# MEMORANDUM

Agenda Item No.7(A)

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| **TO:** | Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners | **DATE:** | June 3, 2010 |
| **FROM:** | R. A. Cuevas, Jr. County Attorney | **SUBJECT:** | Ordinance amending Sec. 2-11.1(s) of the Conflict of Interest and Code of Ethics Ordinance to provide that any principal who appears as a lobbyist on behalf of a corporation, partnership or other entity shall not be required to pay lobbyist registration fees |

**The attached item was amended at the 5-13-10 Health, Public Safety & Intergovernmental commiittee by deleting the phrase "upon request."**

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairman Jose "Pepe" Diaz and Co-Sponsors Commissioner Audrey M. Edmonson, Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan and Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

# Memorandum

MIAMI-DADE COUNTY

**Date:** June 3, 2010

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

**From:** George M. Burgess
County Manager

**Subject:** Ordinance Amending Section 2-1.1(S) of the Conflict of Interest and Code of Ethics Ordinance

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The ordinance amending the Code to provide that any principal who appears as a lobbyist on behalf of a corporation, partnership or other entity shall not be required to pay lobbyist registration fees may have a minimal fiscal impact to Miami-Dade County. For the calendar year 2009, the Clerk of the Board identified only two individuals meeting the amendment's criteria.

Alina Hudak, Assistant County Manager

Fis03510

# MEMORANDUM
**(Revised)**

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

**DATE:** June 3, 2010

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

**SUBJECT:** Agenda Item No. 7(A)

**Please note any items checked.**

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|---|---|
| | **"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. 7(A)
6-3-10

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 2-11.1(S) OF THE CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE TO PROVIDE THAT ANY PRINCIPAL WHO APPEARS AS A LOBBYIST ON BEHALF OF A CORPORATION, PARTNERSHIP OR OTHER ENTITY SHALL NOT BE REQUIRED TO PAY LOBBYIST REGISTRATION FEES; 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. Section 2-11.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

**Sec. 2-11.1. Conflict of Interest and Code of Ethics Ordinance.**

* * *

(s) *Lobbying.*

(1) (a) As used in this section, "County personnel" means those County officers and employees specified in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

(b) As used in this section, "Lobbyist" means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County

[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.

Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities. The term "Lobbyist" specifically excludes the following persons: attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.

(2) All lobbyists shall register with the Clerk of the Board of County Commissioners within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to so register shall:

(a) Register on forms prepared by the Clerk;

(b) State under oath his or her name, business address and the name and business address of each person or entity which has employed said registrant to lobby. If the lobbyist represents a corporation, the corporation shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership, or trust. Registration of all lobbyists shall be required prior to January 15 of each year and each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. The fee for annual registration shall be four hundred and ninety dollars ($490.00). Every registrant shall be required to state the extent of any business or professional relationship with any current person described in subsection (b)(1). The registration fees required by

this subsection shall be deposited by the Clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the public. There shall be no fee required for filing a notice of withdrawal and the Board of County Commissioners may, in its discretion, waive the registration fee upon a finding of financial hardship.

(c) Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. Failure of a principal to file the form required by the preceding sentence may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form with the Clerk of the Board at the point in time at which a lobbyist is no longer authorized to represent the principal.

(3) (a) Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist.

(b) Any person who only appears in his or her individual capacity for the purpose of self-representation without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist. >>A principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item, shall register with the Clerk as required by this subsection, but<< [[~~; upon request,~~]][2] >>shall not be required to pay any registration fees.<<

* * *

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.

[2] Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

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: RAC

Prepared by: GKS

Gerald K. Sanchez

Prime Sponsor: Vice-Chairman Jose "Pepe" Diaz
Co-Sponsors: Commissioner Audrey M. Edmonson
Commissioner Sally A. Heyman
Commissioner Barbara J. Jordan
Commissioner Rebeca Sosa

**MIAMI-DADE COUNTY**
**BOARD OF COUNTY COMMISSIONERS**
**OFFICE OF THE COMMISSION AUDITOR**

Legislative Notes

**Agenda Item:** **7(A)**

**File Number:** **101281**

**Committee(s) of Reference:** **Board of County Commissioners**

**Date of Analysis:** **May 10, 2010**

**Type of Item:** **Ordinance Amending Miami-Dade County Code**

**Prime Sponsor:** **Vice-Chairman Jose "Pepe" Diaz**

**Co-Sponsors:** **Commissioner Audrey M. Edmonson; Commissioner Sally A. Heyman; Commissioner Barbara J. Jordan; and Commissioner Rebeca Sosa**

**Summary**

This ordinance amends Section 2-11.1(s) of the Conflict of Interest and Code of Ethics Ordinance to allow a principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement will not be required to pay the annual lobbyist registration fee of $490.

**Background and Relevant Legislation**

Currently, Section 2-11.1 of the Code of Miami-Dade County allows for any person who only appears in his or her individual capacity for the purpose of unpaid self-representation shall not be required to register as a lobbyist and not pay the annual registration fee. This item would extend this waiver to owners of businesses who appear before the Board on behalf of their business.

**Budgetary Impact**

This item would represent a possible revenue reduction for the County; however, the impact may be miminal. According to the Clerk of the Board, two lobbyists would have been impacted by this ordinance in calendar year 2009, and two lobbyists would have been impacted in 2008. See below:

| 2008 | 2009 |
|---|---|
| Bill Long – Clever Devices | Sam Alam – Dr. is Online.com |
| Stephen Rothenberg – Premeir Printing Solutions Inc | Stephen Rothenberg – Premeir Printing Solutions Inc |

**Prepared by:** Jason T. Smith