

MEMORANDUM

Agenda Item No. 11(A)(2)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: March 18, 2014

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

SUBJECT: Resolution opposing State
legislation 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 Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

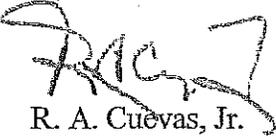
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(Revised)

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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 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)(2)
3-18-14

RESOLUTION NO. _____

RESOLUTION OPPOSING STATE LEGISLATION 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 December 31, 2013, there were a total of 2,540 wage complaints, claims or inquiries logged, resulting in a total of \$3,813,428 awarded to claimants; and

WHEREAS, during the 2011 session of the Florida Legislature, bills were filed that would have preempted local wage theft ordinances, 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 local wage theft ordinances, 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, Palm Beach and Alachua Counties have also since enacted wage theft ordinances; and

WHEREAS, during the 2013 session, bills again were filed that would have preempted local wage theft ordinances, SB 1216 by Senator Rob Bradley (R – Orange Park) and HB 1125 by Representative Tom Goodson (R – Titusville); and

WHEREAS, HB 1125 passed the full Florida House by a 71-45 vote, but died in the Senate Committee on Criminal Justice; and

WHEREAS, the Senate companion bill, SB 1216, died on the Senate floor when the session ended before the Senate could take up the bill; and

WHEREAS, the effort to preempt local wage theft ordinances has been renewed for the 2014 session; and

WHEREAS, Senator Wilton Simpson (R – New Port Richey) has filed SB 926 for consideration during the 2014 state legislative session; and

WHEREAS, SB 926 would preempt local wage theft ordinances, although the bill would not preempt wage theft ordinances enacted on or before January 1, 2014, which includes Miami-Dade County's wage theft ordinance; and

WHEREAS, the House companion bill to SB 926, HB 957, has also been filed for consideration during the 2014 session, by Representative Neil Combee (R – Auburndale); and

WHEREAS, like SB 926, HB 957 would preempt local wage theft ordinances except those enacted before January 1, 2014; and

WHEREAS, these bills would authorize a county to only adopt a local wage theft ordinance that meets the required provisions in the bill, one of which is a requirement that the county partner with a local legal services organization for the purpose of establishing a local process through which claims of wage theft shall be addressed by the legal services organization; and

WHEREAS, these bills specify exactly how the legal services organization should administer the wage theft program, leaving little room for individual counties to tailor their wage theft programs to meet local needs and capabilities; and

WHEREAS, counties have the ability under current law to contract with a local legal services organization to pursue wage theft cases if they choose to do so, as Palm Beach County has already done in its wage theft program; and

WHEREAS, Miami-Dade County's wage theft ordinance has proven effective at expeditiously and resourcefully pursuing wage theft cases, 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 Miami-Dade County's wage theft ordinance,

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 2014 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, Senator Wilton Simpson, Representative Neil Combee, the Mayor and Members of the Broward County Board of County Commissioners, the Mayor and Members of the Palm Beach County Board of County Commissioners, the County Manager and Members of the Alachua County Board of County Commissioners, and the President and Executive Director of the Florida Association of Counties, and.

Section 3. Directs the County's state lobbyists to advocate against legislation that would preempt Miami-Dade County's wage theft ordinance, and directs the Office of Intergovernmental Affairs to amend the 2014 state legislative package that has been presented to the Board to include this item.

The Prime Sponsor of the foregoing resolution is Chairwoman 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:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 18th day of March, 2014. 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.

MTM

Michael J. Mastrucci