

MEMORANDUM

Agenda Item No. 7(C)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

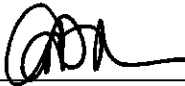
DATE: July 6, 2016


FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance creating section 12-14.2.1 of the Code to provide for reporting requirements for County and municipal elected officers and candidates regarding solicitation of contributions for Organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code and political parties; providing penalties for failure to report; providing for enforcement by the Commission on Ethics and Public Trust

This item was amended at the 6-14-16 Strategic Planning & Government Operations Committee. The amendment conforms the proposed regulations on 501(c)(4) organizations and political parties to the regulations on political committees and electioneering communications organizations in Ordinance 16-46. The amendment also excludes home owner associations from the requirements imposed on 501(c)(4) organizations and removes the letter of reprimand in favor of a letter of instruction for the first offense.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata and Co-Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams
County Attorney 

APW/lmp

Memorandum



Date: July 6, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Fiscal Impact Statement for Ordinance Creating Section 12-14.2.1 of the Code of Miami-Dade County

The proposed ordinance creates Section 12-14.2.1 of the Code of Miami-Dade County establishing reporting requirements for County and municipal elected officers and candidates regarding solicitation of contributions for organizations exempt under Section 501(c) (4) of the Internal Revenue Code and political party solicitations.

This legislation would require each candidate for County or municipal office in Miami-Dade County to file an additional electronic report with the Supervisor of Elections or other applicable filing officer specific to any contribution or expenditure reports associated with solicitation activities on behalf of any organization exempt from taxation under Section 501(c)(4) of the Internal Revenue Code or political party. In addition each County or municipal elected officer in Miami-Dade County who is not also a candidate for another County or municipal officer shall, on a monthly basis, file an electronic report upon commencement of any solicitation activities undertaken on behalf of any 501(c)(4) Organization or political report for the remainder of the officer's term of office to the Supervisor of Elections. Should the County or municipal elected officer fail to submit the required report(s), he/she will be subject to fines of up to \$5,000.00. The Commission on Ethics and Public Trust will be responsible to hear any disputes or appeals related to the fine. Implementation of this ordinance will have no fiscal impact to the County.

A handwritten signature in black ink, appearing to read "Edward Marquez".

Edward Marquez
Deputy Mayor

Fis04416 160428

Memorandum



Date: July 6, 2016

To: Honorable Chairman Jean Monestime
And Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

Subject: Social Equity Statement – Ordinance to Provide for Reporting Requirements for County and Municipal Elected Officers and Candidates Regarding Solicitation of Contributions for Organizations Exempt From Taxation

The proposed ordinance creates Section 12.14.2 of the Code, requiring the designated campaign Treasurer of each candidate for County or municipal office in Miami-Dade and each County or municipal elected officer report any solicitation activities undertaken on behalf of any 501(c)(4) organization or political party. This ordinance has the potential to provide additional transparency and accountability in government.

A handwritten signature in black ink, appearing to read "Aljhay T. Hudak", written over a horizontal line.

Aljhay T. Hudak
Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(C)

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
- Statement of social equity 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. 7(C)
7-6-16

ORDINANCE NO. _____

ORDINANCE CREATING SECTION 12-14.2.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO PROVIDE FOR REPORTING REQUIREMENTS FOR COUNTY AND MUNICIPAL ELECTED OFFICERS AND CANDIDATES REGARDING SOLICITATION OF CONTRIBUTIONS FOR ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501(c)(4) OF THE INTERNAL REVENUE CODE AND POLITICAL PARTIES; PROVIDING PENALTIES FOR FAILURE TO REPORT; PROVIDING FOR ENFORCEMENT BY THE COMMISSION ON ETHICS AND PUBLIC TRUST; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, this Board believes that transparency and accountability in government is fundamental to the public's faith in the democratic process; and

WHEREAS, this Board desires that campaign fundraising activities by candidates and public officials be transparent and accessible by all residents of Miami-Dade County; and

WHEREAS, fundraising through organizations exempt from taxation under Section 501(c)(4) of the Internal Revenue Code ("501(c)(4) Organizations") and political parties create the potential for anonymous campaign fundraising that can function as a barrier between citizens and those seeking to represent them in elective office; and

WHEREAS, state law and the rules of the Florida legislature currently require that some state officers and legislators disclose when they fundraise for a 501(c)(4) Organizations; and

WHEREAS, this Board desires to establish similar requirements for County and municipal officials and candidates within Miami-Dade County as they relate to both 501(c)(4) Organizations and political parties; and

WHEREAS, requiring public officials and candidates to publicly disclose their fundraising activities for 501(c)(4) Organizations and political parties would provide needed sunlight in the campaign fundraising process and allow voters to make informed decision about candidates,

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

Section 1. Section 12-14.2.1 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

Sec. 12-14.2.1 County and Municipal Elected Officer and Candidate Reporting Requirements for Organizations Exempt Under Section 501(c)(4) of the Internal Revenue Code or Political Party Solicitations.

- (1) >>Effective January 1, 2017, each candidate for County or municipal office in Miami-Dade County shall insure that their designated campaign treasurer shall, within five (5) days of commencing solicitation activities, either directly or indirectly, on behalf of an organization exempt under Section 501(c)(4) of the Internal Revenue Code except for home owners associations ("501(c)(4) Organization") or a political party, file a one-time report with the Supervisor of Elections or other applicable filing officer indicating that the candidate is undertaking solicitation activities on behalf of such 501(c)(4) Organization or political party. The report shall identify the name of the 501(c)(4) Organization or political party on behalf of whom such funds are being solicited and a description of the relationship between the candidate and the 501(c)(4) Organization or political party.<<¹ ~~[[Each candidate for County or municipal office in Miami-Dade County shall insure that their designated campaign treasurer shall, at the time of filing any contribution or expenditure reports otherwise required by law, file an additional electronic report with the Supervisor of Elections or other applicable filing officer regarding solicitation activities on behalf of any organization exempt~~

¹ Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

~~from taxation under Section 501(c)(4) of the Internal Revenue Code ("501(c)(4) Organization") or political party. The report shall identify each contribution successfully solicited, directly or indirectly, by the candidate, the name of the person or entity contributing the funds, the name of the 501(c)(4) Organization or political party on behalf of whom such funds were solicited, the amount of the contribution, and a description of the relationship between the candidate and the 501(c)(4) Organization or political party, if any.]] The report shall be filed on a form created by the Supervisor of Elections for such purpose. [[A candidate may comply with the reporting requirements of this subsection by filing a one-time report indicating that all contributions to an identified 501(c)(4) Organization or political party were solicited either directly or indirectly by the candidate. Upon filing such report, no further reports shall be required under this subsection for solicitations on behalf the identified 501(c)(4) Organization or political party during any reporting period.]]~~

- (2) >>Effective January 1, 2017, upon commencement of any solicitation activities undertaken on behalf of a 501(c)(4) Organization or a political party, each County or municipal elected officer in Miami-Dade County who is not also a candidate for another County or municipal office shall, within five (5) days of commencing solicitation activities, either directly or indirectly, on behalf of a 501(c)(4) Organization or a political party, file a one-time report with the Supervisor of Elections or other applicable filing officer indicating that the officer is undertaking solicitation activities on behalf of such 501(c)(4) Organization or political party. The report shall identify the name of the 501(c)(4) Organization or political party on behalf of whom such funds are being solicited and a description of the relationship between the officer and the 501(c)(4) Organization or political party.<< [[Upon commencement of any solicitation activities undertaken on behalf of any 501(c)(4) Organization or political party, each County or municipal elected officer in Miami-Dade County who is not also a candidate for another County or municipal office shall, on a monthly basis for the remainder of the officer's term of office, file an electronic report with the Supervisor of Elections or other applicable filing officer regarding such solicitation activities during the preceding month. The report shall identify each contribution successfully solicited, directly or indirectly, by the officer, the name of the person or entity contributing the funds, the name of the 501(c)(4) Organization or political party on behalf of whom

~~such funds were solicited, the amount of the contribution, and a description of the relationship between the officer and the 501(c)(4) Organization or political party, if any.]]~~
 The report shall be filed on a form created by the Supervisor of Elections for such purpose. ~~[[A County or municipal elected official may comply with the reporting requirements of this subsection by filing a one-time report indicating that all contributions to an identified 501(c)(4) Organization or political party were solicited either directly or indirectly by the County or municipal elected official. Upon filing such report, no further reports shall be required under this subsection for solicitations on behalf the identified 501(c)(4) Organization or political party during the remainder of the County or municipal elected official's term.]]~~

- (3) Any County or municipal elected officer or candidate who fails to file a report as required by this section on the designated due date shall >>, for the first violation, be sent a letter of instruction regarding the provisions of this Section, and for each subsequent violation, << be subject to a fine of \$50 per day for the first three (3) days and, thereafter, \$500 per day for each day late not to exceed \$5,000. Such fine shall not be an allowable campaign expense and shall be paid only from the personal funds of the candidate or officer. Any candidate or officer may appeal or dispute the fine to the Miami-Dade County Commission on Ethics and Public Trust based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request, and shall be entitled to, a hearing before the Commission on Ethics and Public Trust, which shall have the authority to waive the fine in whole or in part. Any such appeal or dispute shall be made within twenty (20) days after receipt of notice from the Supervisor of Elections that payment is due or such appeal or dispute shall be waived.

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:

Handwritten signature consisting of the letters "GIBL" above "OREN" with a horizontal line underneath.

Prepared by:

Oren Rosenthal

Prime Sponsor: Commissioner Juan C. Zapata
Co-Sponsor: Commissioner Daniella Levine Cava