

MEMORANDUM

Agenda Item No. 11(A)(27)

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

DATE: December 1, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution opposing House Bill 6025, or similar legislation that would repeal section 163.045, Florida Statutes, and thereby allow local governments to require permits, charge fees, and impose certain other requirements related to trees on residential properties where such trees present a danger to persons or property

Resolution No. R-1197-21

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM
(Revised)

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

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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 _____

Agenda Item No. 11(A)(27)
12-1-21

RESOLUTION NO. _____ R-1197-21

RESOLUTION OPPOSING HOUSE BILL 6025, OR SIMILAR LEGISLATION THAT WOULD REPEAL SECTION 163.045, FLORIDA STATUTES, AND THEREBY ALLOW LOCAL GOVERNMENTS TO REQUIRE PERMITS, CHARGE FEES, AND IMPOSE CERTAIN OTHER REQUIREMENTS RELATED TO TREES ON RESIDENTIAL PROPERTIES WHERE SUCH TREES PRESENT A DANGER TO PERSONS OR PROPERTY

WHEREAS, when planted in the right places, trees are important natural resources that offer shade and beauty and can improve neighborhoods in Miami-Dade County; and

WHEREAS, when planted in the wrong place, however, trees can cause substantial damage to residential homes or structures and result in extraordinary expenses to property owners who may not be able to afford such costs; and

WHEREAS, previously, if a homeowner wished to remove a tree on their residential property that was damaging their home, that owner could have incurred substantial costs to comply with local governmental regulations related to tree removal, over and above the costs to remove the tree and address the damage to their home; and

WHEREAS, for trees located on private residential properties, section 163.045 of the Florida Statutes currently prohibits local governments from requiring a tree removal permit or the planting of a replacement tree where a property owner obtains documentation from an arborist or landscape architect that a tree “presents a danger to persons or property;” and

WHEREAS, section 163.045 thus provides certain protections for homeowners who may already be incurring significant costs to remove a tree that is causing damage to their residential property or that otherwise poses a safety concern; and

WHEREAS, this Board recently adopted Ordinance No. 21-108, which amended the Code of Miami-Dade County as to trees located on the right-of-way, adjacent to a single-family residential property; and

WHEREAS, this Ordinance simplified the process and reduced the costs to remove a tree in the right-of-way if the tree is causing damage to a home or other structure on the single-family property; and

WHEREAS, House Bill (HB) 6025 has been filed for consideration during the Florida Legislature’s 2022 session by Representative Anna V. Eskamani (D – Orlando); and

WHEREAS, this bill would entirely repeal section 163.045 of the Florida Statutes; and

WHEREAS, although this Board typically opposes state preemptions of local governmental regulations, section 163.045 serves an important purpose by ensuring that homeowners who need to remove a tree from their private property, because of damage or the risk of damage to their home or for safety reasons, are not required to bear additional expenses imposed by government regulations; and

WHEREAS, this Board wishes to oppose HB 6025, or similar legislation that would repeal section 163.045 of the Florida Statutes,

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

Section 1. Opposes House Bill 6025, or similar legislation that would repeal section 163.045, Florida Statutes, and thereby allow local governments to require permits, charge fees, or to impose certain other requirements related to trees on residential properties where such trees present a danger to persons or property.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, the Senate President, the House Speaker, Representative Anna V. Eskamani, and the Chair and Members of the Miami-Dade State Legislative Delegation.

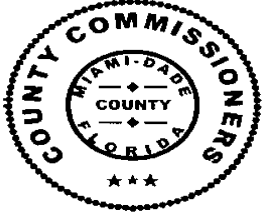
Section 3. Directs the County’s state lobbyists to oppose the legislation described in section 1 above and authorizes and directs the Office of Intergovernmental Affairs to amend the 2022 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	absent	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	absent
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of December, 2021. 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer Raurell