



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - Miscellaneous

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I.5.

2/20/2024

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### **Subject:**

Resolution Declaring the Intent of the Board to Not Make a Finding Of Critical Need Pursuant to Section 2.9.3.1 (c) of the Brevard County Charter

### **Fiscal Impact:**

None

### **Dept/Office:**

District 3

### **Requested Action:**

Board Passage of Attached Resolution

### **Summary Explanation and Background:**

Over the next several months, County staff and Constitutional Officers will be developing a budget. The attached resolution would provide direction in crafting this budget by declaring the intent of the Board not to make a critical need finding under Section 2.9.3.1(c) of the Charter.

### **Clerk to the Board Instructions:**



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February 21, 2024

**MEMORANDUM**

**TO:** Commissioner John Tobia, District 3

**RE:** Item I.5., Resolution Declaring the Intent of the Board Not to Make a Finding of Critical Need Pursuant to Section 2.9.3.1 (C) of the Brevard County Charter

The Board of County Commissioners, in regular session on February 20, 2024, adopted Resolution No. 24-015, declaring the intent of the Board to not make a finding of critical need pursuant to Section 2.9.3.1 (c) of the Brevard County Charter. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Commissioner District 1,2,4,5  
County Attorney

**RESOLUTION 24- 015**

**A RESOLUTION DECLARING THE INTENT OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS TO NOT MAKE A FINDING OF CRITICAL NEED PURSUANT TO SECTION 2.9.3.1(c) OF THE BREVARD COUNTY CHARTER IF FY 2025 REVENUE IS PROJECTED TO EXCEED FY 2024 REVENUE ABSENT SUCH A FINDING**

**WHEREAS**, Sec. 2.9.3.1 of the Brevard County Charter sets "limitation on growth in ad valorem tax revenues," commonly referred to as the "charter cap;" and

**WHEREAS**, 73% of republican, democratic, and non-affiliated voters approved this cap by referendum in 2008; and

**WHEREAS**, the charter cap prevents the Board from increasing a millage rate in a manner that would cause budgeted revenue to increase by the lesser of 3% or the consumer price index; and

**WHEREAS**, the Charter contains a limited exception to this cap if the Board finds that such revenue increases are necessary because of a specified "emergency or critical need;" and

**WHEREAS**, the Board of County Commissioners intends to adhere to the will of the voters, and not interpret "critical need" in such a manner as to create a virtually limitless loophole; and

**WHEREAS**, outside of a State or Federally declared emergency, a true critical need will not arise in the current year if revenue exceeds the previous fiscal year absent such a finding.


**NOW, THEREFORE, BE IT RESOLVED THAT THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, does hereby**

DECLARE its intention to adopt a fiscal year 2024-2025 budget that will NOT require a finding of a critical need under Sec. 2.9.3.1, Brevard County Charter, should budgeted revenue exceed that of the previous year absent such a finding.

DONE, ORDERED AND ADOPTED, in regular session, this 20<sup>th</sup> Day of February, 2024.

ATTEST:

  
RACHEL SADOFF, CLERK

  
JASON STEELE, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FL

As Approved by the Board 02/20/2024

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## **Sec. 2.9. Authority and jurisdiction.**

The Board of County Commissioners shall have, in addition to other powers and duties provided in this Charter, all jurisdiction and powers which are now and which hereafter may be granted to it by the Constitution and laws of Florida, provided that such powers shall be exercised in a manner consistent with the Charter, shall have the specific powers and duties to:

(Amd. of 11-2-10)

- 2.9.1. Appoint and reappoint a County Manager and a County Attorney by a majority vote of the total number of Commissioners, and remove the County Manager or County Attorney during a contract term by a majority vote of the total number of Commissioners.

(Amd. of 11-2-10)

- 2.9.2. Adopt such ordinances as may be necessary to carry out both the County and municipal powers and purposes.

(Amd. of 11-2-10)

- 2.9.3. Review the budgetary requests, including salaries, and make the final budgetary determinations and appropriations for:

- (a) All County Governmental operations including but not limited to County management;
- (b) All administrative departments of the government;
- (c) Boards and special authorities and tax districts which request a portion of the millage levied for County purposes under the State Constitution;
- (d) Boards and special authorities and tax districts which request a portion of such other millage as may be levied by the County for municipal service districts.

(Amd. of 11-2-10)

- 2.9.3.1. Limitations on growth in ad valorem tax revenues.

- (a) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for county purposes at a millage rate which causes the budgeted revenue therefrom to the County to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of: (1) three percent, or (2) the percentage change in the Consumer Price index from the preceding calendar year, as measured in accordance with Section 193.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).
- (b) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for municipal purposes within any municipal services taxing unit, or for district purposes of any district for which the Board has the power to fix or approve the millage rate, at a rate which, for such unit or district, causes the budgeted revenue of the unit or district from ad valorem taxes to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of (1) three percent, or (2) the percentage change in the Consumer Price Index from the preceding calendar year, as measured in accordance with Section 193.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).

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- (c) Notwithstanding paragraphs (a) and (b) of this subsection, the Board of County Commissioners may impose an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based, and shall be valid for a single budget year.
  - (d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraphs (a) and (b) of this subsection, the Board of County Commissioners shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: (1) new construction; (2) additions to or demolitions in whole or in part of existing construction; (3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation); and (4) in the case of municipal service taxing units or districts, any properties added since the previous year's roll by reason of boundary changes.
  - (e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants, or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection.

(Amd. of 11-4-08; Amd. of 11-2-10)

This subsection does not grant the County any power of review of the budget of the School District.

2.9.4. In addition to its internal audits and such State audits as may be required by law, cause an annual independent post-audit by a certified public accountant of any and all government operations of County Government.

(Amd. of 11-2-10)

2.9.5. Adopt and amend a merit system which shall include a salary schedule for all County personnel in accordance with the provisions of this Charter.

(Amd. of 11-2-10)

2.9.6. Adopt by a majority vote of the total number of Commissioners such rules of parliamentary procedures as shall be necessary for the orderly transaction of the business of the Board of County Commissioners.

(Amd. of 11-2-10)

2.9.7. Designate which non-elected officers and employees shall be bonded and fix the amount and approve the form of the bond.

(Amd. of 11-2-10)

2.9.8. Exercise any power of the County not lodged in any other office by this Charter.

(Amd. of 11-2-10)

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2.9.9. Impose such utility taxes as are authorized by general law only after approval of the electors of the County or the affected portion thereof at a duly called referendum.

(Amd. of 11-2-10)