

MEMORANDUM

		Agenda Item No. 7(K) (Second Reading 11-2-21) September 1, 2021	
TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	DATE:	
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance relating to the Environmental Quality Control Board; amending section 24-8 of the Code; revising number of board members, qualifications for board members, and requirements for quorum and board action; making technical changes
		Ordinance No. 21-125	

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



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



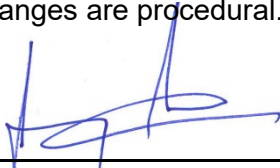
Date: November 2, 2021

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

From: Daniella Levine Cava 
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Environmental Quality Control Board
Number of Board

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County, as the proposed changes are procedural.

A blue ink signature, likely of Jimmy Morales, written over a horizontal line.

Jimmy Morales
Chief Operations Officer

Memorandum



Date: November 2, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Environmental Quality Control
Board membership

The proposed Ordinance amends section 24-8 of the Code of Miami-Dade County (Code) pertaining to the Environmental Quality Control Board (“EQCB”). The proposed amendments increase the number of EQCB members, expand the qualifications for EQCB membership, and modify the number of EQCB members needed for a quorum to take action. The EQCB was established to hear appeals by persons aggrieved by any actions or decisions of the Director of the Department of Regulatory and Economic Resources – Division of Environmental Resources Management, and to hear and decide all applications for variances and extensions of time for compliance with chapter 24 of the Code. The EQCB has recently had difficulty attracting and maintaining members which has resulted in quorum issues.

The proposed amendments will increase the membership of the EQCB from five members to seven, establishes quorum as a majority of members appointed, and will broaden the qualifications for EQCB members to include master’s degrees in biology, marine biology, biochemistry and chemistry. Implementation of the proposed Ordinance may provide for the EQCB to schedule additional public hearings that would benefit the community.



Jimmy Morales
Chief Operations Officer

212019



MEMORANDUM

(Revised)

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

DATE: November 2, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(K)

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(K)
11-2-21

ORDINANCE NO. _____ 21-125

ORDINANCE RELATING TO THE ENVIRONMENTAL QUALITY CONTROL BOARD; AMENDING SECTION 24-8 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING NUMBER OF BOARD MEMBERS, QUALIFICATIONS FOR BOARD MEMBERS, AND REQUIREMENTS FOR QUORUM AND BOARD ACTION; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board established the Pollution Control Board in 1969 and later renamed it the Environmental Quality Control Board (“EQCB”); and

WHEREAS, regulations pertaining to the EQCB are set forth in chapter 24 of the Code of Miami-Dade County, Florida, including but not limited to section 24-8, which sets forth, among other things, the EQCB’s duties and powers, the number and qualifications of its members, and the number of members required for a quorum and to take action; and

WHEREAS, chapter 24 empowers the EQCB to hear appeals by any person aggrieved by certain actions or decisions of the Director of the Division of Environmental Resources Management, and to hear and pass upon all applications for variances and extensions of time for compliance with chapter 24 of the Code; and

WHEREAS, the EQCB currently consists of five members, who must have certain educational and experiential credentials, as follows:

- Two members shall be scientists possessing Ph.D. degrees in biology or marine biology;
- One member shall be a scientist possessing a Ph.D. degree in biochemistry or chemistry;

- Two members shall be professional engineers, licensed in the State of Florida, with experience in the field of chemical, civil, or environmental engineering; or alternatively, in lieu of one licensed professional engineer, one member may be either of the following:
 - An engineer possessing a Ph.D. degree with experience in the field of chemical, civil or environmental engineering; or
 - A professional geologist, licensed in the State of Florida, with experience in the field of groundwater modeling or contaminant fate and transport and possessing a Ph.D. degree in hydrogeology or groundwater hydrology; and

WHEREAS, section 24-8 of the Code provides that three members of the EQCB shall constitute a quorum, whereas section 2-11.39.1 provides that, notwithstanding any other provision of the Code, a quorum for all County boards shall consist of a majority of those persons duly appointed to the board, provided that at least one-half of the full board membership has been appointed; and

WHEREAS, section 24-8 further provides that a majority vote of the entire membership of the EQCB shall be necessary to take any action, except for certain actions taken with respect to the Northwest Wellfield protection area or the West Wellfield Interim protection area, which require a minimum of four members' affirmative votes; and

WHEREAS, the EQCB has recently had difficulty attracting and retaining members; and

WHEREAS, the EQCB has also recently had difficulty meeting quorum and having a sufficient number of members present to take action; and

WHEREAS, to ensure that the EQCB continues to function effectively, while protecting the scientific and technical integrity of the EQCB's decision-making process, this Board wishes to increase the number of EQCB members, expand the qualifications for EQCB membership, and modify the number of EQCB members needed for a quorum and to take action; and

WHEREAS, this Board also wishes to make certain technical changes,

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

Section 1. The foregoing recitals are approved and incorporated herein.

Section 2. Section 24-8 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 24-8. - Environmental Quality Control Board.

A Miami-Dade County Environmental Quality Control Board is hereby created and established, consisting of ~~[[five (5)]]~~>>seven<< members appointed by the County Commission.

- (1) *Qualifications of members.* Members of the Board shall be residents of Miami-Dade County who possess outstanding reputations for civic pride, interest, integrity, responsibility and business or professional ability. Appointments shall be made by the Board of County Commissioners on the basis of experience or interest in the field of air and water pollution. The composition and representative membership of the Board shall be as follows:
 - (a) Two members shall be scientists possessing >>a master's or<< Ph.D. degree~~[[s]]~~ in biology or marine biology.
 - (b) One member shall be a scientist possessing a >>master's or<< Ph.D. degree in biochemistry or chemistry.

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.

- (c) Two members shall be professional engineers, licensed in the State of Florida, with experience in the field of chemical, civil, or environmental engineering; or alternatively, in lieu of one licensed professional engineer, one member may be either of the following:
 - i. An engineer possessing a Ph.D. degree with experience in the field of chemical, civil or environmental engineering; or
 - ii. A professional geologist, licensed in the State of Florida, with experience in the field of groundwater modeling or contaminant fate and transport and possessing a Ph.D. degree in hydrogeology or groundwater hydrology.
 - >>(d) Two members shall qualify as one of the following: a scientist possessing a master's or Ph.D. degree in biology, marine biology, biochemistry, or chemistry; or a professional engineer, licensed in the State of Florida, with experience in the field of chemical, civil, or environmental engineering.<<
- (2) *Terms of office.* ~~[[In order that the terms of office of all members of the Board shall not expire at the same time, the initial appointments to the Board shall be as follows: Two (2) members shall be appointed for the term of one (1) year, two (2) members shall be appointed for the term of two (2) years, and one (1) member shall be appointed for the term of three (3) years. Thereafter all]]>>All<< appointments shall be made for [[the]]>>a<< term of three [[(3)]] years. Appointments to fill any vacancy on the Board shall be for the remainder of the unexpired term of office. A member may be removed with or without cause by the affirmative vote of not less than a majority of the entire County Commission. Should any member of the Board fail to attend three [[(3)]] consecutive meetings without due cause, the [[Chairman]]>>Chairperson<< shall certify the same to the County Commission. Upon such certification, the member shall be deemed to have been removed and the County Commission shall fill the vacancy by appointment.~~
- (3) *Organization of the Board; quorum; Secretary; compensation of members; meetings; personnel.* The members of the Board shall elect a Chairperson and such other officers as may be deemed necessary or desirable, who shall serve at the will of the Board. ~~[[A majority vote of the~~

~~entire membership of the Board shall be necessary to take any action. Three (3) members of]] >>A majority of those persons duly appointed to<< the Board shall constitute a quorum necessary to hold a meeting>>.<< [[and take any action,]]>>The Board shall not take any action without the affirmative vote of the majority of all the members present.<< except that the affirmative vote of four [[(4)]] members of the Board shall be required to grant variances and extensions of time for compliance with the requirements of this chapter for new or existing facilities, equipment, and processes or classes thereof, within the Northwest Wellfield protection area or within the West Wellfield Interim protection area. The Director shall be secretary of the Board and shall be responsible for the custody of all minutes and records of the Board, but shall not be entitled to vote on any matter before the Board. Members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties, upon approval by the Board of County Commissioners. The Chairperson may call meetings of the Board, and the Board at any meeting may fix and call a meeting on a future date. Minutes shall be kept of all meetings of the Board. All meetings shall be public. The County [[Manager]]>>Mayor<< shall provide adequate and competent clerical administrative personnel as may be reasonably required by the Board for the proper performance of its duties, subject to budget limitations.~~

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Section 3. 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 4. 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 5. 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.

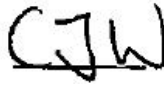
PASSED AND ADOPTED:

November 2, 2021

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Christopher J. Wahl

Prime Sponsor: Commissioner Raquel A. Regalado