

MEMORANDUM

Agenda Item No. 11(A)(16)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 2, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution opposing the provision of Senate Bill (SB) 90 or similar legislation that retroactively cancels current vote-by-mail ballot requests and urging the Florida Legislature to provide that legislation reducing the period for which a vote-by-mail ballot request remains valid shall not take effect until the expiration of a voter's current request or January 1, 2022

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



Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 2, 2021

FROM: 
Gen. Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(16)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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)(16)
3-2-21

RESOLUTION NO. _____

RESOLUTION OPPOSING THE PROVISION OF SENATE BILL (SB) 90 OR SIMILAR LEGISLATION THAT RETROACTIVELY CANCELS CURRENT VOTE-BY-MAIL BALLOT REQUESTS AND URGING THE FLORIDA LEGISLATURE TO PROVIDE THAT LEGISLATION REDUCING THE PERIOD FOR WHICH A VOTE-BY-MAIL BALLOT REQUEST REMAINS VALID SHALL NOT TAKE EFFECT UNTIL THE EXPIRATION OF A VOTER'S CURRENT REQUEST OR JANUARY 1, 2022

WHEREAS, section 101.62, Florida Statutes, currently permits voters in the State of Florida to request a vote-by-mail ballot for up to two regularly scheduled general elections, allowing a single request to entitle the voter to receive a vote-by-mail ballot for both local and state elections for up to four years; and

WHEREAS, on February 3, 2021, Senator Dennis K. Baxley (R - Ocala) filed Senate Bill ("SB") 90 which, in part, would amend section 101.62 to reduce the potential effective duration of a vote-by-mail ballot request from the end of the calendar year after the second ensuing regularly scheduled general election to the end of the calendar year after the next regularly scheduled general election; and

WHEREAS, SB 90 explicitly provides that voters who have already requested a vote-by-mail ballot prior to the July 1, 2021 effective date would have their vote-by-mail ballot request cancelled and must affirmatively resubmit a request to receive a vote-by-mail ballot for any local, state or federal election after July 1, 2021; and

WHEREAS, the retroactive cancellation of pending vote-by-mail ballot requests made prior to July 1, 2021 will create havoc in upcoming local elections; and

WHEREAS, specifically, SB 90 would disproportionately affect elderly voters who do not possess the same access to information as younger voters and require the County, municipalities and candidates to expend time and money to educate the approximately 400,000 voters in Miami-Dade County who will have their currently valid vote-by-mail ballot requests cancelled; and

WHEREAS, municipalities where approximately 28 percent of all Miami-Dade County voters currently reside are scheduled to conduct their municipal elections immediately after SB 90's July 1, 2021 effective date with little lead time to notify voters of and afford them the opportunity to submit new vote-by-mail ballot requests; and

WHEREAS, the City of Virginia Gardens will conduct a municipal election on September 14, 2021 and 396 voters in that election who properly and timely requested vote-by-mail ballots in accordance with Florida law will have their vote-by-mail ballot requests cancelled; and

WHEREAS, the City of Homestead will conduct a municipal election on October 5, 2021 and 7,561 voters in that election who properly and timely requested vote-by-mail ballots in accordance with Florida law will have their vote-by-mail ballot requests cancelled; and

WHEREAS, the City of Hialeah with 25,279 current vote-by-mail ballot requests, the City of Miami with 58,049 current vote-by-mail ballot requests, and the City of Miami Beach with 15,719 current vote-by-mail ballot requests will each conduct municipal elections on November 2, 2021 and 99,047 voters in those elections who each properly and timely requested a vote-by-mail ballot in accordance with Florida law will have their vote-by-mail ballot requests cancelled; and

WHEREAS, these voters relied in good-faith on the existing provisions of Florida's elections laws and currently believe that the Miami-Dade County Supervisor of Elections will mail them a vote-by-mail ballot for their municipal elections; and

WHEREAS, voters who do not learn that their currently valid vote-by-mail ballot requests have been cancelled by SB 90 will also not know that SB 90 requires them to affirmatively resubmit vote-by-mail ballot requests in order to receive said ballots for the upcoming municipal and general elections; and

WHEREAS, the burden of learning that their currently valid vote-by-mail ballot requests are cancelled will fall disproportionately on elderly voters who do not typically have the same access to information sources such as the internet and social media as younger voters; and

WHEREAS, of the over 100,000 voters who will have their vote-by-mail ballot requests cancelled before January 1, 2021, 46,243 are over the age of 60; and

WHEREAS, the burden of informing Miami-Dade County voters of the cancellation of their vote-by-mail ballot requests will fall on the County, the municipalities and the candidates in upcoming elections; and

WHEREAS, additionally, mailing a notice to each of the 400,000 Miami-Dade voters that indicates their vote-by-mail ballots have been cancelled will cost the County approximately \$405,000.00, not including the costs of any public awareness campaigns or similar efforts necessary to ensure that voters do not simply ignore the notice in reliance on the current provisions of state law; and

WHEREAS, any concern that such retroactive change in the vote-by-mail ballot request process is necessary to ensure that vote-by-mail ballots will only be sent to valid voter addresses is already accounted for in state law which provides that a current vote-by-mail ballot will be cancelled if any first-class mail sent by the Supervisor of Elections is returned as undeliverable; and

WHEREAS, accordingly, this Board opposes SB 90's retroactive vote-by-mail ballot cancellation provision; and

WHEREAS, this Board believes that any legislation reducing the time for which a vote-by-mail ballot request remains valid should not take effect until the expiration of the voter's current request or January 1, 2022,

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

Section 1. Opposes the provision of SB 90 or similar legislation that would retroactively cancel pending vote-by-mail ballot requests.

Section 2. Urges the Florida Legislature to provide that any legislation reducing the time for which a vote-by-mail ballot request remains valid should not take effect until the expiration of the voter's current request or January 1, 2022.

Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Senator Dennis K. Baxley, the Chair and Members of the Miami-Dade County State Legislative Delegation and the Secretary of the Florida Department of State.

Section 4. Directs the County's state lobbyists to advocate against the legislation described in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2021 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. 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:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of March, 2021. 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.



Oren Rosenthal