

MEMORANDUM

Agenda Item No. 11(A)(10)

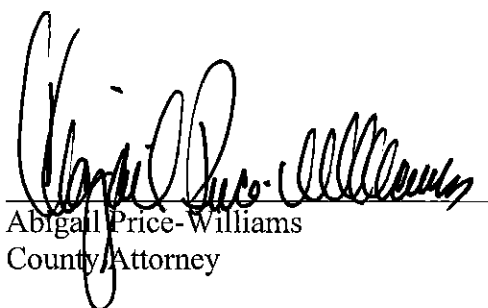
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: February 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida Legislature to include in Senate Bill 406 or similar legislation implementing Amendment 2 related to medical marijuana certain provisions, including provisions pertaining to packaging and child-proofing, public consumption, revenue sharing resources for social impacts, security requirements, vetting of growers and dispensers and prohibition on the use of certain pesticides; further urging the Florida Department of Health to include such provisions in rules that are promulgated; and opposing preemption of local government regulation of medical marijuana

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



Abigail Price-Williams
County Attorney

APW/lmp



MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: February 7, 2017

FROM: Abigail Price-Williams
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
- 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

Agenda Item No. 11(A)(10)

Veto _____

2-7-17

Override _____

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO INCLUDE IN SENATE BILL 406 OR SIMILAR LEGISLATION TO IMPLEMENT AMENDMENT 2 RELATED TO MEDICAL MARIJUANA CERTAIN PROVISIONS PERTAINING TO PACKAGING OF EDIBLES AND PRODUCTS CONTAINING MEDICAL MARIJUANA TO PREVENT INADVERTENT INGESTION BY CHILDREN AND ADULTS; A PROHIBITION ON PUBLIC CONSUMPTION; REVENUE SHARING WITH LOCAL GOVERNMENTS AS TO REASONABLE COSTS ASSOCIATED WITH MEDICAL MARIJUANA; DEDICATED RESOURCES FOR IMPACTS TO HUMAN AND SOCIAL SERVICES; SECURITY REQUIREMENTS FOR THE GROWING, PROCESSING, DISPENSING, AND TRANSPORTING OF MEDICAL MARIJUANA; VETTING OF POTENTIAL GROWERS AND DISPENSERS OF MEDICAL MARIJUANA PRIOR TO LICENSING; AND A PROHIBITION ON THE USE OF HARMFUL PESTICIDES IN THE GROWING OF MEDICAL MARIJUANA; FURTHER URGING THE FLORIDA DEPARTMENT OF HEALTH TO INCLUDE SUCH PROVISIONS IN RULES THAT ARE PROMULGATED; AND OPPOSING PREEMPTION OF LOCAL GOVERNMENT REGULATION OF MEDICAL MARIJUANA, INCLUDING LAND USE REGULATIONS

WHEREAS, on November 8, 2016, Amendment 2, entitled "Use of Marijuana for Debilitating Medical Conditions," passed with 71 percent of the vote; and

WHEREAS, Amendment 2 allows individuals with debilitating medical conditions, as determined by a licensed Florida physician, to use marijuana for medical purposes and allows caregivers to assist with patients' medical use of marijuana; and

WHEREAS, Amendment 2 does not apply to any non-medical use, possession, or production of marijuana; and

WHEREAS, Amendment 2 requires the Florida Department of Health to timely promulgate and issue reasonable regulations necessary for the implementation and enforcement of the amendment to ensure the availability and safe use of medical marijuana by qualifying patients; and

WHEREAS, Senator Rob Bradley (R – Orange Park) has filed Senate Bill 406 related to implementing Amendment 2 for consideration during the 2017 session; and

WHEREAS, this Board would like to urge the Florida Legislature and the Florida Department of Health to include certain provisions in Senate Bill 406 or similar implementing legislation or rules that are promulgated, respectively; and

WHEREAS, any legislation or regulations to implement Amendment 2 should include, among other provisions, requirements for appropriate packaging, labeling, and child-proofing of products containing medical marijuana to ensure that children and adults do not accidentally ingest medical marijuana and get sick; and

WHEREAS, specifically, the implementing legislation or regulations should include a prohibition on brightly colored edibles and packaging for edibles, particularly edibles that looks like candy, and ensure that products containing medical marijuana are individually stamped with identifiers; and

WHEREAS, as reported in one recent study about the effects of marijuana legalization in Colorado, emergency room and poison control center visits there nearly doubled from 32 children who had consumed marijuana edibles in 2013, the year before recreational marijuana stores opened, to 63 in 2015, with children suffering symptoms that included dizziness, agitation, vomiting, respiratory problems, and seizures; and

WHEREAS, a recent study published in the New England Journal of Medicine found that emergency room visits related to marijuana use appeared to be increasing more rapidly among out-of-state residents than among Colorado residents, as the initial educational efforts through mass media focused primarily on Colorado residents, highlighting the need for, and importance of, point-of-sale education for visitors regarding the safe and appropriate use of marijuana products; and

WHEREAS, to prevent accidental ingestion, especially by children, other states have put in place strict packaging rules to deter children from consuming products containing marijuana; and

WHEREAS, in Oregon, for example, marijuana products cannot be sold in packaging that includes cartoon characters, neon colors, or terms that would be attractive to children, and must be in child-resistant packaging that displays the state's universal marijuana warning symbol, a white leaf on a red background with an exclamation point next to it; and

WHEREAS, the implementing legislation or regulations should also prohibit public consumption of products containing medical marijuana to protect public health and safety and to ensure that such products are used only in safe, controlled environments; and

WHEREAS, without such a prohibition, if marijuana were to be consumed on the streets, in public buildings, or in commercial and retail areas, public safety would be put at risk; and

WHEREAS, the implementing legislation or regulations should also devote appropriate resources to mental health, homelessness, substance abuse, and other areas of human and social services impacted by the legalization of medical marijuana; and

WHEREAS, in addition, the legislation or regulations should allow for revenue-sharing between state and local governments as to any revenue generated from licensing or regulation of

medical marijuana to ensure that local taxpayers do not bear the burden of additional costs associated with medical marijuana, including increased incidence of homelessness, greater need for social services, and increased demands upon local fire rescue, emergency medical, and police services; and

WHEREAS, such legislation or regulations should include a fee structure to cover all reasonable costs of state and local governments associated with medical marijuana; and

WHEREAS, other states that have legalized marijuana use, including Colorado, have seen an influx of homeless people in recent years; and

WHEREAS, according to a federal survey by the U.S. Department of Housing and Urban Development released in November 2016, homelessness increased in Colorado over the last year by 6 percent, even while homelessness nationwide decreased by more than 2 percent; and

WHEREAS, as recently reported by 7News Denver, city officials in Denver estimate that anywhere from 20 to 30 percent of homeless people are moving there in part for legalized marijuana or to find jobs in the industry; and

WHEREAS, as recently reported in the Pueblo Chieftan, Anne Stattelmann, director of Posada homeless services in Pueblo, Colorado, said that an increase in the homeless population there brought on by the legalization of marijuana, easier access to Medicaid health insurance, and the area's reputation for low-cost housing and affordability has swamped her agency's ability to help local families who find themselves in temporary need of a safe place to live, adequate meals, and assistance with finding work; and

WHEREAS, Stattelmann explained that “Posada was established to help Pueblo residents with emergency housing and we can’t do that anymore because of the number of people coming to us from other places,” and that “[i]t used to be a rule that we never allowed a family with children to sleep outside but now that happens all the time”; and

WHEREAS, as accounts from other states bear out, marijuana legalization also leads to increased demands upon local fire rescue, emergency medical services, and police services in local communities due to, among other reasons, accidental ingestion as discussed above, and theft and criminal conduct brought on by legalization; and

WHEREAS, accordingly, the implementing legislation or regulations should impose requirements pertaining to security for the growing, processing, dispensing, and transport of medical marijuana and products containing medical marijuana to ensure safety and to prevent robberies and other criminal conduct; and

WHEREAS, robberies and crime associated with the production, transportation, and sale of marijuana in other states has been documented; and

WHEREAS, for example, as reported in the Los Angeles Times in November 2016, three suspects robbed a marijuana dispensary in Los Angeles, then fled in a car and were pursued by officers, the chase ending when the suspects’ vehicle crashed; and

WHEREAS, the police were able to apprehend one of the suspects, but the other two fled on foot and remained on the run; and

WHEREAS, as reported by News Channel 13 in Colorado Springs, a similar incident occurred in that city in October 2016; and

WHEREAS, there, a marijuana shop employee was ambushed by two men while walking to his car, with the robbers placing a gun to the employee's head and demanding that he return to the shop; and

WHEREAS, once inside, the suspects robbed the shop of marijuana products and then fled the scene in the employee's car; and

WHEREAS, to prevent similar incidents from occurring in Florida, implementing legislation or regulations should include appropriate security and safety measures; and

WHEREAS, the implementing legislation or regulations should also ensure potential dispensing organizations, and the people who operate and work in them, are properly vetted before licensing; and

WHEREAS, states such as Colorado and Oregon have imposed restrictions to prevent persons who have been convicted of certain crimes and illegal conduct from obtaining marijuana licensing; and

WHEREAS, for example, marijuana permits will not be issued in Colorado to any applicant with a conviction for a controlled substance-related felony over the last 10 years or any felony over the last five years, while in Oregon applicants are not eligible for permits if they have been convicted of a felony involving controlled substances, marijuana, violence, theft, fraud, or forgery in the last three years; and

WHEREAS, in addition, any implementing legislation or regulations should not preempt local governments from regulating medical marijuana, including but not limited to the local ability to enact land use regulations; and

WHEREAS, implementing legislation or regulations should also prohibit the use of harmful pesticides in the growing and cultivation of medical marijuana; and

WHEREAS, because marijuana is illegal under federal law, no pesticide is specifically approved by the federal government for use on the crop; and

WHEREAS, according to a recent article in Business Insider online, studies have shown that marijuana sampled from across the country sometimes carries unsafe levels of pesticides, mold, fungi, and bacteria; and

WHEREAS, some marijuana samples have even tested positive for Myclobutanil, a fungicide treatment commonly used on California grapes, almonds, and strawberries, that when digested is harmless, but when heated turns to hydrogen cyanide, a gas that interferes with the body's ability to use oxygen normally; and

WHEREAS, persons whose immune systems are weakened, such as cancer patients undergoing chemotherapy or those infected with HIV, are much more vulnerable to infection upon inhaling contaminated cannabis, meaning that those who stand to benefit the most from medical marijuana may also be the most vulnerable to health risks from pesticides; and

WHEREAS, in March 2016, Colorado recalled hundreds of batches of marijuana that tested positive for banned pesticides out of concern for public safety; and

WHEREAS, to prevent that from occurring in Florida, the state should ensure appropriate legislation or regulations prohibit harmful pesticides from being used wherever marijuana is grown and cultivated; and

WHEREAS, accordingly, the Florida Legislature and the Florida Department of Health should include the provisions outlined above in Senate Bill 406 or similar implementing legislation or rules promulgated pursuant to Amendment 2, respectively,

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

Section 1. Urges the Florida Legislature to include in Senate Bill 406 or similar legislation to implement Amendment 2 related to medical marijuana certain provisions pertaining to packaging, labeling, and child-proofing of edibles and products containing medical marijuana to prevent inadvertent ingestion by children and adults; a prohibition on public consumption; revenue sharing with local governments as to reasonable costs associated with medical marijuana; dedicated resources for impacts to human and social services; security requirements for the growing, processing, dispensing, and transporting of medical marijuana; vetting of potential growers and dispensers of medical marijuana prior to licensing; and a prohibition on the use of harmful pesticides in the growing of medical marijuana.

Section 2. Urges the Florida Department of Health to include the provisions outlined in Section 1 above in any regulations promulgated to implement Amendment 2.

Section 3. Opposes preemption of local government regulation of medical marijuana, including land use regulations, in any bill or rule implementing Amendment 2.

Section 4. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, the Senate President, the House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, and the Florida Surgeon General and Secretary of the Florida Department of Health.

Section 5. Directs the County's state lobbyists to advocate for the legislative and administrative action described in Sections 1 and 2 above and against any preemption of local governments as described in Section 3 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2017 State Legislature Package to include this item.

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:

Esteban L. Bovo, Jr., Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
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 7th day of February, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County 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.

James Eddie Kirtley
Jess M. McCarty

