

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Commissioner Michael Grieco

DATE: October 22, 2014

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SUPPORTING THE STATE LEGISLATURE'S EFFORTS TO AMEND SECTION 403.7033, UNDER HOUSE BILL 1257 AND COMPANION SENATE BILL 830, WHICH AMENDMENTS WOULD PROVIDE FOR LOCAL REGULATION AND ENFORCEMENT OF PLASTIC BAGS UNDER THE STATE'S PROPOSED GUIDELINES; ALTERNATIVELY, SHOULD THE STATUTE NOT BE AMENDED, THE CITY COMMISSION REQUESTS THE REPEAL OF SECTION 403.7033, FLORIDA STATUTES, SO THAT LOCAL GOVERNMENTS ARE NO LONGER PREEMPTED FROM ENACTING APPROPRIATE LEGISLATION RELATING TO THE REGULATION OF PLASTIC BAGS.

The City is extremely active and diligent in the efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of the City, Miami-Dade County and the State of Florida. As we are all aware, the use of plastic bags are detrimental to our community because they do not fully degrade in our oceans or land environment and they introduce unsafe chemicals into our environment. Further, plastic bags create the potential for death of (land) and marine animals through entanglement and ingestion.

Moreover, the expansive usage of single-use shopping bags and their typical disposal rates creates an impediment to the City's waste reduction and recycling goals while creating unsightly litter. The continued utilization of the single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through the City's curbside recycling and composting programs. Reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources.

Based upon the foregoing, it is in the public interest for the City Commission to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida, and the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags.

The Florida Legislature under "The Energy, Climate Change, and Economic Security Act of 2008", enacted House Bill 7135, creating Section 403.7033, Florida Statutes, which requires the Florida Department of Environmental Protection (DEP) to perform an analysis and submit a report to the Legislature by February 1, 2010 regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments. The statute also provides that until such time that the Legislature adopts the

Agenda Item R7G
Date 10-22-14

recommendations of DEP, no local or state government may enact any regulation or tax on the use of such retail bags. The DEP analysis determined a need for new or different regulations of bags used by customers to carry products from retail establishments and recommend the implementation of new standards requiring the prohibition of plastic carryout bags encourages the use of reusable bags is to the benefit of the State's environment.

This year House Bill 1257 was proposed in the state legislature, along with companion Senate Bill 830, which bills propose: an amendment to Section 403.7033; which would provide legislative findings; deleting obsolete provisions; create definitions; create statewide standards for reusable bags and recyclable paper bags for stores located within a county or municipality that adopts ordinances pursuant to the statute; would require affected stores to charge customers a fee for each recyclable paper bag provided; would prohibit affected stores from providing plastic carryout bags or other types of bags; would provide for the allocation of fees collected, reporting requirements for affected stores; and authorizing local governments to impose a penalty and create ordinances to regulate the use of carryout bags to adopt ordinances pursuant to the statute. Through the proposed bills, the Legislature has indicated a legislative belief that it is necessary and appropriate to adopt uniform statewide standards prohibiting the use of plastic carryout bags, which would authorize local governments to adopt these regulation by local ordinance. The bill is being amended and has not been enacted

I encourage the Mayor and City Commission to support me in the the effort to petition the legislature to amend Section 403.7033, under both House Bill 1257 and the companion Senate Bill 830; and support the enactment of the bills, and, alternatively, requests that Section 403.7033, Florida Statutes, be repealed, so that the City of Miami beach and other local governments can enact appropriate legislation relating to the regulation of plastic bags.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SUPPORTING THE STATE LEGISLATURE'S EFFORTS TO AMEND SECTION 403.7033, UNDER HOUSE BILL 1257 AND COMPANION SENATE BILL 830, WHICH AMENDMENTS WOULD PROVIDE FOR LOCAL REGULATION AND ENFORCEMENT OF PLASTIC BAGS UNDER THE STATE'S PROPOSED GUIDELINES; ALTERNATIVELY, SHOULD THE STATUTE NOT BE AMENDED, THE CITY COMMISSION REQUESTS THE REPEAL OF SECTION 403.7033, FLORIDA STATUTES, SO THAT LOCAL GOVERNMENTS ARE NO LONGER PREEMPTED FROM ENACTING APPROPRIATE LEGISLATION RELATING TO THE REGULATION OF PLASTIC BAGS.

WHEREAS, the City Commission of the City of Miami Beach is diligent in its efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of the City, Miami-Dade County and the State of Florida; and

WHEREAS, plastic bags are detrimental because they do not fully degrade in our oceans or land environment and they introduce unsafe chemicals into our environment; and

WHEREAS, plastic bags create the potential for death of (land) and marine animals through entanglement and ingestion; and

WHEREAS, the expansive usage of single-use shopping bags and their typical disposal rates creates an impediment to the City's waste reduction and recycling goals while creating unsightly litter; and

WHEREAS, single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through the City's curbside recycling and composting programs; and

WHEREAS, reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources; and

WHEREAS, Commission acknowledges that some businesses have taken affirmative steps to accomplish this goal and recognizes their proactive efforts; and

WHEREAS, it is in the public interest for the Commission to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida; and

WHEREAS, it is in the public interest for the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags; and

WHEREAS, the Florida Legislature under “The Energy, Climate Change, and Economic Security Act of 2008”, enacted House Bill 7135, creating Section 403.7033, Florida Statutes; and

WHEREAS, Section 403.7033 requires the Florida Department of Environmental Protection (DEP) to perform an analysis and submit a report to the Legislature by February 1, 2010 regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments; and

WHEREAS, the statute also provides that until such time that the Legislature adopts the recommendations of DEP, no local or state government may enact any regulation or tax on the use of such retail bags; and

WHEREAS, the DEP analysis determined a need for new or different regulations of bags used by customers to carry products from retail establishments and recommend the implementation of new standards requiring the prohibition of plastic carryout bags encourages the use of reusable bags is to the benefit of the State’s environment; and

WHEREAS, this year House Bill 1257 was proposed in the state legislature, along with companion Senate Bill 830, which bills propose: an amendment to Section 403.7033; which would provide legislative findings; deleting obsolete provisions; create definitions; create statewide standards for reusable bags and recyclable paper bags for stores located within a county or municipality that adopts ordinances pursuant to the statute; would require affected stores to charge customers a fee for each recyclable paper bag provided; would prohibit affected stores from providing plastic carryout bags or other types of bags; would provide for the allocation of fees collected, reporting requirements for affected stores; and authorizing local governments to impose a penalty and create ordinances to regulate the use of carryout bags to adopt ordinances pursuant to the statute; and

WHEREAS, through the proposed bills, the Legislature has indicated a legislative belief that it is necessary and appropriate to adopt uniform statewide standards prohibiting the use of plastic carryout bags, which would authorize local governments to adopt these regulation by local ordinance; and

WHEREAS, the bill is being amended and has not been enacted; and

WHEREAS, the City Commission supports the efforts to amend Section 403.7033, under House Bill 1257 and companion Senate Bill 830 and supports the enactment of the bills, and, alternatively, requests that Section 403.7033, Florida Statutes, be repealed, so that local government can enact appropriate legislation relating to the regulation of plastic bags.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission support the State Legislature's efforts to amend Section 403.7033, under House Bill 1257 and companion Senate Bill 830, which amendments would provide for local regulation and enforcement of plastic bags under the State's proposed guidelines; and, alternatively, should the legislation not be enacted, the City Commission requests that the State Legislature repeal Section 403.7033, Florida Statutes, so that local governments are no longer preempted from enacting appropriate legislation relating to the regulation of plastic bags.

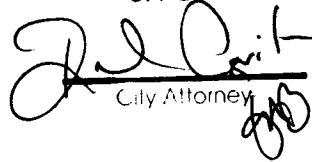
PASSED AND ADOPTED this _____ day of _____ 2014.

ATTEST:

Philip Levine, Mayor

Rafael Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

10-6-14
Date