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MEMORANDUM
BOARD OF COUNTY COMMISSIONERS
OFFICE OF LEGISLATIVE ANALYSIS

TO: Honorable Chairperson and Members, Board of County Commissioners

DATE: June 8, 2004

FROM: Amy Gonzalez-Hernandez, Esq. Chief Legislative Analyst

SUBJECT: Comparison of Provisions of Proposed Aviation Authority Ordinances

Several Commissioners have requested information about differences between the Independent Airport Authority PAC (PAC) ordinance initiative and the aviation authority (Authority) ordinance previously considered by the BCC. The attached table provides a section-by-section comparison with 11/4/03 BCC Agenda Item 4(X) Substitute (4X Sub).

Although much of the language is identical, differences do exist and are summarized below. (See the attached table for full details.)

- PAC proposal reduces the number of BCC appointees to the Authority by 50%
  - PAC proposal: BCC appoints 2 of 7 members; 4X Sub proposal: 4 of 7.
- PAC proposal gives one appointment to the Authority to each of the following using the 2 appointments that were removed from the BCC:
  - Miami-Dade County Legislative Delegation
  - Miami-Dade County League of Cities
- PAC proposal deletes requirement for BCC approval for Part 139 air carrier airport status, Airport Master Plan, and CIP.
- PAC proposal gives the Governor power to remove Authority members for misfeasance, malfeasance, nonfeasance or unexcused absence from 3 consecutive regularly Authority meetings. Both PAC & 4X Sub proposals give the BCC power to remove Authority members by 2/3 vote of BCC membership.
- PAC proposal deletes League of Cities appointment to Authority Nominating Council.
- PAC proposal reduces required use of County police & fire services to 5 years; 4X Sub required it indefinitely.
- PAC proposal deletes retention & bumping rights for existing MDAD employees who, in a reduction of workforce at an airport, exhaust their classified service rights.
- PAC proposal gives Authority power to purchase real property without BCC approval.
- PAC proposal prohibits payment for any County services not requested by the Authority.
- PAC proposal reduces transition time to implement the plan by 50% (PAC: 180 days; 4X Sub: 1 year)
- "An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Board for a period of one (1) year after the election at which it was adopted" (County Charter, Sec. 7.01).

Please refer any questions about this report to Gary Collins at ext. 1826. We would be pleased to provide additional information on this or other matters as you may desire.

Comparison of Provisions of Proposed Aviation Authority Ordinances

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(Differences Between Proposed Ordinances in Bold Type)

Provision	11/4/03 BCC Agenda Item 4(X) Substitute	Independent Airport Authority PAC Ordinance
1st through 5th Whereas Clauses	Identical except for an edit to punctuation & grammar in lines 1 & 2 of 1st Whereas clause	
6th Whereas Clause		
6th Whereas clause	Whereas, this Board desires to create an Aviation Authority to maintain and govern the County's Airport System,	Whereas, **the Electorate of Miami-Dade County** desires to create an Aviation Authority to maintain and govern the County's Airport System,
Section 1 – Findings	Identical	
Section 2 – Creation of an Authority	Identical Miami-Dade County Aviation Authority created as an agency and instrumentality of Miami-Dade County	
Section 3 – Purpose	Identical Operate, maintain, develop and govern the Airport System	
Section 4 – The Airport System and Transfer of Property		
Airport System Sec. 4(a)	Identical MIA, Opa-locka, Opa-locka West, Kendall-Tamiami Executive, Homestead, and Training & Transition Airport and all related facilities, including all present & future Airport System real & personal property	
Transfer of Property Sec. 4(b).		Identical except **adds, "The Authority shall be exclusively responsible for the maintenance and upkeep of such real property in a manner that complies with the Trust Agreement, defined herein."**
Section 5 – Governing body		
Authority Members Sec. 5(a).	7 members: 4 – BCC 1 – BCC Chairperson 1 – Mayor 1 – Governor	7 members: **2 – BCC** 1 – BCC Chairperson 1 – Mayor 1 – Governor **1 – Miami-Dade County State of Florida Legislative Delegation** **1 – Miami-Dade County League of Cities**

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Provision	11/4/03 BCC Agenda Item 4(X) Substitute	Independent Airport Authority PAC Ordinance
Term of Office Sec. 5(c).	4 years Original Authority's terms staggered as follows: 2 years – 2 BCC appointees 3 years – 2 BCC appointees 4 years – BCC Chairperson, Mayor & Governor's appointees	4 years Original Authority's terms staggered as follows: **2 years – Dade Legislative Delegation & League of Cities appointees** **3 years – 1 BCC appointee** **4 years – 1 BCC**, BCC Chairperson, Mayor, & Governor's appointees
Term Limits Sec. 5(c).	Identical 2 consecutive, full 4-year terms	
Removal from Office Sec. 5(d).	2/3 vote of BCC membership for misfeasance, malfeasance, nonfeasance, or unexcused absences from 3 consecutive regularly scheduled Authority meetings	2/3 vote of BCC membership or **Governor** for misfeasance, malfeasance, nonfeasance, or unexcused absences from 3 consecutive regularly scheduled Authority meetings
Vacancies Sec. 5(e).	Identical Same manner in which originally filled; Nominating Council submits 3 names per vacancy	
Section 6 – Organization of Authority		
Quorum Sec. 6(d).	Identical 4 Authority members	
Conflict of Interest, Code of Ethics, investigatory powers of the IG, Sunshine, and Public Records Sec. 6(e)-(f).	Identical Applicable; Authority may exceed standards of conflict of interest & ethics ordinances	
Section 7 – Nominating Council		
Nominating Council Members Sec. 7(a).	12 members: Greater Miami Chamber of Commerce Miami-Dade Chamber of Commerce Latin Chamber of the United States Black Business Association League of Women Voters of Dade County Greater Miami Convention & Visitors Bureau Beacon Council Greater Miami Aviation Association Miami Business Forum World Trade Center Miami Miami-Dade County League of Cities South Florida AFL-CIO	11 members: Greater Miami Chamber of Commerce Miami-Dade Chamber of Commerce Latin Chamber of the United States Black Business Association League of Women Voters of Dade County Greater Miami Convention & Visitors Bureau Beacon Council Greater Miami Aviation Association Miami Business Forum World Trade Center Miami **(no League of Cities appointee)** South Florida AFL-CIO

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Provision	11/4/03 BCC Agenda Item 4(X) Substitute	Independent Airport Authority PAC Ordinance
Organization & eligibility to serve on Nominating Council Sec. 7(a)-(c).	Identical except as listed below.	
	Sec. 7(a). If an organization appointing a Nominating Council member ceases to exist, Authority selects successor organization.	Sec. 7(a). If an organization appointing a Nominating Council member ceases to exist Authority selects successor organization. **Authority may appoint a new organization by 2/3 of members present upon finding the addition is necessary to ensure the Nominating Council is representative of the community; Nominating Council shall not exceed 13 members**
Nominating Council Quorum Sec. 7(d).	Identical Majority, provided at least 1/2 of full membership has been designated by their respective organizations	
Recommendation Process (Initial Appointments) Sec. 7(e).	Nominating Council provides slate of 21 candidates within 120 days of effective date of the ordinance; selections made in following order & timeframes: 1) BCC (within 30 days or 2 consecutive BCC meetings); 2) BCC Chairperson (within 10 days of expiration of BCC's appointment period); 3) Mayor (within 10 days of expiration of BCC Chairperson's appointment period), 4) Governor (within 10 days of expiration of Mayor's appointment period); No right to reject the slate of candidates. Maximum of 180 days could elapse between effective date of the ordinance & final appointment to be made.	Nominating Council provides slate of 21 candidates within 120 days of effective date of the ordinance; selections made in following order & timeframes: 1) BCC (within 30 days or 2 consecutive BCC meetings); 2) BCC Chairperson (within 10 days of expiration of BCC's appointment period); 3) Mayor (within 10 days of expiration of BCC Chairperson's appointment period), **4) League of Cities (within 10 days of expiration of Mayor's appointment period);** **5) Dade Legislative Delegation (within 10 days of expiration of League of Cities' appointment period);** 6) Governor (within 10 days of expiration of Dade Legislative Delegation's appointment period). No right to reject the slate of candidates. **Maximum of 200 days could elapse between effective date of the ordinance & final appointment to be made.**
Section 8 – Powers and Duties of the Authority		
• Powers to Act Sec. 8(A)-(C).	Virtually identical [minor revisions to remove no-longer appropriate language in Sec. 8(C)]	
• Police & Fire Sec. 8(D)(7).	Required to contract for County police & fire services	Sec. 8(D)(7). Required to contract County police & fire services **for five (5) years**
• Legal Services Sec. 8(D)(8).	Identical Use County Attorney (opinions concerning the Ordinance & the Authority binding); may employ special counsel for specific needs.	

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Provision	11/4/03 BCC Agenda Item 4(X) Substitute	Independent Airport Authority PAC Ordinance
• Authority Director Sec. 8(D)(9).	Identical Appointed & supervised by Authority; Director heads administrative branch of the Authority	
• Personnel Sec. 8(D)(10)	Sec. 8(D)(10)(C)(2). Continue participation in a "career service system" modeled on the County system to the extent possible in accordance with collective bargaining agreements and County Personnel Rules.	Sec. 8(D)(10)(C)(2). Continue participation in a "career service system" modeled on the County system to the extent possible in accordance with collective bargaining agreements. **[Compliance with County Personnel Rules no longer listed as a requirement.]**
	Sec. 8(D)(10)(C)(6), (8) & (9). Authority employees in classified service positions, or previously holding classified service positions, retain: County retention rights & bumping rights per County Layoff Procedures Manual, and in the event of a reduction in workforce at an airport, existing MDAD employees who exhaust their classified service rights are eligible for County Pipeline Committee consideration per County policies & procedures.	**[Paragraphs deleted.]**
• Property Sec. 8(D)(12).	BCC prior approval required for purchase of real property	**BCC approval not required** for purchase of real property
• Finance Sec. 8(D)(13)-(20)	Identical except for two areas Authority is responsible for Airport Systems' finances, bank accounts, rates & charges, Trust Agreements, bond issuance, borrowing, and grants.	
	[Wording not in 4(X) Substitute]	Sec. 8(D)(16). **Fees. The Authority shall not be required to pay for County services other than those requested or required by the Authority.**
	Sec. 8(D)(20). BCC approval required for Part 139 air carrier airport status applications	**BCC approval not required for Part 139 air carrier airport status applications**
Section 9 [4(X) Substitute] – Airport Master Plan and CIP		
	BCC approval required	**[Section deleted] BCC approval not required**
Section 10 [4(X) Substitute] / Section 9 [PAC] – Transfer of Powers and Functions; Accounting System		
	Identical All proprietary, regulatory and statutory powers and duties relating to the Airport System and vested in the County are transferred to the Authority, except as specifically provided in the Ordinance; includes all funds, accounts, books, records, papers, lawsuits, and matters related to the Airport System	
Section 11 [4(X) Substitute] / Section 10 [PAC] – Application of Code Provisions		
	Identical Authority assumes responsibilities the Code specifies for Miami-Dade County, one of its agencies or instrumentalities, or the BCC; Authority Director or Authority employees assume roles specified in Code for the County Manager or his or her staff; Secretary or Clerk of the Authority assumes roles specified in Code for the Clerk of the Board	

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Provision	11/4/03 BCC Agenda Item 4(X) Substitute	Independent Airport Authority PAC Ordinance
Section 12 [4(X) Substitute] / Section 11 [PAC] – Reservation of Sovereign Powers : Taxation, Eminent Domain, and Zoning		
Reservation of Sovereign Powers: Taxation, Eminent Domain and Zoning	Sec. 12. Board specifically reserves the exclusive power to enact laws and provide policies applicable to any aspect of the Airport System regarding the imposition of ad valorem taxes, eminent domain and zoning.	Sec. 11. Commission specifically reserves the exclusive power to enact laws and provide policies applicable to any aspect of the Airport System regarding the imposition of ad valorem taxes, **the issuance of General Obligation Bonds,** eminent domain and zoning. **The provisions of Section 125.0167, Florida Statutes, Discretionary Surtax on documents, shall have no application to the Authority. [The GOB restriction & F.S. 125.0167 exception were in Sec. 17 of 4(X) Substitute.]**
Section 13 [4(X) Substitute] / Section 12 [PAC] – Annual Reporting		
Annual Reporting	Sec. 13. The Authority shall report to the Commission annually within 120 days subsequent to the end of the County's fiscal year. Said report shall include, but shall not be limited to, information pertaining to the Airport System's CIP, DBE participation and implementation of the County's women, small business, minority and community workforce participation goals and programs.	Sec. 12. The Authority shall **report to the public** annually within 120 days subsequent to the end of the County's fiscal year. Said report shall include, but shall not be limited to, information pertaining to the Airport System's CIP, DBE participation and implementation of the County's women, small business, minority participation goals and programs. **[Deletes "community workforce" from sentence on participation goals and program reporting.]**
Section 14 [4(X) Substitute] / Section 13 [PAC] – Audits		
	Identical County's Internal & External Auditors, Office of Commission Auditor, & State Auditor General have right to audit; annual financial report and audited accounting for all receipts and disbursements for each FY submitted to BCC no later than 180 days after end of FY	
Section 15 [4(X) Substitute] / Section 14 [PAC] – Repeals		
	Identical Art. XXXII of Code (Aviation Department) repealed; Authority excluded from all Administrative Orders and all policies of the Commission applicable to the Airport System except as provided in the Ordinance	
Section 16 [4(X) Substitute] / Section 15 [PAC] – Assignment of Documents		
	Identical County Manager authorized to execute all documents to carryout the Ordinance	

Section 17 [4(X) Substitute] – Inapplicable Provisions		
Inapplicable Provisions	The power to issue general obligation bonds contained in Section 125.013, Florida Statutes, shall not be exercised by the Authority. The provisions of Section 125.0167, Florida Statutes, shall have no applicability to the Authority.	**Incorporated into to Section 12**
Section 18 [4(X) Substitute] / Section 16 [PAC] – Liability for Authority Contracts		
Identical If Authority abolished, obligations revert to the County		
Section 19 [4(X) Substitute] / Section 17 [PAC] – Transition Plan		
Transition Plan	Sec. 19. Provided one (1) year to implement the transition to the Authority	Sec. 17. **Provides 180 days to implement the transition to the Authority.**
Section 20 [4(X) Substitute] / Section 18 [PAC] – Severability		
Identical		
Section 21 [4(X) Substitute] / Section 19 [PAC] – Amendments		
Identical 2/3 vote of the Commission membership		
Section 22 [4(X) Substitute] / Section 20 [PAC] – No Sunset		
Identical		
Section 23 [4(X) Substitute] / Section 21 [PAC] – Inclusion in Code		
Identical		
Section 24 [4(X) Substitute] / Section 22 [PAC] – Effective Date		
Effective Date	Sec. 24. 10 days after date of enactment or Mayoral veto override	Sec 22. • **If BCC enacts this ordinance, is effective 10 days after date of enactment or Mayoral veto override** • **If enacted by majority of electors, is effective day after the election**