

MEMORANDUM

Agenda Item No. 11(A)(13)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

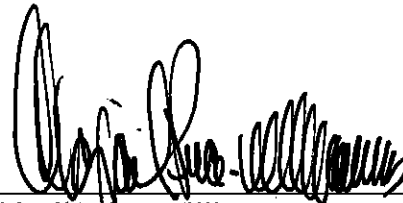
DATE: March 5, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution opposing HB 3, or
similar legislation that would
severely restrict local regulation
of businesses and preempt local
regulation and licensing of
professions and occupations

Resolution No. R-283-19

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



Abigail Price-Williams
County Attorney

APW/smm

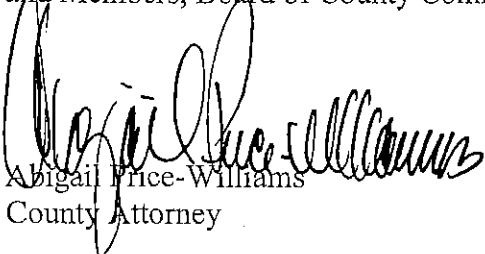


MEMORANDUM

(Revised)

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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 ____, 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)(13)

3-5-19

RESOLUTION NO. R-283-19

**RESOLUTION OPPOSING HB 3, OR SIMILAR LEGISLATION
THAT WOULD SEVERELY RESTRICT LOCAL REGULATION
OF BUSINESSES AND PREEMPT LOCAL REGULATION AND
LICENSING OF PROFESSIONS AND OCCUPATIONS**

WHEREAS, House Bill (HB) 3 has been filed for consideration during the Florida Legislature's 2019 session by Representative Michael Grant (R -- Port Charlotte); and

WHEREAS, a Senate companion bill to HB 3 has not yet been filed; and

WHEREAS, HB 3 is a broad preemption bill that would, among other things:

- (1) prohibit local governments from imposing or adopting any new regulation of business starting July 1, 2019, unless certain criteria are met, including a two-thirds vote of the entire membership of the governing body;
- (2) provide that any existing local regulation of business adopted before July 1, 2019 would expire two years later on July 1, 2021, and could only be readopted after meeting the criteria in HB 3; and
- (3) preempt to the state the regulation and licensing of professions and occupations, provide that existing local regulation and licensing of professions and occupations would expire in two years on July 1, 2021, and prohibit local governments from requiring specialty contractors to obtain a license from the local government; and

WHEREAS, the term "business" is defined broadly in HB 3 to mean any activity regularly engaged in by any person, or caused to be engaged in by any person, for the purpose of private or public gain, benefit, or advantage, and would include goods and services and business entities; and

WHEREAS, the term “regulation” is also broadly defined in HB 3 to mean a rule, directive, act, law, bylaw, ordinance, pronouncement, mandate, command, injunction, procedure, requirement, prescription, or guideline, and any action or process of regulating or being regulated along with any associated fee; and

WHEREAS, HB 3 would require local governments to meet the following criteria to adopt or impose any new regulation of business on or after July 1, 2019, or to readopt or reimpose any existing regulation of business once it expires July 1, 2021:

- (a) the local government has determined that the regulation (i) is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage, (ii) does not unnecessarily restrict entry into the business being regulated or adversely affect the availability of the business’ services, and (iii) is the least restrictive and most cost-effective regulatory scheme being used to regulate such business;
- (b) the local government has passed the regulation by a two-thirds vote of the entire membership of the governing body, with the exception of zoning regulations, regulations that increase building costs by less than \$750, nuisance ordinances and ordinances related to alcohol or tobacco; and
- (c) the local government has completed a statement of estimated regulatory costs and determined that the regulation does not impose regulatory costs on the business that could be reduced by the adoption of a less costly alternative; and

WHEREAS, HB 3 is similar to two broad preemption bills that were filed during the 2017 session of the Florida Legislature, Senate Bill (SB) 1158 by Senator Kathleen Passidomo (R – Naples) and HB 17 by Representative Randy Fine (R – Palm Bay); and

WHEREAS, on March 7, 2017, this Board adopted Resolution No. R-274-17 opposing SB 1158, HB 17, or similar legislation that would preempt local regulation of businesses, professions, occupations, commerce, trade, and labor, and nullify regulations adopted by local governments pertaining to such matters; and

WHEREAS, both SB 1158 and HB 17 died in committee during the 2017 session; and

WHEREAS, like SB 1158 and HB 17 before it, HB 3 could have far-reaching implications for the communities that local governments represent and protect through regulations pertaining to businesses, professions, and occupations; and

WHEREAS, the broad, sweeping nature of HB 3 will cause numerous local regulations to expire on July 1, 2021 and will severely restrict the ability of local governments to adopt or readopt business regulations across a wide swath of areas of local government; and

WHEREAS, among the many local regulations potentially impacted by HB 3 are regulations pertaining to:

- adult entertainment and night club establishments, spacing between alcohol sales establishments and schools, religious facilities, and residences, and hours of operation for certain uses that operate near single family residences;
- minors, including those that prohibit the sale of tobacco products to persons under 18 years of age;
- consumer protection and unfair/deceptive trade practices, including regulations on false/misleading advertising, food product packaging/labeling, price misrepresentation, maximum non-consent tow rates, and non-discrimination in tipping;
- business licensing, including regulations for home occupations and for pain management clinics that require fingerprinting and background checks for the protection of the public;

- notice, disclosure, and signage requirements, including those relating to gasoline prices, rental car agencies, alcoholic beverages, and check cashing fees;
- wage theft;
- anti-discrimination;
- the prevention of unreasonably loud noises;
- historic preservation, including regulations that preserve historic districts and draw tourism;
- art in public places for the benefit of the community;
- emergency vehicles, taxis, limousines, jitneys, and transportation network companies;
- commercial signage and signage on commercial buildings;
- placement and merchandising of tobacco products and e-cigarettes;
- labor and employment;
- local business tax receipts;
- the environment, including regulations that prevent sanitary nuisances such as untreated or improperly treated human waste, garbage, and dead animals, as well as regulations that protect the public water supply from potential sources of contamination and that protect our land and air from pollution;
- solid waste and recyclables, including regulations governing solid waste and recyclable haulers to ensure that solid waste materials are disposed of only at the proper disposal facilities and regulations ensuring that buildings have sufficient space for the storage and collection of solid waste and recyclable materials; and

- procurement, including regulations requiring a minimum degree of experience or qualifications from bidders or proposers and regulations providing opportunities and incentives for small business participation; and

WHEREAS, additionally, HB 3 could potentially prevent local governments from enacting or amending regulations that encourage local and regional economic development, incentivize the hiring or subcontracting of local residents and businesses, and protect the distinguishing aesthetics and other features of local areas that attract tourists; and

WHEREAS, furthermore, local government regulations are particularly important to effectively maintain orderly operations at airports and seaports and to protect the safety of the public, port personnel, vendors, and cargo at such sites; and

WHEREAS, these regulations include, for example:

- security regulations restricting public access to certain parts of the port and requiring special identification credentials and/or background checks for port personnel;
- freight security regulations designed to deter theft and smuggling at border entry or departure points;
- loitering, dumping, and littering restrictions;
- dangerous cargo and environmental contamination restrictions; and
- ground transportation regulations, including those designating specific pickup and drop-off locations for taxis and for-hire vehicles and requiring the registrations of such drivers; and

WHEREAS, many believe that local government regulations serve no useful purpose and are simply revenue generators for local governments that act to the detriment of businesses; and

WHEREAS, in reality, such regulations are designed to protect the public, are essential to preserving the residents' quality of life and character of local communities, and are in many cases actually good for businesses, especially small businesses; and

WHEREAS, for example, as environmental regulations have come into place, businesses have begun to market themselves as "green enterprises," using their compliance with such regulations as a means to attract clients and customers; and

WHEREAS, film permitting regulations are another example of regulations which in reality help businesses and protect the public safety and quality of life by ensuring that film productions operate safely and cause little to no disruption to local businesses, neighborhoods, residents, tourists and traffic; and

WHEREAS, sectors of Florida's diverse business economy also benefit from the state's different geographic regions, which may provide some businesses with economic opportunities and a climate under which they may thrive; and

WHEREAS, sensible business regulations are an important and effective means for local governments to develop innovative solutions for promoting local Florida industries that thrive in particular regions, and impeding the ability of local governments to pass such regulations will hamper, rather than help, Florida's economic development and job creation; and

WHEREAS, the ability to regulate in the areas identified above is essential for local governments to ensure that they may address the issues and problems particular to their communities and ensure the well-being of their residents; and

WHEREAS, residents of local communities, including business owners, are often supportive of such regulations, which have been put in place by their elective representatives on county and city commissions; and

WHEREAS, by severely restricting local government regulation of businesses, and preempting local government regulation and licensing of professions and occupations, HB 3 acts contrary to the will of local communities; and

WHEREAS, local governments are better situated than the Legislature to quickly respond to the needs of local communities as they arise; and

WHEREAS, the Legislature is in regular session only 60 days per year and therefore cannot address local needs as responsively as local governments can, especially in a state as large and diverse as Florida; and

WHEREAS, accordingly, this Board wishes to oppose HB 3, or similar legislation,

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

Section 1. Opposes HB 3, or similar legislation that would severely restrict local regulation of businesses and preempt local regulation and licensing of professions and occupations.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Representative Michael Grant, 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 2019 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Joe A. Martinez. It was offered by Commissioner **Dennis C. Moss**, who moved its adoption. The motion was seconded by Commissioner **Joe A. Martinez** and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	aye		
Rebeca Sosa, Vice Chairwoman	aye		
Esteban L. Bovo, Jr.	aye	Daniella Levine Cava	aye
Jose "Pepe" Diaz	aye	Sally A. Heyman	absent
Eileen Higgins	aye	Barbara J. Jordan	aye
Joe A. Martinez	aye	Jean Monestime	aye
Dennis C. Moss	aye	Sen. Javier D. Souto	aye
Xavier L. Suarez	aye		

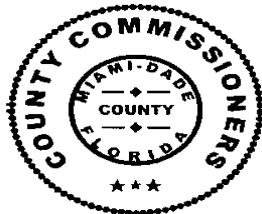
The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of March, 2019. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by 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

Linda L. Cave

By: _____
 Deputy Clerk



Approved by County Attorney as
 to form and legal sufficiency.

MJM

Michael J. Mastrucci