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

MEMORANDUM

Agenda Item No. 11(A)(4)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	February 19, 2014
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution opposing State Legislation revising the Florida Retirement System to require new employees to enroll in a 401(k)-style retirement plan rather than the current pension plan Resolution No. R-179-14

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairwoman Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 19, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11(A)(4)

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**

_____ **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**

1

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 11(A)(4)

2-19-14

RESOLUTION NO. R-179-14

RESOLUTION OPPOSING STATE LEGISLATION REVISING THE CURRENT FLORIDA RETIREMENT SYSTEM TO REQUIRE NEW EMPLOYEES TO ENROLL IN A 401(K)-STYLE RETIREMENT PLAN RATHER THAN THE CURRENT PENSION PLAN

WHEREAS, the Florida Retirement System (FRS) pension plan was established in 1970 and is the primary retirement plan for employees of the state, counties, district school boards, universities and colleges, as well as 185 cities and 251 special districts that have elected to join the FRS; and

WHEREAS, the FRS pension plan is a contributory plan that as of June 30, 2012 had 623,011 members that are currently employed, 334,682 members that are currently retired or beneficiaries, and 40,556 members that are currently enrolled in the Deferred Retirement Option Program (DROP); and

WHEREAS, the FRS pension plan currently requires each member that is currently employed to contribute three percent (3%) of his or her salary to partially fund the pension plan, with employers contributing an amount for each employee based on actuarially-determined contribution rates set by the Florida Legislature each year; and

WHEREAS, the retired members and beneficiaries in the FRS pension plan as of June 30, 2012 received an average benefit from the FRS of $18,625 per year; and

WHEREAS, the Florida Retirement System pension plan is generally considered to be one of the financially strongest public sector pension plans in the United States; and

WHEREAS, a 2011 report by the Florida Legislature's Office of Program Policy Analysis & Government Accountability (OPPAGA) found that the FRS pension plan was in the top 10 most financially stable pension plans among the 50 states; and

WHEREAS, Representative Jason Brodeur (R – Sanford) filed HB 7011 related to revising the FRS for consideration during the Florida Legislature's 2013 session; and

WHEREAS, HB 7011 would have closed the FRS pension plan to new employees hired as of January 1, 2014 and required such new employees to participate in a defined contribution investment plan, similar to 401(k) retirement plans offered by many private employers; and

WHEREAS, passage of HB 7011 was a top priority of House Speaker Will Weatherford (R – Wesley Chapel), and passed the full House by a vote of 74-42; and

WHEREAS, HB 7011 died on the calendar in the Senate when the Senate did not pass the bill before the end of the 2013 session; and

WHEREAS, the full Senate did consider an amendment to HB 7011 which was similar to the underlying bill, but the amendment died on a vote of 18-22; and

WHEREAS, it is anticipated that a bill similar to HB 7011 will be filed for consideration during the 2014 session, which might include consideration of a "cash balance" plan where FRS employers contribute a set percentage of salary plus interest each year to a retirement account for an employee; and

WHEREAS, requiring new employees to participate in a 401(k)-style pension plan would make the FRS consistent with most private employers, which do not offer a traditional pension plan and instead offer a 401(k)-style plan for their employees; and

WHEREAS, nonetheless, transitioning to a 401(k)-style pension plan may undermine and destabilize the long-term fiscal viability of the current FRS pension plan; and

WHEREAS, closing the FRS pension plan to new employees is likely to lead to higher costs to maintain the current FRS pension plan for both current retirees as well as current employees who are future retirees; and

WHEREAS, by transitioning to a 401(k)-style plan, over time there are likely to be fewer and fewer employees for which contributions are made to support the FRS pension plan and increasingly more employees that are in the 401(k)-style plan; and

WHEREAS, these likely increased costs to maintain the FRS pension plan will have to be addressed by one of, or some combination of, the following:

1. Increasing the contribution rates that the state, counties and other FRS employers pay to the FRS pension plan,
2. Increasing the three percent (3%) contribution rates that employees enrolled in the FRS pension plan pay, or
3. Reducing FRS pension plan benefits for retirees and beneficiaries; and

WHEREAS, transitioning from the FRS pension plan to a 401(k)-style plan could cost Miami-Dade County taxpayers millions of dollars over the long-term because Florida law requires counties, like all FRS employers, to pay an actuarially-determined rate for each employee to fund the FRS pension plan; and

WHEREAS, these actuarially-determined rates are likely to increase when new employees are diverted to a 401(k)-style plan and are no longer contributing to the FRS pension plan; and

WHEREAS, transitioning from the FRS pension plan to a 401(k)-style plan may also be detrimental to employees and these employees having an income that can sustain them in retirement; and

WHEREAS, a cash balance plan would likely result in lower benefits for employees in retirement because the benefits would be based on a percentage of the employee's salary over his

or her entire career, rather than the salary for the highest five year under the current FRS pension plan; and

WHEREAS, a 401(k)-style plan can be more susceptible to market fluctuation while the FRS pension plan provides a stable, consistent source of income for retirement; and

WHEREAS, a 401(k)-style plan also offers relatively easy access to funds in the plan or loans again the plan; and

WHEREAS, such ease of access to funds may lead employees to use the funds in their 401(k)-style plan for expenses that may arise, thus defeating the purpose of setting aside these funds for retirement; and

WHEREAS, this Board opposes legislation that would close the FRS pension plan to new employees and potentially destabilize the FRS pension plan, and on January 29, 2014 identified opposing changes to the current FRS pension plan as one of the County's state legislative priorities for the 2014 session,

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

Section 1. Opposes legislation that would revise the current Florida Retirement System to require new public employees to enroll in a 401(k)-style retirement plan rather than the current pension plan.

Section 2. Urges the Florida Legislature not to pass such legislation.

Section 3. Directs the Clerk of this Board to send a certified copy of this resolution to the Governor, Senate President, House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, the President of the Florida Association of Counties/Leon County

Commissioner Bryan Desloge, and the Executive Director of the Florida Association of Counties.

Section 4. Directs the County's state lobbyists to oppose the passage of the legislation set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2014 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Chairwoman Rebeca Sosa. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day February, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this 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.

Jess M. McCarty