



MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # 130-2007

LETTER TO COMMISSION

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: June 5, 2007

SUBJECT: **Report Regarding The Passage Of House Bill 537 Relating To Election Laws**

Attached for your perusal is a copy of the May 31, 2007 correspondence from George M. Burgess, County Manager, to the Honorable Carlos Alvarez, Mayor, the Honorable Chairman Bruno Barreiro, and members, Board of County Commission.

Also attached is a copy of the May 29, 2007 correspondence from Lester Sola, Supervisor of Elections to George M. Burgess, County Manager, regarding the same subject.

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JMG/REP

c: Hilda Fernandez, Assistant City Manager
Tim Hemstreet, Assistant City Manager
Robert Middaugh, Assistant City Manager
Jose Smith, City Attorney
Jean Olin, Deputy City Attorney

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Memorandum



Date: May 31, 2007

To: Honorable Carlos Alvarez, Mayor
Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Report Regarding the Passage of House Bill 537 Relating to Elections Laws

Attached is a memorandum from Supervisor of Elections, Lester Sola, regarding the recent passage of House Bill 537 relating to elections laws, and its affect on Miami-Dade County. A more detailed update will be provided at the Government Operations and Environment committee on June 12, 2007.

Essentially, this legislation creates the following changes in the way all counties in Florida handle elections:

- Effective July 1, 2008 all voting in the State of Florida shall be by paper ballot. Miami-Dade County will begin to utilize optical scan technology as of the August 26, 2008 Primary Election.
- The dates of Florida's Primary Elections have been changed. The Presidential Preference Primary will now occur on the last Tuesday in January; for 2008, that means the Primary will be held on January 29th.
- Absentee ballots may be opened six days prior to the election, rather than four, allowing more time for canvassing.
- The candidate qualification period is moved up by three weeks for some elected offices.
- Supervisors of Election are authorized to use "ballot-on-demand" technology during Early Voting. This allows pollworkers to print ballots specific to the voter instead of printing a large number of ballots of each type at each location.

Lester and his staff have followed this legislation carefully and are preparing the department for implementation of these changes. I will continue to keep you apprised of additional information as it becomes available from the State. If you require additional information at this time, please contact me directly at 305-375-1880 or Lester Sola at 305-499-8509.

Attachment

c: Denis Morales, Chief of Staff, Office of the Mayor
Alina Tejeda Hudak, Assistant County Manager
Lester Sola, Supervisor of Elections

Memorandum



Date: May 29, 2007

To: George M. Burgess
County Manager

From: Lester Sola
Supervisor of Elections

Subject: Report Regarding the Passage of House Bill 537 Relating to Elections Laws

There was much debate throughout the 2007 Legislative Session regarding how Supervisors of Elections throughout the state should conduct future elections. The deliberation ended on May 3, 2007 when legislators approved House Bill (HB) 537, and Governor Crist signed into state law on May 21, 2007.

While there are many changes that will need to be addressed, two are of significant importance to the Miami-Dade County Elections Department at this stage. The first is the mandate to convert to "mark sense" voting equipment; and the second relates to the new dates for when Primary Elections will now be held.

Effective July 1, 2008, all voting in the State of Florida shall be by "mark sense" ballot, which is defined as a ballot that results in a paper record. As a result, Miami-Dade County will begin to utilize optical scan technology as of the August 26, 2008 Miami-Dade County Primary Election. This system requires voters to bubble in the circle next to their selection on a paper ballot comparable to the absentee ballot. The voter will then bring the paper ballot to the optical scan unit and insert it into the reader. The reader scans the ballot and electronically captures and tabulates the votes. During auditing, and in the case of a recount, the paper ballots may be manually counted. This technology will be used for both Early Voting and on Election Day. However, per the Help America Vote Act (HAVA) and the Americans with Disabilities Act (ADA) requirements, a minimum number of touch screen voting machines (iVotronics) will still be placed at each voting location. Persons with disabilities will have the option to continue using the iVotronics, which meet ADA accessibility requirements, or take advantage of the optical scan equipment.

I have been in support of the conversion to optical scan technology throughout my tenure as Supervisor of Elections, consistent with voters who have expressed the desire for a paper record of their votes. Optical scan technology provides such a record, which I believe will undoubtedly increase voter confidence. A Voter Satisfaction Survey conducted by the Metropolitan Center at Florida International University in May 2006 showed that 69% of the voters surveyed would like to have a paper record of their votes. Due to this significant number and the cost effectiveness of implementing this system, I believe this conversion to optical scan technology is a step in the right direction.

However, as I have stated many times in the past, the optical scan units must be able to interface with voters in English, Spanish, and Creole. I will continue to advocate to the Secretary of State and our vendor, Elections Systems & Software (ES&S), the need for optical scan units to have trilingual capability. It is extremely important for voters to continue voting in their preferred language - granting them the same comfort and ease to which they are accustomed. The units currently certified for use within the State of Florida display messages to the voters in English only. ES&S has communicated that a new optical scan model with trilingual capability is currently being developed and will likely be submitted for state certification later this year. My hope is that

this model (DS 200) will be available for use during the Primary Election scheduled for August 2008.

HB 537 also authorizes Supervisors of Elections to employ "ballot-on-demand" technology during Early Voting. Ballot-on-demand allows pollworkers to print a voter-specific ballot for each voter once he/she has been checked in at the Early Voting site, thereby eliminating the need to print a larger number of ballots than needed. While this technology seems to have promise, my Office will continue to monitor the development and usage of this technology to determine if implementation for the 2008 Presidential Election is in the County's best interest. There is currently only one county within the State that utilized ballot-on-demand as a test. I would like to see more widespread testing before recommending its use in Miami-Dade County.

The state has allocated \$27.8 million to fund the conversion to optical scan for the 15 counties that currently use electronic voting equipment. Based on the number of Early Voting locations and precincts we have, Miami-Dade County should receive \$4 to \$5 million in equipment from the state. It is important to note that this is only an estimate based on preliminary discussions with state officials. More reliable figures will be known once the funding formula is established. The funding level approved by the Legislature will provide for a defined number of units at each Early Voting site and one unit per precinct. It is still undetermined whether the State will procure the equipment on behalf of the counties or if the Florida Division of Elections will establish a state contract for the counties to access.

The County will still be required to buy additional equipment, paper ballots, and other supplies. Since the state is not funding the entire cost of the conversion, the fiscal impact to Miami-Dade County is anticipated to be between \$6 and \$7.5 million for the initial cost of implementation. I recommend the County lobby the State during the 2008 Legislative Session to provide additional financial support to meet this mandate using HAVA monies currently held in reserve, and to which I feel all 15 counties are entitled.

The Department of Procurement Management has conducted two market analyses regarding the feasibility of purchasing optical scan voting equipment. The resultant research concluded that while there is an initial cost, this technology would realize significant savings over time. Based on the latest analysis of the marketplace, it is estimated that converting to optical scan voting equipment would result in a cost reduction of approximately \$800,000 per Gubernatorial Election and approximately \$2 million per Presidential Election. Additional savings would be realized for other countywide elections. These savings will increase over time since initial expenses for conversion will impact these savings. Long term savings will eventually offset the cost of conversion to optical scan equipment.

At this juncture, and in consultation with the Office of Strategic Business Management, it is difficult to surmise the exact cost savings to the County since the State of Florida has not yet finalized the funding formula that will be used to distribute equipment to the counties. With more information on the funding structure, I will be in a better position to report the true fiscal impact to the County. I will report back to you with details once this information is obtained.

As a condition of the State purchase of optical scan and ballot-on-demand equipment, Miami-Dade County must authorize the Secretary of State to negotiate the purchase of new equipment on the County's behalf. In addition, the County must give authorization to the Secretary of State to sell, exchange, or dispose of existing touch screen voting equipment and designate the Secretary of State as the authorized recipient of all proceeds realized from the sale, exchange, or other disposition of the equipment, after obligations or indebtedness associated with the voting

equipment have been satisfied. The County currently has an outstanding balance of approximately \$15 million on our current voting system. It is estimated that the value of our current voting equipment is limited. Nonetheless, all proceeds from a sale will be used to reduce our outstanding debt. The Board of County Commissioners may choose to opt out of this by filing a notice to that effect with the Department of State no later than June 30, 2007. It is my recommendation that we do not opt out of this proposal since the County's financial exposure would be increased.

The dates assigned to Primary Elections have also been changed. The Presidential Preference Primary will now occur on the last Tuesday in January, meaning the upcoming Presidential Preference Primary will take place on January 29, 2008. This will require the Elections Department to begin gearing up for this countywide election with an expected 30-40% voter turnout in late fall 2007, of which our current system will still be utilized. Throughout this conversion, please keep in mind the reliability and accuracy of our current system was never questioned. This conversion is simply a result of voter perception and an effort to increase voter confidence. Many checks and balances have been implemented for the testing, deployment, and auditing of the electronic voting equipment. Please be assured that the accuracy and integrity of the current system is unparalleled, and as we continue to utilize this equipment, every vote cast is accurately captured and tabulated.

Optical scan technology will be implemented by the Miami-Dade County Primary Election on August 26, 2008. All future Primary Elections will occur 10 weeks prior to the General Election in order to avoid having elections on the Tuesday following the Labor Day Holiday.

In addition, the new law also permits that absentee ballots may be canvassed six days prior to the election rather than four, allowing Supervisors of Elections more time to open absentee ballots. This is of particular benefit to Miami-Dade County considering that 10-20% of registered voters are expected to vote absentee for the 2008 Presidential Election and its ever-growing popularity. The new law also moves up the candidate qualification period by three weeks for state, multi-county district, county, district, and special district offices, with the exception of judicial offices, federal offices, and the offices of state attorney and public defender. We will work with municipalities that currently share election dates to modify their qualifying dates to mirror those of the state. Doing so will provide us with significantly more lead time in programming elections and printing ballots.

The Elections Department will proceed with the procurement, testing, and training necessary to convert to the new equipment effective July 1, 2008. I will continue to keep you apprised as to the implementation of these changes. The Elections Management Team is approaching the conversion to optical scan technology with great attention to detail and utmost care to ensure a smooth transition, implementation of effective checks and balances as currently employed, and to continue to strengthen voter confidence in the electoral process.

C: Alina T. Hudak, Assistant County Manager