

**RESOLUTION NO. 2021-028**

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, VEHEMENTLY OPPOSING FLORIDA HOUSE BILL 1053 AND ITS COMPANION SENATE BILL 102 URSURPING A MOST FUNDAMENTAL RIGHT TO ACCESS COURTS, RIGHT TO SELECTION OF COUNSEL AND ALL CONCOMITANT RIGHTS IN ATTORNEY-CLIENT RELATIONSHIPS HELD BY LOCAL GOVERNMENTS AS REPRESENTATIVE OF THE INTERESTS OF ITS CONSTITUENCY; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, HB 1053/Overdorf and SB 102/Burgess proposes to grant the Florida Attorney General the discretionary power to unilaterally determine a “fact, circumstance or conduct which has caused substantial economic loss or other harm” to government entities in at least five counties as a “matter of great governmental concern” such that only the Attorney General may represent the interests of the government entity in legal proceedings, including making the unilateral decision to sue, to appeal, to settle, dismiss, release or take any other action in court on the matter of great public concern so long as in the Attorney General’s sole opinion the actions taken are in the public interest; and

**WHEREAS**, the proposed legislative measure is based on the false premise that empowering the Attorney General as the sole legal representative of the interests of the public will make settlement and recovery more cost efficient and a better use of the public’s resources; and

**WHEREAS**, the bills arbitrarily adjudge the Attorney General as the official most responsible for the prosecution, management, coordination and settlement of all civil proceedings brought by government entities in matters of great public concern to the exclusion of local elected government officials; and

**WHEREAS**, the bills are misguided in that they propose a legislative fix for inexistent problems in that existing rules of court governing multidistrict litigation already ensure fairness, efficiency, consistent results, and adequately address all other perceived ills intended to be addressed by the proposal; and

**WHEREAS**, the right of access to courts, the right to counsel, the right to the choice of counsel, and the right to direct the representation are all part of the bedrock of our constitutional

democracy and system of checks and balances and place the Attorney General in an untenable position of conflict with respect to the competing interests of the government entities; and

**WHEREAS**, the proposals turn the attorney-client relationship on its head and fail to identify the manner in which the Attorney General will faithfully discharge its professional obligations to the government entity clients; and

**WHEREAS**, the proposals would bar local governments from instituting or participating in lawsuits such as class actions or mass tort or toxic tort litigation like claims for damages against Big Pharma for the opioid crisis, claims against manufacturers for product liability, for injury to the environment, breaches of data privacy and mortgage lenders, suits challenging the legality of federal laws, administrative rules or regulations; and

**WHEREAS**, the consequences of the bills are severe in that it not only proposes to prohibit a local government to seek legal redress and recover damages on its own behalf, but the bills could also act to prevent a local government (and consequently its constituents) from being made whole, in that the Attorney General, as a representative of more than one government entity and in consideration of the competing interests of all these government entities, could limit the recovery of damages or could conceivably keep all damages recovered for the State; and

**WHEREAS**, local governments, through the exercise of their constitutional home-rule power, are in the best position to protect the quality of life, health, safety and welfare of their residents; and

**WHEREAS**, no other level of government is more available or responsive to the needs and demands of their constituents, than local government; and

**WHEREAS**, the Mayor and City Council of the City of Hialeah oppose a one-size-fits-all approach and vehemently oppose the derogation of the constitutional power of home-rule by Tallahassee politicians.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:**

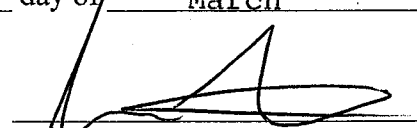
**Section 1.** The Mayor and the City Council of the City of Hialeah vehemently oppose and appeal to the Florida Legislature and the Governor to reject HB 1053/Overdorf and SB

102/Burgess as it proposes to eviscerate local government's most fundamental right to access courts by counsel of its own selection, in representation of the interests of its constituency.

**Section 2.** The City Clerk is directed to send a certified copy of this Resolution to the Florida League of Cities, Miami-Dade League of Cities, Miami-Dade County Mayor and Board, the Clerk for the Senate and House of Representatives, Representative Overdorf, the Governor, and such other authorities as may be appropriate.

**Section 3.** This resolution shall become effective upon signature of the Mayor of the City of Hialeah, Florida or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

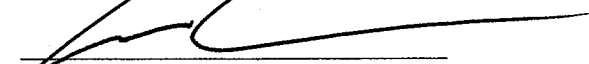
PASSED AND ADOPTED this 9 day of March, 2021.

  
Jesus Tundidor  
Council President

Attest:

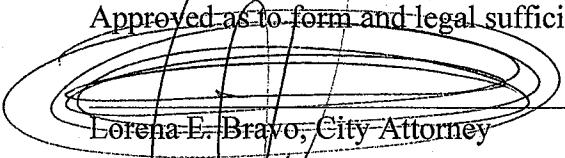
  
Marbelys Fatjo, City Clerk

Approved on this 16 day of March, 2021.

  
Mayor Carlos Hernandez

Resolution was adopted by 7-0 vote with Councilmembers, Cue-Fuente, De la Rosa, Garcia-Roves, Hernandez, Perez, Tundidor, and Zogby voting "Yes."

Approved as to form and legal sufficiency:

  
Lorena E. Bravo, City Attorney