

MEMORANDUM

Agenda Item No. 11(A)(19)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 4, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution opposing
language in HB 359 and SB
540 and any similar
legislation that would
impose a deadline by when
local governments must act
on comprehensive plan
amendments without
allowance for extensions

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.


Geri Bonzon-Keenan
County Attorney

GBK/ks

MDC001



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 4, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(19)

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)(19)
4-4-23

RESOLUTION NO. _____

RESOLUTION OPPOSING LANGUAGE IN HB 359 AND SB 540 AND ANY SIMILAR LEGISLATION THAT WOULD IMPOSE A DEADLINE BY WHEN LOCAL GOVERNMENTS MUST ACT ON COMPREHENSIVE PLAN AMENDMENTS WITHOUT ALLOWANCE FOR EXTENSIONS

WHEREAS, House Bill (“HB”) 359 has been filed for consideration during the Florida Legislature’s 2023 session by Representative Wyman Duggan (R – Jacksonville); and

WHEREAS, HB 359 would amend chapter 163 of the Florida Statutes to make certain changes to state law regarding the recovery of attorney fees and costs in legal challenges relating to comprehensive plans and the exemption of Florida College System institutions from certain land development regulations; and

WHEREAS, Senate Bill (“SB”) 540 is the companion Senate bill, filed by Senator Nick DiCeglie (R – St. Petersburg), which would make similar changes to state law; and

WHEREAS, on March 23, 2023, the State Affairs Committee adopted an amendment to HB 359 that had been filed by Representative Duggan, which is now incorporated into the HB 359 committee substitute; and

WHEREAS, on March 28, the identical amendment was adopted to SB 540; and

WHEREAS, the amendments provide that, if a local government does not adopt a proposed comprehensive plan amendment at the second public hearing held on the amendment, “the amendment shall be formally adopted by the local government within 180 days after holding the second public hearing or else it is deemed withdrawn”; and

WHEREAS, each amendment further provides that it “is remedial in nature, intended to clarify existing law, and shall apply retroactively to January 1, 2022”; and

WHEREAS, by making their applicability retroactive to January 1, 2022, the amendments appear, among other things, to be intended to benefit and support the plan amendment that this Board adopted in Ordinance No. 22-148, also known as the “Aligned Amendment”; and

WHEREAS, although the amendments benefit the Aligned Amendment, the amendments also preempt this Board’s existing procedures and impose new requirements; and

WHEREAS, current law requires local governments to hold a public hearing on a plan amendment within 180 days after receipt of state agency comments or the amendment is deemed withdrawn, and the law provides a process by which that deadline may be extended; and

WHEREAS, these amendments, by contrast, impose an additional 180-day deadline within which local governments must act on an application after a public hearing but do not allow that new deadline to be extended and instead would automatically deem the application withdrawn if the local government does not act by the new deadline; and

WHEREAS, in addition, making the amendments retroactive alters this Board’s authority over applications that are currently in process before this Board; and

WHEREAS, the proposed amendments conflict with Ordinance No. 23-1, in which this Board adopted new plan amendment application procedures that limit deferrals on such applications after public hearing but provide for additional deferrals where the Board holds an additional public hearing; and

WHEREAS, the proposed amendments would result in an application being deemed withdrawn after 180 days if the Board defers an application beyond that time, even where the Board has held an additional public hearing in accordance with its own deferral rules; and

WHEREAS, although the amendments support the Aligned Amendment, this Board opposes language in HB 359 and SB 540 and any similar legislation that would preempt this Board's authority over its planning procedures by imposing a deadline within which local governments must act on proposed plan amendments without allowance for extensions,

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

Section 1. Opposes language in HB 359 and SB 540 and any similar legislation that would impose a deadline within which local governments must act on comprehensive plan amendments without allowance for extensions.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, the Senate President, the House Speaker, Representative Wyman Duggan, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. 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 2023 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Danielle Cohen Higgins. 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:

Oliver G. Gilbert, III, Chairman
Anthony Rodríguez, Vice Chairman
Marleine Bastien
Kevin Marino Cabrera
Roberto J. Gonzalez
Danielle Cohen Higgins
Kionne L. McGhee
Micky Steinberg
Juan Carlos Bermudez
Sen. René García
Keon Hardemon
Eileen Higgins
Raquel A. Regalado

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of April, 2023. 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

LUIS G. MONTALDO, CLERK AD INTERIM

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Dennis A. Kerbel
Christopher J. Wahl