

MEMORANDUM

Agenda Item No. 11(A)(24)

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

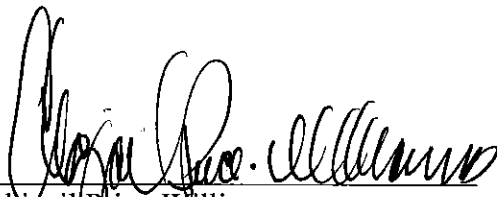
DATE: February 4, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution opposing SB 1126,
HB 305, and similar legislation
that would preempt local
governments from regulating
conditions of employment by
an employer

Resolution No. R-162-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams
County Attorney

APW/cp



MEMORANDUM

(Revised)

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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 _____

Agenda Item No. 11(A)(24)

2-4-20

RESOLUTION NO. _____ R-162-20

RESOLUTION OPPOSING SB 1126, HB 305, AND SIMILAR
LEGISLATION THAT WOULD PREEMPT LOCAL
GOVERNMENTS FROM REGULATING CONDITIONS OF
EMPLOYMENT BY AN EMPLOYER

WHEREAS, section 218.077 of the Florida Statutes prohibits—and expressly preempts to the state—political subdivisions such as counties and municipalities from requiring an employer to provide wage and employment benefits not required by state or federal law; and

WHEREAS, under section 218.077, “employment benefits” means anything of value that an employee may receive from an employer in addition to wages and salary, including but not limited to:

- health benefits;
- disability and death benefits;
- paid or unpaid days off for holidays, sick leave, vacation and personal necessity;
- retirement benefits; and
- profit-sharing benefits; and

WHEREAS, section 218.077, however, provides for specific exemptions to its broad state preemption, such as non-compliance to the extent necessary to allow receipt of federal funds or the ability of a political subdivision to establish minimum wages and benefits for its own employees and contractors; and

WHEREAS, Senate Bill (SB) 1126 and House Bill (HB) 305 have been filed for consideration during the Florida Legislature's 2020 session by Senator Joe Gruters (R – Sarasota) and Representative Bob Rommel (R – Naples), respectively; and

WHEREAS, SB 714 and HB 301 would expand the state preemption under section 218.077 by renaming the term “employment benefits” to “conditions of employment” and broadening the scope of such definition to include—in addition to wages and the employment benefits listed above—“those terms that form the basis of a relationship between an employer and a prospective or actual employee, including”:

- pre-employment screenings;
- job classification determinations;
- job responsibilities;
- hours of work; and
- schedules and schedule changes; and

WHEREAS, as such, the bills would prohibit local governments from establishing, mandating, or otherwise requiring an employer to provide conditions of employment which are not otherwise required by state or federal law, and would expressly preempt to the state the regulation of conditions of employment by an employer; and

WHEREAS, as a result, these bills could potentially invalidate all or parts of local government wage theft ordinances, anti-discrimination ordinances, and similar ordinances regulating conditions of employment, since many of the additional protections afforded by these ordinances are not otherwise required by state or federal law; and

WHEREAS, specifically, these bills could potentially preempt all or parts of Miami-Dade County's Wage Theft Ordinance (Chapter 22 of the Code), Human Rights and Anti-Discrimination Ordinance (Chapter 11A of the Code), and possibly others; and

WHEREAS, accordingly, this Board would like to express its opposition to SB 1126, HB 305, and similar legislation,

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

Section 1. Opposes SB 1126, HB 305, and similar legislation that would preempt local governments from regulating conditions of employment by an employer.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Senator Joe Gruters, Representative Bob Rommel, the Chair and members of the Miami-Dade State Legislative Delegation, the President and Executive Director of the Florida Association of Counties, and the President and Executive Director of the Florida League of Cities.

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 2020 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Xavier L. Suarez** and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	aye		
Rebeca Sosa, Vice Chairwoman	aye		
Esteban L. Bovo, Jr.	absent	Daniella Levine Cava	aye
Jose "Pepe" Diaz	aye	Sally A. Heyman	aye
Eileen Higgins	aye	Barbara J. Jordan	aye
Joe A. Martinez	aye	Jean Monestime	aye
Dennis C. Moss	aye	Sen. Javier D. Souto	absent
Xavier L. Suarez	aye		

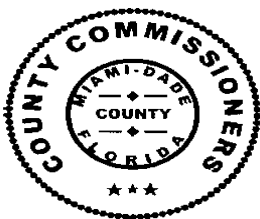
The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of February, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override 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

Linda L. Cave

By: _____
Deputy Clerk



Approved by County Attorney as
to form and legal sufficiency.

[Handwritten signature] **F01**
MSM

Michael J. Mastrucci

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