

RESOLUTION No. 2008-248-936

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA URGING THE FLORIDA LEGISLATURE TO PROHIBIT MUNICIPAL WATER AND SEWER UTILITIES FROM LEVYING A SURCHARGE TO CONSUMERS LOCATED OUTSIDE THE CITY UNLESS AN EQUAL SURCHARGE IS LEVIED ON CONSUMERS LOCATED WITHIN THE CITY; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 180.191, Florida Statutes, grants every municipality in Florida that operates water and sewer systems outside their own boundaries, the right to establish water and sewer rates for consumers outside their city of up to 25% without a special public hearing, and up to 50% with a special public hearing, and

WHEREAS, the City of North Miami Beach Water and Sewer Utility provides water and sewer services to consumers who reside in and outside of the City, and

WHEREAS, consumers located within Miami Gardens have been required to pay a surcharge on the water and sewer services that they receive, but the consumers who reside within North Miami Beach are not required to pay a surcharge, and

WHEREAS, there are more consumers who live outside of North Miami Beach than within the City,

WHEREAS in 1992, the Florida Legislature amended Section 180.191, Florida Statutes, to allow a city to exempt itself from county rate regulation so long as the city charged the same rates to consumers within and without of its city, and

WHEREAS, prior to 1998, cities located in constitutional home rule charge counties that operated a water and sewer utility were prohibited from adding a surcharge to water and sewer charges of consumers outside the city's boundaries, and

WHEREAS, Section 180.191 was amended again by the Florida Legislature to remove the prohibition on a city located in a constitutional home rule charter county that operated a water and sewer utility from adding a surcharge to water and sewer charges of consumers outside the city's boundaries, and

WHEREAS, the City of North Miami Beach was the only city in the state to which the 1998 change applied at the time, and

WHEREAS, since the 1998 legislative change, the City of North Miami Beach has imposed a surcharge on consumers located outside the City, including consumers that live in Miami Gardens, and,

WHEREAS, North Miami Beach has also raised its rates for all consumers, including those required to pay the surcharge, and

WHEREAS, requiring consumers who live outside the City to pay the surcharge, while not requiring those that reside within the City to pay, results in "taxation without representation" and unfairness to consumers living outside the City's boundaries, when they have no representation, voice or input into City decisions, and

WHEREAS, the Florida Legislature will be considering a prohibition against municipal water and sewer utilities being able to levy a surcharge on consumers outside the city unless an equal surcharge is levied on consumers inside the city,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

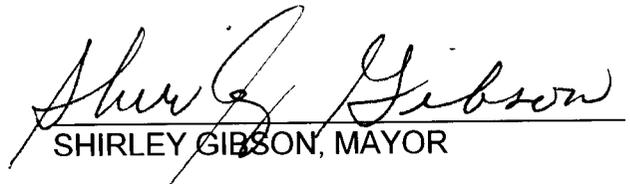
Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. EXPRESSION: The City of Miami Gardens hereby urges the Florida Legislature to prohibit municipal water and sewer utilities from levying a surcharge to consumers located outside the city unless an equal surcharge is levied on consumers located inside the City.

Section 3. DIRECTIONS TO THE CITY CLERK: The City Clerk is hereby directed to send a certified copy of this Resolution to Miami-Dade County's Board of County Commissioners, County Mayor Carlos Alvarez, County Manager George Burgess, the Miami-Dade delegation, President of the Florida Senate, Speaker of the Florida House of Representatives, Florida Governor Charlie Crist, the legislative leadership at The Florida League of Cities, Inc.

Section 4. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON DECEMBER 10, 2008.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: COUNCILMAN OLIVER GILBERT III

MOVED BY: Councilman Gilbert

Resolution No. 248-936

SECONDED BY: Vice Mayor Watson

VOTE: 7-0

Mayor Shirley Gibson	<u>x</u> (Yes)	___ (No)
Vice Mayor Barbara Watson	<u>x</u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u>x</u> (Yes)	___ (No)
Councilman Aaron Campbell	<u>x</u> (Yes)	___ (No)
Councilman Oliver Gilbert III	<u>x</u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	<u>x</u> (Yes)	___ (No)
Councilman André Williams	<u>x</u> (Yes)	___ (No)

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City of Miami Gardens

1515-200 NW 167th Street
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice Mayor Barbara Watson
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman Oliver Gilbert III
Councilman André Williams

Agenda Cover Page

Date: **December 10, 2008**

Fiscal Impact: No Yes

(If yes, explain in Staff Summary)

Funding Source: N/A

Contract/P.O. Requirement: Yes No

Sponsor Name/Department

Councilman Oliver Gilbert III

Public hearing

Ordinance

1st Reading

Advertising requirement:

RFP/RFQ/Bid # _____

Quasi-Judicial

Resolution

2nd Reading

Yes No

Title

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA URGING THE FLORIDA LEGISLATURE TO PROHIBIT MUNICIPAL WATER AND SEWER UTILITIES FROM LEVYING A SURCHARGE TO CONSUMERS LOCATED OUTSIDE THE CITY UNLESS AN EQUAL SURCHARGE IS LEVIED ON CONSUMERS LOCATED WITHIN THE CITY; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary

On April 8, 2008, the Miami Dade County Board of County Commissioners adopted a resolution urging the Florida Legislature to prohibit municipal water and sewer utilities from levying a surcharge to consumers located outside the city unless an equal surcharge is levied on consumers located inside the City. As a result, Representative Oscar Braynon II has drafted legislation for consideration during the 2009 Legislative Session which will reinstate limitations on utility rates charged outside municipal boundaries in counties with a population of more than 1.5 million as of the most recent decennial census.

If passed, this legislation would exempt the 14,547 residential and commercial water and sewer customers within the City of Miami Gardens from paying the twenty five (25) percent surcharge currently being levied by the City of North Miami Beach.

Recommendation:

That the City Council adopt the attached resolution urging the Florida Legislature to prohibit municipal water and sewer utilities from levying a surcharge to customers outside the City.

DRAFT

A bill to be entitled

An act relating to municipal water and sewer utilities; amending s. 180.191, F.S.; reinstating limitations on utility rates charged outside municipal boundaries in certain municipalities in home rule charter counties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 180.191, Florida Statutes, is amended to read:

180.191 Limitation on rates charged consumer outside city limits.--

(1) Subject to subsection (4) below, any municipality within the state operating a water or sewer utility outside of the boundaries of such municipality shall charge consumers outside the boundaries rates, fees, and charges determined in one of the following manners:

(a) It may charge the same rates, fees, and charges as consumers inside the municipal boundaries. However, in addition thereto, the municipality may add a surcharge of not more than 25 percent of such rates, fees, and charges to consumers outside the boundaries. Fixing of such rates, fees, and charges in this manner shall not require a public hearing except as may be provided for service to consumers inside the municipality.

(b) It may charge rates, fees, and charges that are just and equitable and which are based on the same factors used in fixing the rates, fees, and charges for consumers inside the municipal boundaries. In addition thereto, the municipality may add a surcharge not to exceed 25 percent of such rates, fees, and charges for said services to consumers outside the boundaries. However, the total of all such rates, fees, and charges for the services to consumers outside the boundaries shall not be more than 50 percent in excess of the total amount the municipality charges consumers served within the municipality for corresponding service. No such rates, fees, and charges shall be fixed until after a public hearing at which all of the users of the water or sewer systems; owners, tenants, or occupants of property served or to be served thereby; and all others interested shall have an opportunity to be heard concerning the proposed rates, fees, and charges. Any change or revision of such rates, fees, or charges may be made in the same manner as such rates, fees, or charges were originally established, but if such change or revision is to be made substantially pro rata as to all classes of service, both inside and outside the municipality, no hearing or notice shall be required.

(2) Whenever any municipality has engaged, or there are reasonable grounds to believe that any municipality is about to engage, in any act or practice prohibited by subsection (1), a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person or persons aggrieved.

(3) This section shall apply to municipally owned water and sewer utilities within the confines of a single county and may apply, pursuant to interlocal agreement, to municipally owned water and sewer utilities beyond the confines of a single county.

(4) Notwithstanding and prevailing over any other provision contained herein, this section shall not apply to any municipality in a county with a population of more than 1.5 million as of the most recent decennial census.

~~(4)(5)~~ In any action commenced pursuant to this section, the court in its discretion may allow the prevailing party treble damages and, in addition, a reasonable attorney's fee as part of the cost.

Section 2. This act shall take effect upon becoming a law.