

Meeting Date
February 3, 2015



AGENDA	
Section	Unf. Business
Item No.	V A

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	LEGISLATIVE INTENT & PERMISSION TO ADVERTISE AN ORDINANCE PROHIBITING COUNTY COMPENSATION TO FORMER COMMISSIONERS FOR A PERIOD OF TWO YEARS
DEPT/OFFICE:	COUNTY ATTORNEY OFFICE

Requested Action:
 It is requested that the Board consider legislative intent and permission to advertise an ordinance pertaining to prohibiting any current County Commissioner from being compensated as an employee, consultant, lobbyist or contractor for any legal entity that receives 50% or more of its revenues from Brevard County for a period of two years after leaving office.


Summary Explanation & Background:
Legislative Intent
 It is the intent of this ordinance to prevent any current or former County Commissioner from being compensated as an employee, consultant, lobbyist or contractor for any legal entity that receives 50% or more of its revenues from Brevard County, whether in the form of grants or contract funding of any kind. The ordinance will prohibit both former and current commissioners from accepting compensation from, or contracting with any county agency(ies) receiving 50% or more of their operating funds for compensated services for a period of two years from the date the Commissioner leaves office. The ordinance will also provide for penalties including recapture of prohibited payments; removal from membership on county established, appointed or funded agencies where Board appointees vote for prohibited compensation contracts; fines; authorization to seek equitable or declaratory relief for invalidation of any prohibited contract; and a presumption that such contracts are void. The Ordinance will also require that any funding agreement between Brevard County and a legal entity receiving 50% or more of its funding must include a provision prohibiting that entity from paying compensation to former County Commissioner(s) unless that Commissioner has been out of office for a period of at least two years.

 The proposed ordinance title and the body of the proposed ordinance are attached.

Clerk to the Board Instructions:

Exhibits Attached: Proposed Ordinance

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager, Mel Scott	Scott Knox, County Attorney, x2090 
Stockton Whitten	Assistant County Manager, Venetta Valdengo	



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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February 4, 2015

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item V.A., Legislative Intent and Permission to Advertise an Ordinance Prohibiting County Compensation to Former Commissioners for a Period of Two Years

The Board of County Commissioners, in regular session on February 3, 2015, approved legislative intent and granted permission to advertise an ordinance pertaining to prohibiting any current or former County Commissioner from being compensated as an employee, consultant, lobbyist, or contractor for any legal entity that receives 50 percent or more of its revenues from Brevard County for a period of two years.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

cc: County Manager

ORDINANCE NO. 2015-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA; PROHIBITING ANY CURRENT COUNTY COMMISSIONER FROM BEING COMPENSATED AS AN EMPLOYEE, CONSULTANT, LOBBYIST OR CONTRACTOR FOR ANY LEGAL ENTITY THAT RECEIVES 50% OR MORE OF ITS REVENUES FROM BREVARD COUNTY FOR A PERIOD OF TWO YEARS AFTER LEAVING OFFICE; PROHIBITING ANY FORMER COUNTY COMMISSIONER BEING COMPENSATED AS AN EMPLOYEE, CONSULTANT, LOBBYIST OR CONTRACTOR FOR ANY LEGAL ENTITY THAT RECEIVES 50% OR MORE OF ITS REVENUES FROM BREVARD COUNTY FOR A PERIOD OF TWO YEARS AFTER LEAVING OFFICE; PROVIDING FOR A PRESUMPTION THAT ANY CONTRACT FOR EMPLOYMENT OR CONSULTING IN VIOLATION OF THE ORDINANCE PROHIBITIONS IS VOID; PROHIBITING BOARD APPOINTEES FROM VOTING FOR CONTRACTS VIOLATING THE ORDINANCE; PROVIDING FOR REMEDIES INCLUDING AUTHORITY TO SEEK INJUNCTION, RECOUPMENT AND THIRD PARTY VOIDABILITY OF ANY CONTRACT VIOLATING THE ORDINANCE; PROVIDING FOR PENALTIES INCLUDING FINES AND REMOVAL FROM APPOINTED BOARDS; PROVIDING FOR RECOUPMENT OF PAYMENT FOR COMPENSATION VIOLATING THE ORDINANCE FROM FUNDS DUE AND PAYABLE TO AN AGENCY ESTABLISHED OR APPOINTED BY THE COUNTY COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, section 112.326, Florida Statutes, provides that nothing in the Code of Ethics for Public Officers and Employees “shall prohibit the governing body of any political subdivision, by ordinance from imposing upon its own officers additional or more stringent standards of conduct and disclosure requirements than those specified in that Code, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of that Code; and

WHEREAS, the Board of County Commissioners wishes to enact more restrictive provisions prohibiting the payment of any kind of compensation to former County

Commissioners for a period of two years by persons or entities who receive 50% or more of their funding from Brevard County;

NOW THEREFORE, Be it ordained by the Board of County Commissioners of Brevard County, Florida as follows:

Section 1. Prohibited Compensation.

(a) For a period of two years after leaving office, no County Commissioner in office at or after the date of adoption of this ordinance may contract to provide employment, consulting, lobbying or other services for compensation from any person, corporation, dependent special district, agency, legal entity or department established, appointed, operated or funded by the Board of County Commissioners if such person or entity receives 50% or more of its operating revenues from Brevard County through its Board of County Commissioners or any of its agencies or departments.

(b) No person, corporation, partnership, dependent special district, agency, legal entity or department:

(1) established, appointed, operated or funded by Brevard County through its Board of County Commissioners, and

(2) receiving 50% or more of its operating revenues from the County through the Board of County Commissioners or any of its agencies or departments,

shall enter into an employment, consultant, lobbyist or other contract providing for the payment of compensation to a former County Commissioner unless that person has been out of office for a period of at least two years.

(c) No corporation, partnership, dependent special district, agency, board, legal entity or department:

(1) established, appointed or operated by the Board of County Commissioners and

(2) receiving 50% or more of its operating revenues from the County through its Board of County Commissioners or any of its agencies or departments,

shall either directly or indirectly pay any compensation for employment, consulting, lobbying or other work performed in its behalf by a person who is a former County Commissioner, unless the former County Commissioner has not held the office of County Commissioner for a period of at least two years.

(d) No person appointed or serving as a member or director of the governing body of any board, agency, dependent special district, corporation, legal entity or department established, appointed, funded, or operated by the Board of County Commissioners shall vote to approve a contract authorizing payment of any compensation to a person who is a former County Commissioner for employment, consulting, lobbying or other services in behalf of that board, agency, dependent special district, corporation, legal entity or department unless the former County Commissioner has not held the office of County Commissioner for a period of at least two years.

(e) For a period of two years after the date a former Commissioner left office, the provisions of subsections (b), (c) and (d) of this section shall apply to any contract for compensation between any former County Commissioner and any board, agency, dependent special district, corporation, legal entity or department established, appointed or operated by the Board of County Commissioners or its employees.

(f) Any County funding agreement, county approval or release of county funds authorizing a legal entity, including a county department, to be eligible to receive 50% or more

of operating revenues from Brevard County shall be deemed to include the condition that the funded entity is prohibited from entering into an employment, consulting, lobbying or services contract providing for compensation to a former County Commissioner unless at least two years have elapsed since the date that former Commissioner left office.

Section 2 . Remedies; Prohibited Contracts Voidable.—

(a) Any contract that has been executed in violation of this part is voidable:

(1) By any party to the contract in any circuit court, by any appropriate action,
by:

a. The County Commission, or

b. Any citizen materially affected by the contract and residing in the jurisdiction served by the board, agency, dependent special district, corporation or other legal entity entering into such contract.

(b) Any contract violating this ordinance is presumed void with respect to the affected former County Commissioner and any person, board, agency, dependent special district, corporation or other legal entity appointed or established by the Board of County Commissioners. Any contract violating this ordinance is voidable with respect to any private or public sector third party who employs or retains in any capacity such former County Commissioner in a manner that violates this ordinance.

(c) As an alternative to the penalties provided for in this ordinance:

(1) this ordinance may be enforced by an action for declaratory judgment, injunction and, or recoupment of funds paid as compensation to a former County Commissioner in violation of the ordinance; or

(2) Brevard County may recoup or withhold the amount of compensation made to a former County Commissioner in violation of this ordinance from any county funds otherwise due or payable to the violating board, agency, dependent special district, corporation or other legal entity.

Section 3. Penalties.—

(a) To the extent allowed by law, in addition to the remedies provided for in section 2, any violation of this ordinance is punishable by a fine not to exceed \$500 for each violation. Each time a payment of compensation is made to a former County Commissioner under a contract for employment or consulting made in violation of this ordinance shall constitute a separate violation punishable by a fine not to exceed \$500.

(b) Any appointee of the Board of County Commissioners or a County Commissioner to a board or to the governing body of any other legal entity established or appointed by the Board of County Commissioners who casts his or her vote to pay compensation to a former County Commissioner in violation of Section 1, subparagraph (d) of this ordinance may be removed from that appointed office by the Board of County Commissioners or the appointing Commissioner.

Section 4. Severability.—

If any section, subsection, sentence, clause, phrase or provision of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this article invalid or unconstitutional.

Section 5. Effective Date.—

This ordinance shall take effect upon filing as provided by law.

Done and adopted this ____ of February, 2015

Brevard County Board of County Commissioners

BY: _____
Robin Fisher, Chairman

(As approved by the Board on February ____, 2015)

SEAL

Scott Ellis, Clerk to the Board