

# MEMORANDUM

Agenda Item No. 11(A)(22)

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

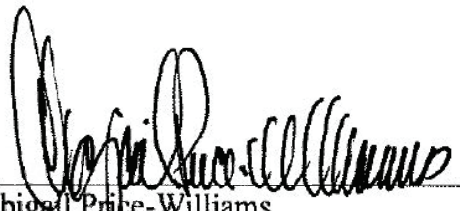
**DATE:** July 8, 2020

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution calling a countywide special election in Miami-Dade County, Florida, to be held in conjunction with a General Election on Tuesday, November 3, 2020, for the purpose of submitting to the electors of Miami-Dade County the question of whether to amend the Home Rule Charter to require that when the Mayor or member of the County Commission resigns prospectively to run for another office the vacancy will be filled by election during the Primary and General Election rather than by appointment or by subsequent special election

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez and Co-Sponsor Vice Chairwoman Rebeca Sosa.

  
Abigail Price-Williams  
County Attorney

APW/smm



# MEMORANDUM

(Revised)

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

DATE: July 8, 2020

FROM:   
Abigail Price-Williams  
County Attorney

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

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 present \_\_\_\_, 2/3 membership \_\_\_\_, 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)(22)

7-8-20

RESOLUTION NO. \_\_\_\_\_

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD IN CONJUNCTION WITH A GENERAL ELECTION ON TUESDAY, NOVEMBER 3, 2020, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE HOME RULE CHARTER TO REQUIRE THAT WHEN THE MAYOR OR MEMBER OF THE COUNTY COMMISSION RESIGNS PROSPECTIVELY TO RUN FOR ANOTHER OFFICE THE VACANCY WILL BE FILLED BY ELECTION DURING THE PRIMARY AND GENERAL ELECTION RATHER THAN BY APPOINTMENT OR BY SUBSEQUENT SPECIAL ELECTION

**WHEREAS**, Florida’s “resign-to-run” law prohibits an elected officer from qualifying as a candidate for another state, district, county, or municipal public office where the term or any part thereof runs concurrently with his or her current office without resigning from the office he or she presently holds; and

**WHEREAS**, the resign-to-run law permits such resignation to become effective no later than the date the officer would take office, if elected, or the date the officer’s successor is required to take office, provided such resignation is irrevocable and submitted at least ten days prior to the first day of qualifying for the office he or she intends to seek; and

**WHEREAS**, for all state elective offices, the resign-to-run law provides that the resignation creates a vacancy in office to be filled by election as if the officer’s term were otherwise scheduled to expire; and

**WHEREAS**, for a charter county office or elective municipal office, the resign-to-run law provides that the vacancy created by the officer's resignation may be filled for that portion of the officer's unexpired term in a manner provided by the respective charter, and a charter county office or elective municipal office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation; and

**WHEREAS**, section 1.07 of the Miami-Dade County Home Rule Charter (Charter) currently requires that, upon a vacancy in the office of Mayor or an office of the County Commission, the County Commission must decide within 30 days of the vacancy whether to appoint a replacement or call a special election to fill the vacancy; and

**WHEREAS**, the Charter requires that, if the County Commission decides to hold a special election to fill a vacancy in the office of Mayor or an office of the County Commission for the remainder of the unexpired term of office created by the prospective resignation of such officer effective after the General Election pursuant to the resign-to-run law, such special election may not be held in conjunction with the Primary and General Elections; and

**WHEREAS**, holding a separate stand-alone election to fill a vacancy in the office of Mayor or an office of the County Commission can cost approximately \$1,000,000.00 and result in a lower voter turnout than a Primary or General Election; and

**WHEREAS**, this Board believes that amending the Charter to provide that when a vacancy will be created by the irrevocable resignation of the Mayor or a member of the Board effective at a later date in accordance with the resign-to-run law, such vacancy for the remainder of the unexpired term of office should be filled by an election held during the Primary and General Elections as if the resigning officer's term were otherwise scheduled to expire; and

**WHEREAS**, the Board desires to allow the electors of Miami-Dade County the opportunity to express their will on the question of whether to amend the Charter to allow elections for vacancies created by prospective resignation in accordance with the resign-to-run law to be filled by election during the Primary and General Elections,

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

**Section 1.** A countywide special election is hereby called and shall be held in Miami-Dade County, Florida in conjunction with a General Election on Tuesday, November 3, 2020, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

**Section 2.** Notice of such election shall be published in accordance with section 100.342, Florida Statutes.

**Section 3.** The result of such election shall be determined by a majority of the qualified electors of Miami-Dade County voting upon the proposal. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors of Miami-Dade County, Florida shall be entitled to vote at said election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until 29 days prior to the date of such election, at which time the registration books will close in accordance with the provisions of general election laws. The question shall appear on the ballot in substantially the following form:

CHARTER AMENDMENT REGARDING ELECTIONS TO  
FILL MAYOR OR COMMISSION VACANCIES DURING  
PRIMARY AND GENERAL ELECTIONS

SHALL THE CHARTER BE AMENDED TO REQUIRE THAT  
WHEN THE MAYOR OR MEMBER OF THE COUNTY  
COMMISSION RESIGNS PROSPECTIVELY TO RUN FOR  
ANOTHER OFFICE THE VACANCY WILL BE FILLED BY  
ELECTION DURING THE PRIMARY AND GENERAL  
ELECTION RATHER THAN BY APPOINTMENT OR BY  
SUBSEQUENT SPECIAL ELECTION?

YES ☐

NO ☐

**Section 4.** The form of the ballot shall be in accordance with the requirements of general election laws.

**Section 5.** Early voting shall be conducted in accordance with the requirements of general election laws.

**Section 6.** Absentee paper ballots may be used by qualified electors of Miami-Dade County for voting on this question. The form of such absentee ballot shall be in accordance with the requirements prescribed by general election laws.

**Section 7.** A sample ballot showing the manner in which the question or proposal aforesaid will appear at this election shall be published and provided in accordance with the applicable provisions of general election laws.

**Section 8.** This special election on the proposal aforesaid shall be held and conducted in accordance with applicable provisions of the general laws relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Mayor or his or her designee, the Finance Director, and the Clerk of the County Commission are hereby authorized

and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This election shall be a nonpartisan election. Election officials in connection with this election shall be appointed in accordance with the provisions of general election laws.

**Section 9.** This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of section 3.07 of the Home Rule Charter.

The Prime Sponsor of the foregoing resolution is Commissioner Joe A. Martinez and the Co-Sponsor is Vice Chairwoman Rebeca Sosa. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose “Pepe” Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 8<sup>th</sup> day of July, 2020. 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: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be 'OR' or 'Oren Rosenthal', written over a horizontal line.

Oren Rosenthal



# MIAMI-DADE COUNTY HOME RULE CHARTER

## ARTICLE-1<sup>1</sup>

### BOARD OF COUNTY COMMISSIONERS

\* \* \*

#### SECTION 1.07. VACANCIES IN THE OFFICE OF MAYOR OR COUNTY COMMISSIONER.

Any vacancy in the office of Mayor or the members of the Board shall be filled by majority vote of the remaining members of the Board within 30 days, or the Board shall call an election to be held not more than 90 days thereafter to fill the vacancy. The qualification period for such election shall be the first 10 days after the call of the election and any runoff election shall be held within 30 days of the certification of election results requiring a runoff. The person chosen to fill the office vacated must at the time of appointment meet the residence requirements for the office to which such person is appointed. A person appointed shall serve only until the next county-wide election. A person elected shall serve for the remainder of the unexpired term of office. If a majority of the members of the Board should become appointed rather than elected to office, then the Board shall call an election to be held not more than 90 days thereafter to permit the registered electors to elect commissioners to succeed the appointed commissioners; appointed commissioners may succeed themselves unless otherwise prohibited by the Charter. The qualification period for such election shall be the first 10 days after the call of the election and any runoff election shall be held within 30 days of the certification of election results requiring a runoff. If a county-wide election is scheduled to be held within 180 days from the date on which the majority of the members of the Board become appointive, the Board may elect to defer the required election until the scheduled countywide election.

>>Notwithstanding the foregoing, a vacancy in the office of Mayor or the members of the Board which will be created as a result of an irrevocable resignation to run for another office that is effective after the Primary or General Election in accordance with state law shall be filled by election as if the officer's term were otherwise scheduled to expire. A person elected to fill such vacancy shall take office on the effective date of the resigning officer's resignation and serve for the remainder of the unexpired term of office.<<

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