

## MEMORANDUM

Agenda Item No. 7(C)

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

**DATE:** (Second Reading: 1-19-22)  
November 2, 2021

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Ordinance relating to County boards; amending section 2-11.38 of the Code; requiring County Commissioners to be notified when any County board member: (1) ceases to reside in the County; (2) files a lawsuit against the County; (3) qualifies as a candidate for elective political office; (4) is under consideration for service on multiple County boards; or (5) fails to file a required financial disclosure; providing for additional notification to County Commissioners before any County board member is automatically removed from the membership roster of a County board for failure to file a required financial disclosure

Ordinance No. 22-6

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez and Co-Sponsor Senator René García.



Geri Bonzon-Keenan  
County Attorney

GBK/uw

# Memorandum



**Date:** January 19, 2022

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

**From:** Daniella Levine Cava  
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

**Subject:** Fiscal Impact Statement for Ordinance Relating to County Boards

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The proposed ordinance relating to county boards; amends Section 2-11.38 of the Code and requires that the Board of County Commissioners (Board) be notified when any county board members: (1) ceases to reside in the County; (2) files a lawsuit against the County; (3) qualifies as a candidate for elective political office; (4) is under consideration for service on multiple county boards; or (5) fails to file a required financial disclosure; amends the Code to allow the providing of additional notification to the Board before any county board member is automatically removed from the membership roster of a county board for failure to file a required financial disclosure.

The proposed ordinance will have an estimated \$59,000 fiscal impact on the Office of the Clerk. It is anticipated that one position, a County Commission Clerk 3, will be required to support the functions necessary to administer this ordinance. The County Commission Clerk 3 will be responsible for financial disclosures to manage the program, track compliance, and issue the notices required at the various time intervals set forth in the proposed ordinance. The Clerk's Office will be responsible for sending out a listing of non-filers as it relates to financial disclosures in addition to the work already handled as the coordinator for the County. Currently, the Office of the Clerk works closely with the State of Florida, the Elections Department, and the Commission on Ethics which results in a manual process of cross verification. To be able to fully accomplish the objective of the legislation, a new process will need to be developed and a technology application be implemented to manage this work efficiently. The investment in a technology tool and the associated professional service costs are yet to be determined.

A handwritten signature in blue ink that reads "Edward Marquez".  

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Edward Marquez  
Chief Financial Officer

# Memorandum



**Date:** January 19, 2022

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

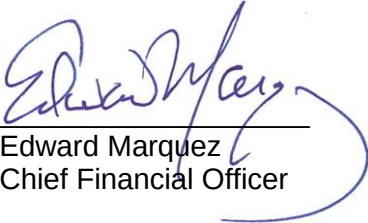
**From:** Daniella Levine Cava   
Mayor

**Subject:** Social Equity Statement for Ordinance requiring Commissioners to be notified when any County Board Member is noncompliant with certain Code requirements - 212600

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The proposed ordinance amends Section 2-11.38 of the Code of Miami-Dade County (Code) related to membership on County boards. The legislation requires notification to County Commissioners when their respective nominee/appointee fails to comply with certain membership requirements. In particular, the proposed legislation would provide notification to Commissioners in instances such as, when a board member or nominee ceases to reside in the County, files a lawsuit against the County, qualifies as a candidate for elective political office, is under consideration for nomination or appointment to any additional County board, or fails to file a required financial disclosure.

The legislation requires that the notification be provided prior to the removal of an appointee from the membership roster. The proposed notification process for Commissioners would increase transparency as it relates to the status of actively nominated/appointed individuals serving on County boards and may provide an incentive for increasing compliance amongst nominees/appointees to County boards since notification regarding noncompliance will be provided directly to the nominating/appointing Commissioner. The legislation would provide an increased opportunity to hold nominees/appointees accountable to cure noncompliance while simultaneously providing protection to the County against potential conflicts.

  
Edward Marquez  
Chief Financial Officer



## MEMORANDUM

(Revised)

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

**DATE:** January 19, 2022

**FROM:**   
Gen Bonzon-Keenan  
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)  
1-19-22

ORDINANCE NO.      22-6

ORDINANCE RELATING TO COUNTY BOARDS;  
AMENDING SECTION 2-11.38 OF THE CODE OF MIAMI-  
DADE COUNTY, FLORIDA; REQUIRING COUNTY  
COMMISSIONERS TO BE NOTIFIED WHEN ANY COUNTY  
BOARD MEMBER: (1) CEASES TO RESIDE IN THE COUNTY;  
(2) FILES A LAWSUIT AGAINST THE COUNTY; (3)  
QUALIFIES AS A CANDIDATE FOR ELECTIVE POLITICAL  
OFFICE; (4) IS UNDER CONSIDERATION FOR SERVICE ON  
MULTIPLE COUNTY BOARDS; OR (5) FAILS TO FILE A  
REQUIRED FINANCIAL DISCLOSURE; PROVIDING FOR  
ADDITIONAL NOTIFICATION TO COUNTY  
COMMISSIONERS BEFORE ANY COUNTY BOARD  
MEMBER IS AUTOMATICALLY REMOVED FROM THE  
MEMBERSHIP ROSTER OF A COUNTY BOARD FOR  
FAILURE TO FILE A REQUIRED FINANCIAL DISCLOSURE;  
PROVIDING SEVERABILITY, INCLUSION IN THE CODE,  
AND AN EFFECTIVE DATE

**WHEREAS**, section 2-11.38 of the County Code sets forth certain requirements for membership on County boards, including that a person cannot serve on a County board if such person: (1) ceases to reside in the County, unless such requirement is waived by two-thirds vote of the Board; (2) files a lawsuit against the County challenging Board policy, unless such requirement is waived by two-thirds vote of the Board; (3) qualifies as a candidate for elective political office; (4) already serves on another County board, unless the Board unanimously approves service on an additional County board, subject to certain limitations; or (5) fails to file a required financial disclosure; and

**WHEREAS**, among other requirements, section 2-11.1(i) provides that County board members, and certain other County officials and personnel, shall file a financial disclosure in one of several formats no later than noon on July 1st of each calendar year; and

**WHEREAS**, pursuant to section 2-11.38, a notice shall be sent to any County board members who fail to file the required financial disclosure for the previous calendar year; and

**WHEREAS**, the notice must state that each such board member shall have 30 days from the date of the notice to submit proof that the financial disclosure has been filed, and that if a board member fails to comply with this requirement, the board member will be automatically removed from the membership roster of the board on the 31st day from the date of the notice; and

**WHEREAS**, section 2-11.38 further provides that a copy of this notice shall be provided to the County Mayor or designee, the Clerk of the Board, and the County Attorney; and

**WHEREAS**, however, the County Code does not require that County Commissioners be sent a copy of such notice; and

**WHEREAS**, County Commissioners should be informed when County board members fail to file their required financial disclosure, particularly when they have nominated and appointed those board members; and

**WHEREAS**, similarly, County Commissioners should be informed when County board members fail to comply with other requirements set forth in section 2-11.38; and

**WHEREAS**, in particular, the County Commissioner who nominated or appointed a County board member should be notified when such board member ceases to reside in the County, files a lawsuit against the County, qualifies as a candidate for elective political office, or is under consideration for nomination or appointment to any additional County board; and

**WHEREAS**, this Board wishes to amend the Code to ensure that County Commissioners are appropriately notified in the above-referenced circumstances,

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

**Section 1.** Section 2-11.38 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 2-11.38. Membership on boards.**

All members of County boards shall be permanent residents and electors of Miami-Dade County unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement, and should have reputations for integrity and community service. In addition, all board members should have demonstrated an interest in the field, activity or sphere covered by the board. Each board shall include at least one (1) person whose livelihood does not depend on the area regulated, administered or dealt with by the board.

Unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives the residency requirement, any member of County boards who ceases to be a resident of Miami-Dade County during the term of his or her office shall immediately advise >>the County Commissioner who nominated or appointed the board member and<< the Clerk of the Board of County Commissioners. Upon being advised by the Clerk of such circumstances, the Board of County Commissioners shall declare the position to be vacant and shall promptly fill the same pursuant to the provisions of section 2-11.38.

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No person shall be eligible to serve on a County board if, at the time of appointment to the County board, the person has filed a lawsuit against the County that is pending at the time of appointment and that challenges a policy set by the Board of County Commissioners, unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives this requirement. No person sitting on a County board may file a lawsuit against the County that challenges a policy set by the Board of County Commissioners without relinquishing his or her seat on the County board unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives this requirement. >>Any County board member who files such a lawsuit shall immediately notify the County

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<sup>1</sup> 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.

Commissioner who nominated or appointed the board member and provide that County Commissioner with a copy of the complaint or other pleading initiating such lawsuit.<<

No member of any County board shall become a candidate for elective political office during his or her term. Should any member of a County board qualify as a candidate for elective political office, such qualification shall be deemed a tender of resignation from such board. >>Any County board member who qualifies as a candidate shall immediately notify the County Commissioner who nominated or appointed the board member.<< No person shall serve on more than two (2) County boards simultaneously, unless the Commission has by unanimous vote approved the appointment after being advised of all other County board(s) upon which the person sits, provided, however, a person serving on any one of the following boards shall not serve on any other County board simultaneously except as provided by ordinance: Community Council; Community Zoning Appeals Board; Planning Advisory Board; Citizens' Independent Transportation Trust; Housing Finance Authority; Independent Review Panel; Industrial Development Authority; Health Facilities Authority; Educational Facilities Authority; Commission on Ethics and Public Trust; Environmental Quality Control Board; The Children's Trust; and the Public Health Trust. Notwithstanding the foregoing, a person is prohibited from serving on a County board where such service would violate federal or state law, the Miami-Dade County Home Rule Charter or county ordinance. >>Any person under consideration for nomination or appointment to a County board who is already a member of another County board shall disclose such existing board membership to the nominating or appointing County Commissioner.<<

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Regarding those board members that are required to file financial disclosure with the County's Elections Department, the Executive Director of the Miami-Dade County Ethics Commission (the "Ethics Commission") shall notify such members if they have failed to file the required financial disclosure for the previous calendar year by February 1st of each year. The notice shall provide that each such member shall have thirty (30) days from the date of the notice to submit proof to the Ethics Commission that financial disclosure has been filed with the Elections Department within such thirty (30) day period. Such notice shall also provide that these board members will be removed from the membership roster of the board on the thirty-first (31st) day from the date of the notice. A copy of this notice shall



be provided to >>each County Commissioner,<< the Mayor or designee, the Clerk of the Board (the "Clerk") and the County Attorney. >>In addition, seven days prior to the expiration of the 30-day period, the Executive Director of the Ethics Commission shall provide each County Commissioner with an updated list of those board members who, as of that time, have not submitted proof to the Ethics Commission that their financial disclosure has been filed with the Elections Department.<< Notwithstanding any provision of the Code or law to the contrary, such member shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section. The provisions of this paragraph pertaining to removal for failure to file financial disclosure shall not apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council members, whose removal shall be governed by section 20-43.2. Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failing to file financial disclosure.

Regarding those board members that are required to file financial disclosure with the State Commission on Ethics, the Clerk of the Board of County Commissioners (the "Clerk") shall determine the names of such persons and shall notify such members of County boards who have failed to file their required financial disclosure for the previous calendar year by February 1 of each year. The notice shall provide that each such board member has thirty (30) days from the date of the notice to submit proof to the Clerk that financial disclosure has been filed with the State Commission on Ethics within such thirty (30) days period. Such notice shall also provide that these board members will be removed from the membership roster of the board on the thirty-first (31st) day from the date of the notice. A copy of this notice shall be provided to >>each County Commissioner,<< the Mayor or designee, the Clerk of the Board and the County Attorney. >>In addition, seven days prior to the expiration of the 30-day period, the Clerk shall provide each County Commissioner with an updated list of those board members who, as of that time, have not submitted proof to the Clerk that their financial disclosure has been filed with the State Commission on Ethics.<< Notwithstanding any provision of the Code or law to the contrary, such member shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section. The provisions of this paragraph pertaining to removal for failure to file financial disclosure shall not

apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council members, whose removal shall be governed by section 20-43.2. Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failure to file financial disclosure.

**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:

January 19, 2022

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:

James Eddie Kirtley



Prime Sponsor: Commissioner Joe A. Martinez  
Co-Sponsor: Senator René García