



MEMORANDUM

Agenda Item No. 11(A)(14)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: October 6, 2009

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

SUBJECT: Resolution urging the U.S. Congress
and the Florida Legislature not to pass
legislation that would (i) preempt
local governments from suing online
travel companies to recover unpaid
bed taxes or (ii) allow online travel
companies to avoid paying bed taxes
on the retail room rate prospectively

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.

A handwritten signature in black ink, appearing to read "RAC Jr", is written over a horizontal line.

R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

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Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A) (14)
10-6-09

RESOLUTION NO. _____

RESOLUTION URGING THE U.S. CONGRESS AND THE FLORIDA LEGISLATURE NOT TO PASS LEGISLATION THAT WOULD (I) PREEMPT LOCAL GOVERNMENTS FROM SUING ONLINE TRAVEL COMPANIES TO RECOVER UNPAID BED TAXES OR (II) ALLOW ONLINE TRAVEL COMPANIES TO AVOID PAYING BED TAXES ON THE RETAIL ROOM RATE PROSPECTIVELY

WHEREAS, Miami-Dade County is authorized to levy and collect Tourist and Convention Development Taxes (“the bed tax”) on the “total consideration charged” for the lease or rental of hotel, motel, resort and other transient lodging accommodations (“hotel rooms”) in Miami-Dade County, pursuant to Fla. Stat. 125.0104(c) and 212.0305(4)1., as well as §§ 29-51(a) and 29-60(a) of the Miami-Dade County Code; and

WHEREAS, pursuant to Fla. Stat. 125.0104(3)(f) and §§29-51(e) and 29-60(c) of the Miami-Dade County Code, the bed tax “shall be charged by the person receiving the consideration for the lease or rental, and by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant or customer at the time of payment of the consideration for such lease or rental”; and

WHEREAS, online travel companies receive payments over the internet for the lease or rental of hotel rooms in Miami-Dade County; and

WHEREAS, in many cases, these online travel companies are not remitting bed taxes to the County based upon the total consideration charged for the lease or rental of hotel rooms, i.e. the retail room rate; and

WHEREAS, lawsuits have been filed throughout the country by local governments to compel firms that receive payments over the internet for the lease or rental of hotel rooms to remit to the local governments unpaid bed taxes; and

WHEREAS, in accordance with Resolution No. 1044-06, Miami-Dade County has been engaged in legal and administrative proceedings against several online travel companies that receive payments over the internet for the lease or rental of hotel rooms to collect unpaid bed taxes; and

WHEREAS, bills and/or amendments are being considered at both the federal and state level that would (i) preempt local governments from suing online travel companies to recover unpaid bed taxes or (ii) allow online travel companies to avoid paying bed taxes on the retail room rate prospectively,

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

Section 1. Urges the U.S. Congress and the Florida Legislature not to pass legislation that would (i) preempt local governments from suing online travel companies to recover bed tax revenues on the full price of such rentals or (ii) allow online travel companies to avoid paying bed taxes on the retail room rate prospectively.

Section 2. Directs the Clerk of this Board to transmit a certified copy of this resolution to the members of the Florida Congressional Delegation, the Governor, the Senate President, the House Speaker, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County's federal and state lobbyists to advocate against such preemption legislation, and authorizes and directs that the 2009 and 2010 Federal and State Legislative Packages be amended to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Joe A. Martinez. It was 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:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 2009. 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.

JMM

Jess M. McCarty