

MEMORANDUM

Agenda Item No. 11(A)(15)

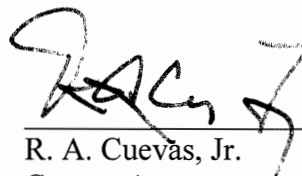
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: March 4, 2008

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution urging the
Florida Legislature to
place on the statewide
ballot a constitutional
amendment strengthening
the provision of the
Florida constitution
prohibiting unfunded
mandates

The accompanying resolution was prepared and placed on the agenda at the request of Commissioner Rebeca Sosa, Commissioner Jose "Pepe" Diaz, Commissioner Carlos A. Gimenez, Commissioner Joe A. Martinez, Commissioner Katy Sorenson and Senator Javier D. Souto.



R. A. Cuevas, Jr.
County Attorney

RAC/cp




MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: March 4, 2008

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11(A)(15)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(15)
03-04-08

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE AND
TAXATION & BUDGET REFORM COMMISSION TO PLACE
ON THE STATEWIDE BALLOT A CONSTITUTIONAL
AMENDMENT STRENGTHENING THE PROVISION OF THE
FLORIDA CONSTITUTION PROHIBITING UNFUNDED
MANDATES

WHEREAS, unfunded mandates arise when the Legislature passes legislation that imposes requirements or obligations on local governments without providing commensurate funding or a means by which local governments can raise funds necessary to pay for the requirements or obligations; and

WHEREAS, in 1990, Florida voters approved the unfunded mandates provision of the Florida Constitution, Article VII, Section 18; and

WHEREAS, the unfunded mandates provision provides that no county or city is bound to follow any law passed by the Legislature that requires the county or city to spend funds or to take an action requiring the expenditure of funds; and

WHEREAS, the Legislature can override the unfunded mandates provision with a two-thirds vote and a finding that the legislation fulfills an important state interest; and

WHEREAS, there is also a long list of exceptions to which the unfunded mandates provision does not apply, including:

- Criminal laws;
- Election laws;
- The state's general appropriations act;
- Special state appropriations acts;

- Laws reauthorizing but not expanding existing statutory authority;
- Laws having insignificant fiscal impact;
- Laws creating, modifying or repealing noncriminal infractions;
- Laws to require funding of pension benefits existing on February 1, 1989; and

WHEREAS, the Legislature in recent years has on a number of occasions overridden the unfunded mandates provision and/or passed unfunded mandates that are exceptions to the unfunded mandates provision, including:

- Requiring counties to pay the cost of predisposition juvenile detention costs, at a cost of approximately \$11 million annually to Miami-Dade County taxpayers;
- Requiring counties to pay part of the cost of new voting equipment, which is estimated at approximately \$6.5 million annually to Miami-Dade County taxpayers;
- Requiring counties to pay for the cost of the 11th through 45th days for Medicaid inpatient hospital patients, and \$55 per person per month for Medicaid nursing home patients, at a cost of approximately \$9.4 million annually to Miami-Dade County taxpayers;
- Requiring cities and counties to provide financial support for fiscally-constrained counties through satellite TV revenues diverted from cities and counties statewide to fiscally-constrained counties, at a cost of approximately \$1.9 million annually to Miami-Dade County taxpayers;
- Requiring counties to pay for the cost of office space, security and computers and other office equipment for the Regional Conflict Counsel Offices for criminal defense conflict and appointed civil cases, at a cost of approximately \$1.1 million annually to Miami-Dade County taxpayers; and

WHEREAS, when the Legislature passes legislation imposing unfunded mandates on local governments, the funding obligations imposed on taxpayers don't disappear, they instead shift from sales taxes to increased property taxes; and

WHEREAS, strengthening the Unfunded Mandates Amendment in the Florida Constitution may provide further protection from increases in property taxes by providing additional barriers to the Legislature shifting the funding of government programs to local governments and in turn property taxes; and

WHEREAS, unfunded mandates are appealing to the Legislature because unfunded mandates allow the Legislature to balance the state's budget and pass legislation creating new programs and benefits without the state incurring the cost of such legislation; and

WHEREAS, the allure of unfunded mandates to the Legislature increases when the state faces difficult budget challenges; and

WHEREAS, current fiscal projections estimate that the Legislature will have to reduce the state budget by as much as \$2 billion for fiscal year 2008-09 compared with fiscal year 2009-10; and

WHEREAS, this reduction comes after cuts that have already been made to the state budget of approximately \$2 billion over the last year; and

WHEREAS, a proposal has been filed for consideration by the Taxation & Budget Reform Commission that would place a question on the statewide ballot that would strengthen the unfunded mandates provision of the Florida Constitution, which is Constitutional Proposal 46 by Commissioner Mike Hogan, who is the Tax Collector for Jacksonville/Duval County,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature and Taxation & Budget Reform Commission to place on the statewide ballot a constitutional amendment strengthening the provision of the Florida Constitution prohibiting unfunded mandates.

Section 2. Directs the Clerk of the Board to transmit certified copies of the resolution to the Governor, Senate President, House Speaker, Chair and Members of the Miami-Dade State Legislative Delegation, and Chair and Members of the Taxation & Budget Reform Commission.

Section 3. Directs the County's state lobbyists to advocate for the issue identified in Section 1 above, and directs the Office of Intergovernmental Affairs to include this item in the 2008 state legislative package.

The foregoing resolution was sponsored by Commissioner Rebeca Sosa, Commissioner Jose "Pepe" Diaz, Commissioner Carlos A. Gimenez, Commissioner Joe A. Martinez, Commissioner Katy Sorenson and Senator Javier D. Souto and offered by Commissioner

, who moved its adoption. The motion was seconded by

Commissioner and upon being put to a vote, the vote was as follows:

	Bruno A. Barreiro, Chairman
	Barbara J. Jordan, Vice-Chairwoman
Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of March, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Jess M. McCarty