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

MEMORANDUM

Agenda Item No. 11(A)(32)

TO: Honorable Chairman Jean Monestime and Members, Board of County Commissioners

DATE: November 3, 2015

FROM: Abigail Price-Williams County Attorney

SUBJECT: Resolution opposing SB 598 and HB 181, or similar legislation that would: (a) preempt local governments from imposing certain requirements on public works contractors pertaining to wages, benefits, hiring, and training; or (b) preempt local governments from restricting qualified bidders from submitting bids, being awarded any bid or contract, or performing work on public works projects; waiving requirements of Resolution No. R-764-13 limiting number of state legislative priorities; amending Resolution No. R-911-15 to include this issue as an additional state legislative priority for the 2016 session

Resolution No. R-1022-15

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Daniella Levine Cava.

Abigail Price-Williams
County Attorney

APW/cp

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: November 3, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(32)

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 _____) 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)(32)

11-3-15

RESOLUTION NO. R-1022-15

RESOLUTION OPPOSING SB 598 AND HB 181, OR SIMILAR LEGISLATION THAT WOULD: (A) PREEMPT LOCAL GOVERNMENTS FROM IMPOSING CERTAIN REQUIREMENTS ON PUBLIC WORKS CONTRACTORS PERTAINING TO WAGES, BENEFITS, HIRING, AND TRAINING; OR (B) PREEMPT LOCAL GOVERNMENTS FROM RESTRICTING QUALIFIED BIDDERS FROM SUBMITTING BIDS, BEING AWARDED ANY BID OR CONTRACT, OR PERFORMING WORK ON PUBLIC WORKS PROJECTS; WAIVING REQUIREMENTS OF RESOLUTION NO. R-764-13 LIMITING NUMBER OF STATE LEGISLATIVE PRIORITIES; AMENDING RESOLUTION NO. R-911-15 TO INCLUDE THIS ISSUE AS AN ADDITIONAL STATE LEGISLATIVE PRIORITY FOR THE 2016 SESSION

WHEREAS, Senate Bill 598 ("SB 598") and House Bill 181 ("HB 181") have been filed for consideration during the Florida Legislature's 2016 session by Senator Jeff Brandes (R – St. Petersburg) and Representative Charles E. Van Zant (R – Palatka), respectively; and

WHEREAS, SB 598 and HB 181, as filed, would prohibit local governments that contract for construction, maintenance, repair or improvement of public works projects from requiring a contractor, subcontractor, or material supplier to:

- Pay employees a predetermined amount of wages or wage rate;
- Provide employees a specified type/amount/rate of employee benefits;
- Control or limit staffing; or
- Recruit, train or hire employees from a designated/restricted/single source when any state funds are involved; and

WHEREAS, in addition, SB 598 and HB 181, as filed, would also prohibit local governments from restricting qualified bidders from submitting bids, being awarded any bid or contract, or performing work on public works projects; and

WHEREAS, it is anticipated that these bills will be amended to increase the percentage of state funds required to trigger the preemption on local government action related to public works contractors; and

WHEREAS, Miami-Dade County (the "County") currently imposes a responsible wage requirement on contractors and subcontractors, and requires that they either provide medical and insurance benefits or the equivalent in wages; and

WHEREAS, currently, the County also can require contractors and subcontractors to have a minimum of 10 percent of the persons performing construction trades and labor work under a contract to be residents of designated target areas; and

WHEREAS, currently, to bid on a County project over $1,000,000, contractors must sign an affidavit certifying that their employees completed the Occupational Safety and Health Administration (OSHA) 10-hour training safety course and that the contractor will make its best effort to have over 50 percent of all construction labor hours performed by County residents; and

WHEREAS, SB 598 and HB 181 raise public safety concerns because they would prevent the County from being able to require that the employees of contractors complete certain safety training programs; and

WHEREAS, should these bills pass, local governments such as the County would no longer be able to take steps to ensure that workers from within that locality benefit from construction projects, even when the project is funded primarily by its own taxpayers; and

WHEREAS, further, local governments would lose the ability to safeguard the right of a contractor's employees working on a public project to earn a responsible wage, or even receive health or life insurance benefits; and

WHEREAS, these bills could also affect the County's ability to set goals for contractors to use Community Small Business Enterprises (CSBE) subcontractors, as well as have negative

implications for the County's apprenticeship programs, such as the Residents First Training and Employment Program; and

WHEREAS, in addition, these bills would limit the power and ability of the County to function both as a market participant and to serve its residents by deciding the standards to which contractors should be held for the betterment of the community here; and

WHEREAS, more specifically, these bills would take away the County's prerogative as a market participant to not hire a particular contractor based on prior poor performance or misconduct; and

WHEREAS, companies that perform well should continue to get hired and companies that perform poorly should not; and

WHEREAS, if the County was not satisfied with the work of a contractor in the past, then it, like any other market participant, should have the ability to refrain from hiring that same contractor again; and

WHEREAS, these bills could take away the County's power to properly emphasize and incentive quality performance by County contractors; and

WHEREAS, for the reasons explained above, these bills could lead to a decrease in the quality of construction projects and undermine the ability of local governments to set standards for contractors that are geared towards local needs and the desire to protect local workers and residents; and

WHEREAS, accordingly, this Board wishes to express its strong opposition to these bills and to make its opposition a state legislative priority for the 2016 session,

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

Section 1. Opposes SB 598 and HB 181, or similar legislation that would: (a) preempt local governments from requiring contractors on public works projects where state funds are involved to pay employees a predetermined amount of wages or wage rate, provide employees a specified type or amount of employee benefits, control or limit staffing, or recruit, train, or hire employees from a designated or restricted source; or (b) preempt local governments from restricting qualified bidders from submitting bids, being awarded any bid or contract, or performing work on public works projects.

Section 2. Waives requirements of Resolution No. R-764-13 and amends Resolution No. R-911-15 to include this issue as an additional state legislative priority for the 2016 session.

Section 3. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, the Senate President, the House Speaker, Senator Jeff Brandes, Representative Charles E. Van Zant, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 4. Directs the County's state lobbyists to oppose the legislation described in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2016 state legislative package to include this issue as a priority.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. It was offered by Commissioner **Daniella Levine Cava**, who moved its adoption. The motion was seconded by Commissioner **Jean Monestime** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	**aye**		
Esteban L. Bovo, Jr., Vice Chairman	**absent**		
Bruno A. Barreiro	**absent**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**absent**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of November, 2015. 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

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

James Eddie Kirtley