

MEMORANDUM

Agenda Item No. 11(A)(4)

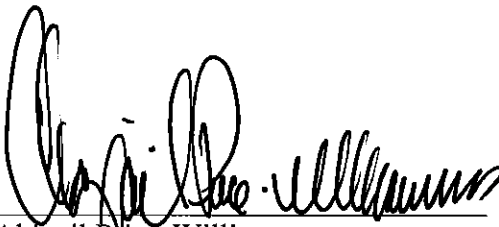
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: October 17, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida Legislature to create a separate criminal offense for theft and burglary committed during a declared state of local emergency; further urging the Florida Legislature to require an offender to pay monetary restitution in an amount twice the value of any loss or damage caused by theft or burglary committed during a declared statewide or local emergency

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

DATE: October 17, 2017

FROM: Abigail Price-Williams
County Attorney

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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
- 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)(4)

Veto _____

10-17-17

Override _____

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO CREATE A SEPARATE CRIMINAL OFFENSE FOR THEFT AND BURGLARY COMMITTED DURING A DECLARED STATE OF LOCAL EMERGENCY; FURTHER URGING THE FLORIDA LEGISLATURE TO REQUIRE AN OFFENDER TO PAY MONETARY RESTITUTION IN AN AMOUNT TWICE THE VALUE OF ANY LOSS OR DAMAGE CAUSED BY THEFT OR BURGLARY COMMITTED DURING A DECLARED STATEWIDE OR LOCAL EMERGENCY

WHEREAS, Hurricane Irma was one of the strongest and most catastrophic hurricanes recorded in the Atlantic, rapidly intensifying from a tropical storm to a category five hurricane, with sustained winds in excess of 175 miles per hour, and gusts in excess of 200 miles per hour; and

WHEREAS, given the projected path and potential destruction of Hurricane Irma, Governor Rick Scott declared a state of emergency for all of Florida's 67 counties on September 4, 2017; and

WHEREAS, on September 5, 2017, Mayor Carlos Gimenez similarly declared a state of local emergency for Miami-Dade County and ordered the evacuation of thousands of County residents; and

WHEREAS, although Hurricane Irma weakened before it made landfall in Florida, the declarations were not lifted as Irma remained a very large hurricane and maintained great strength; and

WHEREAS, despite the danger and gravity of the cyclone and seriousness of the circumstances, there were reports of looting as Hurricane Irma battered the state; and

WHEREAS, Florida law enforcement played double duty—saving lives while also arresting alleged thieves for swiping goods from businesses and homes during the hurricane; and

WHEREAS, 26 people were arrested for looting at a Wal-Mart store on the north side of the City of Miami; and

WHEREAS, six men were arrested and accused of breaking into stores at the Midtown Miami shopping complex, before making off with merchandise that included shoes, bags and laptops; and

WHEREAS, in Broward County, two 17-year-olds from Weston, Florida, were caught entering a home while the owners were out of the country; and

WHEREAS, nine looters were arrested for breaking into a Ft. Lauderdale shoe store and pawn shop; and

WHEREAS, section 812.014, Florida Statutes, makes theft during a declared state of emergency a felony of the first degree if: (a) the property stolen is valued at \$20,000 or more, but less than \$100,000; (b) the property stolen is certain cargo valued at less than \$50,000; (c) the property stolen is certain emergency medical equipment, valued at \$300 or more; or (d) the property stolen is certain emergency medical equipment, valued at \$300 or more; and

WHEREAS, section 812.014, Florida Statutes, makes theft during a declared state of emergency a felony of the second degree if the property stolen is: (a) valued at \$300 or more, but less than \$5,000; (b) valued at \$5,000 or more, but less than \$10,000; (c) valued at \$10,000 or more, but less than \$20,000; (d) a will, codicil, or other testamentary instrument; (e) a firearm; (f)

certain motor vehicles; (g) any commercially farmed animal; (h) any fire extinguisher; (i) any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit; (j) taken from a designated construction site identified by the posting of a sign; (k) any stop sign; (l) anhydrous ammonia; or (m) any amount of a controlled substance; and

WHEREAS, section 812.02, Florida Statutes, makes burglary during a declared state of emergency a felony of the first degree if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a: (a) dwelling, whether or not another person is in the dwelling at the time the offender enters or remains; (b) structure, and there is another person in the structure at the time the offender enters or remains; (c) conveyance, and there is another person in the conveyance at the time the offender enters or remains; (d) authorized emergency vehicle; or (e) structure or conveyance when the offense intended to be committed therein is theft of a controlled substance; and

WHEREAS, section 812.02, Florida Statutes, makes burglary during a declared state of emergency a felony of the second degree if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a: (a) structure, and there is not another person in the structure at the time the offender enters or remains; or (b) conveyance, and there is not another person in the conveyance at the time the offender enters or remains; and

WHEREAS, because a state of local emergency may be issued without the issuance of a statewide emergency by the governor, this Board would like to urge the Florida Legislature to create a separate criminal offense for theft or burglary committed during a state of local emergency, similar to the provisions in sections 812.014 and 812.02, Florida Statutes; and

WHEREAS, considering the seriousness of these offenses, this Board would also like to urge the Florida Legislature to require an offender to pay monetary restitution in an amount twice the value of any loss or damage caused by a theft or burglary committed during a declared statewide or local emergency,

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 create a separate criminal offense for theft and burglary committed during a declared state of local emergency.

Section 2. Urges the Florida Legislature to require an offender to pay monetary restitution in an amount twice the value of any loss or damage caused by a theft or burglary committed during a declared statewide or local emergency.

Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 4. Directs the County's state lobbyists to advocate for the legislation set forth in Sections 1 and 2 above, and authorizes and directs the Office of Intergovernmental Affairs to incorporate this item into the 2018 State Legislative Package.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz. 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 17th day of October, 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.

APP

Altanese Phenelus