



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Health, Public Safety & Intergovernmental
Committee**

May 13, 2010

2:00 P.M.

Commission Chamber

Charles Anderson, CPA
Commission Auditor
111 NW First Street, Suite 1030
Miami, Florida 33128
305-375-4354

**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

**Legislative Notes
Health, Public Safety & Intergovernmental Committee
Meeting Agenda**

May 13, 2010

Written analyses and notes for the below listed items are attached for your consideration:

Item Number(s)

| |
|------|
| 2(A) |
| 2(B) |
| 3(C) |

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:
Jason T. Smith, Senior Legislative Analyst
Elizabeth N. Owens, Legislative Analyst

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 2(A)

File Number: 100087

**Committee(s)
of Reference:** Health, Public Safety & Intergovernmental Committee

Date of Analysis: May 10, 2010

Type of Item: Ordinance Amending Miami-Dade County Code

Prime Sponsor: Vice-Chairman Jose "Pepe" Diaz

Co-Sponsors: Commissioner Audrey M. Edmonson; Commissioner Sally A. Heyman;
Commissioner Barbara J. Jordan; and Commissioner Rebeca Sosa

Summary

This ordinance amends Section 2-11.1(s) of the Conflict of Interest and Code of Ethics Ordinance to allow a principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement, must register as a lobbyist, but will not be required to pay the annual lobbyist registration fee of \$490.

Background and Relevant Legislation

Currently, Section 2-11.1 of the Code of Miami-Dade County allows for any person who only appears in his or her individual capacity for the purpose of unpaid self-representation shall be required to register as a lobbyist but not pay the annual registration fee. This item would extend this waiver to owners of businesses who appear before the Board on behalf of their business.

Budgetary Impact

This item would represent a possible revenue reduction for the County; however, the impact may be minimal. According to the Clerk of the Board, two lobbyists would have been impacted by this ordinance in calendar year 2009, and two lobbyists would have been impacted in 2008. See below:

| 2008 | 2009 |
|---|---|
| Bill Long – Clever Devices | Sam Alam – Dr. is Online.com |
| Stephen Rothenberg – Premeir Printing Solutions Inc | Stephen Rothenberg – Premeir Printing Solutions Inc |

Prepared by: Jason T. Smith

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 2(B)

File Number: 100870

Committee(s) of Reference: Health, Public Safety & Intergovernmental Committee

Date of Analysis: May 10, 2010

Type of Item: Resolution

Prime Sponsor: Commissioner Katy Sorenson

Co-Sponsors: Commissioner Sally A. Heyman, and Commissioner Rebeca Sosa

Summary

This item will require the Commission on Ethics and Public Trust to do the following:

- Conduct conflict of interest checks related to contract lobbyists within 45 days of the effective date of the proposed resolution, and annually thereafter;
- Review all conflict waiver requests submitted to the County by County contract lobbyists, and provide the BCC with a report and recommendation on whether a conflict is a present;
- Provide the BCC with a report and recommendation on whether a conflict of interest is presented in any situation which comes to the attention of the County;

Background and Relevant Legislation

Numerous resolutions have been passed by the BCC regarding the County’s contract lobbyists and subconsultants and their representation of interests adverse to the County’s:

| Legislative History | |
|------------------------------------|---|
| Resolution or Ordinance No. | Description |
| Ordinance No. 72-82 | Establishes the County’s general Conflict of Interest Ordinance |
| R-1236-99 Nov. 11, 1999 | Provides that no County contract lobbyist or subconsultant shall represent any client and/or issue that may be adverse to the County without first requesting and obtaining permission from the County |
| Ordinance No. 00-64 May 9, 2000 | No person or entity that received compensation from the County for lobbying on behalf of the county shall represent any entity in any forum to support a position in opposition to the that of the County unless the Board of County Commissioners grants specific waiver for the lobbying activity |
| Ordinance No. 09-98 | All conflict waiver requests are exempt from committee review and will be heard directly by the full BCC. |
| Ordinance No. 56-10 | Requires all County contract lobbyists to obtain a conflict waiver from |

| | |
|--|--|
| | <p>the BCCC prior to representing any client in any forum that is adverse to the County's interests, whether or not such interest is expressly stated in the County's legislative package.</p> <p>Requires all County contract lobbyists to obtain a waiver from the BCC for any actual or perceived conflicts of interest or provide a statement that the lobbyist has no conflicts prior to award or renewal of a contract.</p> <p>Placed all County contract lobbyists under a continuing, affirmative duty during the term of the contract to seek in writing and obtain a waiver from the BCC for any conflict of interest prior to representing any entity in any forum.</p> |
| Legislative History of Lobbyist Contracts | |
| R-133-06 | Authorized the County Manager to execute 1-year agreements with 3 1-year renewal options with Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas LLP for representation before the U.S. Congress and the federal executive branch. |
| R-1070-06 | Authorized the County Manager to execute a 1-year agreement with 3 1-year options-to-renew with Ronald L. Book, P.A. and Rutledge, Ecenia, Purnell, & Hoffman, P.A. for representation before the Florida Legislature and the State of Florida executive branch |

According to the federal and state contract lobbyist agreements, the BCC may take, in its sole discretion, any action regarding a conflict waiver request, including but limited to:

- 1) Grant waiver and allow the lobbying firm to continue to represent both the County and the other client on all issues;
- 2) Refuse to grant a waiver and require the lobbying firm to choose between representing the County or the other party
- 3) Refuse to grant a waiver and void the County's contract with the lobbying firm;
- 4) Grant a limited waiver and allow the lobbying firm to continue to represent both the County and the other party under whatever restrictions the County deems appropriate.

Previous Waivers of Conflict of Interest

- On April 21 ,2009, the BCC approved a conflict waiver request by Greenberg Traurig, P.A. in its role as bond counsel to the County related to DERM enforcement litigation actions in which Greenberg Traurig, P.A. represented a number of defendants.
- On June 2, 2009, the BCC approved a conflict waiver request by Greenberg Traurig, P.A. pursuant to its federal lobbying contract.

The Commission on Ethics and Public Trust

In 1996, the citizens of Miami-Dade County voted to amend the Home Rule Charter to create an Ethics Commission. Subsequently, the Board of County Commissioners, through Ordinance 97-105, established the Commission on Ethics and Public Trust, an independent agency with advice-giving and quasi-judicial powers. The Ethics Commission is composed of five volunteer members who serve staggered terms of four years each.

The Commission staff currently reviews complaints submitted to it and conducts a preliminary analysis to ensure the complaint is legally sufficient. If the complaint is deemed legally sufficient, the Ethics Commission will make a probable cause determination. At this stage, if the Commission finds no probable cause, the complaint will be dismissed. If the Commission finds there is probable cause, the matter can be set for a public hearing and such proceedings must comply with the Sunshine Law. Upon the conclusion of the hearing, the Commission shall make a finding and issue a report as to whether any provision within its jurisdiction has been violated. If the Commission declares a violation has been committed, they shall issue an order imposing the appropriate penalty, which may include fines, letters of instructions or other penalties which may be imposed by law.

Prepared by: Jason T. Smith

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
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Legislative Notes

Agenda Item: 3(C)
File Number: 101048
Committee(s) of Reference: Health, Public Safety and Intergovernmental
Date of Analysis: May 12, 2010
Type of Item: Governmental Representation and Consulting Services

Summary

This resolution authorizes the County Mayor or his designee to execute agreements to obtain governmental representation and consulting services in Washington, DC by authorizing the following contracts: RFQ685a to Alcade & Fay, RFQ685b to Patton Boggs, LLP, and RFQ685c to Greenberg Traurig, P.A.

The following firms were not recommended for award: Akerman Senterfitt; Cardenas Partners, LLC; Venable LLP, Foley & Lardner, LLP; Dutko Worldwide; Sandler, Travis & Rosenberg, P.A.; James Lee Witt Associates; The Ferguson Group, LLC; BGR Government Affairs, LLC; Akin Gump Strauss Hauer & Feld; and EOP Group, Inc.

Background

| | | |
|------------------|---|--|
| November 2, 2009 | Resolution No. 1286-09 <i>(see report under File No. 091872)</i> | The Board of County Commissioners (BCC) authorized the Administration to advertise a Request for Qualifications (RFQ) to obtain proposals to provide representation and consulting services on behalf of the County before the executive and legislative branches of the federal government. Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas, LLP served as the County's federal lobbyists and consultants. The three contracts expired on February 5, 2010. The County had already exercised the 3 one-year options-to-renew. |
| January 21, 2010 | Resolution No. 56-10 | The Board of County Commissioners (BCC) extended the three contracts for Greenberg Traurig, P.A., Alcade |

& Fay, and Tew Cardenas, LLP for six (6) months until August 5, 2010 on a month-to-month basis in order to complete the solicitation process for the successor contracts. In addition, this resolution allocated \$100,000 to each firm as compensation for continuing to provide consulting services and governmental representation in Washington, D.C. beyond the contracts' termination dates.

Comments / Questions

Jackson Health System / Public Health Trust have the following State and Federal Lobbying contracts¹ in place totaling \$529,000:

State Lobbying Contracts Totaling \$382,000

- **Akerman Senterfitt = \$136,000 per year**
 - Term: January 2007 to January 2010 for 3 years with 2 OTRs.
 - Currently in 1st OTR period.
 - Effective November 1, 2009, Akerman Senterfitt accepted a 15% fee reduction, modifying contract from \$160,000 to \$136,000.
- **Ron Book = \$136,000 per year**
 - Term: December 2006 to December 2009 for 3 years with 2 OTRs.
 - Currently in 1st OTR period.
 - Effective November 1, 2009, Ron Book accepted a 15% fee reduction, modifying contract from \$160,000 to \$136,000.
- **V.B. and Associates = \$60,000 per year**
 - Term: April 2009 to April 2010, 1 year.
- **Renier Diaz de la Portilla = \$50,000 per year**
 - Term: August 2009 to August 2010, 1 year.
 - On August 25, 2009, this contract was transferred from Gray Robinson to Renier de la Portilla.

Federal Lobbying Contracts Totaling \$147,000

- **Akerman Senterfitt \$147,000 per year**
 - Term: February 2008 to January 2009 for 1 year with 2 OTRs
 - Currently in 2nd OTR period.
 - Effective November 1, 2009, Akerman Senterfitt accepted a 15% fee reduction, modifying contract from \$172,500 to \$147,000.

Prepared by: Elizabeth N. Owens

¹ Information provided by Jackson Health System Governmental Relations unit.