MEMORANDUM

Special Item No. 1

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; authorizing the Commission to take assistive measures if specified conditions pertaining to the financial status of the Public Health Trust have occurred or will likely occur, including imposing Management Watch, requiring recovery plan, authorizing County Commission veto of actions taken by the Public Health Trust

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor the Board of County Commissioners.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

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 _____

Special Item No. 1
5-3-10

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 25A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING THE COMMISSION TO TAKE ASSISTIVE MEASURES IF SPECIFIED CONDITIONS PERTAINING TO THE FINANCIAL STATUS OF THE PUBLIC HEALTH TRUST HAVE OCCURRED OR WILL LIKELY OCCUR, INCLUDING IMPOSING MANAGEMENT WATCH, REQUIRING RECOVERY PLAN, AUTHORIZING COUNTY COMMISSION VETO OF ACTIONS TAKEN BY THE PUBLIC HEALTH TRUST, AUTHORIZING AUDIT, PROVIDING TECHNICAL ASSISTANCE AND FORMATION OF AN OVERSIGHT BOARD; WAIVING THE PROCEDURES FOR CREATION AND REVIEW OF COUNTY BOARDS OF ARTICLE IB OF THE CODE FOR ANY OVERSIGHT BOARD ESTABLISHED UNDER AUTHORITY OF THIS ORDINANCE; 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. 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

[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.

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.

(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.* *

***The Commission needs to determine the specifics pertaining to notice.**

(c) *Assistive Measures.* Upon notification by the Trust or another party that one or more of the conditions in Subsection (a) have occurred or likely will occur, the Commission shall determine whether the Trust needs assistance to resolve or prevent the condition. If assistance is needed, the Commission may implement assistive measures which may include any one or any combination of the following:

(1) *Management Watch.* *

(2) Recovery Plan. *

(3) County Commission Veto Authority. *

(4) *Audit.* *

(5) Technical Assistance. *

(6) Oversight Board. <<*+

***The Commission needs to determine the specifics of each assistive measure.**

+The Commission needs to determine the status of the currently sitting Board of Trustees in relation to any proposed Oversight Board. Additionally, the Commission needs to determine power and authority of the Oversight Board and its organizational details such as:

(i) the Oversight Board's powers and duties.

(A) appointment and evaluation of the Chief Executive Officer.

(B) health care delivery policies.

(C) intergovernmental Cooperation.

(D) contracts.

(E) personnel.

(F) issuance of bonds and ability to borrow money.

(G) Trust/UM annual operating agreement.

(H) reporting.

(ii) Appointment, composition, organization (by-laws, officers, meetings), bond, term, and filling vacancies of the Oversight Board.

Section 2. The standards and procedures for creation and review of County Boards provided in Article IB, Sections. 2-11.36 through 2-11.40, shall not apply to any Oversight Board established under authority of this ordinance.

Section 3. This ordinance shall supersede those provisions of any existing ordinance, resolution or policy in conflict herewith.

Section 4. 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 5. 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 6. 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: Board of County Commissioners