

MEMORANDUM

Amended
Agenda Item No. 7(C)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: June 30, 2009

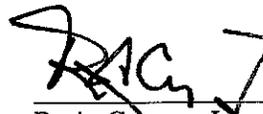
FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance amending Chapter
11A of the Code; relating to
discrimination in housing,
public accommodations,
employment, family leave
and domestic leave

#09-53

This ordinance was amended by the Housing and Community Development Committee to provide examples of jurisdictions that have included source of income as a protected class; to clarify that source of income discrimination is limited to housing; and to provide a definition of source of income.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

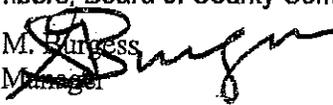
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Memorandum



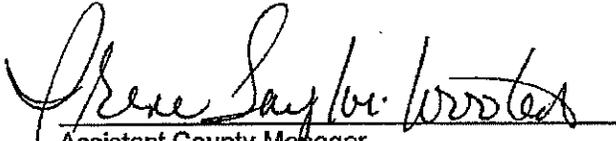
Date: June 30, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Ordinance amending Chapter 11A of the Code; in housing, public accommodations,
employment, family leave and domestic leave

The ordinance related to the Equal Opportunity Board will not have a fiscal impact to Miami-Dade County.


Assistant County Manager

fis03809



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: June 30, 2009

FROM: 
R. A. Suevas, Jr.
County Attorney

SUBJECT: Amended
Agenda Item No. 7 (C)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Mayor's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(C)
6-30-09

#09-53

ORDINANCE NO. _____

ORDINANCE AMENDING, ARTICLES I, II, III, IV, V AND VIII OF CHAPTER 11A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO DISCRIMINATION IN HOUSING, PUBLIC ACCOMMODATIONS, EMPLOYMENT, FAMILY LEAVE AND DOMESTIC LEAVE, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, in 1969, the Board of County Commissioners enacted Ordinance No. 69-41 commonly known as the Fair Housing Ordinance outlawing housing discrimination in Miami-Dade County; and

WHEREAS, on December 19, 1972, the Board enacted Ordinance No. 72-96, which established the Fair Housing and Employment Commission and the procedures for the processing of complaints; and

WHEREAS, on June 17, 1975, the Board enacted Ordinance No. 75-46 which renamed the Fair Housing and Employment Commission as the Fair Housing and Employment Appeals Board; and

WHEREAS, on April 3, 1990, the Board further enacted Ordinance No. 90-32 in part to rename the Fair Housing and Employment Appeals Board as the Equal Opportunity Board ("EOB"); and

WHEREAS, the EOB presently serves as a quasi-judicial body that enforces the Chapter 11A of the Code of Miami-Dade County, also commonly known as the "Civil and Human Rights Ordinance," and also serves as an advisory board to this Board; and

WHEREAS, the EOB's mission is to help improve the quality of life of all Miami-Dade County residents by combating discrimination in employment, housing, public accommodation, credit and financing discrimination that is based on race, color, religion, national origin, sex, age, disability, marital status, familial status and sexual orientation; and

WHEREAS, Civil and Human Rights Ordinance also provides protection against discrimination on the basis of Family Leave and Domestic Violence; and

WHEREAS, this Board finds that the EOB serves an important role in Miami-Dade County; and

WHEREAS, the EOB is the only civil rights enforcement agency in the State of Florida that is named a board; and

WHEREAS, for example the State of Florida has named its enforcement agency the Florida Commission on Human Relations, the City of Jacksonville has named its enforcement agency Jacksonville Human Rights Commission and Lee County has named theirs the Lee County Office of Equal Opportunity; and

WHEREAS, this Board finds that because of the quasi-judicial nature of the EOB and its important role as a combatant of discrimination in Miami-Dade County, it would be prudent to change its name to the Miami-Dade County Commission on Human Rights; and

WHEREAS, several States and local jurisdictions offer protection against source of income discrimination for persons seeking rental housing; and

WHEREAS, counties such as Montgomery County, Maryland, Cook County, Illinois, King County, Washington, and Multnomah County, Oregon serve as examples of local jurisdictions that prohibit source of income discrimination in housing; and

WHEREAS, this Board also finds that many residents of Miami-Dade County have been discriminated against based on their source of income; and

WHEREAS, this Board finds that it is necessary to protect its residents from all forms of discrimination including discrimination based on source of income,

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

Section 1. Section 11A-1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

ARTICLE I. GENERAL PROVISIONS

Sec. 11A-1. Declaration of policy and scope.

(1) *Policy.* It is hereby declared to be the policy of Miami-Dade County, in the exercise of its police power for the public safety, health and general welfare, to eliminate and prevent discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation. >>It is further hereby declared to be the policy of Miami-Dade County to eliminate and prevent discrimination in housing based on source of income.<<

(2) *Jurisdiction and area of application.*

* * *

(3) *Preservation of substantive rights.* Any substantive rights created by Chapter 11A as it existed prior to the enactment of Ordinance 90-32 are preserved as to any cases pending on the effective date of the creation of the ~~[[Equal Opportunity Board]]~~ >>Miami-Dade County Commission on Human Rights.<<

¹ Words stricken through and/or ~~[[double]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(4) *Deferment by other enforcement agencies.* The Director of the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< subject to the approval by the County Commission, and upon written agreement with the United States Department of Housing and Urban Development, the United States Equal Employment Opportunity Commission or any other federal, state or local agencies may accept written, sworn and signed complaints of violations of this chapter deferred to the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< by such agency for investigation and resolution; however, the Director of the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< may waive such deferment.

(5) *Ex parte communications.* Except for ex parte applications for subpoenas pursuant to this chapter, no person shall make any ex parte communication, relative to any pending case before the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< to any ~~[[Board]]~~ >>Commission<< member, or at any stage of a proceeding after the filing of a charge or complaint, by any party to the proceeding, or by any person who has a direct or indirect interest in the proceeding, or by any authorized representative or counsel. Any violation of this section shall be reported in writing, by the ~~[[Board]]~~ >>Commission<< member affected; and the report, which shall include a description of the substance of the communication, any response, and a copy of any written communication, shall be part of the record.

Section 2. Section 11A-2 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-2. Definitions.

The definitions set out herein shall apply to articles II, III, IV and V:

* * *

(2) ~~[[Board]]~~ >>Commission<< shall mean the Miami-Dade County ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< or its successor.

* * *

(7) *Director* shall mean the Director of the Miami-Dade County ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<<

(8) *Discrimination* shall mean any difference, distinction or preference in treatment, access or impact because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, ~~[[et]]~~ sexual orientation, >>or source of income.<<

* * *

(20) *Hearing officer* shall mean an employee of the Division of Administrative Hearings within the State of Florida, Department of Administration, employed to conduct hearings pursuant to F.S. chapter 120, or other person selected by the Chairperson of the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights, << or his or her designee, to conduct a hearing pursuant to this chapter from a pool of hearing officers, who are members of the Florida Bar in good standing. The hearing officers shall serve for a term ~~[[not to exceed]]~~ >>of<< two (2) years, and shall not be entitled to compensation; however, they shall receive reimbursement for parking in county garages and for mileage for any hearing-related business. Such reimbursement shall be consistent with County policy.

* * *

Section 3. Section 11A-3 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-3. Office of the Director established.

(1) The position of ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< Director is hereby created and established. The Director shall be appointed by and serve at the will of the County Manager. The position shall be exempt from the classified service of the County.

* * *

Section 4. Section 11A-4 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-4. ~~[[Equal Opportunity Board]] >>Commission on Human Rights<< established.~~

(1) *Creation of the ~~[[Board.]] >>Commission<<~~* The Miami-Dade County ~~[[Equal Opportunity Board]] >>Commission on Human Rights<<~~ is hereby created and established. The ~~[[Board]] >>Commission<<~~ shall consist of twenty-six (26) members appointed by the Board of County Commissioners. Each member of the Board of County Commissioners may appoint two persons to the ~~[[Equal Opportunity Board]] >>Commission on Human Rights.<<~~

(2) *Qualifications of members.* Members of the ~~[[Board]] >>Commission on Human Rights<<~~ shall be permanent residents and electors of Miami-Dade County, Florida. Of at least one of the two appointments by each County Commissioner, consideration for membership may be given to representatives from the following fields:

* * *

(4) *Organization of the ~~[[Board]] >>Commission.<<~~* The members of the ~~[[Board]] >>Commission<<~~ shall elect the Chairperson, and such other Officers as may be deemed necessary, who shall serve a term of two (2) years with the possibility of reelection. At least three (3) members of the ~~[[Board]] >>Commission<<~~ shall constitute a hearing panel for the purposes of conducting a hearing and approving final orders on complaints. At least five (5) members of the ~~[[Board]] >>Commission<<~~ shall constitute a quorum to hold a meeting for any other purposes. A majority vote of those present at a duly constituted meeting shall be sufficient for all actions.

(5) *Compensation.* Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses including but not limited to, training and travel, subject to approval by the County Commission. Training in equal opportunity shall be provided to all ~~[[Board]] >>Commission<<~~ Members at least once each year.

(6) *Meetings.* Meetings of the ~~[[Board]] >>Commission<<~~ shall be held monthly or as needed to hear and dispose of the pending cases. Notice of the time and place of meetings shall be given to all members of the ~~[[board]] >>Commission<<~~ and to all parties scheduled to be heard. The Chairperson may call an emergency

meeting of the ~~[[Board]]~~ >>Commission<< Three (3) members may also call an emergency meeting upon written request to the Director.

(7) *Minutes*. Minutes shall be kept of all meetings of the ~~[[Board]]~~ >>Commission<< All meetings shall be public and all minutes shall be subject to public inspection except where prohibited by law.

(8) *County Manager*. The County manager shall provide such adequate and competent administrative, technical and clerical personnel as may be reasonably required by the ~~[[Board]]~~ >>Commission<< for the proper performance of its duties. The County Manager shall provide a regular meeting place for the ~~[[Board]]~~ >>Commission<<

(9) *County Attorney*. The County Attorney shall provide counsel to the ~~[[Board]]~~ >>Commission<<

Section 5. Section 11A-5 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-5. Duties and powers of the ~~[[Board]]~~ >>Commission<<

The ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< shall have the following duties, functions, powers and responsibilities:

(1) To apply to the appropriate court on behalf of the County for such temporary or permanent injunctive relief as the ~~[[Board]]~~ >>Commission<< or a Hearing Panel thereof, believe is necessary to preserve the status quo or to prevent irreparable harm and to carry out the purposes of this chapter.

* * *

(5) To compel, by subpoena issued by the Chairperson of the ~~[[Board]]~~ >>Commission<< the attendance of witnesses and the production of evidence for discovery, investigation, hearing or deposition for the preservation of testimony.

* * *

Section 6. Section 11A-6 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-6. Discretionary review; request for rehearing.

(1) Within fifteen (15) days following the issuance of the final adjudicative order, a party may file a written request for rehearing of a case or amendment of a final order by the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<<. A request for rehearing shall state with particularity the factors overlooked or misapprehended by the original hearing panel, and shall not reargue the merits of the case. The nonmoving party may file a written response within ten (10) days of the written request for rehearing.

* * *

(3) If the request for rehearing is granted, the ~~[[Board]]~~ >>Commission<< shall expeditiously schedule a hearing. At least five (5) members shall constitute a Hearing Panel for the purpose of such rehearing.

* * *

(6) No appeal to the ~~[[Board]]~~ >>Commission<< shall be had from a denial of a request for rehearing.

Section 7. Section 11A-7 of the Code of Miami-Dade County, Florida is hereby amended to read as follows.

Sec. 11A-7. Enforcement of final order.

If the ~~[[Board]]~~ >>Commission<< determines that any respondent has committed an unlawful act prohibited by this chapter, and said respondent refuses to comply with or obey the final order of the ~~[[Board]]~~ >>Commission<< or Director, the ~~[[Board]]~~ >>Commission<< on behalf of the County or the complainant may petition the court of competent jurisdiction for enforcement of the final order.

Section 8. Section 11A-8 of the Code of Miami-Dade County, Florida is hereby amended to read as follows.

Sec. 11A-8. Appeals.

(1) The ~~[[Board's]]~~ >>Commission's<< final order shall be subject to review in accordance with the Florida Rules of Appellate Procedure. For purposes of such review, any original jurisdictional notices required to be filed under the Florida Rules of Appellate Procedure shall be filed with the Director. The ~~[[Board]]~~ >>Commission<< shall provide the index and record on appeal when required by, and in accordance with, the Florida Rules of Appellate Procedure. A fee may be charged by the ~~[[Board]]~~ >>Commission<< for the preparation and transmission of the record on appeal to the court of ~~[[appropriate]]~~ >>competent<< jurisdiction. Such fee may be waived by the Director if the party requesting the record is indigent.

(2) Costs or fees may not be assessed against the ~~[[Board]]~~ >>Commission<< in any appeal from a final order issued by the ~~[[Board]]~~ >>Commission<< pursuant to this chapter.

* * *

(4) Unless specifically ordered by the ~~[[Board]]~~ >>Commission<< or a court of competent jurisdiction, the commencement of an appeal does not suspend or stay a final order of the ~~[[Board]]~~ >>Commission.<<

Section 9. Section 11A-9 of the Code of Miami-Dade County, Florida is hereby amended to read as follows.

Sec. 11A-9. Remedial action

If at any time after a complaint has been filed, the Director or the ~~[[Board]]~~ >>Commission<< upon conferring with the County Attorney, has reasonable cause to believe that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the Director or the ~~[[Board]]~~ >>Commission<< shall refer the complaint to the County Attorney, who may at his or her discretion and a determination that the complaint raises a—matter of great public importance, commence a civil action to preserve the status quo or to prevent irreparable harm. Any temporary restraining order or other order

granting preliminary or temporary relief shall be issued in accordance with the Florida Rules of Civil Procedure. The commencement of a civil action under this chapter shall be in addition to all remedies otherwise available under federal and state law, municipal ordinances and this chapter.

Section 10. Section 11A-11 of the Code of Miami-Dade County is hereby amended to read as follows.

ARTICLE II. HOUSING

Sec. 11A-11. Definitions.

The definitions set out in Section 11A-2 shall apply to this article in addition to the definition set forth below. As used in this article:

* * *

>>(12) Source of income shall mean the lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant, including but not limited to Section 8 Housing Choice Vouchers, Supplemental Security Income, Social Security, pensions and other retirement benefits.<<

Section 11. Section 11A-12 of the Code of Miami-Dade County is hereby amended to read as follows.

Sec. 11A-12. Unlawful housing practices.

* * *

(n) To resist, prevent, impede or interfere with the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights,<< its members and/or representatives in the lawful performance of their duties under this chapter; or

* * *

Section 12. Section 11A-14 of the Code of Miami-Dade County is hereby amended

to read as follows:

Sec. 11A-14. Procedures for housing discrimination complaint.

* * *

(3) Respondent.

(a) Within ten (10) days of the filing of the complaint, the Director shall serve a copy of the complaint and a written notice on the respondent identifying the alleged discriminatory housing practice and setting forth the rights and obligations of the parties including, but not limited to the right to a fair and full hearing on the matter before the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< or a Hearing Officer. Such service shall be by certified mail.

* * *

(4) Investigation of housing discrimination complaint.

* * *

(b) In conducting an investigation of any housing complaint, the Director shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence relevant to the complaint and may examine, record, photograph and copy such materials and take and record the testimony or statements of such persons and issue such interrogatories as are reasonably necessary for the furtherance of the investigation. The ~~[[Board]]~~ >>Commission<< may enter an order compelling answers to interrogatories. The ~~[[Board]]~~ >>Commission<< may issue subpoenas to compel access to or the production of materials, or appearance of persons, to the same extent and subject to the same limitations as all other subpoenas issued by the County Court of Miami-Dade County, Florida.

(5) Subpoenas.

(a) Witnesses summoned by subpoena of the ~~[[Board]]~~ >>Commission<< shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the County Court of Miami-Dade County, Florida. Fees payable to a witness

summoned by subpoena issued at the request of a party shall be paid by the party, or where the party is unable to pay due to indigence, shall be paid by the [[Board]] >>Commission<<

(b) Within ten (10) days after service of a subpoena upon any person, such person may petition the [[Board]] >>Commission<< to revoke or modify the subpoena. The [[Board]] >>Commission<< shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(c) In the case of the contumacy or refusal to obey a subpoena, the [[Board]] >>Commission<< or any party may seek enforcement of a subpoena issued under the authority of this chapter by filing a petition for enforcement in the County Court of Miami-Dade County, Florida.

* * *

(f) Any person who, with intent thereby to mislead the [[Board]] >>Commission<< or the Director, makes or causes to be made any false entry or statement of fact in any report, account, record or other document submitted to the [[Board]] >>Commission<< pursuant to its subpoena or other order or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.

* * *

(8) Conciliation.

(a) It is the policy of the Director and the [[Board]] >>Commission<< to encourage conciliation of complaints. The Director will work with the parties in an attempt to conciliate the complaint. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the Director. Consistent with federal fair housing laws, a conciliation agreement

shall be made public unless the complainant and respondent otherwise agree and the Director determines that disclosure is not required to further the purpose of the federal Fair Housing Act or this article.

* * *

(9) *Hearing in front of* ~~[[Equal—Opportunity—Board]]~~
>>Commission on Human Rights<< *or Hearing Officer.*

(a) If within twenty (20) days after receipt of the Director's finding related to probable cause under Title VIII of the Civil Rights Act of 1968 as amended, the complainant or respondent does not elect to have the findings decided in a civil action by a court of competent jurisdiction as prescribed in 11A-16 and a conciliation agreement has not been reached, then the Director shall provide an opportunity for a hearing before the ~~[[Board]]~~ >>Commission or a Hearing Officer.<<

* * *

(c) The hearing shall commence no later than one hundred twenty (120) days after the issuance of the Director's finding related to probable cause, unless it is impractical to do so. If the ~~[[Board]]~~ >>Commission<< is not able to commence the hearing within sixty (60) days, then the ~~[[Board]]~~ >>Commission<< shall notify the complainant and respondent in writing of the reasons for not doing so.

(d) The ~~[[Board]]~~ >>Commission<< shall make findings of fact and conclusions of law within sixty (60) days after completion of the hearing, unless it is impractical to do so. If the ~~[[Board]]~~ >>Commission<< does not make findings of fact and conclusions of law within sixty (60) days, then the ~~[[Board]]~~ >>Commission<< shall notify the complainant and respondent in writing of the reasons for not doing so.

(e) The ~~[[Board]]~~ >>Commission<< shall not continue to conduct a hearing after the commencement of a trial of civil action by the complainant seeking relief with respect to the discriminatory housing practice which was the basis of the ~~[[board]]~~ hearing.

(f) In any hearing before the ~~[[Board]]~~ >>Commission<< or Hearing Officer pursuant to this section, the respondent may file a written answer to the complaint. All parties shall appear at the hearing in person, with or without counsel, and may submit

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evidence, cross-examine witnesses, obtain issuance of subpoenas and otherwise be heard. Testimony taken at the hearing shall be under oath. Upon written application to the ~~[[Board]]~~ >>Commission<< a party shall be entitled to the issuance of a reasonable number of subpoenas to compel the attendance of witnesses and/or the production of documents at a hearing or at a deposition in connection with a hearing. Subpoenas issued at the request of a party shall show on their face the name and address of such party, shall state that they were issued at the party's request and shall be subject to the same limitations as subpoenas issued by the County Court of Miami-Dade County, Florida.

* * *

Section 13. Section 11A-15 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-15. Enforcement by private persons.

* * *

(4) Upon request of the ~~[[Board]]~~ >>Commission<< the County Attorney may intervene on behalf of the County in an action brought under the provisions of this article, if the ~~[[Board]]~~ >>Commission<< certifies that the case is of public importance to the citizens of Miami-Dade County.

* * *

Section 14. Section 11A-16 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-16. Election of judicial determination.

* * *

(3) The decision to elect a civil action in lieu of a hearing by the ~~[[Board]]~~ >>Commission or a Hearing Officer<< must be made not later than twenty (20) days after the receipt of the Director's finding related to probable cause. The person who elects to pursue a civil action shall give notice of this election to the ~~[[Board]]~~ >>Commission<< and to all other complainants and respondents to whom the complaint relates.

(4) If the decision to elect a civil action is made, then the ~~[[Board]]~~ >>Commission<< shall authorize the election, and the Director shall provide complainant with an Attorney without cost to the complainant. Such Attorney shall commence a civil action on behalf of the complainant not later than thirty (30) days after election for civil action is made.

* * *

Section 15. Section 11A-23 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

ARTICLE III. PUBLIC ACCOMMODATIONS

Sec. 11A-23. Procedures for public accommodations complaint.

* * *

(3) *Respondent.*

Upon the filing of any complaint, the Director shall promptly serve the complaint and a written notice on the respondent or person charged with the commission of a discriminatory practice, setting forth the rights and obligations of the parties including, but not limited to the right to a fair and full hearing on the matter before the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< or a Hearing Officer. Such service shall be by certified mail.

* * *

(9) *Hearing in front of the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< or Hearing Officer.*

(a) Within fifteen (15) days after receipt of the Director's finding related to probable cause the respondent or the complainant may submit a written request for a hearing before the ~~[[Board]]~~ >>Commission<< or before a Hearing Officer. In conducting any hearing to determine whether a violation of this chapter has occurred, the Hearing Officer shall have the power to administer oaths, issue subpoenas, compel the production of and receive evidence. The determination of the Hearing Officer shall be subject to appeal to a court of competent jurisdiction in the same manner as a final order issued by the members of the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<<. If a hearing before the ~~[[Equal Opportunity Board]]~~ >>Commission on Human

*

Rights<< is requested, such hearing shall be held in accordance with Section 11A-23 of this chapter, and the ~~[[Board]]~~ >>Commission's<< Hearing Procedures. A written request for a hearing submitted more than fifteen (15) days after receipt of the Director's finding may be granted only upon a showing of good cause. The Director shall have the final authority in deciding whether good cause has been shown. No hearing may be had from the Director's decision that good cause has not been shown. No hearing may be had from the Director's finding of lack of jurisdiction.

* * *

Section 16. Section 11A-28 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

ARTICLE IV. EMPLOYMENT

* * *

(3) *Respondent*

(a) Upon the filing of any complaint, the Director shall promptly serve the complaint and a written notice on the respondent or person charged with the commission of a discriminatory practice, setting forth the rights and obligations of the parties including, but not limited to the right to a fair and full hearing on the matter before the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< or a Hearing ~~[[Examiner]]~~ >>Officer.<< Such service shall be by certified mail.

* * *

Section 17. Section 11A-29 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

ARTICLE V. FAMILY LEAVE

Sec. 11A-29. Legislative findings and purpose.

* * *

(2) The County Commission finds that the enactment of the Family and Medical Leave Act of 1993, Public Law No. 103-3 (29 U.S.C. § 2611 et seq.) fulfills many of the purposes for which this chapter

was originally intended. In order to avoid imposing possibly conflicting burdens on employers and unduly confusing employees about their family leave rights, the Commission believes it appropriate to make the County ordinance consistent with the federal act and intends that the ordinance be so interpreted. In enacting this revised chapter, the County Commission intends to provide employees in the County with an efficient alternative means of enforcing their rights to family medical leave through the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights.<<

Section 18. Section 11A-30 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-30. Definitions.

As used in this article:

(1) ~~[[Board]]~~ >>Commission<< shall mean the Miami-Dade County ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights.<<

(2) *Director* shall mean the Director of the Miami-Dade County ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights<< or his or her designee.

* * *

Section 19. Section 11A-60 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

ARTICLE VIII. DOMESTIC LEAVE ~~[[AND REPORTING]]~~

Sec. 11A-60. Definitions.

As used in this article:

(1) ~~[[Board]]~~ >>Commission<< shall mean the Miami-Dade County ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights.<<

(2) *Director* shall mean the Director of the ~~[[Equal Opportunity Board]]~~ >>Commission on Human Rights.<<

* * *

Section 20. The substantive rights that have been created and have accrued in whole or in part under Chapter 11A shall not be extinguished or in any way affected by the repeal and reenactment of Chapter 11A or by the renumbering of Chapter 11A.

Section 21. 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 22. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including the 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 23. 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: JUN 30 2009

Approved by County Attorney as
to form and legal sufficiency.




Prepared by:

Terrence A. Smith

Prime Sponsor: Commissioner Barbara J. Jordan

Memorandum



Date: June 30, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: County Manager's Report Regarding Ordinance Amending Articles I, II, III, IV and V of Chapter 11A, Code of Miami-Dade County Related to Discrimination in Housing, Public Accommodations, Employment, Family Leave and Domestic Leave

In accordance with Section 2-11.37 of the Miami-Dade County Code, the following information is provided regarding the proposed amendments to Articles I, II, III, IV and V of Chapter 11A, creating the Commission on Civil Rights and including source of income as a protected class against discrimination.

1. ***Whether the establishment of the board will create sufficient betterment to the community to justify the Board of County Commissioner's delegation of a portion of its authority.***

The Equal Opportunity Board as it is currently known is a quasi-judicial board created to address issues of discrimination in Miami-Dade County. Its mission is to promote equal opportunity in employment, housing, public accommodations, credit and financing practices, family leave and domestic leave through the enforcement of Articles I, II, III, IV and V of Chapter 11A, Code of Miami-Dade County. The proposed name change from the Equal Opportunity Board to the Commission on Civil Rights will identify Miami-Dade County with its counterparts at the local and State level. Currently the EOB is the only agency out of ninety-six (96) State and local civil rights enforcement agencies to be identified as a board. Attached is a current list of the names of county and municipal agencies throughout the country that have similar responsibilities as the Equal Opportunity Board. The Commission on Civil Rights will continue with the same mission and responsibilities as the Equal Opportunity Board.

2. ***Whether another board or agency, either public or private, which is already in existence, could serve the same purpose.***

The amendments to the Ordinance merely change the name of the existing Equal Opportunity Board and include the category of "source of income" as a protected class against discrimination. The Equal Opportunity Board provides direct services to the community through the receipt, initiation, mediation, investigation and adjudication of discrimination cases, and through public education and technical assistance activities for local employers and housing providers. There is no private board or agency that could serve the same purpose.

3. ***The costs, both direct and indirect, of establishing and maintaining the Board.***

The Equal Opportunity Board's budget is a combination of County General Fund, federal funds and Community Block Grant funding, which supports the Board's staff. The members of the Board are appointed by the Board of County Commissioners and serve without compensation.

The re-naming of the Equal Opportunity Board to the Commission on Civil Rights creates no fiscal impact.

4. Whether the board is necessary to enable the County to obtain State of federal grants or other financing.

The Board was created to address discrimination complaints by Miami-Dade County residents. The existence of the Equal Opportunity Board allows Miami-Dade County to apply for and receive federal contracts and grants to address discrimination issues in the community.

5. Whether the board should have bonding authority.

The Commission on Civil Rights will not have bonding authority.

6. Whether the board should have final authority to enter into contracts and spend County funds, or whether its contracts and expenditures must be ratified by the Board of County Commissioners.

The Ordinance as it is currently written does not grant the Equal Opportunity Board the authority to approve contracts and agreements and the Commission on Civil Rights will also not have such authority. Board contracts and expenditures must be ratified by the Board of County Commissioners.

7. Whether the creation of a new board is the best method of achieving the desired benefit.

As the proposed amendments to the Ordinance serve to change the name of the existing Board, there is no new board being created. The Equal Opportunity Board has been providing direct services for the past forty years. The Commission on Civil Rights will continue to provide the same services to the residents of Miami-Dade County.



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COUNTY AND MUNICIPAL AGENCIES

Augusta-Richmond County Human Relations Commission (Georgia)
New Hanover Human Relations Commission (North Carolina)
City of Springfield Office of Community Relations (Illinois)
City of Madison Department of Civil Rights (Wisconsin)
Mason City Human Rights Commission (Iowa)
Minneapolis Department of Civil Rights (Minnesota)
Sioux Falls Human Relations Commission (South Dakota)
City of St. Paul Department of Human Rights (Minnesota)
City of Austin Equal Employment/Fair Housing Office (Texas)
Corpus Christi Office of Human Relations Commission (Texas)
City of Fort Worth Community Relations Department (Texas)
East Chicago Human Rights Commission (Indiana)
Evansville-Vanderburgh County Human Relations Commission (Indiana)
Fort Wayne Metropolitan Human Relations Commission (Indiana)
Gary Human Relations Commission (Indiana)
Lexington-Fayette Urban Human Rights Commission (Kentucky)
Louisville Metro Human Relations Commission (Kentucky)
South Bend Human Rights Commission (Indiana)
Broward County Civil Rights Division (Florida)
Jacksonville Human Rights Commission (Florida)
Lee County Office of Equal Opportunity (Florida)
Miami-Dade County Equal Opportunity Board (Florida)
City of Orlando Office of Human Relations (Florida)
Palm Beach County Office of Equal Opportunity (Florida)
Pinellas County Office of Human Rights (Florida)
City of St. Petersburg Community Affairs Dept. (Florida)
City of Tampa Office of Human Rights (Florida)
New York City Commission on Human Rights (New York)
Baltimore Community Relations Commission (Maryland)
Howard County Office of Human Rights (Maryland)
Montgomery County, MD Office of Human Rights (Maryland)
Philadelphia Commission on Human Relations (Pennsylvania)
Pittsburg Commission on Human Relations (Pennsylvania)
Prince George's County Human relations Commission (Maryland)
City of Reading Human Relations Commission (Pennsylvania)
Anchorage Equal Rights Commission (Alaska)
Seattle Office for Civil Rights (Washington)
City of Tacoma Human Rights Dept. (Washington)

Kansas City Missouri Human Relations Dept. (Missouri)
Lincoln Commission on Human Rights (Nebraska)
Omaha Human Rights and Relations Dept. (Nebraska)
St. Louis Civil Rights Enforcement Agency (Missouri)
Alexandria Office of Human Rights (Virginia)
Arlington County Human Rights Commission (Virginia)
DC Office of Human Rights (DC)
Fairfax County Human Rights Commission (Virginia)
Prince William County Human Rights Commission (Virginia)