

MEMORANDUM

Agenda Item No. 11(A)(8)

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 pass legislation prohibiting employers from using credit history in determining whether to deny employment to a job applicant, discharge an employee or decide compensation, except where credit history is job-related; further urging congress to approve H.R. 321, the Equal Employment for All Act, or similar legislation

The accompanying resolution was prepared and placed on the agenda at the request of Co-Prime Sponsors Chairman Joe A. Martinez and Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM

(Revised)

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

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County Attorney

SUBJECT: Agenda Item No. 11(A)(8)

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

Agenda Item No. 11(A)(8)

Veto _____

11-3-11

Override _____

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO PASS LEGISLATION PROHIBITING EMPLOYERS FROM USING CREDIT HISTORY IN DETERMINING WHETHER TO DENY EMPLOYMENT TO A JOB APPLICANT, DISCHARGE AN EMPLOYEE OR DECIDE COMPENSATION, EXCEPT WHERE CREDIT HISTORY IS JOB-RELATED; FURTHER URGING CONGRESS TO APPROVE H.R. 321, THE EQUAL EMPLOYMENT FOR ALL ACT, OR SIMILAR LEGISLATION

WHEREAS, 6.4 million people in the U.S. have been unemployed for six months or longer; and

WHEREAS, the prospect of finding a new job is daunting enough with an employment gap on a resume, but a negative credit history can present even greater challenges; and

WHEREAS, employers are increasingly using a person's credit history as a screening tool for hiring and retention decisions; and

WHEREAS, 60 percent of employers conduct credit checks on job applicants, up from 42 percent in 2006 and 25 percent in 1998; and

WHEREAS, while employers are increasingly using credit scores, a poor credit score may be entirely unrelated to job performance; and

WHEREAS, there are many understandable reasons that a person might have a poor credit history that have nothing to do with a person's ability to do a good job, such as costly medical problems, a messy divorce or having been laid off from a job; and

WHEREAS, during its 2011 session, the Maryland General Assembly enacted the Job Applicant Fairness Act, HB 87, Chapter 29; and

WHEREAS, the Job Applicant Fairness Act prohibits most employers from using credit history in determining whether to deny employment to a job applicant, discharge an employee, decide compensation, or evaluate other terms and conditions of employment unless it meets specific timing and job-related requirements; and

WHEREAS, limited exceptions allow employers to request or use credit information where such information is job related, including positions at financial institutions and other confidential job duties; and

WHEREAS, under Maryland's Job Applicant Fairness Act, an employer must disclose its intent to request a credit history check in writing to the applicant or employee where job duties warrant it; and

WHEREAS, the Job Applicant Fairness Act was signed into law by Maryland Governor Martin O'Malley on April 12, 2011, and went into effect on October 1, 2011; and

WHEREAS, the States of Illinois, Washington, Oregon, and Hawaii also have enacted similar legislation prohibiting the use of credit information for employment purposes; and

WHEREAS, fifteen other states currently are considering similar legislation; and

WHEREAS, a bill was filed for consideration during the Florida Legislature's 2011 session, SB 1562 by Senator Gary Siplin (D – Orlando) that would have prohibited the use of a job applicant's personal credit history as a hiring criterion, but SB 1562 did not pass; and

WHEREAS, similar legislation also has been filed at the federal level; and

WHEREAS, H.R. 321, the Equal Employment for All Act, has been filed for consideration during the 112th U.S. Congress by Congressman Steve Cohen (D – Tennessee); and

WHEREAS, H.R. 321 would prohibit the use of consumer credit checks against current and prospective employees for the purpose of making employment decisions; and

WHEREAS, this Board recently enacted Resolution No. 878-11, which directed the Mayor or designee to develop a procedure for ensuring that the County does not use credit history as a criteria for hiring or promoting employees except for positions where such a history is related to the duties of the position; and

WHEREAS, passage of legislation at either the federal or state level that would prohibit employers from using credit history in making hiring decisions could assist many people who are currently looking for jobs in these difficult economic times,

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 pass legislation prohibiting employers from using credit history in determining whether to deny employment to a job applicant, discharge an employee or decide compensation except where credit history is job-related.

Section 2. Urges Congress to approve H.R. 321, the Equal Employment for All Act, or similar legislation.

Section 3. Directs the Clerk of the Board to transmit certified copies of this resolution to the Florida Congressional Delegation, the Governor, Senate President, House Speaker, and the Chair and Members of the Miami Dade State Legislative Delegation.

Section 4. Directs the County's state and federal lobbyists to support the legislation set forth in Sections 1 and 2 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2012 state and federal legislative packages to include this item.

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The Co-Prime Sponsors of the foregoing resolution are Chairman Joe A. Martinez and Commissioner Barbara J. Jordan. 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.

JMM

Jess M. McCarty

(Handwritten mark)