



# Broward County

## Legislation Text

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File #: 20-812, Version: 1

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### **Broward County Commission Regular Meeting**

**Director's Name:** Andrew J. Meyers

**Department:** County Attorney

### **Information**

#### **Requested Action**

**MOTION TO ENACT** Ordinance, the title of which is as follows:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE CODE OF ETHICS FOR ELECTED OFFICIALS; AMENDING SECTION 1-19 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO CLARIFY THE SCOPE OF, AND OTHERWISE MODIFY, SECTION 1 19(C)(5) OF THE CODE; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Tim Ryan)

#### **Why Action is Necessary**

A Resolution directing the County Administrator to publish notice of public hearing to consider enactment of the Ordinance was adopted by the Board of County Commissioners at its meeting of April 21, 2020.

#### **What Action Accomplishes**

Allows the Board to consider enacting the above-referenced Ordinance.

#### **Is this Action Goal Related**

No

#### **Previous Action Taken**

#### **Summary Explanation/Background**

During the April 16, 2019, Board meeting, in connection with the Board's discussion of Item 53, the Board directed the Office of the County Attorney to draft an amendment to Section 1-19(c)(5)(a) of the Code to clarify when an elected official must disclose charitable fundraising activities and when formal approval by the governmental entity is required for an elected official to utilize staff and other in-kind resources in connection with such activities.

The Florida Code of Ethics sets forth standards of conduct for public officers and employees, including county commissioners, and empowers county commissions to enact more stringent regulations. The County has enacted several more stringent provisions governing the conduct of public officials. The amendment proposed by this agenda item modifies one of those provisions,

which addresses charitable solicitations.

Currently, an elected official may engage in those charitable fundraising activities covered by the Code provided he or she discloses those activities within fifteen (15) days thereafter. If the elected official wishes to utilize his or her direct staff or other resources of his or her governmental entity (such as the telephone and e-mail systems), formal approval by the elected official's governmental entity is required.

Several alternative versions of the proposed Ordinance were submitted for the Board's consideration on August 20, 2019. At that meeting, Commissioner Bogen withdrew his version of the proposed amendment in favor of the version proposed by Commissioner Ryan. Mayor Holness and Commissioner Udine have also withdrawn their proposed amendments, as the version proposed by Commissioner Ryan addresses their concerns. Ultimately, the Board did not vote on the matter and requested that the County Attorney continue to work on a proposed amendment. After discussions, Commissioner Ryan's Amendment (Exhibit 1) is the remaining proposal, with Commissioner Sharief and Vice-Mayor Geller submitting amendments to Commissioner Ryan's proposal, which amendments are attached as Exhibits 3 and 4, respectively.

**A side-by-side comparison of the key elements of the current Code provision, Commissioner Ryan's proposed Ordinance, and the proposed amendments by Vice-Mayor Geller and Commissioner Sharief is attached as Exhibit 5.** A proposed technical amendment by the County Attorney is included as Exhibit 6.

Commissioner Ryan's proposal, with or without the amendments proposed by Commissioner Sharief Vice-Mayor Geller, and the County Attorney, would not impact other legal requirements of permissible action, including that public resources (including in-kind resources) may only be expended in furtherance of a public purpose, that any attempts to obtain financial assistance for any entity or individual must make clear that the provision of assistance is purely voluntary (to avoid allegations of misuse of position to obtain a benefit for another), and that discussions with a proposed donor do not include (expressly or implicitly) any suggestion of a quid pro quo. Because analysis of these requirements must be fact specific, and notwithstanding enactment of any proposed amendment, we continue to encourage Commission Offices to discuss proposed action with this Office, whenever possible, in advance of taking such action.

#### **Source of Additional Information**

Rocio Blanco Garcia, Assistant County Attorney, 954-357-7600

#### **Fiscal Impact**

##### **Fiscal Impact/Cost Summary**

Fiscal Impact Statement by the Office of Management and Budget is attached as Exhibit 2.