

MEMORANDUM

Agenda Item No. 11(A)(1)


TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: October 16, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution amending County policy regarding pre-employment physical and medical examinations as a condition of County employment; directing the County Mayor to (1) eliminate the requirement of pre-employment physical and medical examinations for certain County job positions; (2) propose an Implementing Order consistent with this resolution to supersede Administrative Order No. 7-27; (3) amend County Procedure No. 486 and any other applicable rules and procedures consistent with this resolution; and (4) provide a report

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: October 16, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(1)

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 ____, majority plus one ____, 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) ____, 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)(1)
10-16-24

RESOLUTION NO. _____

RESOLUTION AMENDING COUNTY POLICY REGARDING PRE-EMPLOYMENT PHYSICAL AND MEDICAL EXAMINATIONS AS A CONDITION OF COUNTY EMPLOYMENT; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO (1) ELIMINATE THE REQUIREMENT OF PRE-EMPLOYMENT PHYSICAL AND MEDICAL EXAMINATIONS FOR CERTAIN COUNTY JOB POSITIONS; (2) PROPOSE AN IMPLEMENTING ORDER CONSISTENT WITH THIS RESOLUTION TO SUPERSEDE ADMINISTRATIVE ORDER NO. 7-27; (3) AMEND COUNTY PROCEDURE NO. 486 AND ANY OTHER APPLICABLE RULES AND PROCEDURES CONSISTENT WITH THIS RESOLUTION; AND (4) PROVIDE A REPORT

WHEREAS, on May 5, 1987, the Board of County Commissioners approved Administrative Order ("A.O.") 7-27, which, among other things, established a County policy that pre-employment physical examinations, including alcohol and drug screening, would be required as a condition of County employment for all new hires; and

WHEREAS, on or about November 22, 2016, based on developments in the law, the Human Resources Department issued new guidelines stating that pre-employment physicals would no longer include drug and alcohol testing unless the classification and/or position is deemed "Safety Sensitive," "High Risk" (otherwise known as "Special Risk," as defined in § 112.0455, Fla. Stat.), or "Department of Transportation ("DOT")" (referring to certain positions covered under the Federal Transportation Agency and/or subject to the Federal Motor Carriers Safety Regulations); and

WHEREAS, pursuant to these 2016 guidelines, “safety-sensitive, high risk, and DOT” positions, for which the County would conduct drug and alcohol testing as part of its pre-employment physical examinations, include positions where the employee is required to: engage in public safety duties; engage in safety-sensitive duties; carry a firearm; work closely with an employee who carries a firearm; perform life-saving or life-threatening procedures; work with heavy or dangerous machinery or hazardous substances; work as a safety inspector; work with children, special needs individuals, seniors or the disabled and/or is entrusted with the supervision, safety or security of these individuals; work with detainees in the correctional system; work with confidential information or documents pertaining to criminal investigations; work with controlled substances; work in a position of special trust or responsibility or sensitive location that requires level 2 screening as set forth in section 110.1127, Florida Statutes; or work in a position in which a momentary lapse in attention could result in injury or death to another person; and

WHEREAS, since 2016, the County has continued to conduct pre-employment physical examinations as a condition of employment for all new hires regardless of their job position, including applicants for administrative, professional, and clerical positions that are not safety-sensitive, high/special risk or DOT-related; and

WHEREAS, even though the County’s pre-employment physical examinations for such administrative, professional, and clerical positions do not include drug and alcohol screening, they have included, among other things, a complete family and personal medical history to be reviewed by a physician, urinalysis, a TB tine test, eye test, hearing, check, pulmonary function test, physical examination by palpation, observation, auscultation, and percussion; and

WHEREAS, pursuant to Resolution No. R-1247-18 adopted on December 4, 2018, and Resolution No. R-986-22 adopted on October 18, 2022, this Board approved the execution of an intergovernmental agreement with the Public Health Trust d.b.a. Jackson Health System to provide various employee testing and medical assessment services for a five-year term, with an option to renew for an additional two years, with the cumulative value of the agreement not to exceed \$19,012,000.00; and

WHEREAS, in furtherance of this Board's legitimate concern for public safety and the well-being of its employees, the Board wishes to continue requiring pre-employment physical or medical examinations, including drug and alcohol screening, for safety-sensitive, high/special risk, and DOT-related jobs, as a means of determining whether applicants are capable of safely performing such jobs without posing a direct threat to themselves or others, or creating a heightened risk of injury or damage; and

WHEREAS, this Board further recognizes that it also may be necessary to require pre-employment physical or medical examinations, with or without drug and alcohol screening, for some physically demanding positions to determine whether applicants are capable of performing the requirements and essential functions of such jobs, even if such jobs may not otherwise be considered safety-sensitive, high/special risk, or DOT-related; and

WHEREAS, this Board believes the County can save a considerable amount of cost, time, and effort by amending the County's policy to eliminate pre-employment physical or medical examinations for County job positions that are primarily administrative, professional, or clerical in nature, and are not safety-sensitive, high/special risk, or physically demanding, to the extent permissible by law; and

WHEREAS, A.O. 7-27, County Procedure No. 486, and any other applicable County or departmental rules and procedures should be amended or updated to reflect the Board's policy as set forth in this resolution,

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

Section 1. Incorporates the recitals above in this resolution and directs the County Mayor or County Mayor's designee to eliminate the requirement of pre-employment physical and medical examinations for County job positions that are primarily administrative, professional, or clerical in nature, and are not safety-sensitive, high/special risk, or physically demanding, as determined by the Human Resources Department or other County Mayor's designee, and to the extent permissible by law.

Section 2. Directs the County Mayor or County Mayor's designee to propose a new Implementing Order incorporating the requirements of this resolution and establishing rules and procedures relative to pre-employment physical and medical examinations for County job positions. Upon this Board's approval of an Implementing Order, the approved Implementing Order shall supersede Administrative Order No. 7-27.

Section 3. Authorizes and directs the County Mayor or County Mayor's designee to take all other actions necessary to effectuate the policy set forth in this resolution, including but not limited to: (a) amending County Procedure No. 486 and any other applicable rules and procedures, consistent with this resolution; and (b) studying the feasibility of entering a new or amended agreement with the Public Health Trust or other appropriate entity that would eliminate pre-employment physical and medical examinations for County job positions that are primarily administrative, professional, or clerical in nature, and are not safety-sensitive, high/special risk, DOT-related, or physically demanding, as determined by the Human Resources Department or other County Mayor's designee, and to the extent permissible by law.

Section 4. Directs the County Mayor or County Mayor’s designee to prepare and submit a report to this Board within 120 days of the effective date of this resolution describing how the policy in this resolution will be implemented, including the requirements of sections 1-3 above, and place the completed report on an agenda of the full Board without committee review pursuant to rule 5.06(j) of the Board's Rules of Procedure.

The Prime Sponsor of the foregoing resolution is Senator René García. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:


- | | |
|----------------------------------|----------------------|
| Oliver G. Gilbert, III, Chairman | |
| Anthony Rodríguez, Vice Chairman | |
| Marleine Bastien | Juan Carlos Bermudez |
| Kevin Marino Cabrera | Sen. René García |
| Roberto J. Gonzalez | Keon Hardemon |
| Danielle Cohen Higgins | Eileen Higgins |
| Kionne L. McGhee | Raquel A. Regalado |
| Micky Steinberg | |

The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of October, 2024. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency. 

Marlon D. Moffett