used by the proponents of SB 216 is amendments to a county charter.

For illustration please consider the following hypothetical example:

Mango County – proposes an amendment to the county charter providing that the board of county commissioners shall have the responsibility to approve comprehensive plan on a countywide basis.

Presently, the Mango Board of County Commissioners approves the comprehensive plan in the unincorporated area of the county and the municipalities approve comprehensive plan within their respective municipal boundaries. The hypothetical charter amendment suggests that the residents within the incorporated areas will get the same or improved quality of growth management planning under the board of county commissioners as they currently receive from their city commission. Fact?

Presently, the residents of one of the municipalities elect all five city commission seats and only one of the county commissioners by single member district. Again, the hypothetical charter amendment suggests that the residents within the incorporated areas will get the same or improved representation under the board of county commissioners as they currently receive from their city commission. Fact?

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If the residents of the municipalities feel that the hypothetical charter amendment threatens their current quality of life and community standards, is it not within their rights to petition the city council to use "public funds" to fight the proposed charter amendment? Even though such a hypothetical example might appear contrary to a county mission, such an option is inherently part of the communities' decision.

It is often a tiresome and challenging exercise to constantly remind the Legislature that it does not need to make every decision for each local community. However, SB 216 is one instance where it is inserting its will over the possible will of a particular community. Thus, it is this action that FAC believes is harmful to the electorate and the inherent constitutional right to self government and self determination that should be cherished and protected vigilantly, even to the point where a community might actually make a decision different from your own.

Ironically, this proposed legislation which deals with the ability of local government entities and their residents to participate in the public debate of issues, was passed in a manner that conflicts with the spirit and intent of open and transparent government. While SB 216 passed easily out of the Florida Senate, its companion, HB 591 had not been heard in three of its four committee references. FAC was not responsible for making the committee assignments, nor do we contend that any rules were broken. However, it is with certainty that it was expected based on such committee references that the Legislature was going to give the proposed legislation proper attention and that FAC and other interested parties would get an opportunity to educate and ADVOCATE as to the merits of SB 216.

Again, I thank you for the opportunity to discuss our concerns last week and to share FAC's concerns and position on this proposed legislation. In light of the stated objections, the FAC respectfully asks for your thoughtful attention and consideration and specifically requests that you not allow SB 216 to become law. If you have any questions or need additional information please contact me at your convenience.

Willing to Serve,



Rodney J. Long
Alachua County Commission
FAC President

RJL/vm