



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Legislative Analysis**

**Board of County Commissioners**

September 21, 2010  
9:30 A.M.  
Commission Chamber

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Commission Auditor  
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Miami, Florida 33128  
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**Miami-Dade County Board of County Commissioners  
Office of the Commission Auditor**

**Legislative Notes  
Miami-Dade County Board of County Commissioners  
Meeting Agenda**

**September 21, 2010**

Written analyses and notes for the below listed items are attached for your consideration:

**Item Number(s)**

7(A)
8(O)1(C)
8(O)1(D)
11(A)6
11(A)7

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

**Agenda Item:** 101360  
**File Number:** 7(A)  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** September 17, 2010  
**Prime Sponsor:** Commissioner Sally A. Heyman  
**Type of Item:** Ordinance

**Summary**

This ordinance amends Section 7-3, 8A-172, 8A-276(B), 8CC (10), 21-28, 21-31.2(B)(1) and (2), 21-31.4(B), 26-1 of the Code of Miami-Dade County; including additional penalties; and creating Section 8CC-5.1 of the Code of Miami-Dade County.

**Background and Relevant Legislation**

On June 11, 2009, the Honorable Samuel Sloan, Administrative Judge for the Criminal Division of County Court, appeared before the Health, Public Safety and Intergovernmental Committee and suggested the Board of County Commissioners (BCC) consider changing the status for violation of County ordinances (i.e. noise ordinances, open-air concerts, panhandling, commercial markings on vehicles, being in the parks after hours, etc.) from criminal to a non-criminal violation. Judge Sloan noted these infractions were of a non-violent nature and processing them as criminal violations was not an efficient use of the County's and the Courts' resources.

- On June 30, 2009, the BCC, through Resolution 868-09, directed the Mayor or his designee to study whether cost savings can be achieved through de-criminalizing certain County ordinance violations.
- On December 10, 2009, members from the Office of Strategic Business Management (OSBM) appeared before the Health, Public Safety and Intergovernmental Committee. OSBM staff mentioned they had worked with representatives from the following departments and entities: Miami-Dade Police Department (MDPD), the Miami-Dade Corrections and Rehabilitation Department, the Eleventh Judicial Circuit, the Clerk of Courts, the Administrative Office of the Courts, the State Attorney's and the Public Defender's Office. OSBM noted that these entities would be impacted financially and operationally if the proposal to decriminalize certain County ordinances was adopted.
  - Members from MDPD appeared before the Committee and noted that the MDPD's recommendation was to retain the criminal aspect of the ordinances pending further review by staff of the minor offenses that could be decriminalized and the

establishment of the Pre- Arraignment Diversion Pilot Program to mitigate compliance rather than punishment.

- On July 15, 2010, members of the Health, Public Safety and Intergovernmental Committee forwarded this item favorably to the Board of County Commissioners.

### Other Jurisdictions<sup>1</sup>

North Carolina Court System's Office of Indigent Defense Services (IDS)<sup>2</sup> is studying data related to the disposition of seventeen types of **misdemeanor charges** during the 2009 fiscal year to determine whether decriminalization of these offenses might be an appropriate way to reduce the cost to the state for providing appointed counsel.

The seventeen misdemeanor charges are:

1. G.S. 14-168.4 Failure to return property rented with purchase option
2. G.S. 14-107(d)(1) Simple worthless check
3. G.S. 20-34 Allow unlicensed person to drive
4. G.S. 20-111(1) Driving or allowing another to drive an unregistered vehicle
5. G.S. 20-28(a) Driving while license revoked (Not based on DWI)
6. G.S. 20-111(2) Expired registration card/tag
7. G.S. 20-7(e) Failure to comply with license restriction
8. G.S. 20-7.1 Failure to notify DMV of an address change
9. G.S. 20-57(c) Failure to sign registration card
10. G.S. 20-111(2) Fictitious/canceled/revoked registration card/tag
11. G.S. 20-7(a) License not in possession
12. G.S. 20-7(a): No operator's license
13. G.S. 20-57(c): No registration card
14. G.S. 20-313(a): Operate vehicle no insurance
15. G.S. 20-141(j1): Speeding more than 15 mph over limit or over 80 mph
16. G.S. 20-127(d): Window tinting violation
17. G.S. 113-270.1B(A): Fishing without a license

- Two (2) of these offenses, driving while license revoked and operating a vehicle with no insurance, are Class 1 misdemeanors, punishable by up to 120 days imprisonment.
- The rest are Class 2 misdemeanors, with the exception of a first offense of fishing without a license, which is a Class 3 misdemeanor.
- Ten of the above offenses are included on the traffic waiver list, and the fishing offense appears on the hunting, fishing, and boating waiver list. A defendant may resolve a waiver offense without having to appear in court by paying court costs and a designated penalty. Offenses for which court appearances may be waived generally are considered less serious than offenses for which a court appearance is required.

Court appearance is required for the following offenses:

- failure to return rental property;

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<sup>1</sup> Decriminalizing Certain Offenses to Reduce Appointed Counsel Costs, Shea Denning, University of North Carolina School of Government.

<sup>2</sup> In August 2000, the North Carolina General Assembly passed the Indigent Defense Services Act of 2000, creating the Office of Indigent Defense Services and charging it with the responsibility of overseeing the provision of legal representation to indigent defendants and others entitled to counsel under North Carolina law.

- simple worthless check;
- driving while license revoked;
- display or possession of a fictitious registration card or tag;
- operating a vehicle without insurance; and
- speeding more than 80 miles per hour or more than 15 mph over the speed limit while driving more than 55 mph.

The offenses above will be studied to determine which may be decriminalized. A proposal from this study would recommend designating certain offenses as infractions, defined under G.S. 14-3.1 as noncriminal violations of the law.

The Office of the Commission Auditor will monitor and follow-up with IDS once the study is complete.

**Prepared by:** Michael Amador-Gil

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

**Agenda Item:** 8(O)1(C)  
**File Number:** 101857  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** September 21, 2010  
**Type of Item:** Governmental Representation and Consulting Services

**Summary**

This resolution authorizes the County Mayor or his designee to execute agreements to obtain governmental representation and consulting services in Washington, D.C. by authorizing the following contracts: RFQ685a to Alcalde & Fay, RFQ685b to Patton Boggs, LLP, RFQ685c to Greenberg Traurig, P.A., and RFQ685d to Akerman, Senterfitt & Eidson P.A.

In addition, this resolution waives the competitive bidding process and bid protest procedures in order to award RFQ685d to Akerman, Senterfitt & Eidson P.A.

The following firms were not recommended for award: Cardenas Partners, LLC; Venable LLP, Foley & Lardner, LLP; Dutko Worldwide; Sandler, Travis & Rosenberg, P.A.; James Lee Witt Associates; The Ferguson Group, LLC; BGR Government Affairs, LLC; Akin Gump Strauss Hauer & Feld; and EOP Group, Inc.

**Background**

November 2, 2009 Resolution No. 1286-09 The Board of County Commissioners (BCC) authorized the Administration to advertise a Request for Qualifications (RFQ) to obtain proposals to provide representation and consulting services on behalf of the County before the executive and legislative branches of the federal government. Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas, LLP served as the County's federal lobbyists and consultants. The three contracts expired on February 5, 2010. The County had already exercised the 3 one-year options-to-renew.  
*(see report under File No. 091872)*

January 21, 2010 Resolution No. 31-10

BCC extended the three contracts for Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas, LLP for six (6) months until August 5, 2010 on a month-to-month basis in order to complete the solicitation process for the successor contracts. In addition, this resolution allocated \$100,000 to each firm as compensation for continuing to provide consulting services and governmental representation in Washington, D.C. beyond the contracts' termination dates.

June 10, 2010

During the Health, Public Safety and Intergovernmental Committee (HPSI) meeting, it was recommended that the successor contracts be amended to include the following:

- Award up to five (5) firms instead of three (3);
- Requires the Mayor's recommendation to include a bid waiver (requires a two-thirds vote of the BCC);
- Directs the Department of Procurement Management (DPM) to negotiate the contract amount in an amount not to exceed \$190,000 per contract per year with the additional firms to be added to this contract award; and
- Directs DPM staff to locate additional funding necessary and if not successful then renegotiate with all five firms equally.

July 20, 2010

At the July 20, 2010 BCC meeting, this item was 4-day ruled.

### Comments / Questions

Jackson Health System / Public Health Trust have the following State and Federal Lobbying contracts<sup>1</sup> in place totaling \$529,000:

#### State Lobbying Contracts Totaling \$382,000

- **Akerman Senterfitt = \$136,000 per year**
  - Term: January 2007 to January 2010 for 3 years with 2 OTRs.
    - Currently in 1<sup>st</sup> OTR period.
  - Effective November 1, 2009, Akerman Senterfitt accepted a 15% fee reduction, modifying contract from \$160,000 to \$136,000.

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<sup>1</sup> Information provided by Jackson Health System Governmental Relations unit.

- **Ron Book = \$136,000 per year**
  - Term: December 2006 to December 2009 for 3 years with 2 OTRs.
    - Currently in 1<sup>st</sup> OTR period.
  - Effective November 1, 2009, Ron Book accepted a 15% fee reduction, modifying contract from \$160,000 to \$136,000.
  
- **V.B. and Associates = \$60,000 per year**
  - Term: April 2009 to April 2010, 1 year.
  
- **Renier Diaz de la Portilla = \$50,000 per year**
  - Term: August 2009 to August 2010, 1 year.
    - On August 25, 2009, this contract was transferred from Gray Robinson to Renier de la Portilla.

Federal Lobbying Contracts Totaling \$147,000

- **Akerman Senterfitt \$147,000 per year**
  - Term: February 2008 to January 2009 for 1 year with 2 OTRs
    - Currently in 2<sup>nd</sup> OTR period.
  - Effective November 1, 2009, Akerman Senterfitt accepted a 15% fee reduction, modifying contract from \$172,500 to \$147,000.

**Prepared by:** Elizabeth N. Owens



**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 8(O)1(D)  
**File Number:** 102133  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** September 21, 2010  
**Type of Item:** Procurement of Heavy Duty Hybrid Buses

**Summary**

This resolution ratifies the expedited purchase of five (5) heavy duty transit buses with hybrid diesel-electric propulsion systems (hybrid buses).

**Background and Relevant Legislation**

On July 17, 2008, the Board of County Commissioners (BCC) adopted Ordinance No. 08-92, the Economic Stimulus Plan (ESP), creating an expedited process for certain capital projects to stimulate economic development and delegating authority to the Mayor or his designee to advertise and award construction contracts and professional service agreements subject to the Board ratification.

Subsequently, on June 30, 2009, the BCC approved Ordinance No. 09-60, amending the ESP to provide the following:

- Extended the sunset provision to July 1, 2011; and
- Allowed the acquisition of goods and services funded through the American Recovery and Reinvestment Act (ARRA) to be included under the ESP.

On January 22, 2010, the County Mayor or his designee expedited the purchase of services funded by ARRA to access a contract awarded by Central Florida Regional Transportation Authority (LYNX) to purchase five (5) hybrid buses for Miami-Dade Transit Department (MDT). Contract No. 09-C05 was awarded to Gillig LLC for a five (5) year term, expiring on December 10, 2013. The term of the contract follows the same cycle as the access contract awarded through LYNX, from December 11, 2008 to December 10, 2013.

**Budgetary Impact / Comments**

The total cost of the five (5) hybrid buses is \$3,254,904, with a cost per bus of \$650,981. The National Clean Diesel Funding Assistance Program is providing \$731,850 in grant funds. This is the total maximum reimbursement for all five (5) buses. Pursuant to EPA, the grant contribution is up to 24.6% of the cost of each bus, not to exceed the total funding of \$731,850. If each hybrid bus receives \$146,370 in grant funding that amounts to 22% of the purchase cost.

According to MDT, the purchase of these five (5) hybrid buses was previously anticipated as part of the bus replacement plan. The ARRA grant provides only part of the funding source. The remaining funding amount of \$2,523,054 is from MDT operating funds.

On April 7, 2009 under Resolution No. 350-09, BCC approved the purchase of 13 hybrid buses for the cost of \$544,549 per bus, for a total cost of \$7,079,137. The acquisition under Resolution No. 350-09 was awarded as a bid waiver. Broward County issued an Invitation for Bid resulting in a competitive award to the low bidder; nevertheless, **that acquisition is \$106,432 less per bus than this ratification.**

According to MDT, these buses are similar but have significant differences. The engines of the Gillig buses must meet the more stringent EPA 2010 emission standards which increases the cost. The 2009 hybrid bus purchase did not have to meet this requirement. Also, the body construction has improved materials in the structure (Gillig uses stainless steel and aluminum compared to carbon steel used by NABI). Additional improvements to the buses were the inclusion of the “mini” hybrid engine cooling package, brake monitoring system, electric A/C, advanced power management system and composite flooring. These improvements along with the cost for the 2010 EPA engine and other modifications increased the price of the Gillig buses. In addition, the Gillig contract includes maintenance, training and operator orientation – items that are not included in the 2009 NABI contract.

**Prepared by:** Elizabeth N. Owens

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
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Legislative Notes

**Agenda Item:** 11(A)6  
**File Number:** 101711  
**Committee(s)  
of Reference:** Board of County Commissioners  
**Date of Analysis:** September 7, 2010.  
**Prime Sponsor:** Commissioner Katy Sorenson  
**Type of Item:** Resolution

**Summary**

This item approves a resolution directing the County Mayor or designee to prepare a request for proposals (RFP) for the allocation of the remaining \$6 million to historic preservation properties that qualify for funding pursuant to General Obligation Bond Project 293 and to submit the RFP for approval before publication.

**Background and Relevant Legislation**

The Historic Preservation Fund (HPF) is a program funded under the Building Better Communities General Obligation Bond (BBC-GOB) listed under project 293 with an original allocation of \$10 million (R-919-04). The HPF is intended to provide matching funds to private property owners, private non-profit organization, and municipal government agencies for the acquisition, relocation and rehabilitation of designated historic properties, or properties eligible for designation as a historic property or as a contributing historic property within Miami-Dade County.

The BBC-GOB Program as created by Ordinance 05-47, is administratively governed by the Building Better Communities Administrative Rules (Page 2, Building Better Communities Administrative Rules Rev. 1/07). These administrative rules have been prepared to address the administration and allocation of funds for the projects and programs identified in the BBC-GOB Program. In addition to the funding of projects listed in the BBC-GOB program, eligible projects may be funded through the application process described in the administrative rules with monies from four (4) funds. The four (4) funds are as follows:

- Historical Preservation Fund (HPF);
- Economic Development Fund (EDF);
- Not-for-Profit Community Organization Capital Fund (NFPCF); and
- Primary Health Care Facilities Fund (PHCFF)

At the June 9, 2010, Transit, Infrastructure & Roads Committee, the Director of the Office of Capital Improvements responded to Committee member concerns about the lack of a competitive process as it related to the issuance of HPF. The Director of Capital Improvements noted to members of the Committee that an RFP competitive process was initiated and advertised to issue a portion of the \$10 million of HPF. However, due to the difficulties encountered in the competitive process relating to private homeownership and the limited bonding capacity of the BBC-GOB, a decision was made not to move forward with the RFP.

On June 15, 2010, the Board approved Resolution R-668-10, which included amendments to the Administrative Rules governing the BBC-GOB Program. According to the amended Administrative Rules, recipients of HPF must apply for funding during a funding submission period or a funding allocation may be awarded to a recipient by the Board on a case by case basis (page 6, Building Better Communities Administrative Rules, Rev. 04/2010). Additionally, HPF was amended to provide the funding allocation administration and reimbursement policy to require title to land acquired with BBC-GOB Program funds or facilities constructed/developed with BBC-GOB funds will vest with a Public Agency, or legally incorporated 501(c)(3) not-for-profit Community Based Organization, or an active and duly registered Florida for-profit corporation or other recognized business entity (page 21, Building Better Communities Administrative Rules, Rev. 04/2010).

On July 11, 2010, the County Manager issued a memo to include a list of projects considered for the upcoming BBC-GOB bond sale and it does not include funding for BBC-GOB Project 293.

The Board has approved two significant modifications to Project 293 to include the following:

- Resolution R-328-10 approved \$3 million of HPF to the Miami Marine Stadium; and
- Resolution R-707-10 approved \$1 million to the restoration of the Curtiss Mansion.

Currently, there is a legislative item #101719, a resolution seeking to approve \$1.2 million in HPF to rehabilitate the Historic Hampton House building; it was deferred to no time certain at the Transit, Infrastructure & Roads Committee on June 14, 2010.

**Prepared by:** Mia B. Marin



**Agenda Item:** 101642

**File Number:** 11(A)7

**Committee(s) of Reference:** Board of County Commissioners

**Date of Analysis:** September 17, 2010

**Sponsor:** Commissioner Katy Sorenson

**Co-Sponsors:** Commissioner Rebecca Sosa; and Commissioner Carlos A. Gimenez

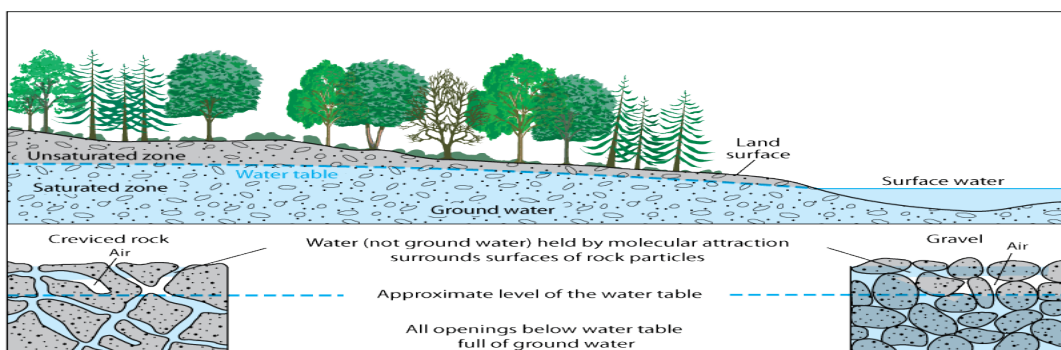
**Type of Item:** Resolution

### Summary

This resolution directs the County Mayor to create and implement in cooperation with the County Health Department a program to educate residents who have or use provide drinking wells of the available testing programs and need for testing of well water used for drinking water. Private and Public wells may be constructed and utilized by Miami-Dade County residents and businesses for a variety of purposes. These can include: irrigation, fire suppression systems, monitoring wells, test wells, and even domestic supply wells where public water is not available.

### Background and Relevant Legislation

According to the U.S. Center for Disease Control and Prevention, over 15 million U.S. households rely on private, household wells for drinking water. The U.S. Environmental Protection Agency (EPA) provides that a **public water system** or private water well is a system servicing 25 or more people per day. Although most U.S. households are connected to a **public water system**, a U.S. Geological Survey report, *Estimated Use of Water in the United States in 2005*, estimates that 14% of United States residents rely on private wells that are not regulated by the EPA Safe Drinking Water Act.



## State of Florida

According to the Florida Department of Health, the majority of Florida residents are served by public water systems covered by the Federal and State Safe Drinking Water Acts. The other 20% receive their water from "limited-use" public water systems and private wells. Private well owners are responsible for testing their own water supply.

According to the Florida Department of Environmental Protection Agency (FEPA):

"Florida's ground water resources are vulnerable to contamination because large areas are characterized by well-drained sandy soils overlying porous limestone. Human activities result in the production of a large number and variety of contaminants, including those associated with urban stormwater runoff and agricultural activity."

- From 1962 to mid 1983, for example, the Florida Department of Agriculture and Consumer Services applied a soil fumigant, ethylene dibromide (EDB), to control nematodes in citrus groves;
- EDB was also used on golf courses and crops;
- EDB has the potential to produce adverse health affects from prolonged consumption; and<sup>1</sup>
- The primary drinking water standard for EDB is 0.02 micrograms per liter (parts per billion).

In 1983, the discovery of EDB in other states triggered Florida state officials to test drinking wells. Over 2,400 drinking water wells across Florida have been identified as being contaminated with EDB.

As a result of the findings above, 1988 Florida Legislature directed the FEPA to implement water well construction and water testing standards within known contamination sites.

## Miami-Dade County

According to Miami-Dade County's Department of Environmental Resources Management (DERM) staff, DERM does not regulate private water wells. In fact, other than a construction permit being required, there is no regulation of private wells. Additionally, the County has no inventory of homes on private drinking water wells. DERM recently began surveying all such properties in the County. So far, approximately 12,000 homes/residential units have been identified. Approximately 8,700 of those are within the Miami-Dade Water and Sewer Department Service Area and approximately 3,300 cannot be served by WASD. **The survey will be completed by October 1, 2010.**<sup>2</sup>

According to the Miami-Dade Health Department, **several Miami-Dade homes located 132<sup>nd</sup> Street and Southwest 99<sup>th</sup> Court**, have high levels of dieldrin.

## Results for Wells Contaminated with Dieldrin at 132<sup>nd</sup> Street and 99 Court<sup>3</sup>

- Of the 42 wells sampled, 23 wells exceeded the Florida Department of Health (FDOH) 0.002 limit
- Nine (9) wells were below the FDOH
- None of the wells exceeded the EPA limit set at 0.2
- Ten wells were pending lab results

**Attachments:** Dieldrin Sampling at Caribbean Estates

**Prepared by:** Michael Amador-Gil

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<sup>1</sup> U.S. Environmental Protection Agency

<sup>2</sup> Department of Environmental Resource Management

<sup>3</sup> Miami-Dade Health Department



**Legend**

- NOC Notification of connection sent
- ANC City water available, but not connected
- Water Lines
- Connected to City Water
- Above HAL
- Below HAL

**DIELDRIN SAMPLING AT CARIBBEAN ESTATES**