

MEMORANDUM

Agenda Item No. 11(A)(6)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 16, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to pass House Bill
1123, Senate Bill 1858, or
similar legislation that would
limit service fees charged to
restaurants by third-party food
takeout and delivery service
applications or internet websites
during a declared state of
emergency

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 16, 2021

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County Attorney

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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 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)(6)
3-16-21

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO PASS HOUSE BILL 1123, SENATE BILL 1858, OR SIMILAR LEGISLATION THAT WOULD LIMIT SERVICE FEES CHARGED TO RESTAURANTS BY THIRD-PARTY FOOD TAKEOUT AND DELIVERY SERVICE APPLICATIONS OR INTERNET WEBSITES DURING A DECLARED STATE OF EMERGENCY

WHEREAS, in December 2019, a novel coronavirus known as SARS-CoV-2, which causes an infectious disease named coronavirus disease 2019 (“COVID-19”) emerged; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared COVID-19 a “public health emergency of international concern;” and

WHEREAS, on March 11, 2020, given the alarming levels of spread and the severity of the virus, the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, as a result of the pandemic, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida; and

WHEREAS, on March 12, 2020, a local state of emergency was declared for Miami-Dade County, which has since been extended every seven days pursuant to section 252.38(3)(a), Florida Statutes and Chapter 8B-6 of the Code of Miami-Dade County, Florida; and

WHEREAS, as a result of the ongoing COVID-19 pandemic, many local restaurants experienced a sharp decline in the number of dine-in customers, which has reportedly led to considerable financial strain; and

WHEREAS, as such, many local restaurants have now become heavily reliant on third-party food takeout and delivery service applications or internet websites such as Grubhub, Uber Eats, Postmates, and Doordash to reach their customers and to stay afloat; and

WHEREAS, according to a September 2020 study by The American Economic Liberties Project, third-party food delivery providers charge restaurants commissions of up to 30 percent on sales processed through their platforms; and

WHEREAS, prior to the COVID-19 pandemic, a number of local, independent restaurants were operating on slim margins; and

WHEREAS, now with a higher proportion of their sales being made through third-party food takeout and delivery service applications or internet websites that often include large commission fees, many local, independent restaurants are struggling to survive, and some may be teetering on the edge of permanent closure; and

WHEREAS, House Bill (HB) 1123 and Senate Bill (SB) 1858 have been filed for consideration during the 2021 session of the Florida Legislature by Representative Anna Eskamani (D-Orlando) and Senator Victor M. Torres, Jr. (D-Kissimmee), respectively; and

WHEREAS, HB 1123 and SB 1858 would, among other things, make it unlawful for any third-party food takeout and delivery service application or internet website through which a consumer orders food takeout or deliver services from a restaurant to, during a declared state of emergency of seven days or longer, charge a service fee to a restaurant for food or takeout delivery orders that is:

- greater than 20 percent of the cost of the individual order; or

- greater than 10 percent of the cost of the individual order when the order is delivered by an employee of the restaurant or an independent contractor with whom the restaurant has contracted directly; and

WHEREAS, limiting the service fees that can be charged to local restaurants by third-party food takeout and delivery service applications or internet websites during a local state of emergency would ease the financial hardships experienced by local restaurants during such periods; and

WHEREAS, this Board supports HB 1123 and SB 1858 as they would help local restaurants to remain economically viable during a declared state of emergency,

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 pass House Bill 1123, Senate Bill 1858, or similar legislation that would limit the service fees charged to restaurants by third-party food takeout and delivery service applications or internet websites during a declared state of emergency.

Section 2. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, Senate President, House Speaker, Senator Victor M. Torres, Jr., Representative Anna Eskamani, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate for the legislation described in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2021 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Jean Monestime. 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:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of March, 2021. 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.

D.P.C

Dale P. Clarke