

MEMORANDUM

Agenda Item No. 11(A)(32)


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

DATE: October 5, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to reinstate the Public
Records and Public Meetings
Exemption provisions previously
included in Section 255.065,
Florida Statutes

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairman Jose "Pepe" Diaz.



Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM
(Revised)

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

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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)(32)
10-5-21

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
REINSTATE THE PUBLIC RECORDS AND PUBLIC
MEETINGS EXEMPTION PROVISIONS PREVIOUSLY
INCLUDED IN SECTION 255.065, FLORIDA STATUTES

WHEREAS, previously under section 255.065(15) of the Florida Statutes (the “Public Records and Public Meetings Exemption”), an unsolicited proposal received by a responsible public entity is exempt from section 119.07 of the Florida Statutes and section 24(a) of the State Constitution until such time as (1) the public entity provides notice of an intended decision for a qualifying project; or (2) 90 days after the initial notice by the public entity rejecting all proposals; or (3) 180 days if the public entity does not issue a competitive solicitation; and

WHEREAS, the Public Records and Public Meetings Exemption also provides that any portion of a meeting of a responsible public entity during which an unsolicited proposal that is exempt is discussed is correspondingly exempt from section 286.011(d) Florida Statutes and section 24(b) of the State Constitution; and

WHEREAS, the Public Records and Public Meetings Exemption provides protection to unsolicited proposals received under section 255.065, Florida Statutes; and

WHEREAS, such protection encourages public-private partnerships and provides assurance to entities considering submitting an unsolicited proposal that their proposals will not be made public until after the deadlines outlined in the Public Records and Public Meetings Exemption expire; and

WHEREAS, because this Board recognized the importance of protecting unsolicited proposals, section 2-8.2.6 of the Code of Miami-Dade County mirrors the language of the Public Records and Public Meeting Exemption as related to public-private partnerships; and

WHEREAS, specifically, section 2-8.2.6 of the Code of Miami-Dade County provides that “the County shall protect the confidentiality of documents exempt from disclosure to the maximum extent provided by law”; and

WHEREAS, to encourage and protect the submittal of innovative unsolicited proposal projects to the County, it is the declared policy of this Board to maintain the confidentiality of unsolicited proposals; and

WHEREAS, because the Florida Legislature failed to extend the Public Records and Public Meetings Exemption, it expired on October 2, 2021 and unsolicited proposals are no longer exempt; and

WHEREAS, this Board would like to express its support for the Public Records and Public Meetings Exemption as it is an integral part of the public private-partnership process,

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 reinstate the Public Records and Public Meetings Exemption previously included in section 255.065, Florida Statutes.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 3. Directs the County’s state lobbyists to advocate for the legislative action set forth in section 1 above and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2022 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Chairman Jose “Pepe” Diaz. 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 5th day of October, 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.

Melanie J. Spencer