MEMORANDUM

Special Item No. 4

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

DATE: May 3, 2010

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

SUBJECT: Ordinance amending Chapter 25A of the Code to provide County Commission may exercise veto authority over actions of the Public Health Trust upon notification that certain conditions affecting the Trust's financial status have occurred or will likely occur

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

R. A. Cuevas, Jr.
County Attorney

RAC/jls

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(Revised)

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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 _____

Special Item No. 4
5-3-10

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 25A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE COUNTY COMMISSION MAY EXERCISE VETO AUTHORITY OVER ACTIONS OF THE PUBLIC HEALTH TRUST UPON NOTIFICATION THAT CERTAIN CONDITIONS AFFECTING THE TRUST'S FINANCIAL STATUS HAVE OCCURRED OR WILL LIKELY OCCUR; PROVIDING SEVERABILITY, INCLUSION IN CODE AND EFFECTIVE DATE

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

Section 1. Chapter 25A of the Code of Miami-Dade County, Florida, is hereby amended by adding Section 25A-9 to read as follows:[1]

* * *

>>**Sec. 25A-9.** **Financial Sustainability.**

It is the intent of the Commission to promote, protect, maintain, and improve the health and safety of all residents and visitors of Miami-Dade County through a fully functioning and sustainable Public Health Trust.

(a) *Conditions.* The Commission finds that it is in the best interest of the public it serves to take action to preserve the Trust and to ensure its financial sustainability by requiring the Trust to notify the Commission, the Mayor and the Commission Auditor when any one of the following conditions occurs:

(1) Trust failure to, within the same fiscal year in which due, timely make any applicable debt payments as a result of a lack of funds.

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(2) Trust failure to pay uncontested claims from creditors within ninety (90) days after the claim is presented, as a result of a lack of funds.

(3) Trust failure to transfer at the appropriate time, due to a lack of funds:

(i) taxes withheld on the income of employees; or

(ii) employer and employee contributions for either federal social security or any pension, retirement, or benefit plan of an employee.

(4) Trust failure to pay for one pay period, due to a lack of funds:

(i) Wages and salaries owed to employees; or

(ii) Retirement benefits owed to former employees.

(5) An unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, for which sufficient resources of the Trust, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, are not available to cover the deficit. Resources available to cover reported deficits include net assets that are not otherwise restricted by federal, state, or local laws, bond covenants, contractual agreements, or other legal constraints. Fixed or capital assets, the disposal of which would impair the ability of the Trust to carry out its functions, are not considered resources available to cover reported deficits.

(6) An advance of any County funds to the Trust, due to a lack of Trust funds to address operational needs, to support operational needs and expenses.

(b) *Notice*. When one or more of the conditions specified in Subsection (a) have occurred, or likely will occur within one hundred twenty (120) days, the Trust shall submit written notice to the Chairperson and members of the Commission, the Mayor and the Commission Auditor.

(c) *Commission Oversight*. Notwithstanding any other provision of the County Code, the County Commission, upon notification as provided above, may determine to reserve to itself the authority to veto subsequent actions taken by the Public Health Trust. The veto authority shall exist for such period of time as the County Commission determines is necessary to resolve the financial conditions. The County Commission's determination to exercise the grant of veto authority provided herein shall be by adoption of a resolution setting forth the types of Trust action that may be vetoed and the timetables and procedures therefor. Actions of the Trust taken thereafter that are subject to Commission veto shall be filed with the Clerk of the County Commission who shall place same on the next regularly scheduled County Commission agenda for County Commission consideration without the requirement for committee review. Such actions of the Trust shall become effective upon the adjournment of the next regularly scheduled County Commission meeting unless vetoed by the County Commission at such meeting. A County Commission veto of any action taken by the Trust shall be final and determinative.<<

Section 2. This ordinance shall supersede those provisions of any existing ordinance, resolution or policy in conflict herewith.

Section 3. 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 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance 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 5. 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:

Eugene Shy, Jr.
Valda Clark Christian

Prime Sponsor: Commissioner Joe A. Martinez