

MEMORANDUM

Agenda Item No. 11(A)(11)

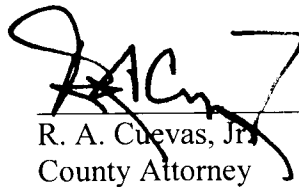
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 3, 2011

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

SUBJECT: Resolution urging the Florida
Legislature to enact legislation
making it a third-degree felony to
retrieve or return more than one
absentee ballot from a non-relative;
alternatively urging the Legislature
to make it a third degree felony to
violate any local election law

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



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

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

DATE: November 3, 2011

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

SUBJECT: Agenda Item No. 11(A)(11)

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)(11)
11-3-11

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION MAKING IT A THIRD-DEGREE FELONY TO RETRIEVE OR RETURN MORE THAN ONE ABSENTEE BALLOT FROM A NON-RELATIVE; ALTERNATIVELY URGING THE LEGISLATURE TO MAKE IT A THIRD DEGREE FELONY TO VIOLATE ANY LOCAL ELECTION LAW

WHEREAS, section 12-14 of the Code of Miami-Dade County provides that a person may retrieve no more than two absentee ballots other than his or her own per election, only one of which may be for an elector not of the designee's immediate family; and

WHEREAS, section 12-14 has the effect of prohibiting any person from retrieving more than one absentee ballot from a non-relative; and

WHEREAS, this Board currently has under consideration an ordinance that would amend section 12-14 to expressly impose a penalty of up to 60 days in jail and up to a \$1,000 fine for violating the provisions of the section; and

WHEREAS, while this penalty is only a misdemeanor, state law does not allow counties to impose felony penalties for county ordinance violations without express statutory authorization; and

WHEREAS, violations of state elections laws related to absentee ballots are punishable as a third degree felony pursuant to sections 104.047 and 104.0616, Florida Statutes; and

WHEREAS, absentee ballot fraud is a serious offense that goes to the root of our democracy; and

WHEREAS, this Board desires that the Florida Legislature make it a third degree felony for any person to retrieve or return more than one absentee ballot from a non-relative; and

WHEREAS, alternatively, this Board would ask the Florida Legislature to make it a third degree felony to violate any local election law regarding absentee ballots,

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

Section 1. Urges the Florida Legislature to enact legislation making it a third-degree felony to retrieve or return more than one absentee ballot from a non-relative; alternatively urges the Legislature to make it a third degree felony to violate any local election law regarding absentee ballots.

Section 2. Directs the Clerk of the Board to transmit certified copies of this resolution to 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 state lobbyists to advocate for the issue identified in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2012 State legislative package to include this item in the 2013 state legislative package.

The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa. 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:

- | | |
|-------------------------------------|----------------------|
| Joe A. Martinez, Chairman | |
| Audrey M. Edmonson, Vice Chairwoman | |
| Bruno A. Barreiro | Lynda Bell |
| Esteban L. Bovo, Jr. | Jose "Pepe" Diaz |
| Sally A. Heyman | Barbara J. Jordan |
| Jean Monestime | Dennis C. Moss |
| Rebeca Sosa | Sen. Javier D. Souto |
| Xavier L. Suarez | |

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of November, 2011. 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.



Jess M. McCarty

