

MEMORANDUM

Alternate
Agenda Item No. 10(A)(4)

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

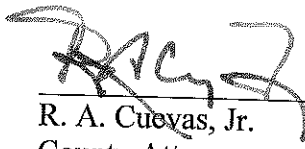
DATE: August 23, 2012

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

SUBJECT: Resolution calling a special election for the purpose of submitting to the electors the question of whether to amend the Charter to grant additional authority for the Commission on Ethics to enforce the Citizens' Bill of Rights

This item differs from the original in that it eliminates the exclusion of certain municipalities from the Commission on Ethics enforcement of the Citizens' Bill of Rights.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



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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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 _____

Alternate
Agenda Item No. 10(A)(4)
8-23-12

RESOLUTION NO. _____

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD IN CONJUNCTION WITH A GENERAL ELECTION ON TUESDAY, NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS THE QUESTION OF WHETHER TO AMEND THE CHARTER TO GRANT ADDITIONAL AUTHORITY FOR THE COMMISSION ON ETHICS TO ENFORCE THE CITIZENS' BILL OF RIGHTS

WHEREAS, The Board of County Commissioners pursuant to Section 9.07 of the Miami-Dade County Home Rule Charter desires to place the attached Charter amendment before the electors of Miami-Dade County on the November 6, 2012 General Election ballot,

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

Section 1. A countywide special election is hereby called and shall be held in Miami-Dade County, Florida in conjunction with a General Election on Tuesday, November 6, 2012, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

Section 2. Notice of such election shall be published in accordance with Section 100.342, Florida Statutes.

Section 3. The result of such election shall be determined by a majority of the qualified electors of Miami-Dade County voting upon the proposal. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors of Miami-Dade County, Florida shall be entitled to vote at said election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until twenty-nine (29) days prior to the date of such election, at which time the registration books will

close in accordance with the provisions of general election laws. The question shall appear on the ballot in substantially the following form:

CHARTER AMENDMENT REGARDING PENALTIES AND
ENFORCEMENT OF CITIZENS' BILL OF RIGHTS

SHALL THE CHARTER BE AMENDED TO ELIMINATE THE PROVISION PROVIDING FOR FORFEITURE OF OFFICE IF A PUBLIC OFFICIAL OR EMPLOYEE WILLFULLY VIOLATES THE CITIZENS' BILL OF RIGHTS AND ALLOW, IN ADDITION TO SUIT IN CIRCUIT COURT, THE COMMISSION ON ETHICS AND PUBLIC TRUST TO ENFORCE THE CITIZENS' BILL OF RIGHTS WITH PENALTIES AUTHORIZED BY THE CODE ~~[[EXCEPT WHERE SUCH VIOLATIONS PERTAIN TO MUNICIPALITIES WHOSE MUNICIPAL CHARTER PROVIDES FOR ENFORCEMENT OF THIS ARTICLE ONLY IN COURT]]~~?¹

YES ☐

NO ☐

Section 4. The form of the ballot shall be in accordance with the requirements of general election laws.

Section 5. Early voting shall be conducted in accordance with the requirements of general election laws.

Section 6. Absentee paper ballots may be used by qualified electors of Miami-Dade County for voting on this question. The form of such absentee ballot shall be in accordance with the requirements prescribed by general election laws.

Section 7. A sample ballot showing the manner in which the question or proposal aforesaid will appear at this election shall be published and provided in accordance with the applicable provisions of general election laws.

¹ The differences between the alternate and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

Section 8. This special election on the proposal aforesaid shall be held and conducted in accordance with applicable provisions of the general laws relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Mayor or his or her designee, the Finance Director, and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This election shall be a nonpartisan election. Election officials in connection with this election shall be appointed in accordance with the provisions of general election laws.

Section 9. This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 3.07 of the Home Rule Charter.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. 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 23rd day of August, 2012. This resolution shall become effective upon the earlier of (1) 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, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.

Oren Rosenthal



MIAMI-DADE COUNTY HOME RULE CHARTER

CITIZENS' BILL OF RIGHTS²

* * *

(C). **Remedies for Violations.** ~~[[In any suit by a]]~~>>A<<
citizen >>may bring a cause of action<< alleging a violation of this
Article filed in the Dade County Circuit Court pursuant to its
general equity jurisdiction~~[[, the plaintiff,]]~~ >>and<< if successful,
shall be entitled to recover costs as fixed by the Court. >>The
Commission on Ethics and Public Trust may also enforce the
provisions of this Article and may impose any penalty authorized
by County Code not otherwise prohibited by a collective
bargaining agreement, for a violation of this Article ~~[[except where~~
~~such violations pertain to municipalities whose municipal charter~~
~~provides for enforcement of this Article only in the Dade County~~
~~Circuit Court]].~~ Any penalty imposed by the Commission on
Ethics and Public Trust pursuant to this subsection may be
enforced in the Miami-Dade County Circuit Court. ~~<< [[Any public~~
~~official or employee who is found by the Court to have willfully~~
~~violated this Article shall forthwith forfeit his office or~~
~~employment.]]~~

* * *

ARTICLE VII

PARKS, AQUATIC PRESERVES AND PRESERVATION LANDS

* * *

SECTION 7.03. - ENFORCEMENT AND CONSTRUCTION.

All elections required by this Article shall be held either in
conjunction with state primary or general elections or as part of
bond issue elections. The provisions of this Article may be
enforced ~~[[in the same manner as provided in Section (C) of the~~
~~Citizens' Bill of Rights of this Charter]]~~>> by a citizen alleging a
violation of this Article filed in the Dade County Circuit Court
pursuant to its general equity jurisdiction, the plaintiff, if
successful, shall be entitled to recover costs as fixed by the
Court.<<. The provisions of this Article shall be liberally construed

²Words 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.

in favor of the preservation of all park lands, aquatic preserves, and preservation lands. If any provision of this Article shall be declared invalid it shall not affect the validity of the remaining provisions of this Article. This Article shall not be construed to illegally impair any previously existing valid written contractual commitments or bids or bonded indebtedness.