

MEMORANDUM

Agenda Item No. 11(A)(24)

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

DATE: April 20, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature and the United States
Congress to enhance penalties for
offenses against public utilities,
including water and sewer
facilities

Resolution No. R-374-21

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

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

DATE: April 20, 2021

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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)(24)
4-20-21

RESOLUTION NO. _____ R-374-21

RESOLUTION URGING THE FLORIDA LEGISLATURE AND
THE UNITED STATES CONGRESS TO ENHANCE
PENALTIES FOR OFFENSES AGAINST PUBLIC UTILITIES,
INCLUDING WATER AND SEWER FACILITIES

WHEREAS, Miami-Dade County (the “County”) maintains more than 8,500 miles of underground water lines and approximately 4,100 miles of sewer lines, serving approximately 2.3 million residents and millions of visitors; and

WHEREAS, the Miami-Dade Water and Sewer Department (“MDWASD”) has implemented processes, protocols, and safeguards at its three regional water treatment plants to minimize any possible service interruptions or any threat that could impact water quality standards; and

WHEREAS, in addition to automated alarms associated with various water treatment process parameters, MDWASD staff monitor water treatment operations 24 hours a day; and

WHEREAS, MDWASD staff also collects physical samples, independent of automated readers taken by sensors, throughout the water treatment process; and

WHEREAS, these controls ensure that water quality at the facility always meets public health standards; and

WHEREAS, recently, in Oldsmar, Florida, a hacker gained control of the operating system at the city water treatment facility and tried to increase the amount of sodium hydroxide, also known as lye, in the water from 100 parts per million to 11,100 parts per million; and

WHEREAS, fortunately, one of the plant operators in Oldsmar immediately noticed the increase and contacted authorities, and the affected water never made it to the home of residents; and

WHEREAS, currently, under Florida law, section 815.061(2), Florida Statutes, makes it a crime for a person to “willfully, knowingly, and without authorization: (a) Gain access to a computer, computer system, computer network, or electric device owned, operated, or used by a public utility while knowing that such access is unauthorized[;]” or “(b) Physically tamper with, insert a computer contaminant into, or otherwise transmit commands or electronic communications to a computer, computer system, computer network, or electronic device that causes a disruption in any service delivered by a public utility.”; and

WHEREAS, a person who violates section 815.061(2)(a), Florida Statutes, commits a felony of the third degree, punishable by a term of imprisonment not exceeding five years; and

WHEREAS, a person who violates section 815.061(2)(b), Florida Statutes, commits a felony of the second degree, punishable by a term of imprisonment not exceeding 15 years; and

WHEREAS, a person who physically enters any water and sewer facility without permission could also potentially be criminally liable for trespass, burglary, or a litany of other potential criminal statutes, each with their own varying levels of penalties; and

WHEREAS, currently, under the Clean Water Act, section 33 U.S.C. 1319(c)(4), any person who knowingly “tampers with, or renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than \$10,000.00, or by imprisonment for not more than 2 years, or by both”; and

WHEREAS, in addition, any person who negligently or knowingly introduces into a sewer system or a publicly owned treatment works “any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage” is also guilty of a criminal offense under the Clean Water Act; and

WHEREAS, in addition to criminal penalties, if a public utility is breached, whether physically or over the internet, the County (or any other public utility owner or person harmed by the breach) may seek to recover its damages through a civil action; and

WHEREAS, as part of such a civil action, the County (or any other public utility owner or person harmed by the breach) could seek to recover its direct and indirect costs resulting from the breach’s impact on the public health, public safety, and public trust; and

WHEREAS, in such civil action, the County could seek compensatory damages as well as attempt to obtain damages to punish defendants whose conduct is grossly negligent or intentional, known as punitive damages; and

WHEREAS, this Board desires to ensure that the County’s water and sewer systems are protected and that individuals with bad intentions are deterred from trying to breach the County’s water and sewer infrastructure, whether physically or electronically; and

WHEREAS, additional penalties – both civil (including attorneys’ fees) and criminal – would assist in deterring potential bad actors from infiltrating the County’s water and sewer facilities, whether in person or remotely,

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

Section 1. Approves the foregoing recitals, which are incorporated herein by reference.

Section 2. Urges the Florida Legislature and the United States Congress to enhance penalties for offenses against public utilities, including water and sewer facilities.

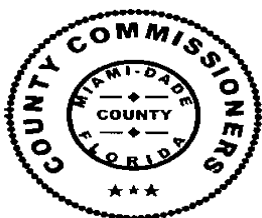
Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Florida Congressional Delegation, the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 4. Directs the County’s state and federal lobbyists to advocate for the legislative action set forth in section 2 above and authorizes and directs the Office of Intergovernmental Affairs to amend the 2021 State and Federal Legislative Packages to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. It was offered by Commissioner **Rebeca Sosa** , who moved its adoption. The motion was seconded by Commissioner **Eileen Higgins** and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of April, 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "AB", is written over a horizontal line.

Angela F. Benjamin