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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(22)

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	DATE:	September 6, 2012
FROM:	R. A. Cuevas, Jr. County Attorney	SUBJECT:	Resolution urging the Florida Legislature to reinstate "for cause" requirements for the use of absentee ballots to restore integrity to the absentee ballot process Resolution No. R-730-12

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa and Co-Sponsors Commissioner Jose "Pepe" Diaz, Commissioner Barbara J. Jordan and Chairman Joe A. Martinez.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: September 6, 2012

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

SUBJECT: Agenda Item No. 11(A)(22)

Resolution No. R-730-12

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**

_____ **Ordinance creating a new board requires detailed County Manager'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
Veto _____
Override _____

Agenda Item No. 11(A)(22)
9-6-12

RESOLUTION NO. R-730-12

RESOLUTION URGING THE FLORIDA LEGISLATURE TO REINSTATE "FOR CAUSE" REQUIREMENTS FOR THE USE OF ABSENTEE BALLOTS TO RESTORE INTEGRITY TO THE ABSENTEE BALLOT PROCESS

WHEREAS, prior to 1997, Florida substantially restricted the use of absentee ballots to certain "for cause" reasons set forth in statute; and

WHEREAS, to vote by absentee ballot prior to 1997, a voter had to show that he or she:

- Was unable without another's assistance to attend the polls on election day;
- Was an inspector, a poll worker, a deputy voting machine custodian, a deputy sheriff, a supervisor of elections, or a deputy supervisor who is assigned to a different precinct than that in which he or she is registered to vote;
- On account of the tenets of his or her religion, cannot attend the polls on the day of the general, special or primary election;
- Will not be in the precinct of his or her residence during the hours the polls are open for voting on the day of the election;
- Had changed his or her residency to another county in this state within the time period during which the registration books had closed for the election for which the ballot was requested; or
- Had changed his or her residency to another state and was ineligible under the laws of that state to vote in the general election; however, this pertained only to presidential ballots; and

WHEREAS, effective January 1, 1997, the Florida Legislature eliminated the "for cause" absentee ballot requirements and allowed any voter to vote by absentee ballot "who is unable to attend the polls on election day" pursuant to Chapter 96-57, Laws of Florida; and

WHEREAS, following voter fraud and abuses in the absentee balloting process during the 1997 election cycle in Miami, the Legislature during the 1998 session enacted the Voter

Fraud Act, Chapter 98-129, Laws of Florida, as a comprehensive measure to combat absentee ballot fraud; and

WHEREAS, the 1998 Voter Fraud Act essentially readopted into statute the "for cause" reasons for voting absentee with few exceptions, one of which was to have the voter swear that he or she ***may not*** be in the precinct during voting hours, rather than having the voter swear that he or she ***will not*** be in the precinct during voting hours on election day; and

WHEREAS, a number of the 1998 Voter Fraud Act provisions were not approved for implementation by the U.S. Department of Justice, so they did not go into effect; and

WHEREAS, during the 2001 session, the Florida Legislature again revisited absentee ballot requirements in the Florida Election Reform Act of 2001, Chapter 2001-40, Laws of Florida; and

WHEREAS, the Florida Election Reform Act of 2001 eliminated the "for cause" absentee ballot requirements and provided that all registered voters in Florida had the option of casting an absentee ballot without restriction; and

WHEREAS, the Florida Election Reform Act of 2001 also eliminated the requirements that persons requesting an absentee ballot had to provide social security numbers or voter identification numbers, such that the absentee ballot voter's certificate required only the signature of the voter and the signature and address of a witness; and

WHEREAS, during the 2004 session, the Legislature passed Chapter 2004-232, Laws of Florida, which eliminated the requirement that the signature of a voter casting an absentee ballot be witnessed by an individual over 18 years of age, and that the witness' signature and address appear on the Voter's Certificate on the back of the mailing envelope; and

WHEREAS, current investigations into absentee ballot fraud in Miami-Dade County are ongoing; and

WHEREAS, absentee ballots originally were intended for voters who were unable to go to the polls, either because of physical difficulty or travel on the day of an election; and

WHEREAS, absentee ballots currently are available to every voter without any need to show cause why they cannot go to the polls on election day; and

WHEREAS, returning the requirements for the use of absentee ballots to their original intended purpose could serve to curtail opportunities for absentee ballot fraud, while still preserving the ability for voters to use absentee ballots who truly need to,

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 reinstate "for cause" requirements for the use of absentee ballots in order to restore integrity to the absentee ballot process.

Section 2. Directs the Clerk of this Board to send a certified copy of this resolution to the Governor, Senate President, House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, the Florida Secretary of State and the Supervisors of Elections in Florida's 67 counties.

Section 3. Directs the County's state lobbyists to advocate for the passage of the legislation and action set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2013 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa and the Co-Sponsors are Commissioner Jose "Pepe" Diaz, Commissioner Barbara J. Jordan and Chairman Joe A. Martinez. It was offered by Commissioner **José "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Audrey M. Edmonson** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			**aye**
Audrey M. Edmonson, Vice Chairwoman			**aye**
Bruno A. Barreiro	**aye**	Lynda Bell	**aye**
Esteban L. Bovo, Jr.	**aye**	Jose "Pepe" Diaz	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**absent**	Dennis C. Moss	**aye**
Rebeca Sosa	**aye**	Sen. Javier D. Souto	**aye**
Xavier L. Suarez	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of September, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. JMM

Jess M. McCarty

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