



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Trade and Tourism Committee Meeting

November 10, 2016
9:30 A.M.
Commission Chamber

Research Division

Office of the Commission Auditor
111 NW First Street, Suite 1030
Miami, Florida 33128
305-375-4354

Trade and Tourism Committee
November 10, 2016 Meeting
Research Notes

Item No.	Research Notes
<p>2A 162494</p>	<p>RESOLUTION ESTABLISHING MINIMUM WAGE REQUIREMENTS FOR AIRPORT CONCESSION AGREEMENTS; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AMENDMENTS TO CONCESSION AGREEMENTS AT MIAMI INTERNATIONAL AIRPORT TO INCLUDE MINIMUM WAGE REQUIREMENTS; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO CONSIDER TERMINATION OF SUCH CONCESSIONS FOR CONVENIENCE IN THE EVENT CONCESSIONAIRES ARE UNWILLING TO EXECUTE SUCH AMENDMENTS; DIRECTING THE COUNTY MAYOR AND COUNTY MAYOR'S DESIGNEE TO INCLUDE MINIMUM WAGE REQUIREMENTS IN ALL FUTURE AIRPORT CONCESSION BIDS OR PROPOSALS, OR AS A PRECONDITION OF ANY EXTENSION OF ANY EXISTING CONCESSION AGREEMENT; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO REPORT TO THE BOARD WITHIN 120 DAYS AS TO ANY CONCESSION AGREEMENTS WHICH ARE UNABLE TO BE AMENDED</p>
<p>Notes</p>	<p>The proposed resolution provides for the following:</p> <ul style="list-style-type: none"> • Defines the airport concession minimum wage (Airport Concession Minimum Wage) as follows: a wage of no less than \$15.00 per hour; <ul style="list-style-type: none"> ○ <i>Compliance with this Airport Concession Minimum Wage requirement may be achieved by paying a combination of wages and qualifying health benefits (Qualifying Health Benefits) as that term is defined in Section 2-8.9 of the County Code;</i> ○ <i>Employees performing work under the authority of Airport lease and concession agreements that qualify to be paid as tipped wage earners under the Florida Minimum Wage Act will be paid a minimum wage that is 62.5 percent of the \$15.00 per hour minimum wage established by this resolution;</i> ○ <i>Airport lease and concession agreements will specify that this wage escalates by the same percentages and on the same schedule as the County's Living Wage Ordinance, Section 2-8.9 of the Code of Miami-Dade County;</i> ○ <i>Concessionaires will be required to submit an affidavit under oath or affirmation certifying that they will comply with the Airport Concession Minimum Wage requirements of Airport lease and concession agreements during the term of such lease and concession agreements. Submission of such affidavit to the County will be a condition of award or if applicable, to the extension of the term of an Airport lease and concession agreement; and</i> ○ <i>The County Mayor or designee will include language in the specifications of prospective solicitations for Airport lease and concession agreements to give effect to the intent of this resolution.</i> • Directs the County Mayor or designee to develop standard form language to incorporate into Airport lease and concession agreements to provide for these requirements, and to provide for a contractual means of enforcing these requirements; • The County Mayor or designee will not: <ul style="list-style-type: none"> ○ <i>Issue any invitations to bid, requests for proposals, or requests for qualifications for any concession at the Airport unless that invitation or request complies with the requirements this resolution;</i> ○ <i>Extend any existing lease and concession agreement unless the concessionaire has amended its lease and concession agreement to comply with the requirements of this resolution; and</i> ○ <i>Provide any additional concession locations to any concessionaire, excluding those locations which were part of the original procurement for such concession, unless the concessionaire has amended its lease and concession agreement to comply with the provisions of this resolution.</i> • Directs the County Mayor or designee to negotiate with existing concessionaires to amend existing lease and concession agreements to include provisions which comply with the requirements of this resolution. <ul style="list-style-type: none"> ○ <i>Where a concessionaire refuses to amend its lease and concession agreement, and that lease and concession agreement provides for termination for convenience or termination without cause, the County Mayor or designee will consider termination of such lease and concession agreement; and</i> ○ <i>In the event that the County Mayor or designee determines that amendment or termination of an existing concession is not in the best interest of Miami-Dade County, or if a concessionaire</i>

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	<p><i>refuses to amend its existing lease and concession agreement and that concessionaire's agreement does not contain a termination for convenience or without cause provision, the County Mayor will report such determination or result to the BCC within 120 days of the effective date of this resolution.</i></p> <p><u>Additional Information on Similar Legislation</u></p> <p>There is a similar item which passed first reading and is on the November 10, 2016 Economic Prosperity Committee agenda. The proposed ordinance (File No. 162306) provides for the following:</p> <ul style="list-style-type: none"> • Creates Section 2-8.9.1 of the Miami-Dade County Code; • Establishes a minimum wage of no less than \$15.00 per hour for employees of certain County contractors and subcontractors beginning January 1, 2018; <ul style="list-style-type: none"> ○ The minimum wage requirement will not apply to: <ul style="list-style-type: none"> ▪ Recipients of County grants; ▪ Holders of County permits, concessions, franchises or license agreements; ▪ County agreements to purchase, lease and rent real property; and ▪ Employees that are covered by the Living Wage Ordinance. • Provides for indexing of the minimum wage rate beginning January 1, 2019; • Provides for enforcement and penalties; and <ul style="list-style-type: none"> ○ First underpayment – a penalty in an amount equal to 20 percent of the amount; ○ Second underpayment – a penalty in an amount equal to 40 percent of the amount; ○ Third and successive underpayment - a penalty in an amount equal to 60 percent of the amount; and ○ Fourth violation – default of the subject contract and may be cause for suspension or termination in accordance with debarment procedures. • Requires the County Mayor or Mayor's designee to establish procedures for monitoring compliance. <ul style="list-style-type: none"> ○ The County Mayor or Mayor's designee will designate a unit of County government (Compliance Unit) to conduct investigations of compliance. <p><u>Additional Information on Minimum Wage Rates:</u></p> <p>Federal</p> <p>The federal minimum wage for covered nonexempt employees is \$7.25 per hour effective July 24, 2009. The federal minimum wage provisions are contained in the Fair Labor Standards Act (FLSA). Many states also have minimum wage laws. In cases where an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages.</p> <p>The FLSA does not provide wage payment or collection procedures for an employee's usual or promised wages or commissions in excess of those required by the FLSA. However, some states do have laws under which such claims (sometimes including fringe benefits) may be filed.¹</p> <p>The Department of Labor's Wage and Hour Division administers and enforces the federal minimum wage law.</p> <p>State</p> <p>The minimum wage rate for Florida² is \$8.05 per hour. Annual increases are based on the cost of living (Constitutional amendment 2004).³</p> <p>Florida requires employers to pay tipped employees above federal minimum wage⁴.</p> <ul style="list-style-type: none"> • Basic combined cash and tip minimum wage rate – \$8.05 • Maximum tip credit against minimum wage – \$3.02 • Minimum cash wage – \$5.03

¹ <https://www.dol.gov/general/topic/wages/minimumwage>

² <https://www.dol.gov/whd/minwage/america.htm#Florida>

³ <http://www.ncsl.org/research/labor-and-employment/state-minimum-wage-chart.aspx>

⁴ <https://www.dol.gov/whd/state/tipped.htm#Florida>

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	<p>Miami-Dade County⁵ The living wage for County contracts for covered services entered into BEFORE October 1, 2016 is \$12.83 per hour with qualifying health benefits valued at least \$1.86 per hour, otherwise \$14.69 per hour.</p> <p>The living wage for contracts for covered services entered into, extended, amended, or modified ON or AFTER October 1, 2016 and all services contractors operating under permits at Aviation Department facilities is \$12.63 per hour with qualifying health benefits valued at least \$1.83 per hour, otherwise \$14.46 per hour (effective October 1, 2016 through December 31, 2016). Effective January 1, 2017 through September 30, 2017, the living wage for these contracts will be \$12.63 per hour with qualifying health benefits valued at least \$2.89 per hour, otherwise \$15.52 per hour.</p>
<p>3A 162381</p>	<p>RESOLUTION APPROVING THE AGREEMENT TO HOST THE FLORIDA AIRPORTS COUNCIL'S 2017 ANNUAL CONFERENCE AND EXPOSITION TO BE HELD IN MIAMI JULY 23-26 2017; AUTHORIZING THE EXPENDITURE IN AN AMOUNT NOT TO EXCEED \$70,000.00 IN AVIATION DEPARTMENT PROMOTIONAL FUNDS; WAIVING COMPETITIVE BID REQUIREMENTS OF SECTION 5.03(D) OF THE HOME RULE CHARTER, SECTION 2-8.1 OF THE MIAMI-DADE COUNTY CODE, AND IMPLEMENTING ORDER 3-38 WITH RESPECT TO THE ACQUISITION OF GOODS AND SERVICES RELATING TO THIS EVENT; FINDING THAT THE EXPENDITURE OF MIAMI-DADE COUNTY AVIATION DEPARTMENT FUNDS ON SUCH CONFERENCE PROMOTES AND DIRECTLY BENEFITS THE MIAMI-DADE COUNTY AVIATION DEPARTMENT</p>
<p>Notes</p>	<p>The proposed resolution authorizes the Miami-Dade Aviation Department (MDAD) to sponsor the July 23-26, 2017 Florida Airports Council (FAC) Conference in Miami-Dade County. It also waives the provisions of Implementing Order 3-38 relating to bid procedures for acquisition of goods and services for this event.</p> <p><u>Fiscal Impact/Funding Source</u> This approval authorizes MDAD to spend up to \$70,000.00 in Departmental promotional funds and to provide in-kind contributions such as staff time. MDAD will fundraise through non-traditional FAC event sponsors to defray costs.</p> <p><u>Background</u> The FAC is an association of publicly-owned and operated airports; airport professionals and experts in the fields of airport design, development and improvement; and aviation trades that support the airport industry in Florida. It is the largest airport-specific organization in Florida and is considered by industry leaders to be the premier state airport organization in the nation. It provides up-to-date information to its members about key issues affecting Florida's airports through bi-weekly newsletters, presentations, publications, specialty conferences and the internet. FAC provides industry input on decisions affecting aviation and airports through communications with local, state and federal leaders and lawmakers.</p> <p>FAC's annual conference is the largest and most successful statewide airport event in the country with outstanding public speakers and more than 700 industry professionals in attendance. There is no greater opportunity to network with the airport industry in Florida. Expected speakers include federal and state leaders as well as industry professionals who will discuss national and state issues affecting Florida's airports.</p>

⁵ <http://www.miamidade.gov/smallbusiness/library/reports/2016-2017-living-notice.pdf>