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PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 15, 2011

☐ Consent
☐ Workshop

☐ Regular
☒ Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Palm Beach County code, Section 17-227(a), the Palm Beach County Public Service Tax Ordinance to provide for verification by sellers of the location of purchasers or consumers of goods subject to the public service tax; providing for severability; providing for inclusion in the Code of Laws and Ordinances and providing for an effective date.

Summary: In July, 2011 the Internal Auditor conducted an audit of a propane gas vendor to determine if that vendor was collecting and remitting public service taxes to Palm Beach County in accordance with the County's public service tax ordinance. The Auditor was unable to make a determination due to significant errors found in the database being utilized by the vendor. This resulted in an audit finding and recommendation that the OFMB Director modify the existing ordinance to specify acceptable databases for vendors to use to be in compliance. Countywide (PFK)

Background and Policy Issues: In 1989 the Board of County Commissioners adopted an ordinance to levy a public service tax on the purchase of metered and bottled gas within the unincorporated area of Palm Beach County. This tax, which is generally 10% of the purchase price, is collected by the vendor and remitted to the County. The revenue generated, which is approximately \$1 million annually, is accounted for in the General Fund. The County maintains the right to audit the vendors' books to determine the accuracy of the remittances.

In February, 2011 OFMB suggested the names of several propane vendors to the Internal Auditor, requesting they be considered for an audit of public service tax remittances. In July, 2011 the Internal Auditor conducted an audit of one of the vendors, but was unable to make a determination as to the accuracy of the amounts paid to the County due to significant errors found in the database being utilized by the vendor. The vendor has been notified and has been requested to use a database that would provide a more accurate listing of the jurisdictions subject to the tax.

The Internal Auditor recommended that the OFMB Director modify the existing ordinance to specify acceptable databases for vendors to use to comply with the ordinance. The three databases considered acceptable are (1) the Property Appraiser's PAPA system, (2) the addressing module of ePZB which is maintained by the County's Planning, Zoning & Building Department and (3) the State of Florida, Department of Revenue Address Database. This amendment was approved on first reading on November 1, 2011.

Attachment: Public Service Tax Ordinance

Recommended by:


Department Director

11/1/11
Date

Approved By:


County Administrator

11/1/11
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years:	2012	2013	2014	2015	2016
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	None	* See below None	None	None	None

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included In Current Budget? Yes _____ No _____

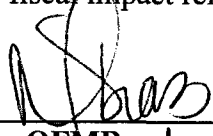
Budget Account No: Fund _____ Agency _____ Org. _____ Object _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:
N/A

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

~~*~~ There is no fiscal impact related to this ordinance amendment.

 11/2/11

OFMB ~~ad~~
11/2/11

N/A

Contract Dev. and Control

B. Legal Sufficiency:

 11/4/11

Assistant County Attorney

C. Other Department Review:

Department Director

ORDINANCE NO. 2011-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, SECTION 17-227(a), THE PALM BEACH COUNTY PUBLIC SERVICE TAX ORDINANCE TO PROVIDE FOR VERIFICATION BY SELLERS OF THE LOCATION OF PURCHASERS OR CONSUMERS OF GOODS SUBJECT TO THE PUBLIC SERVICE TAX; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Sections 166.231-166.235, Florida Statutes, the Palm Beach County Board of County Commissioners (the "Board") has enacted the Palm Beach County Public Service Tax Ordinance, Sections 17-221 -- 17-230 of the County Code (the "Public Service Tax Ordinance"); and

WHEREAS, some sellers of goods subject to the Public Service Tax Ordinance have not verified the location of the purchaser or consumer of such goods, leading to incorrect amounts due under the Public Service Tax Ordinance being collected and paid to the County; and

WHEREAS, the Public Service Tax Ordinance should be amended to require that sellers of goods subject to the Public Service Tax must verify, using one of three stated methods, the location of purchasers or consumers of such goods; and

WHEREAS, Section 17-227(a) of the County Code should be amended to list the three databases that a seller of goods subject to the Public Service Tax should use to verify the location of purchasers or consumers of such goods.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1.

Section 17-227(a) of the County Code is amended as follows:

- (a) The sellers of electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the unincorporated area of the county shall act as the collection medium and collecting agency for the collection from the purchaser of the tax levied in this article for the use of the county. Sellers in doubt as to whether a purchaser or consumer is located within the unincorporated area of the county must consult the county Property Appraiser's Public Access System (PAPA), the county Planning, Zoning and Building Addressing Module of the e-PZB or the State of Florida Department of Revenue Address Database to verify where that purchaser or consumer

is located. The county may bring any legal action in its discretion against the seller that may appear advisable under the terms of this section.

Section 2. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 3. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

Section 4. EFFECTIVE DATE:

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
County, Florida, on this the ____ day of _____, 2011.

SHARON R. BOCK, CLERK

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk

By: _____,
_____, Chair

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: Paul F. [Signature]
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
____, 2011.

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM (CODRS) CODING FORM

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the “keyfields” description sheet that has been given to your County Attorney’s Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (850)245-6270 or Suncom 205-6270.

COUNTY: (PALM BEACH) COUNTY ORDINANCE # (-)
(e.g., 00-001)

PRIMARY KEYFIELD
DESCRIPTOR: (DATA/STATISTICS)

SECONDARY KEYFIELD
DESCRIPTOR: (FEES)

OTHER KEYFIELD
DESCRIPTOR: (SALES TAXES)

ORDINANCE DESCRIPTION: ()
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: () AMENDMENT # 2: ()

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: () REPEAL # 3: ()

REPEAL # 2: () REPEAL # 4: ()

(Others repealed: List all that apply): _____

(FOR OFFICE USE ONLY):	COUNTY CODE NUMBER: (_____)
KEYFIELD 1 CODE: (_____)	KEYFIELD 2 CODE: (_____)
KEYFIELD 3 CODE: (_____)	Rev. 4/10/04