

MEMORANDUM

Substitute
Agenda Item No. 11(A)(26)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: December 12, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution opposing Senate Bill 742, House Bill 705, or any similar legislation that would preempt Miami-Dade County from imposing certain wage, benefits, staffing, or recruiting requirements on a vendor, contractor, service provider, or other party doing business with the County

This substitute differs from the original version in that it removes references to Senate Bill 594, which was withdrawn by the bill's sponsor, and adds references to Senate Bill 742 and House Bill 705, which are currently filed bills of interest to the County. The substitute also broadens the scope of opposition to any legislation which would impose wage, benefits, staffing, or recruiting limitations on County contracting procedures for any type of contract and makes conforming changes to the title of the resolution.

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


Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

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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 _____

Substitute
Agenda Item No. 11(A)(26)
12-12-23

RESOLUTION NO. _____

RESOLUTION OPPOSING SENATE BILL 742, HOUSE BILL 705, OR ANY SIMILAR LEGISLATION THAT WOULD PREEMPT MIAMI-DADE COUNTY FROM IMPOSING CERTAIN WAGE, BENEFITS, STAFFING, OR RECRUITING REQUIREMENTS ON A VENDOR, CONTRACTOR, SERVICE PROVIDER, OR OTHER PARTY DOING BUSINESS WITH THE COUNTY

WHEREAS, during the 2021 legislative session, the Florida Legislature passed, and the Governor approved, amendments to Florida law which provided that, except as otherwise required by federal or state law, in any competitive solicitation for construction services paid for, in whole or in part, with state-appropriated funds, a political subdivision of the state may not prevent a certified contractor or subcontractor from participating in the bidding process based on the contractor or subcontractor maintaining an office, hiring employees from, or paying taxes within a particular local jurisdiction; and

WHEREAS, in addition to the above, said construction service contracts were redefined under law as “public works projects” to describe a construction, maintenance, repair, renovation, remodeling, or improvement to any building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility or portion thereof owned in whole or in part by any political subdivision and which exceeds \$1,000,000.00 in value and paid for, in whole or in part, with any state-appropriated funds; and

WHEREAS, limitations on said public works projects also included requirements that political subdivisions do not require contractors or subcontractors engaged in the project to (1) pay

employees a predetermined amount of wages or prescribe a certain wage rate; (2) provide employees a specified type, amount, or rate of employee benefits; (3) control, limit, or expand staffing; and (4) recruit, train, or hire employees from a designated, restricted, or single source; and

WHEREAS, in addition, during the 2023 legislative session, the Florida Legislature passed, and the Governor approved, a further amendment to the definition of “public works project,” eliminating the \$1,000,000.00 threshold for such projects; and

WHEREAS, as such, under current law, a “public works project” funded in any part by state-appropriated funds is subject to the limitations described above; and

WHEREAS, Senator Erin Grall (R – Fort Pierce) >>and Representative Jason Shoaf (R – Port St. Joe) have<<¹ ~~has~~ introduced Senate Bill (“SB”) >>742 and House Bill (“HB”) 705, respectively,<< ~~594~~ for consideration during the 2024 session of the Florida Legislature; and

WHEREAS, ~~[[SB-594]]~~ >>the bills<< again amend~~[[s]]~~ the definition of “public works project” to provide that projects paid for with “local or state-appropriated funds” are subject to the prohibitions regarding employee wages, staffing and recruitment policies, and other benefits; and

WHEREAS, this change to Florida law would result in all County construction projects, of any value, whether paid for with local or state-appropriated funds, being subject to the extensive wage, staffing, recruitment and benefits limitations described above; and

WHEREAS, County programs which may be affected by the passage of >>the bills<< ~~[[SB-594]]~~ include the County’s:

¹ The differences between the substitute and the original item are indicated as follows: Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted, words underscored and/or >>double arrowed<< are added.

- (1) Responsible Wages & Benefits ordinance which establishes a requirement for minimum payment of wages to employees performing work on County construction contracts valued over \$100,000.00 and privately-funded construction on County-owned land;
- (2) Small Business Enterprise Program & Miscellaneous Construction Contracts Program which provides a 100 percent set-aside for certified Small Business Enterprise-Construction contractors;
- (3) Community Workforce Program which requires that a County-awarded contractor or subcontractor must hire 10 percent of its labor force from within a Designated Target Area (“DTA”) when the construction project or work order is located within the DTA;
- (4) Residents First program which requires contractors and subcontractors on County contracts over \$1,000,000.00 in value to make reasonable efforts to have 51 percent of all construction labor hours performed by Miami-Dade County residents; and
- (5) Employ Miami-Dade program which requires contractors and subcontractors on County contracts valued over \$1 million to make reasonable efforts to fill at least 20 percent of labor workforce from the Employ Miami-Dade Register through CareerSource South Florida; and

WHEREAS, each of these programs is immensely important to the County and helps to ensure that the residents of our community benefit from construction services projects undertaken in our neighborhoods; and

>>WHEREAS, in addition to the programs above, and for several consecutive legislative sessions, bills and amendments thereto have been filed for consideration which seek to limit a political subdivision's ability to impose wage or employment benefit mandates on vendors, contractors, service providers, or other parties doing business with the political subdivision; and

WHEREAS, one such amendment has been filed as a proposed committee substitute ("PCS") by the House Regulatory Reform and Economic Development Subcommittee to House Bill 433, initially introduced by Representative Tiffany Esposito (R – Fort Myers); and

WHEREAS, the PCS, which will be considered on December 13, 2023, provides that a "political subdivision may not through its purchasing or contracting procedures seek to control or affect the wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the political subdivision"; and

WHEREAS, the PCS also provides that a "political subdivision may not through the use of evaluation factors . . . award preferences on the basis of wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the political subdivision"; and

WHEREAS, the PCS further provides that the "regulation of the terms and conditions of employment is expressly preempted to the state" and prohibits a political subdivision from adopting or enforcing an ordinance or policy providing for a term or condition of employment that "exceeds or conflicts with the requirements of federal or state law relating to any term or condition of employment"; and

WHEREAS, the PCS or other similar legislation would, in addition to eliminating the programs described above, also preclude the County from implementing its Living Wage requirement, which applies to all service contracts as defined in Miami-Dade County Code section

2-8.9(F)(1) valued greater than \$100,000.00, and to all service contractors at Miami-Dade Aviation Department facilities regardless of contract value, because it requires certain wage rates which may exceed the statewide minimum wage rate; and

WHEREAS, the State of Florida's minimum wage rate is currently \$12.00 per hour; and

WHEREAS, the County's fiscal year 2023-2024 Living Wage for contracts for covered services is \$16.51 per hour with qualifying health benefits of at least \$3.83 per hour or a standard wage rate of \$20.34 per hour; and

WHEREAS, this Board helped craft these County programs to better the livelihoods of individuals who work within the County's borders, fully cognizant of the reality that the cost of living in Miami-Dade County is higher than in other parts of the State of Florida; and

WHEREAS, County staff estimates that tens of thousands of workers and their families would be affected by these types of proposed changes to Florida law; and

WHEREAS, because paying all workers in this County who perform work under County contracts a statewide minimum wage rate is, at times, insufficient, this Board opposes any legislation which would preempt a political subdivision from imposing a wage mandate or employment benefit on one of its vendors, contractors, service providers, or other party it does business with; and

WHEREAS, this Board >>likewise<< strongly opposes legislation which would preempt the County from deciding how to best manage construction projects within its boundaries and prevent those who live in our community from potential job opportunities and receipt of fair wages,

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

Section 1. Opposes Senate Bill >>742, House Bill 705,<< ~~[[594]]~~ or any similar legislation that would preempt Miami-Dade County from imposing certain wage, benefits, staffing, or recruitment requirements >>on a vendor, contractor, service provider, or other party doing business with the County.<< ~~[[in any competitively solicited construction services contract.]]~~

Section 2. Directs the Clerk of the Board to send a certified copy of this resolution to Governor Ron DeSantis, Senate President Kathleen C. Passidomo, House Speaker Paul Renner, Senator Erin Grall, >>Representative Jason Shoaf, Representative Tiffany Esposito,<< and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 3. Directs the County’s state lobbyists to advocate against the legislation set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2024 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Eileen Higgins. 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:

- | | |
|------------------------|----------------------------------|
| | Oliver G. Gilbert, III, Chairman |
| | Anthony Rodríguez, Vice Chairman |
| Marleine Bastien | Juan Carlos Bermudez |
| Kevin Marino Cabrera | Sen. René García |
| Roberto J. Gonzalez | Keon Hardemon |
| Danielle Cohen Higgins | Eileen Higgins |
| Kionne L. McGhee | Raquel A. Regalado |
| Micky Steinberg | |

The Chairperson thereupon declared this resolution duly passed and adopted this 12th day of December, 2023. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Javier Zapata