

MEMORANDUM

Agenda Item No. 7(C)

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

DATE: (Second Reading 8-31-20)
August 31, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to emergency management; amending section 8B-6 of the Code; requiring the County Mayor, or in the County Mayor's absence, the Chairperson of the Board of County Commissioners, to present additional affidavits during the pendency of a Declaration of Local State of Emergency; providing that the Board may terminate a Declaration of Local State of Emergency; providing that in the absence of the County Mayor, the Chairperson may speak on behalf of the County for its actions in response to disasters or emergencies; making technical changes

Ordinance No. 20-87

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez, Co-Sponsors Commissioner Daniella Levine Cava and Chairwoman Audrey M. Edmonson.



Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: August 31 2020

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the name in the "From" field.

Subject: Fiscal Impact Statement for Ordinance Relating to Emergency Management; Amending
Section 8B-6 of the Code of Miami-Dade County

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in black ink, appearing to read "Jennifer Moon", written above a horizontal line.

Jennifer Moon
Deputy Mayor

FIS05420 201117

Memorandum



Date: August 31 2020

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

From: Carlos A. Gimenez 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Emergency Management and the Powers of the Mayor and the Chairperson of the Board of County Commissioners

This Ordinance amends Section 8B-6 of the Miami-Dade County Code to add a requirement that the County Mayor, or the Chairperson of the Board of County Commissioners (Board), shall present additional affidavits every 15 days if a Declaration of a Local Emergency is to exceed 30 days. This Ordinance would also allow the Board, by Board action, to terminate a Local State of Emergency and would authorize the Chairperson of the Board to be the official representative of Miami-Dade County in the absence of the County Mayor.

This Ordinance would limit, and at times eliminate, the authority of the County Mayor to issue, communicate and extend Emergency Orders. During times of emergency, the public benefits from having one unified message to keep them informed of developments as they arise. The administration is in the best position to communicate such message and, in the absence of the County Mayor, one of his or her designees should communicate such message.

As written today, Section 8B-4 of the County Code grants the Board authority to suspend declared Local States of Emergency in the absence of the County Mayor and the Chairperson of the Board with two-thirds majority vote of the members present. This Ordinance would broaden the Board's powers to waive those requirements and allow the Board to terminate a Local State of Emergency. The County Code is clear on the role of the Board and the role of the County Mayor during a State of Emergency, and conflating such roles would undoubtedly create confusion among the members of the community.

Generally, this Ordinance expands the powers of the Board during a State of Emergency. During these times, the public deserves a unified message and expanding the times in which the Board, through its legislative powers, can rescind or cancel the actions of the County Mayor will not be in the best interest of the community.



Jennifer Moon
Deputy Mayor



MEMORANDUM

(Revised)

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

DATE: August 31 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(C)

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. 7(C)
8-31-20

ORDINANCE NO. 20-87

ORDINANCE RELATING TO EMERGENCY MANAGEMENT;
AMENDING SECTION 8B-6 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA; REQUIRING THE COUNTY MAYOR,
OR IN THE COUNTY MAYOR'S ABSENCE, THE
CHAIRPERSON OF THE BOARD OF COUNTY
COMMISSIONERS, TO PRESENT ADDITIONAL AFFIDAVITS
DURING THE PENDENCY OF A DECLARATION OF LOCAL
STATE OF EMERGENCY; PROVIDING THAT THE BOARD
MAY TERMINATE A DECLARATION OF LOCAL STATE OF
EMERGENCY; PROVIDING THAT IN THE ABSENCE OF THE
COUNTY MAYOR, THE CHAIRPERSON MAY SPEAK ON
BEHALF OF THE COUNTY FOR ITS ACTIONS IN RESPONSE
TO DISASTERS OR EMERGENCIES; MAKING TECHNICAL
CHANGES; PROVIDING SEVERABILITY, INCLUSION IN
THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 252.38, Florida Statutes, creates emergency powers for counties,
among other entities, that are vested in boards of county commissioners; and

WHEREAS, the Miami-Dade County Code currently delegates those emergency powers
to the County Mayor in anticipation of the possible inability of the Board of County
Commissioners to meet during the declared emergency; and

WHEREAS, notwithstanding that delegation, the Board retains legislative authority over
emergency matters and may terminate a state of emergency, set policy with respect to an
emergency, or negate or modify an emergency Order issued by the County Mayor; and

WHEREAS, unlike hurricanes and other natural disasters, pandemics do not necessarily
result in the inability of the Board to meet for prolonged periods of time; and

WHEREAS, this Board desires to have more regular updates from the County Mayor during the course of all states of emergency; and

WHEREAS, requiring the County Mayor to provide an additional affidavit every 15 days when a State of Emergency lasts for more than 30 days will allow for more regular updates to be provided to the Board,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 8B-6 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 8B-6. Powers of the Mayor.

Pursuant to the Code and Florida State law, and to execute the policies and purposes of this Chapter, the Mayor~~[[;]]~~ >>or<< the Chairperson of the Board of County Commissioners in the absence of the Mayor ~~[[or the Manager in the absence of the Mayor and the Chairperson of the Board of County Commissioners]]~~ is authorized to:

- (1) Declare a Local State of Emergency: The Mayor or the Chairperson of the Board of County Commissioners in the absence of the Mayor may declare a Local State of Emergency for a period of up to thirty (30) days for any or all areas of Miami-Dade County in response to the imminent threat of, or an occurring emergency or disaster. The Mayor or the Chairperson of the Board of County Commissioners in the absence of the Mayor ~~[[or the Manager in the absence of the Mayor and the Chairperson of the Board of County Commissioners]]~~ must present to the Board and file with the Office of the County ~~[[Manager]]~~ >>Mayor<< an affidavit stating the reasons for the Declaration:

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (a) If the Declaration is to exceed thirty (30) days >>_<< the Mayor, or ~~[[the]]~~ the Chairperson of the Board of County Commissioners in the absence of the Mayor ~~[[or the Manager in the absence of the Mayor and the Chairperson of the Board of County Commissioners]]~~, shall present to the Board an additional affidavit stating the reasons for the extension. >>The Mayor, or the Chairperson of the Board in the absence of the Mayor, shall continue to present an additional affidavit every 15 days for the duration of the Declaration.<<
- (b) A Local State of Emergency may be terminated by executive order >>or by Board action<< once conditions that prompted the declaration are no longer a threat.
- (2) Ensure the coordination Local, State, or Federal agencies, and private entities to facilitate disaster or emergency operations.
- (3) The Mayor >>, or the Chairperson in the absence of the Mayor,<< shall be the official representative of Miami-Dade County and speak on behalf of its actions in response to disasters or emergencies.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

August 31, 2020

Approved by County Attorney as
to form and legal sufficiency:




Prepared by:

Lauren E. Morse

Prime Sponsor: Commissioner Joe A. Martinez
Co-Sponsors: Commissioner Daniella Levine Cava
Chairwoman Audrey M. Edmonson
ommissioner Daniella Levine Cava
Chairwoman Audrey M. Edmonson