



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Infrastructure and Land Use
Committee

May 11, 2011

2:00 P.M.

Commission Chamber

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

**Legislative Notes
Infrastructure and Land Use Committee
Meeting Agenda**

May 11, 2011

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

Item Number(s)

1F3
1F4

Acknowledgements

Bia Marsellos, Legislative Supervisor

Michael Amador-Gil, Senior Legislative Analyst

Elizabeth Owens, Legislative Analyst

Mia Marin, Legislative Analyst

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



Legislative Notes

Agenda Item: 1F3 and 1F4

File Number: 110738 and 110746

Committee(s) of Reference: Infrastructure and Land Use Committee (ILUC)

Date of Analysis: May 9, 2011

Sponsor 1F4: Chairman Joe A. Martinez

Sponsor 1F3: Commissioner Carlos A. Gimenez

Type of Items: Ordinances

Districts: Countywide

Summary

ILUC Agenda No.	Removes	Proposed Changes
<p>1F3</p> <p>Amends Section 12-23 of the County Code</p>	<ul style="list-style-type: none"> • <u>Form of Petition:</u> With no more than one signature per page. <i>Eliminates the requirement that there be no more than one signature per page.</i> 	<ul style="list-style-type: none"> • <u>Form of Petition:</u> Petitions for charter amendment, initiative, referendum, and recall <i>may contain space for more than one voter's signature per page and petition forms may not be disapproved for containing multiple voter signatures per page</i>
<p>1F4</p> <p>Amends Section 12-23 of the County Code</p>	<ul style="list-style-type: none"> • Removes from title of Section 12-23: <i>prohibition on improper signature gathering practices.</i> • <u>Form of Petition:</u> Removes font requirement <i>in 12-point font with no more than one signature per page and in a format determined by the Supervisor of Elections; providing, however, each petition shall contain the following information</i> <ul style="list-style-type: none"> ○ Removes Section 12-23 (A) through (F) (Information on 	<ul style="list-style-type: none"> • <u>Form of Petition:</u> in a form substantially <i>similar to the form used by the State of Florida for Constitutional amendments by initiative petitions as promulgated by the Division of Elections, as may be amended from time to time, except that each form shall also contain.</i> • <u>Form of Petition:</u> Section 12-23 (A) and (B) will now include: <ul style="list-style-type: none"> ○ The title and text in English, Spanish, and Creole of the ordinance or the Charter provision sought to be enacted or repealed. ○ <i>All other requirements of the Miami-Dade County Home Rule Charter.</i>

	<p>Circulator, and dates signatures obtained).</p> <ul style="list-style-type: none"> • <u>Disqualification of Forms:</u> Removes the <i>Supervisor of Elections from the disqualification process, and maintains the Clerk of the Circuit Court, as the entity to disqualify petitions (Initiative, Referendum or Recall).</i> <ul style="list-style-type: none"> ○ Remove <i>circulator</i>, under Section 12-23 (3)(B). ○ Removes the <i>Notary</i> certification requirements under Section 12-23 (3)(C)(D)(E) 	
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BCC Special Meeting on Charter Amendments

At the March 24, 2011, Board of County Commissioners (BCC) Special Meeting, six (6) charter amendment questions were approved, and scheduled to be placed on the May 24, 2011, Special Election. Among the six (6) approved questions, the BCC, through R-219-11, *approved submitting to a electors the question of whether to amend the Home Rule Charter to provide that petitions for charter amendments, initiatives, referendums or recalls will no longer require a sworn affidavit of a circulator and will instead only require the name and address of a circulator.*

Among the proposed changes, Item 1F4 removes the following requirements: (1) the statement in each petition circulator's own handwriting, setting forth his or her own name, both in printed and signature form; (2) the residence address of the circulator; and (3) a sworn statement that the circulator personally circulated the petition.

Background and Relevant information

On April 24, 2007, through Resolution 462-07, amended by Resolution 1131-07, Miami-Dade County's Charter Review Task Force (Task Force) was created in order to review the County's Home-Rule Charter and submit recommendations to the Miami-Dade Board of County Commissioners (BCC) setting forth any proposed amendments to the Charter.

According to the final report dated January 29, 2008, the Task Force issued recommendations to the BCC, among those recommendations were the Mayor's and BCC compensation and term limits, initiative referendum, petition and recalls.

Prepared by: Michael Amador-Gil

Steps in the State of Florida’s Initiative Petition Process

Petition Steps	Description
Register as a Political Committee	The first step in the initiative petition process is for the individual or group wishing to propose an amendment to register as a political committee with the Division of Elections, pursuant to Section 106.03, Florida Statutes .
Get Format Approval	<p>The sponsoring political committee is then required to submit the proposed initiative amendment petition form to the Division of Elections prior to the petitions being circulated for signatures. The division will review the initiative petition form for sufficiency of the format only. The division shall not review the form for legal sufficiency. The format is sufficient only if each petition form:</p> <ul style="list-style-type: none"> ○ Is printed on separate cards or individual sheets of paper; ○ Is of a size between 3 x 5 inches and 8 ½ x 11 inches; ○ Is clearly and conspicuously entitled “Constitutional Amendment Petition Form” at the top of the form; ○ Includes adequate space for the signee’s name, legal residential street address, city, county, date of birth, voter registration number, signature and date of signature. The form must contain a space for only one voter’s information and signature. The division will not approve petitions providing for multiple signatures per page; ○ Contains a ballot title not exceeding 15 in words in length; ○ Contains a ballot summary not exceeding 75 words in length; ○ Contains the full text of the amendment being proposed, including the article and section being created or amended; ○ Is marked with “paid political advertisement” or the abbreviation “pd. pol. adv.” and identifies the name of the sponsoring political committee, and the name of the entity paying for the advertising, if different from the sponsoring political committee, pursuant to Section 106.143, Florida Statutes; ○ Contains space for the name and address of a paid petition circulator in the event the petition form is gathered by a paid petition circulator, in accordance with Section 106.19(3), Florida Statutes. <p>If the text must be printed on both sides of the form, it shall be clearly indicated that the text is continued or begins on the other side.</p> <p>No other information or materials that support the proposed amendment shall be printed directly on the form (other than providing information or a method by which the form may be returned by mail to the sponsoring committee)</p>
Serial Number Assignment	Once approved, the Division of Elections will assign a serial number to the approved form and notify the sponsoring committee. The serial number must be printed in the lower right hand corner of the petition form.
Circulation	Once the petition has been approved, the sponsoring political committee may begin circulating the petitions for signature. No initiative petition circulated for signature may be bundled with or attached to any other petition form. Petition signatures are good for four years from the date signed.

Petition Steps	Description
Submit Petitions for Verification	<p>All signed petition forms shall be returned to the sponsoring political committee. The sponsoring political committee shall then submit the signed petition forms to the Supervisor of Elections in the county of residence of the signee for verification of signatures in accordance with Rule 1S-2.0091, Florida Administrative Code. It is the responsibility of the sponsoring political committee to ensure the signed forms are properly filed with, or if misfiled forwarded to, the Supervisor of Elections in the county in which the signee is a registered voter. Petition forms must contain all of the following when submitted to the Supervisors of Elections or they will be deemed invalid and the Supervisor will not verify the signature:</p> <ul style="list-style-type: none"> ○ The voter's name; ○ The voter's residential street address (including city and county); ○ The voter's date of birth or voter registration number; ○ The voter's signature; and ○ The date the voter signed the petition, as recorded by the voter. <p>The Supervisors of Elections are required to check the signatures within 30 days of receipt of the petitions. However, to ensure that all petitions are verified prior to the deadline, it is recommended that the sponsoring political committee submit petitions to the Supervisors of Elections as far in advance of the deadline as possible.</p>
Pay for Cost of Verification	<p>For each signature checked, ten cents, or the actual cost of checking the signature, whichever is less, is to be paid to the Supervisor of Elections. This fee is paid at the time of submitting the petitions by the sponsoring political committee. If the committee is unable to pay the charges without imposing an undue burden on the organization, a written certification of such inability, given under oath, may be submitted to the Division of Elections to have signatures verified at no charge. The Division will circulate the oath to each Supervisor of Elections in the state. Note, however, that if the committee pays any person to solicit signatures, an undue burden affidavit may not be filed in lieu of paying the verification fee (<i>See Section 106.191, Florida Statutes</i>).</p>
Certification of Petitions	<p>Upon completion of the verification, the Supervisors of Elections must certify the total number of valid signatures to the Department of State no later than 5:00 p.m. on February 1 of the year in which the election is held.</p>
Supreme Court Review	<p>Once a committee obtains signatures from 10% of the voters required from at least 25% of the congressional districts, the Division will send the petition to the Attorney General. Within 30 days of receipt, the Attorney General will petition the Supreme Court requesting an advisory opinion regarding the compliance of the text of proposed amendment with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and summary with Section 101.161, Florida Statutes.</p>
Fiscal Impact Statement	<p>At the same time the petition is sent to the Attorney General, the Division sends a copy of the petition to the Financial Impact Estimating Conference. The Financial Impact Estimating Conference will review the amendment and complete an analysis and financial impact statement. If the amendment obtains ballot position, the financial impact statement will be placed on the ballot following the ballot summary.</p>
Certification of Ballot Position	<p>Upon a determination that the constitutionally required number of signatures and distribution of signatures by congressional districts has been obtained by February 1 of the year of the election, the Secretary of State shall issue a certificate of ballot position to the sponsoring political committee.</p>

Source: Florida Division of Elections

State of Florida Constitutional Petition Form

CONSTITUTIONAL AMENDMENT PETITION FORM

Note:

- All information on this form, including your signature, becomes a public record upon receipt by the Supervisor of Elections.
Under Florida law, it is a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes, to knowingly sign more than one petition for a candidate, a minor political party, or an issue. [Section 104.185, Florida Statutes]
If all requested information on this form is not completed, the form will not be valid.

Your name: _____

Please Print Name as it appears on your Voter Information Card

Your residential street address:

City _____ Zip _____ County _____

Voter Registration Number _____ or Date of Birth _____

I am a registered voter of Florida and hereby petition the Secretary of State to place the following proposed amendment to the Florida Constitution on the ballot in the general election:

[INSERT HERE THE FOLLOWING:]

BALLOT TITLE (Section 101.161, F.S., no more than 15 words)

BALLOT SUMMARY (Section 101.161, F.S., no more than 75 words)

ARTICLE AND SECTION BEING CREATED OR AMENDED (Rule 1S-2.009)

FULL TEXT OF THE PROPOSED CONSTITUTIONAL AMENDMENT (Rule 1S-2.009)

DATE OF SIGNATURE

X SIGNATURE OF REGISTERED VOTER

➤ Insert political disclaimer here (Section 106.143, F.S.)

➤ Include below the name and address of paid petition circulator if one was used to obtain signature (Section 106.19(3), F.S.)

Paid Petition Circulator's Name

Address _____

For Official Use Only:

Serial Number: _____

Date Approved: _____

Miami-Dade County Petition Form

This is only a sample form and not meant to represent all of the requirements of Section 12-23 of the Code of Miami-Dade County. It is the responsibility of the person(s) initiating a petition to ensure their conformance to the petition process, form requirements and the acceptance of petition signatures.

Ballot Title (Must appear in English, Spanish, and Creole)

If the title of the Ordinance or Charter Provision to be enacted or repealed does not fit on this page, you are required to attach it to the petition.

Si el título de la ordenanza o disposición de la Carta Constitucional que será promulgada o revocada no cabe en esta página, usted tendrá que adjuntarla a la petición.

Si tit òdonans oswa dispozisyon nan Konstitisyon an ki pou adopte oswa revoke a pa ka rantrè nan paj sa-a, w dwe tache li ak petisyon an.

Ballot Text (Must appear in English, Spanish, and Creole)

If the text of the Ordinance or Charter Provision to be enacted or repealed does not fit on this page, you are required to attach it to the petition.

Si el texto de la ordenanza o disposición de la Carta Constitucional que será promulgada o revocada no cabe en esta página, usted tendrá que adjuntarla a la petición.

Si tèks òdonans oswa dispozisyon nan Konstitisyon an ki pou adopte oswa revoke a pa ka rantrè nan paj sa-a, w dwe tache li ak petisyon an.

Write information below / Escriba la información abajo / Ekri enfòmasyon an pi ba la-a:

Print Name Escriba su nombre en letra de imprenta Ekri non an gwo lèt	
Date / Fecha / Dat	
Residence Address or Precinct Number Dirección de su domicilio o número del recinto Adrès kay oswa nimewo biwo vòt	
<input type="checkbox"/>	Check if change of address / Marque aquí si cambió de domicilio / Make si se chanjman adrès
Date of Birth or Voter Registration/Information Number Fecha de nacimiento o número de inscripción/información del elector Dat nesans oswa nimewo enskripsyon/enfòmasyon votè	
Signature Firma Siyati	

Any individual who knowingly signs more than one petition or who attempts to sign another person's name, or a fictitious name, shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both.

A toda persona que a sabiendas firme más de una petición o que trate de firmar con el nombre de otra persona o un nombre ficticio, se le pudiera imponer de castigo una multa de no más de quinientos dólares (\$500.00) o privar de libertad por no más de sesenta (60) días, o ambas cosas.

Nenpòt moun ki an tout konesans siyen pliske yon petisyon oubyen ki tante siyen non yon lòt moun, oswa yon fo non, va jwenn pinisyon de yon amann ki pou pa depase senk san dola (\$500.00) oswa anprizonman nan prizon konte a pou yon peryòd ki pou pa depase swatant (60) jou, oubyen toude.

I, _____ (*print name*) residing at _____ (*full residence address*)
 am a resident of Miami-Dade County and am the circulator of the forgoing document containing one petition signature obtained on the date of _____. I personally circulated this petition, witnessed the signature as it was being written, and to the best of my belief and information, the signature is the genuine signature of the person whose name it purports to be. I certify to the truthfulness and the correctness of the certificate set forth in Section 12-23 of the Code of Miami-Dade County hereof under penalty of perjury under the laws of the State of Florida on this date _____ and at this notary location _____.

 Signature of Circulator

STATEMENT OF NOTARY

STATE OF FLORIDA, COUNTY OF MIAMI-DADE
 Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____, who is personally known _____ OR produced the following type of identification _____.

 Signature of Notary Public, State of Florida

 Notary's Seal & Name of Notary Typed, Printed or Stamped