

**Charter Amendments**  
**November 4, 1969**

Special Item No. 1 (a) (2)  
9-3-69

RESOLUTION NO. R-1080-69

RESOLUTION CALLING SPECIAL ELECTION  
IN DADE COUNTY, FLORIDA, ON TUESDAY,  
NOVEMBER 4, 1969, FOR THE PURPOSE  
OF SUBMITTING TO THE ELECTORS OF  
DADE COUNTY, A PROPOSAL SUBMITTED  
BY THE DADE COUNTY CHARTER REVIEW  
BOARD TO REPEAL SECTION 8.02 OF THE  
DADE COUNTY HOME RULE CHARTER,  
WHICH PROVIDES THAT COUNTY AND  
MUNICIPAL OFFICEHOLDERS AND  
EMPLOYEES WHO ARE CALLED BEFORE  
THE GRAND JURY TO TESTIFY CONCERNING  
THE CONDUCT OF THEIR OFFICE, WHO  
REFUSE TO SIGN A WAIVER OF IMMUNITY  
AGAINST SUBSEQUENT CRIMINAL PROSECUTION  
SHALL BE REMOVED FROM OFFICE

WHEREAS, Section 8.02 of the Dade County Home Rule  
Charter provides that any county or municipal officeholder or  
employee who, upon being called before a Grand Jury to testify  
concerning the conduct of his office or the performance of his official  
duties or employment, refuses to sign a waiver of immunity against  
subsequent criminal prosecution, or to answer any relevant question  
concerning such matters before the Grand Jury, shall be removed  
from office or public employment by the appropriate authority, or  
upon suit by the State Attorney of Dade County, and

WHEREAS, on January 16, 1967, the United States Supreme Court,  
in the case styled Garrity v. New Jersey, 385 U. S. 493, held that  
a waiver of immunity by a public employee under such circumstances is  
totally ineffectual; and

WHEREAS, on June 10, 1968, the United States Supreme Court, in the case styled Gardner v. Broderick, 392 U. S. 273, held that a public employee cannot be discharged because of his refusal to waive immunity; and

WHEREAS, the effect of these two United States Supreme Court decisions is to nullify Section 8.02 of the Dade County Home Rule Charter; and

WHEREAS, the Metropolitan Dade County Charter Review Board has recommended to the County Commission that Section 8.02 be deleted from the Dade County Home Rule Charter; and

WHEREAS, the County Commission finds and determines that such recommended charter amendment should be submitted to the electors of Dade County for approval or rejection; and

WHEREAS, the County Commission is empowered by the provisions of the Dade County Home Rule Charter to propose charter amendments by resolution and to call elections on such charter amendments.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

Section 1. In accordance with the provisions of Section 8.07 of the Dade County Home Rule Charter, a special election is hereby called and shall be held in Dade County, Florida, on

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Tuesday, November 4, 1969, for the purpose of submitting to the qualified electors of Dade County a proposal for amendment to the Dade County Home Rule Charter, repealing Section 8.02 which section reads as follows:

Section 8.02. WAIVER OF IMMUNITY.

"Any county or municipal officeholder or employee who, upon being called before a grand jury to testify concerning the conduct of his office or the performance of his official duties or employment, refuses to sign a waiver of immunity against subsequent criminal prosecution, or to answer any relevant question concerning such matters before the grand jury, shall be removed from office or public employment by the appropriate authority, or upon suit by the State Attorney of this county."

Section 2. Notice of such special election shall be published in newspapers of general circulation in Dade County, Florida, once a week for four consecutive weeks, the date of first publication to be at least thirty (30) days prior to the date of said special election, by publishing this resolution in full, which shall constitute notice of such special election.

Section 3. The result of such special election shall be determined by a majority of the qualified electors of Dade County voting upon such proposed charter amendment. The polls at such special election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such special election. All qualified electors of Dade County, Florida, shall be entitled to vote at said special election. The

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County registration books shall remain open at the office of the Dade County Supervisor of Elections until thirty (30) days prior to the date of such special election, at which time the registration books will close in accordance with the provisions of the general election laws. Voting machines shall be used in such special election, and the question which shall appear on the voting machine shall be substantially in the following form:

PROPOSED CHARTER AMENDMENT

WHETHER THE HOME RULE CHARTER OF GOVERNMENT FOR DADE COUNTY SHALL BE AMENDED BY REPEALING SECTION 8.02 REQUIRING REMOVAL FROM OFFICE OF PUBLIC OFFICERS WHO REFUSE TO WAIVE IMMUNITY FROM CRIMINAL PROSECUTION IN GRAND JURY INVESTIGATIONS OF THE CONDUCT OF THEIR OFFICES?

FOR PROPOSED CHARTER AMENDMENT

AGAINST PROPOSED CHARTER AMENDMENT

Section 4. Such proposed charter amendment shall appear on the voting machine ballot as a separate question or proposal. Those qualified electors desiring to adopt or approve such charter amendment shall be instructed to pull down the lever over or opposite the words "FOR PROPOSED CHARTER AMENDMENT" appearing on the voting machine. Those qualified electors desiring to reject or disapprove such proposed charter amendment shall be instructed to pull down the lever over or opposite the words "AGAINST PROPOSED CHARTER AMENDMENT" appearing on the voting machine.

Section 5. Absentee paper ballots may be used by qualified electors of Dade County for voting on this proposed charter amendment at said special election, for any reason set forth and prescribed in Section 101.62, Florida Statutes. The form of such absentee ballot shall be in accordance with the requirements prescribed by the general election laws, and shall have printed thereon the question or proposal hereinabove set forth, with proper places for voting either "FOR PROPOSED CHARTER AMENDMENT" or "AGAINST PROPOSED CHARTER AMENDMENT" following the statement of the question or proposal aforesaid.

Section 6. A sample ballot showing the manner in which the question or proposal aforesaid will appear on the voting machines at this special election shall be published and provided in accordance with the applicable provisions of the general election laws.

Section 7. This special election on the proposed charter amendment aforesaid shall be held and conducted in accordance with the applicable provisions of the general laws relating to special elections and in accordance with the provisions of Section 8.07 of the Home Rule Charter governing elections on proposed charter amendments initiated by the County Commission. The County Manager, the Finance Director, the Supervisor of Elections and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the

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provisions of this resolution. This special election shall be a non-partisan election. Election Inspections Boards, inspectors and clerks to serve as election officials in connection with this special election shall be appointed in accordance with the provisions of the general election laws.

Section 8. This special election shall be canvassed by the County Canvassing Board as provided under the election laws of this state, in accordance with the provisions of Section 2.07 of the Dade County Home Rule Charter.

The foregoing Resolution was offered by Commissioner Earl M. Starnes, who moved its adoption. The motion was seconded by Commissioner Arthur H. Patten, Jr. and upon being put to a vote, the vote was as follows:

Earl J. Carroll	Aye
Alexander S. Gordon	Absent
Harold A. Greene	Absent
R. Hardy Matheson	Absent
Thomas D. O'Malley	Aye
Arthur H. Patten, Jr.	Aye
Ben Shepard	Aye
Earl M. Starnes	Aye
Chuck Hall	Aye

The Mayor thereupon declared the Resolution duly passed and adopted this 3rd day of September, 1969.

DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

E. B. LEATHERMAN, CLERK

By: \_\_\_\_\_

Deputy Clerk.

