MEMORANDUM

EDHS
Agenda Item No. **1(E)1**

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

DATE: **April 16, 2008**

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

SUBJECT: Ordinance creating Article IX of Chapter 11A of the Code providing health insurance eligibility and other benefits to the domestic partners of County employees

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The accompanying ordinance was prepared and placed on the agenda at the request of Chairman Bruno A. Barreiro, Commissioner Audrey M. Edmonson, Commissioner Carlos A. Gimenez, Commissioner Sally A. Heyman, Vice-Chairwoman Barbara J. Jordan, and Commissioner Katy Sorenson.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: April 16, 2008

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

From: George M. Burgess
County Manager

Subject: Supplemental Information and Fiscal Impact Statement: Providing Health Insurance Eligibility and Other Benefits to the Domestic Partners of Miami-Dade County Employees

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This report provides information regarding the fiscal impact of the ordinance creating Article IX of Chapter 11A of the Code, providing health insurance eligibility and other benefits to the domestic partners of Miami-Dade County employees.

Currently, dependents eligible to enroll in the County's health plans include the employee's spouse, as recognized by the State of Florida; and an employee's unmarried natural child, stepchild, foster child, adopted child, or a child for whom the employee has been appointed legal guardian, pursuant to a valid court order, and the child is under the limiting age (age 19 or 25 if the unmarried child is dependent upon the employee for support and is either residing in the employee's household or enrolled full- or part-time at a college, university, vocational or secondary school). A newborn of a covered dependent other than the employee's spouse is eligible for coverage, but it terminates 18 months following the birth.

The proposed ordinance extends this eligibility to domestic partners (and, as a result, their children as defined above). It does not alter benefits to existing enrollees. While extending coverage to domestic partners may increase the number of insureds slightly, typically only about one to three percent of a workforce offered such coverage would elect to cover a domestic partner[1]. No adverse selection has been noted when an employer offers such coverage; that is, domestic partners have not proven to be sicker than the average spouse or employee. Therefore, the proposed ordinance should have a negligible fiscal impact.

As you are aware, the County is using the savings from self-insurance to provide relief for employees covering dependents under the County's plans. The County would absorb the cost differential for any new dependent contracts as well. If 200 domestic partners enrolled, the additional cost in 2008 would be approximately $440,000 annually, and up to $1.3 million if 600 domestic partners enrolled. It should be noted that this analysis is based on current active enrollment only.

In addition, the ordinance requires that domestic partnerships be filed with the Consumer Services Department (CSD). Based on an estimated 900 declarations of domestic partnership filed initially, and 600-800 new declarations, amendments and terminations filed annually, the initial start up cost is estimated to be $5,000, with an annual cost of administering the registry to be between $35,000 - $40,000. Program expenses will be paid through registration, amendment and termination fees established by Implementing Order.

[1] According to a report provided by the American Medical Association (AMA). The information in the report was obtained from surveys of employers, as well as studies conducted by academic institutions or municipalities prior to extending benefits to employees' domestic partners (Ohio State University, the University of Iowa, Harvard University, City University of New York, the City of San Francisco).

It is anticipated that the fees will be comparable to those currently charged by the City of Miami Beach for its domestic partner registry, which are $50 for an initial registration and $25 for each amendment or termination that is filed. Those fees will cover all costs.

GSA Director

MEMORANDUM

(Revised)

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

DATE: February 19, 2008

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

SUBJECT: Agenda Item No.

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

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Approved _____ Mayor

Veto _____

Override _____

Agenda Item No.

02-19-08

ORDINANCE NO. _____

ORDINANCE CREATING ARTICLE IX OF CHAPTER 11A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING HEALTH INSURANCE ELIGIBILITY AND OTHER BENEFITS TO THE DOMESTIC PARTNERS OF MIAMI DADE COUNTY EMPLOYEES; PROVIDING FOR THE REGISTRATION OF DOMESTIC PARTNERSHIPS; ESTABLISHING DOMESTIC PARTNER RIGHTS OF VISITATION; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The Code of Miami-Dade County, Florida, is hereby amended by adding the following new sections to Chapter 11A:

ARTICLE IX DOMESTIC PARTNERS AND FAMILY HEALTH COVERAGE

Sec. 11A-70. Legislative Findings and Purpose

(a) The Miami-Dade County Board of County Commissioners finds that a significant number of Miami-Dade residents establish and maintain important personal, emotional, and economic relationships with persons to whom they are not married. Individuals forming such domestic partnerships often live in a committed family relationship. Domestic partners may be denied the right to visit each other or their children or parents when hospitalized or incarcerated for lack of a system that establishes rights of visitation in such circumstances. Also, partners in domestic relationships may be denied public and private sector benefits because there is no established system for such relationships to be registered or recognized. In addition, because of the status of their relationship, domestic partners in many cases are not extended certain employment benefits that are otherwise made available to other employees.

(b) The Miami-Dade County Board of County Commissioners finds that employment benefits form an essential portion of the compensation provided to County employees.

(c) The Miami-Dade County Board of County Commissioners acknowledges that in 1994 over 3 million Americans identified themselves as living in a domestic partnership. As a result, employers have begun to provide domestic partner benefits in greater numbers.

(d) The Miami-Dade County Board of County Commissioners finds that the provision of domestic partner benefits promotes employee recruitment, employee retention, and employee loyalty. Furthermore, the provision of such benefits promotes fairness and serves to address the discriminatory effect of practices which deny such benefits solely upon the basis of an employee's familial or marital status.

(e) The rules developed to implement the provisions of this ordinance shall be liberally construed to accomplish the policies and purposes of the ordinance. However, this ordinance shall not be construed to supersede any federal, state, or county laws or regulations, nor shall this ordinance be interpreted in a manner as to bring it into conflict with federal, state, or other county laws. Nothing in this ordinance shall be construed as recognizing or treating a domestic partnership as a marriage.

Sec. 11A-71. Definitions.

For purposes of this Act:

(a) *County employee* means any employee of Miami-Dade County, including employees of the Miami-Dade Public Health Trust and all other agencies and instrumentalities of the County.

(b) *Domestic Partners* means only two adults who are parties to a valid domestic partnership relationship and who meet the requisites for a valid domestic partnership relationship as established pursuant to section 11A-72.

(c) *Declaration of Domestic Partnership* means a sworn form under penalty of perjury, which certifies that two domestic partners meet the requirements of a domestic partnership relationship as described in section 11A-72.

(d) *Jointly Responsible* means each domestic partner mutually agrees to provide for the other partner's basic food and shelter living expenses while the domestic partnership relationship is in effect, except that partners need not contribute equally or jointly to said basic food and shelter.

(e) *Health Care Facility* means any hospital, convalescent facility, walk-in clinic, doctor's office, mental health care facility and any other short- or long-term health care facility located within Miami-Dade County.

Sec. 11A-72. Registration of Domestic Partnerships.

(a) A valid domestic partnership relationship may be registered by any two persons by filing a declaration of domestic partnership with the Miami-Dade County Consumer Services Department, which declaration shall comply with all requirements set forth in this ordinance for establishing such domestic partnership. Upon payment of any required fees, the Consumer Services Department shall file the declaration of domestic partnership and issue a certificate reflecting the registration of the domestic partnership relationship in Miami-Dade County.

(b) A declaration of domestic partnership shall contain the name and address of each domestic partner, the signature of each partner, and each partner shall swear or affirm under penalty of perjury that

(1) Each person is at least 18 years old and competent to contract;

(2) Neither person is married, a partner to another domestic partnership relationship or a member of another civil union;

(3) They are not related by blood;

(4) Each person considers himself or herself to be a member of the immediate family of the other partner and to be jointly responsible for maintaining and supporting the Registered Domestic Partnership.

(5) Each person agrees to immediately notify the Consumer Services Department, in writing, if the terms of the Registered Domestic Partnership are no longer applicable or one of the domestic partners wishes to terminate the domestic partnership.

(c) Any partner to a domestic partnership may file an amendment to the domestic partnership certificate issued by the Consumer Services Department to reflect a change in his or her legal name or address, or to add or delete children.

Sec. 11A-73. Termination of registered domestic partnership relationship.

(a) Either partner to a registered domestic partnership relationship may terminate such relationship by filing a notarized declaration of termination of domestic partnership relationship with the Consumer Services Department. Upon the payment of the required fee, the Consumer Services Department shall file the declaration and issue a certificate of termination of domestic partnership relationship to each partner of the former relationship. The termination shall become effective 30 days from the date the certificate of termination is issued.

(b) If any partner to a domestic partnership relationship enters into a legal marriage, the domestic partnership relationship shall terminate automatically, and all rights, benefits, and entitlements there under shall cease as of the effective date of the marriage. The marrying domestic partner shall file a declaration terminating the domestic partnership relationship within 10 days after entering into a legal marriage.

(c) The death of either domestic partner shall automatically terminate the domestic partner relationship.

(d) If either member of the domestic partnership ceases to be responsible for the other's basic food and shelter, the domestic partnership shall be considered terminated.

Sec. 11A-74. Maintenance of records; filing fees.

(a) The Miami-Dade County Mayor shall by administrative rule prescribe the form of all declarations, amendments, and certificates required to be filed under this act. The Consumer Services Department shall maintain a record of all declarations, amendments, and certificates filed pursuant to this ordinance.

(b) Filing Fees. The Mayor is authorized to establish fees for the filing of any declarations, amendments, and the issuance of any certificates required by this act, subject to the approval of the County Commission. The fees shall be included within a Miami-Dade County Administrative Order. Any fees established under this section shall be commensurate with the actual costs of administering the provisions of this ordinance.

Sec. 11A-75. Extension of benefits to domestic partners of County employees.

(a) Any County employee who is a party to a registered domestic partnership relationship under this ordinance shall be entitled to elect insurance coverage for his or her domestic partner or the children of such domestic partner on the same basis in which any County employee may elect insurance coverage for his or her spouse or children. A County employee's right to elect insurance coverage for his or her domestic partner, or the partner's children, shall extend to all forms of insurance provided by the County to the spouses and children of County employees, unless such coverage is prohibited by state or federal law or the terms of a collective bargaining agreement. All elections of coverage shall be made in accordance with the requirements of applicable county ordinances, administrative rules, county policies and applicable collective bargaining agreements. However, in no event shall an employee make an election for coverage of a domestic partner more than two times in a plan year.

(b) Any County employee who is a party to a registered domestic partnership relationship under this ordinance shall be entitled to use all forms of leave provided by the County including, but not limited to, sick leave, annual leave, funeral leave and family leave to care for his or her domestic partner or the children or parents of the domestic partner as applicable. The use of leave authorized in this section shall be consistent with the applicable requirements in county ordinances, administrative rules, and collective bargaining agreements.

(c) Unless prohibited by state or federal law or the terms of a collective bargaining agreement, all other benefits available to the spouses and children of County employees shall be made available on the same basis to the domestic partner, or child of such domestic partner, of a County employee who is a party to a registered domestic partnership relationship pursuant to this ordinance.

(d) Any County employee who obtains or attempts to obtain benefits under this provision fraudulently shall be subject to discipline, up to and including termination.

(e) The Mayor is authorized and directed to take all actions necessary to implement the provisions of this section within ninety (90) days after this ordinance is enacted.

Sec. 11A-76. Health care facility visitation rights.

Whenever a domestic partner is a patient in a health care facility in Miami-Dade County, the health care facility shall afford:

(a) the domestic partner of the patient the same right to visit the patient as the facility would provide to the spouse of a patient;

(b) the parent of the domestic partner of the patient the same right to visit the patient as the facility would provide to the parent of a spouse of a patient.

(c) the children of a domestic partner of the patient the same right to visit the patient as the facility would provide to the children of a spouse of a patient.

Sec. 11A-77. Visitation rights at county correctional and juvenile detention facilities.

(a) Any person who is a party to a registered domestic partnership relationship, pursuant to section 11A-72, shall be entitled to visit his or her domestic partner, or other family member of the domestic partner, who is an inmate at a county correctional facility or a juvenile detention facility, upon the same terms and conditions under which visitation is afforded to spouses, children, or parents of inmates. Visitation rights provided by this section shall extend to any children of the domestic partners, and the domestic partners of an inmate's parents or children.

(b) In any situation providing for mandatory or permissible notification of family members of inmates, including notification of family members in an emergency, or when permission is granted to inmates to contact family members, "notification of family" shall include domestic partners.

Sec. 11A-78. Recognition of domestic partnerships, civil unions and similar legal relationships registered in other jurisdictions

All rights, privileges and benefits provided to domestic partners registered under this ordinance shall be extended to persons legally registered as domestic partners, partners in a civil union, or partners in any similar legal relationship in another country or in another jurisdiction within the United States.

Sec. 11A-79. Enforcement

County employees who believe the County has violated any right established by this ordinance shall have the right to file a complaint with the Office of Fair Employment Practices in accordance with section 11A-37 and the rules promulgated by that Office. The terms of this ordinance may be enforced by persons other than County employees, and by County employees against private businesses, through the filing of a private action in any court of competent jurisdiction for declaratory or injunctive relief or both.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Lee Kraftchick

Sponsored by Chairman Bruno A. Barreiro,
Commissioner Audrey M. Edmonson,
Commissioner Carlos A. Gimenez,
Commissioner Sally A. Heyman,
Vice-Chairwoman Barbara J. Jordan, and
Commissioner Katy Sorenson