



**MEMORANDUM**

Agenda Item No. 4(D)

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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** October 18, 2011

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

**SUBJECT:** Ordinance regarding absentee  
ballots; amending Section 12-4  
of the Code, adding penalties for  
violating limits on picking up  
and/or returning absentee ballots

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.

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R. A. Cuevas, Jr.  
County Attorney

RAC/up



# MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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County Attorney

**SUBJECT:** Agenda Item No. 4(D)

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. 4(D)  
10-18-11

ORDINANCE NO. \_\_\_\_\_

ORDINANCE REGARDING ABSENTEE BALLOTS;  
AMENDING SECTION 12-4 OF THE CODE OF MIAMI-DADE  
COUNTY, FLORIDA, ADDING PENALTIES FOR VIOLATING  
LIMITS ON PICKING UP AND/OR RETURNING ABSENTEE  
BALLOTS; 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.** That Section 12-4 of the Code of Miami-Dade County, Florida, is  
amended to read as follows:<sup>1</sup>

**CHAPTER 12. ELECTIONS**

\* \* \*

**Sec. 12-4. Absentee ballots**

- (a) An absentee ballot shall be provided to and returned by an elector, except an overseas elector, in person or by mail except as provided herein. For purposes of this section, "mail" means delivery by the United States Postal Service. Absentee ballots shall be provided to and returned by overseas electors in accordance with federal law and Florida Statutes. The Supervisor of Elections may provide to and receive absentee ballots from employees of the Miami-Dade Corrections and Rehabilitation Department who are designated by the Director to facilitate the vote for inmates of correctional facilities who are eligible to vote. The Supervisor of Elections may provide an absentee ballot to a designee of an elector if the elector is unable to retrieve and/or return the ballot in person or by mail as follows:

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

- (b) The designee must provide to the Supervisor of Elections identification from the elector, picture identification of the designee, and a written statement signed by the elector authorizing the designee by name to pick up and/or return the absentee ballot. If the elector is a member of the designee's immediate family, the signed statement must include the circumstances requiring the designee to pick up and/or return the absentee ballot. If the elector is not a member of the designee's immediate family, the designee must also provide to the Supervisor of Elections a statement signed by a physician on that physician's stationery that, due to a medical emergency involving the elector or elector's dependent, the named elector is unable to vote at the polls and is unable to pick up and/or return an absentee ballot in person. A designee may retrieve no more than two (2) absentee ballots other than his or her own per election, only one (1) of which may be for an elector not of the designee's immediate family. For purposes of this section, "immediate family" means the elector's spouse or the parent, child, grandparent, or sibling of the elector. A designee may only pick up and/or return an absentee ballot on the day before or day of the election for an immediate family member and on the day of the election for a non-family member. The designee must complete an affidavit that states that the designee is authorized by the elector to retrieve and/or return the elector's ballot and shall indicate his or her relationship to the elector, if any. >>Any person picking up and/or returning absentee ballots in violation of the provisions of this subsection shall be punished by a fine not to exceed one thousand dollars (\$1000.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the court having jurisdiction over the cause.<<
- (c) The Supervisor of Elections shall prescribe the form of the affidavit to be completed and signed by a designee of an elector. If the Supervisor of Elections is satisfied that the designee is authorized to retrieve and/or return the absentee ballot, the ballot shall be provided to or accepted from the designee.

**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:

RAC

Prepared by:

OR

Oren Rosenthal

Sponsored by Commissioner Rebeca Sosa