

MEMORANDUM

Agenda Item No. 4(G)


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

DATE: December 2, 2014

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

SUBJECT: Ordinance pertaining to the Miami-Dade County Expressway Authority; amending Section 2-129 of the Code to codify provisions of Chapter No. 2014-183, Laws of Florida (SB 846), to provide that a lobbyist may not be appointed to serve on the Authority, and require the Clerk of the Board to include such language in ballots utilized by the Board of County Commissioners to appoint members to the Authority

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



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM
(Revised)

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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 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. 4(G)
12-2-14

ORDINANCE NO. _____

ORDINANCE PERTAINING TO THE MIAMI-DADE COUNTY EXPRESSWAY AUTHORITY; AMENDING SECTION 2-129 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO CODIFY PROVISIONS OF CHAPTER NO. 2014-183, LAWS OF FLORIDA (SB 846), TO PROVIDE THAT A LOBBYIST MAY NOT BE APPOINTED TO SERVE ON THE AUTHORITY, AND REQUIRE THE CLERK OF THE BOARD TO INCLUDE SUCH LANGUAGE IN BALLOTS UTILIZED BY THE BOARD OF COUNTY COMMISSIONERS TO APPOINT MEMBERS TO THE AUTHORITY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade Expressway Authority (the "Authority") was created in December 1994 pursuant to chapter 348, Florida Statute, to carry out certain powers related to the construction, extension or improvement the expressway system or appurtenant facilities in Miami-Dade County; and

WHEREAS, the Authority has the power to alter, charge, and collect tolls and other charges for services and facilities associated with the expressway system; and

WHEREAS, the expressways under the jurisdiction of the Authority are:

- State Road 112/Airport Expressway
- State Road 836/Dolphin Expressway
- State Road 874/Don Shula Expressway
- State Road 878/Snapper Creek Expressway
- State Road 924/Gratigny Parkway; and

WHEREAS, as of 2011, the Authority had invested over \$740 million in completed projects and another \$480 million in ongoing projects; contributed over \$400 million toward joint construction projects with other state and local governmental agencies; and is programmed

to invest over \$360 million toward projects in the upcoming five years, as is more fully detailed in the Cambridge Systematics, Inc. report on the Miami-Dade Expressway Authority (2012); and

WHEREAS, the Authority enters into numerous contracts and conducts business with private contractors, officials, and property owners in carrying out its required functions; and

WHEREAS, it is important that the Authority's business transactions be carried out in a manner that avoids even the appearance of unethical behavior, including conflicts between a member's business interests and the interests of the Authority; and

WHEREAS, during the 2014 session, the Florida Legislature enacted Chapter No. 2014-183, Laws of Florida (SB 846), which, among other provisions, imposed ethical reforms on the Authority, including prohibiting lobbyists from being appointed to serve on the Authority; and

WHEREAS, this legislative reform should be codified in the provisions of the Code of Miami-Dade County, Florida, pertaining to the County's appointment of members to the Authority; and

WHEREAS, in addition, corresponding language should be placed on any ballots prepared by the Clerk of the Board of County Commissioners for the purposes of the Commission's appointment of members to the Authority,

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

Section 1. Section 2-129 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

¹ Words 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.

Sec. 2-129. Governing body; composition.

The governing body of the Authority shall consist of thirteen (13) members, each of whom shall, except for the District Secretary of the Florida Department of Transportation, at all times during his or her term of office be a resident of Miami-Dade County. The governing body shall consist of:

- (a) Five (5) voting members appointed by the Governor.
- (b) Seven (7) voting members appointed by the Board of County Commissioners. Up to two (2) of the members so appointed may be elected officials residing in Miami-Dade County.

* * *

- (d) The District Six Secretary of the Florida Department of Transportation shall serve as a voting member of the governing body.

>>In accordance with the provisions of section 348.0003(5)(a), Florida Statutes, as such may be amended, a lobbyist, as defined in section 112.3215, Florida Statutes, as such may be amended, may not be appointed to serve as a member of the Authority.

Section 112.3215 currently contains the following definitions, in pertinent part: "Lobbying firm" means a business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist. "Lobbyist" means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. "Lobbyist" does not include a person who is:

1. An attorney, or any person, who represents a client in a judicial proceeding or in a formal administrative proceeding conducted pursuant to chapter 120 or any other formal hearing before an agency, board, commission, or authority of this state.
2. An employee of an agency or of a legislative or judicial branch entity acting in the normal course of his or her duties.

3. A confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.

4. A person who lobbies to procure a contract pursuant to chapter 287 which contract is less than the threshold for CATEGORY ONE as provided in s. 287.017.

“Principal” means the person, firm, corporation, or other entity which has employed or retained a lobbyist.

“Lobbies” means seeking, on behalf of another person, to influence an agency with respect to a decision of the agency in the area of policy or procurement or an attempt to obtain the goodwill of an agency official or employee.

To the extent of a conflict between the language set forth in this code section and the language included in section 112.3125, as such may be amended, the language in section 112.3215 shall prevail.

The Clerk of the Board shall include the following language on any ballot to be utilized by the Board of County Commissioners for purposes of appointing members to the Authority: Florida Statute Section 348.0003(5)(a) prohibits the appointment of a lobbyist to serve as a member of the Miami-Dade County Expressway Authority.<<

The terms of the members shall be four (4) years each, except that the initial terms of the voting members shall be as follows: one (1) member appointed by the Governor shall serve a one (1) year term and two (2) members appointed by the Governor shall serve a two (2) year term; two (2) members appointed by the County Commission shall serve a three (3) year term and three (3) members appointed by the Commission shall serve a four (4) year term; and except that the initial terms of those persons who were non-voting members of the Authority prior to July 1, 1997 shall be: two (2) members shall serve a three (3) year term and two (2) members shall serve a four (4) year term. Upon the effective date of his or her appointment, or as soon as practicable thereafter, each appointed member shall enter upon his or her duties. A member shall hold office until his or her successor has been appointed and qualified. Any member of the Authority is eligible for reappointment. The Governor may remove any member of the governing body from office for misconduct, malfeasance, misfeasance, or nonfeasance in office. Members of the governing

body shall receive from the Authority their travel and other expenses incurred in connection with the business of the Authority as provided in Section 112.061, Florida Statutes, but they may not draw salaries or other compensation from the Authority. Members of the governing body shall comply with the applicable financial disclosure requirements of Florida Statutes Sections 112.3145, 112.3148, and 112.3149, and the Code of Ethics for Public Officers and Employees at Florida Statutes Section 112.311, et seq.

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Cynthia Johnson-Stacks

Prime Sponsor: Chairwoman Rebeca Sosa