

MEMORANDUM

Amended
Special Item No. 12

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

DATE: June 6, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution establishing County policy related to the constitutional office of Clerk of the Circuit Court in Miami-Dade County; directing the County Mayor to inventory County employees, assets, equipment, contracts, grants and licenses used by the Finance Department; directing the County Mayor to create a transition plan and draft agreements for the transfer of responsibilities and functions of the Miami-Dade County Finance Department to the constitutional office of Clerk of the Circuit Court; providing for reports to the Board; directing the Office of Policy and Budgetary Affairs to study the operation of the Clerk of the Circuit Court in the 10 largest counties; and urging the Florida Legislature to divide the duties of the Clerk of the Court into two offices in accordance with the Florida Constitution

Resolution No. R-559-22

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/jp



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(Revised)

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

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Gen Bonzon-Keenan
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 _____

Amended
Special Item No. 12
6-6-22

RESOLUTION NO. R-559-22

RESOLUTION ESTABLISHING COUNTY POLICY RELATED TO THE CONSTITUTIONAL OFFICE OF CLERK OF THE CIRCUIT COURT IN MIAMI-DADE COUNTY; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO INVENTORY COUNTY EMPLOYEES, ASSETS, EQUIPMENT, CONTRACTS, GRANTS AND LICENSES USED BY THE FINANCE DEPARTMENT; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO CREATE A TRANSITION PLAN AND DRAFT AGREEMENTS FOR THE TRANSFER OF RESPONSIBILITIES AND FUNCTIONS OF THE MIAMI-DADE COUNTY FINANCE DEPARTMENT TO THE CONSTITUTIONAL OFFICE OF CLERK OF THE CIRCUIT COURT; PROVIDING FOR REPORTS TO THE BOARD; DIRECTING THE OFFICE OF POLICY AND BUDGETARY AFFAIRS TO STUDY THE OPERATION OF THE CLERK OF THE CIRCUIT COURT IN THE 10 LARGEST COUNTIES; AND URGING THE FLORIDA LEGISLATURE TO DIVIDE THE DUTIES OF THE CLERK OF THE COURT INTO TWO OFFICES IN ACCORDANCE WITH THE FLORIDA CONSTITUTION

WHEREAS, the Miami-Dade County Home Rule Amendment to the Florida Constitution sets forth that Miami-Dade County, through the adoption of the Miami-Dade County Home Rule Charter, may abolish, or provide a method for abolishing, the county constitutional offices in Art. VIII of the Florida Constitution; and

WHEREAS, the Home Rule Amendment also provides that the Miami-Dade County Home Rule Charter may transfer responsibilities and functions from the county constitutional officers; and

WHEREAS, the Miami-Dade County Home Rule Charter currently provides for the transfer of some of the responsibilities and functions of the Clerk of the Circuit Court to the Director of the Miami-Dade County Finance Department jointly appointed by the County Mayor and the Clerk of the Circuit Court; and

WHEREAS, the appointed director of the Miami-Dade County Finance Department has exercised some of the powers and performed some the responsibilities and functions of the constitutional Clerk of the Circuit Courts; and

WHEREAS, the Miami-Dade County Finance Department is currently funded in the County's Fiscal Year 2021-22 Adopted Budget through revenues generated by the Countywide millage rates as well as revenues from fees, grants, contracts and other sources; and

WHEREAS, under the County's Fiscal Year 2021-2022 Adopted Budget, the Miami-Dade Finance Department has over 150 full-time equivalent budgeted positions performing functions within the scope of the constitutional duties of the Clerk of the Circuit Court; and

WHEREAS, on November 8, 2018, the electors of the State of Florida adopted an amendment to the Florida Constitution removing the constitutional grant of authority of Miami-Dade County and other charter counties to: (1) abolish the county constitutional offices of sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court; (2) transfer the duties and functions of those offices to another officer or office; (3) change the length of the four-year term of office; or (4) establish any manner of selection other than by election by the electors of the county; and

WHEREAS, the 2018 amendment to the Florida Constitution provided that the provision relating to constitutional officers shall not take effect in Miami-Dade County until January 7, 2025, but shall govern with respect to the qualifying for and the holding of the primary and general elections for county constitutional officers in 2024; and

WHEREAS, as a result of the 2018 amendment, the duties and functions of the constitutional County Clerk of the Circuit Court transferred to the Finance Department will be returned to the Miami-Dade County Clerk of the Circuit Court; and

WHEREAS, this Board desires to offer to transfer the budgeted positions and classifications and all employees who agree to transfer from the Miami-Dade Finance Department, and all assets, contracts, grants and licenses currently used by the Miami-Dade Finance Department to perform functions assigned to the constitutional Clerk of the Circuit Court to the Miami-Dade County Clerk of the Circuit Court commencing on January 7, 2025 in order to perform the required constitutional duties; and

WHEREAS, the potential transfer of those budgeted positions and classifications and employees who agree to transfer from the Finance Department and the assets, equipment, contracts, grants and licenses currently used by the Finance Department to perform functions assigned to the constitutional Clerk of the Circuit Court will require planning and preparation by the County to adequately address all issues that may arise with such transfers to the Miami-Dade County Clerk of the Circuit Court; and

WHEREAS, this Board desires to establish the County policy that: (1) the budgeted positions, classifications and employees who agree to transfer from the Finance Department, and all assets, equipment, contracts, grants and licenses currently used by the Finance Department to perform functions assigned to the constitutional Clerk of the Circuit Court shall be offered to the

Miami-Dade County Clerk of the Circuit Court commencing on January 7, 2025 in order to perform the required constitutional duties; and (2) that the County Mayor or County Mayor's designee immediately commence the necessary inventories and research necessary to accomplish this transfer and provide reports to the Board of County Commissioners,

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

Section 1. It is the policy of Miami-Dade County that, commencing January 7, 2025, the Finance Department's budgeted positions, classifications and all employees who agree to transfer, and all assets, equipment, contracts, grants and licenses currently used by the Finance Department to perform functions assigned to the constitutional Clerk of the Circuit Court shall be offered to the Miami-Dade County Clerk of the Circuit Court to provide for the proper transition of the duties and functions exercised by the Finance Department under Florida law and enable the immediate performance of the Miami-Dade County Clerk of the Circuit Court's duties and functions.

Section 2. The County Mayor or County Mayor's designee shall create an inventory listing all assets, equipment, contracts, grants and licenses currently used by the Finance Department and all budgeted positions and employees of the Finance Department currently used to perform those duties and functions otherwise assigned to the constitutional Clerk of the Circuit Court. Such inventory shall, at a minimum, identify whether such asset, equipment, contract, grant or license is used exclusively for the provision of those functions exclusively assigned to the constitutional Clerk of the Circuit Court or assigned for additional County-related tasks and whether such budgeted position is filled or vacant. For all filled budgeted positions, such inventory shall also include the date of employment, the current salary and benefits, and the current rank or

position held of the employee filling the position. For all real property, assets, equipment, contracts, grants and licenses, such inventory shall include the date acquired by the County, the current fair market value, the remaining term of any contract or useful life of such asset or equipment, as applicable, and any restrictions on the transfer to a successor office. The County Mayor or County Mayor's designee shall transmit this inventory, as a report to the Board, detailing the methodology used to create the inventory and any incomplete portions of the inventory by August 15, 2022. Such report shall redact all information that is exempt from disclosure under Florida's Public Records Law but shall provide an opportunity for members of the Board and other authorized individuals to review such information upon request. The County Mayor or County Mayor's designee shall update the report and inventory at least every two months thereafter until January 7, 2025 and transmit such updates to the Board. The report, and any updates thereto, shall be placed on an agenda of the full Board without committee review pursuant to Ordinance No. 14-65.

Section 3. The County Mayor or County Mayor's designee shall create draft transfer agreements, in consultation with the County Attorney's Office, to be offered to the Miami-Dade County Clerk of the Circuit Court to effectuate the transfer of positions and job classifications of the Finance Department and all employees who agree to transfer to the Miami-Dade County Clerk of the Circuit Court under the terms of the transfer agreements as well as the transfer of all assets, equipment, contracts, grants and licenses currently used by the Finance Department to perform those functions assigned to the constitutional Clerk of the Circuit Court. Such draft agreements shall also provide, at a minimum, for: (1) the financial transition to the Miami-Dade County Clerk of the Circuit Court of any accounts necessary to perform the functions of the office, including the budget, funding and financial processes for the office; (2) the transfer of positions, job

classifications and employees of the Finance Department necessary to perform those functions assigned to the constitutional Clerk of the Circuit Court to the Miami-Dade County Clerk of the Circuit Court, including provision for the transfer of leave balances, positions and benefits; (3) the transfer of assets, equipment, and licenses by lease agreement or otherwise as well as the maintenance of such assets and equipment necessary to perform those duties and functions assigned to the constitutional Clerk of the Circuit Court to the Miami-Dade County Clerk of the Circuit Court; (4) the transfer of grants and contracts of the Finance Department necessary to perform those functions assigned to the constitutional Clerk of the Circuit Court to the Miami-Dade County Clerk of the Circuit Court, where appropriate; and (5) the provision of administrative and other services for the operation of the Miami-Dade County Clerk of the Circuit Court, for a term of not less than two years, by employees of Miami-Dade County, as appropriate. The proposed draft agreements shall be presented to the Board as a report on or before January 15, 2023. Such report shall also include a description of any outstanding issues that may exist as of the date of the report. The County Mayor, or County Mayor's designee, shall update the draft agreements as directed by the Board of County Commissioners at least every three months thereafter until January 7, 2025, and transmit such updates to the Board. The report, and any updates thereto, shall be placed on an agenda of the full Board without committee review pursuant to Ordinance No. 14-65 along with an agenda item recommending either the approval of the draft transfer and operating agreements or such further action as may be directed by the Board.

Section 4. Immediately upon the certification of the General Election in 2024, the County Mayor or County Mayor's designee shall present any draft agreements approved by the Board of County Commissioners to the Clerk of the Circuit Court-elect for Miami-Dade County and shall present any proposed amendments to the draft transfer and operating agreements to the Board of County Commissioners for approval prior to December 27, 2024.

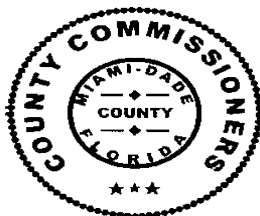
Section 5. The Office of Policy and Budgetary Affairs is directed to study the operations of the Clerk of the Circuit Court in the 10 largest counties in Florida and provide a benchmarking report to the Board, by August 15, 2022, detailing the staffing, funding, and resources provided by such counties to perform the statutory responsibilities of the office as well as any additional functions or responsibilities performed by the Clerk of the Circuit Court in those counties at the request of the county commission. The report shall be placed on an agenda of the full Board without committee review pursuant to Ordinance No. 14-65.

Section 6. This Board urges the Florida Legislature to enact legislation, in accordance with the requirements of the Florida Constitution, to divide the duties of the Clerk of the Court such that there is one official to serve as the Clerk of Courts and another to serve as ex officio clerk of the Board of County Commissioners, auditor, recorder and custodian of all County funds. This Board further: (a) directs the Clerk of the Board to send a certified copy of this resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade State Legislative Delegation; (b) directs the County's state lobbyists to advocate for the legislation described above; and (c) authorizes and directs the Office of Intergovernmental Affairs to amend the 2022 state legislative package to include this item, and to include this item in the 2023 state legislative package when it is presented to the Board.

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

	Jose "Pepe" Diaz, Chairman	nay	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	nay	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	nay
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 6th day of June, 2022. 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

By: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to be "OR" or "Oren Rosenthal".

Oren Rosenthal