

# MEMORANDUM

Agenda Item No. 11(A)(10)

---

**TO:** Honorable Vice Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners


**DATE:** December 18, 2012

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

**SUBJECT:** Resolution opposing any  
legislation filed for consideration  
during the Florida Legislature's  
2013 session that would preempt  
Miami-Dade County's wage theft  
ordinance

---

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.  
County Attorney

RAC/lmp




# MEMORANDUM

(Revised)

**TO:** Honorable Vice Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** December 18, 2012

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

**SUBJECT:** Agenda Item No. 11(A)(10)

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 Mayor'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)(10)  
12-18-12

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OPPOSING ANY LEGISLATION FILED  
FOR CONSIDERATION DURING THE FLORIDA  
LEGISLATURE'S 2013 SESSION THAT WOULD  
PREEMPT MIAMI-DADE COUNTY'S WAGE THEFT  
ORDINANCE

**WHEREAS**, wage theft is when workers are not paid a wage for work performed, paid below the minimum wage, not paid for overtime, forced to work off the clock, have their time cards altered or are misclassified as independent contractors; and

**WHEREAS**, a 2010 report by the Research Institute on Social and Economic Policy for the Florida Wage Theft Task Force analyzed documented wage violations in Miami-Dade and Palm Beach Counties and found that from August, 2006 to August, 2010, there were 3,697 wage violations reported in the two counties worth about \$3.6 million in unpaid wages; and

**WHEREAS**, in response to numerous instances of wage theft, this Board enacted Ordinance No. 10-16 on February 18, 2010 prohibiting wage theft and providing administrative procedures and private causes of action for wage theft; and

**WHEREAS**, Miami-Dade was the first county in the state to adopt a countywide wage theft law; and

**WHEREAS**, between the time of the ordinance's passage and September 30, 2012, there were a total of 1,986 wage complaints, claims or inquiries logged, resulting in a total of \$1,264,948 awarded to claimants; and

**WHEREAS**, during the 2011 session of the Florida Legislature, bills were filed that would have preempted wage theft ordinance, SB 982 by Senator Jim Norman (R – Tampa) and HB 241 by Representative Tom Goodson (R – Titusville); and

**WHEREAS**, HB 241 passed the full Florida House by a 87-25 vote, but died in messages when the Senate did not take up the bill; and

**WHEREAS**, the Senate companion bill, SB 982 died on second reading on the floor of the Senate; and

**WHEREAS**, during the 2012 session, bills again were filed that would have preempted wage theft ordinance, SB 862 by Senator David Simmons (R – Altamonte Springs) and HB 609 by Representative Tom Goodson (R – Titusville); and

**WHEREAS**, HB 609 passed the full Florida House by a 77-38 vote, but died in messages when the Senate did not take up the bill; and

**WHEREAS**, the Senate companion bill, SB 862 died in the Senate Judiciary Committee, thanks to the efforts of Judiciary Committee Chair Senator Anitere Flores of the Miami-Dade Legislative Delegation; and

**WHEREAS**, on March 23, 2012, a Miami-Dade County circuit court ruled against a challenge to the Miami-Dade County wage theft ordinance, holding that Miami-Dade's ordinance is a "reasonable exercise of governmental authority" and a "proper exercise of its police powers," which are guaranteed under the county's Home Rule Charter; and

**WHEREAS**, in October, 2012, the Broward County Commission became the second county in Florida to enact a wage theft ordinance; and

**WHEREAS**, it is likely that bills preempting wage theft ordinances will be filed for consideration during the 2013 session; and

**WHEREAS**, Miami-Dade County's wage theft ordinance has proven effective at helping unpaid workers recover wages to which they are rightfully entitled, while not imposing a significant burden on businesses and relieving the already congested court system from such claims; and

**WHEREAS**, this Board desires to express its strong opposition to bills that would preempt wage theft ordinances,

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

**Section 1.** Opposes any legislation filed for consideration during the Florida Legislature's 2013 session that would preempt Miami-Dade County's wage theft ordinance.

**Section 2.** Directs the Clerk of the Board to transmit certified copies of the resolution to the Governor, Senate President, House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, the Mayor and Members of the Broward County Board of County Commissioners and the Executive Director of the Florida Association of Counties.

**Section 3.** Directs the County's state lobbyists to advocate against legislation that would preempt local wage theft ordinances, and directs the Office of Intergovernmental Affairs to include this item in the 2013 state legislative package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is 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:

Audrey M. Edmonson, Vice Chairperson	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr	José "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Senator Javier D. Souto
Xavier L. Suarez	Juan C. Zapata

The Chairperson thereupon declared the resolution duly passed and adopted this 18<sup>th</sup> day of December, 2012. 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

