

# PBC Legislative Update

FEBRUARY 28, 2011

VOLUME 5 NUMBER 6

## IN THIS ISSUE:

### State Issues

#### Legislative Priorities

1. TABOR
2. Pensions
3. Dot Com Legislation
4. Pain Management Clinics
5. Medicaid and Low Income Pool Proposal
6. Growth Management
7. Unemployment Compensation
8. Medical Expenses/Detainees /Inmates
9. Economic Development-Technology
10. Gaming
11. On Site Sewage Treatment
12. Homestead Exemption
13. Water Policy

### Federal Issues

1. Federal Overview
2. Budget and Approps
3. Numeric Nutrient Criteria
4. Beach Funding
5. Federal Reserve Forecasts

### State Issues

#### February 21-25 Committee Week update

##### TABOR

*By: County Staff, Moya Group, Ericks Consultants, and Pittman Law Group*

In the Senate Budget Committee this week, Senator Bogdanoff continued the discussion of **TABOR** on **SJR 958**. Several groups testified against the bill, including AARP, AFL CIO, and League of Women Voters. All of the groups opposing the resolution cite its inability to equally represent constituents of all demographics in Florida. During debate, Senator Margolis expressed concern that Wall Street would not look fondly to such revenue limitation. Senator Rich agreed, saying **TABOR** would be devastating for Florida because it limits government to such an extreme. Speaking on the other side, Senator Gaetz simply said that he will vote yes because he has never heard of fiscal restraint leading to lower bond ratings (which continues to be the predominant concern of this bill). In her closing, Senator Bogdanoff maintained that this is fundamentally a philosophical question. She believes there will be an insignificant effect on our bond ratings, and that we can no longer borrow from our future. **SJR 0958 was reported favorably. TABOR was also passed** in the Senate Rules Committee later this week.

This bill passed and is expected to go to the floor in the early stages of the session.

##### Pensions

*By: Ericks Consultants, Moya Group, Pittman Law Group, Corcoran & Johnston and County Staff*

#### **Senate Bill 1128, by Ring – Retirement Plans**

While the **Senate Governmental Oversight and Accountability** Committee did not take any votes on the measure, there was considerable testimony taken on the merits on the bill. Unions, Police, Fire Fighters and Teachers all spoke against any defined contribution plan and applauded the introduction of several amendments by Senator Jack Latvala.

The amendments allowing for no more than 300 hours of overtime to be used to calculate benefits and that any contribution should be used to pay down unfunded actuarial liabilities.

The Florida League of Cities opined that they are supportive of any attempts to get rid of state mandated policy on collective bargaining. The bill is expected to be voted on during the first week of session.

### **Senate Bill 1130, by Ring – Retirement Plans**

This **Senate Governmental Oversight and Accountability** Committee took testimony on Senate Bill 1130. This is the FRS bill.

Senator Ring, the sponsor of the measure, offered a strike-all amendment and explained what the bill does NOT do. The bill does not:

- Reduce service accrual fees
- Close the DROP program
- Reduce cost of living adjustments
- Raise the retirement age
- Affect membership classifications
- Set contributions

The bill does set a defined contribution policy and the percentage will be determined by the budget committee.

Several amendments were offered by Senator Latvala that were labor friendly:

- Sets the maximum contribution rate at 2% for regular or special risk members and 4% for senior or elected members
- Requires any contribution to pay down any unfunded actuarial liability
- Extends vesting period from 6 to 8 years
- Sets compulsory participation for higher classes and allows regular and special risk members to remain in a defined benefit system.

Senator Fasano offered two amendments:

- Prevents any person who retires from the FRS to return to work in any capacity under the FRS
- Reduces the accrual rate for elected officials from 3% to 1.6%

Many people spoke against the bill, with the Associated Industries of Florida being the lone supporter who gave testimony.

The bill is expected to be taken up during the first week of session where votes will be taken on all amendments and the bill.

### **House Government Operations Subcommittee**

The House Government Operations Subcommittee took testimony from the Governor's office on his proposed pension reform plan. The talk revolved largely around moving all FRS members from a Defined Benefit Plan to a Defined Contribution Plan. The Governor aims to set contribution rates at 5%. Many police, firefighters and teachers spoke against the bill stating that the pension fund is very healthy and, at 87%, it has one of the highest solvency ratings in the nation.

### **DOT Com Legislation**

*By: Ericks Consultants*

**Senate Bill 376 by Gaetz** would clarify that any amount owed for state transient rentals tax, local tourist impact tax, local tourist development taxes, local convention development taxes, and municipal resort tax are only applicable to the operator of the transient rental accommodations and not a person who facilitates the reservation of a transient rental accommodation. This bill is known as the OTC bill or the Online Travel Company Bill.

Currently, online travel companies, such as Travelocity, Orbitz, etc, buy bulk rooms from hotels at a discounted rate. The OTCs turn the rooms around at a profit and this profit is considered a "service fee." The OTCs are only remitting an amount of tax that goes to the operator of the accommodations and the "service fee" is not included in the taxable amount. The argument is that the "service fee" is merely that and is therefore not subject to taxes under Florida law.

The OTCs would like to see this bill pass. Many hotels feel they are at a competitive disadvantage because the OTCs can shelter a certain amount of tax per transaction. Counties are opposed because they are losing valuable tourist development funds that would otherwise be paid by the hotels.

The bill passed 5-2, with Senators Hill and Wise voting against the measure.

### **Pill Mills/Prescription Drug Monitoring Program**

*By: Ericks Consultants, Corcoran & Johnston, and County Staff*

The state-wide prescription drug monitoring database looks to be in serious trouble in the House where leaders feel the database is too intrusive into the private lives of Florida's citizens. This **House Health and Human Services Committee** discussed government's role in monitoring prescription medication and how it balances citizen privacy. With Gov. Scott opposing such a database and removing it from his budget, the House may take steps to disband the system that is currently unfunded.

Following the meeting, House Majority Leader Lopez-Cantera indicated that he believes the outcome of the meeting proved that the database is not necessary and an intrusion of government. This falls in line with the rest of House leadership's view.

On Wednesday, Senate President Haridopolos reiterated his support for the database and said he would continue to fight for it.

### **Medicaid and Low Income Pool**

*By: Akerman Senterfit*

Medicaid and LIP: The Senate Health Care appropriations committee met on Wednesday. Stakeholders gave testimony on the LIP program recommendations and the Senate's first draft of the Medicaid reform bill. The challenge with LIP funding this year is the loss of the enhanced federal match. This could be a substantial loss to our hospitals. On Medicaid reform, the Senate will most likely will be putting out one more draft by the end of the first week of session that resolves some issues with the original. The first draft of the House bill should be out sometime next week.

### **Growth Management**

*By: Corcoran & Johnston, Pittman Law Group and County Staff*

On Wednesday, the House Community and Military Affairs Subcommittee held a workshop on growth management, with the primary focus on three topics: the comprehensive plan review process, transportation concurrency, and school concurrency. Chairman Workman explained his goal this Session is a complete overhaul of current growth management law. He wants "a growth management platform that sets overall goals and expectations in the state, allows cities and counties to manage their own growth, and is immune to any kind of legal challenge." He believes that growth decisions should remain at a local level. Senator Bennett has also indicated that the Senate will unroll a major bill relating to growth management.

There seems to be support for reducing the scope of state review of local plans and amendments, focusing that review on state and regional resources, and emphasizing the alternative state review process and large-scale planning like sector plans. As with this discussion in prior years, there remains much debate about what constitutes a significant state or regional resource justifying a state-level review – whether it is the interstate highway system, military bases, hurricane evacuation, natural lands, schools, or something else, the significance is in the eye of the beholder.

Impact fees for roads and schools also were discussed, with complaints being voiced to the committee about new development being required to pay for pre-existing "backlog" not caused by that development, or new development being required to pay a substantial impact fee for new schools based on a formula predicting, perhaps inaccurately, what the burden of the new development will be on schools.

## **Unemployment Compensation**

*By: Ericks Consultants ad County Staff*

The **Senate Commerce and Tourism** passed **Senate Bill 728 by Detert** related to Unemployment Compensation with only one no vote.

Over the past few years unemployment tax rates have spiked due to the large economic problems facing the state. This bill tries to ease the burden of employers covering the shortfall. This bill differs from the House version in it does not lower the amount of weeks a person is eligible for unemployment from 26 to 20 weeks and leaves the maximum rate at 5.4%.

The House Companion Bill, **HB 7005 by Holder** would make numerous changes to the Unemployment Insurance system. The sponsor of the bill calls it a re-employment system that will bring more businesses to the state by lowering their unemployment insurance burden. The bill does the following:

- Requires skills screening upon application for benefits
- Lowers eligibility from 26 to 20 weeks
- Sets maximum weekly benefits of \$275
- Allows for 20 weeks of benefits when unemployment is at or over 9%, 12 weeks when unemployment is at or below 5% and adds one week per every .5% over 5%
- Expands the definition of misconduct for eligibility disqualification
- Allows for employees to pay into the fund in quarterly installments.

There were attempts in committee to expand the eligibility pool, but they were defeated. The bill passed this week on a party line vote.

## **Medical Expenses/Detainees/Inmates**

*By: Ericks Consultants*

**SB 490 By Sen. Jones** limits county or municipal medical costs of an in-custody pretrial detainee or sentenced inmate to 110 percent of the Medicare allowable rate if no formal written agreement exists between the county or municipality and the third-party medical care provider. This bill only passed the Senate last year.

The Florida Hospital Association stated that there are problems with the definitions and new terms but did not elaborate. It is standard practice for deputies to accompany the accused and there is nothing in the bill that mandates this. The other issue is the lack of payment uniformity. The bill passed unanimously.

The House Companion, **HB 257 by Rep. Hooper** is similar to Senate Bill 490 that passed through the Senate Community Affairs Committee. The bill limits payments to 110% of Medicare unless there is a separate agreement between a third party payor and a local government.

The bill has some opposition from the Florida Hospital Association. One main example centers on a person who has not been arrested. Local governments maintain that under current Florida Statutes there is no mandate they pay for medical expenses of a person who has not been arrested at the time of the medical care. The Hospitals also state that 110% of Medicare does not cover the cost of care. The bill passed unanimously, but there were many issues that must be dealt with to keep support of the subcommittee as the item moves through the process.

## **Economic Development - Technology**

*By: Ericks Consultants*

**Senate Bill 506 by Bogdanoff** expands the 1980 definition of emerging businesses to include new sectors, such as technology. This will help local governments attract new forms of businesses through ad valorem tax benefits. The bill was amended to add in businesses within enterprise zones and passed unanimously.

## **Gambling**

*By: Ericks Consultants*

**House Business and Consumer Affairs Subcommittee** heard testimony from various stakeholders in the gaming industry. The Las Vegas Sands once again presented their pitch for expanded gaming and destination style casinos across the State of Florida. Local pari-mutuels also presented their case for fair standards within the industry and threats from Tribal and expanded gaming. The Subcommittee did not hear any bills and it is undecided how the gaming issue will play out this session.

## **On Site Sewage Treatment**

*By: County Staff and Ericks Consultants*

During public workshops conducted by the Department of Health (DOH) as part of the rule development process associated with the implementation of the onsite sewage treatment and disposal system evaluation program established by **SB 550** in 2010, potential unintended financial consequences were identified. The Legislature enacted legislation in November's Special Session delaying the implementation of the program for 6 months while it considered additional measures to relieve low-income owners of onsite sewage systems of having to pay evaluation fees, plus the costs of repairs, pump-outs, or replacements should problems be found.

On Tuesday, Feb. 22, the Senate Committee on Health Regulation reviewed and passed **SB 168**, by Sen. Evers. On the same day, **HB 13**, by Rep. Coley, was passed by the House Subcommittee on Agriculture & Natural Resources. Both bills would repeal the evaluation program and all its requirements.

**SB 168** is currently in the Environmental Protection Committee, which is its last committee of reference. **HB 13** is next to be heard by the Health Care Appropriations Sub-Committee.

## **Homestead Exemption**

*By: The Moya Group, Ericks Consultants*

**House Finance & Tax Committee** discussed **HB 0381** by **Rep. Dorworth**. This bill proposes to reduce from 10% to 3% the limitation on annual assessment increases applicable to non-homestead property and to create an additional homestead exemption for first-time homesteaders. The joint resolution also proposes to prohibit increases in the assessed value of homestead property in any year where the market value of the property decreases. Should this bill pass, it will be proposed to the voters as an amendment to the State Constitution. The Florida Realtors Association was especially supportive of **HB 0381**. Most members were openly accepting of this legislation; however, Representative Randolph went as far as to say that his approval is contingent on TABOR not passing. Representative Berman expressed some concern as to the potential impact this bill would have on revenue. In the end, **HB 0381 was reported favorably.**

## **Water Policy**

Florida House Speaker Dean Cannon established the House Select Committee on Water Policy in December 2010 and directed the Committee to study water issues and make recommendations for policy issues for the House to address during the 2011 and 2012 legislative sessions.

The House Select Committee on Water Policy on Thursday heard additional public testimony about water policy and water issues, and voted on a draft letter to be sent to the Speaker of the House about several areas of study during the coming year including policies affecting water supply.

The letter states that the issues the Committee recommends for the remainder of 2011, there should be a thorough and deliberative analysis of water resource management issues, water supply issues, and water quality issues including, but not

limited to, the following:

1. Evaluating Florida's policies and regulations affecting the allocation of scarce water resources to determine what, if any, changes are necessary to address current and future conditions in Florida.
2. Evaluating the manner in which alternative water supplies and water storage capabilities are developed and funded, including disbursed [sic] water storage, reservoirs, reverse osmosis, desalination, aquifer storage and recovery, and water reuse.
3. Evaluating water conservation as a demand management tool for public water supply utilities to ensure sustainability of the state's water resources by efficiently and economically using existing and alternative water resources, and evaluating financial options to incentivize water utilities to further implement water conservation programs.
4. Evaluating the implementation and effectiveness of current programs, including minimum flows and levels and water reservations, to protect the natural systems in Florida while considering the social and economic consequences of those programs.
5. Evaluating the interrelationship between growth management and water supply and whether refinements are advisable to promote adequate and sustainable water supplies for areas with growing populations.
6. Evaluating whether the current division of responsibilities between the Florida Department of Environmental Protection, the five WMDs, regional water supply authorities, and local water utilities should be refined to address inefficiencies in the implementation of Florida's water policy, including duplicative regulations. This evaluation will also evaluate whether the current regulations and allocation of responsibilities for water supply planning and permitting are appropriate and effective.
7. Evaluating the manner in which the state encourages preservation of agricultural lands for purposes of water storage and treatment and ground water recharge, including an evaluation of public-private partnerships to further the objectives of the state with respect to water resource management.
8. Evaluating the manner in which water management district board members are selected to determine if modifications to the current selection process are warranted.

### **Federal Issues**

#### **Federal Overview**

*By: US Strategies*

The House and Senate are in recess this week for President's Day. The House did not complete their work until 4:00 am on Saturday February 19th. They were slogging through the more than 500 amendments that were offered to the FY 2011 continuing resolution that expires on Friday, March 4<sup>th</sup>.

The House and the Senate will be returning on Monday, February 28<sup>th</sup>. The Senate has announced they will not accept the FY2011 "CR" the House passed last Saturday thus setting up the "potential" for a government shutdown until both chambers can come to some agreement before March 4<sup>th</sup>.

As of Wednesday, February 23rd, the House has announced that they would pass a two-week, stopgap spending bill that would cut approximately \$4 billion over the two weeks. (The plan is tentative and the details are still being crafted.) Majority Leader Senator Harry Reid, D-NV, released a statement that said "This isn't a compromise;

it's a hardening of their original position. This bill would simply be a two-week version of the reckless measure the House passed last weekend. It would impose the same spending levels in the short term as their initial proposal does in the long term, and it isn't going to fool anyone." (FYI: The Senate version of the 2011 CR would keep the government funded at current levels for the next 30 days until an agreement is reached between the two chambers.)

When Congress returns next week, it will be the debate on the "CR" that will consume leadership press conferences and dueling interviews on TV between the two chambers and parties.

## **BUDGET AND APPROPRIATIONS**

*By: US Strategies*

The amendments that passed in the House debate last week include several, which restore cuts made in the CR and others that deepen the cuts. Several amendments that would have cut programs further were rejected.

### **FY 2011 Continuing Resolution (House)**

Below is information on some of the amendments relating to some key programs:

- COPS hiring grants would continue at the FY 2010 level of \$298 million. While the CR that was brought to the floor would have eliminated funding for the program, the House adopted an amendment offered by Representative Anthony Weiner (D-NY) to restore those funds.
- State and Local Law Enforcement Assistance would be cut \$561 million below the FY 2010 level. The CR brought to the floor called for a \$581 million cut, but the House passed an amendment by Representative Rush Holt (D-NJ) to restore \$20 million. The CR does not specify which programs in this account would be cut. We understand that these cuts will be partially offset by the \$187 million that would otherwise have gone to earmarks, reducing program cuts to \$394 million. Another amendment by Representative Holt would direct \$20 million to implement the National Instant Criminal Background Check System Improvement Amendments Act.
- Firefighter Assistance Grants would continue at \$810 million, the FY 2010 funding level, with \$420 million going to SAFER hiring grants and \$390 million going to assistance to firefighter grants. While the CR that went to House floor had proposed to cut \$510 million below this amount, an amendment restored the funding to the FY 2010 level. In addition, the House passed an amendment offered by Representative David Price (D-NC) which would extend provisions enacted in FY 2009 and 2010 that: allowed fire departments to use these grants to rehire laid-off firefighters and to prevent others from being laid off in the first place, and would continue provisions that waived certain budgetary requirements local fire departments have to fulfill in order to receive a grant, including not allowing fire departments' overall budget to drop below a certain level, not reducing staff over a number of years, even if budgets continue to suffer, and providing local matching funds.
- Economic Development Assistance programs would continue at \$255 million, the FY 2010 amount, with House passage of an amendment to restore the \$80 million that the CR had proposed to cut.
- While funding for special education grants would increase by \$558 million, school improvement grants would be cut \$337 million and teacher quality grants would be cut \$500 million (for a net reduction of \$279 million) through an amendment passed by the House.

**Palm Beach County**

**Board of County**

**Commissioners**

Karen T. Marcus, Chair

Shelley Vana, Vice Chair

Paulette Burdick

Burt Aaronson

Steven Abrams

Jess R. Santamaria

Priscilla A. Taylor

**County Administrator**

Robert Weisman

**Palm Beach County  
Legislative Affairs**

301 North Olive Avenue  
Suite 1101.4  
West Palm Beach, FL  
33405

**Todd J. Bonlarron  
Director**

**Phone**

Office (561) 355-3451  
Mobile (561) 310-7832

**Fax**

(561) 355-3982

**E-mail**

tbonlarr@pbcgov.com

**We're on the Web!**

www.pbcgov.com

- Several Republican amendments to cut spending were rejected, including those by Representative Pete Sessions (TX) to cut Amtrak capital grants by \$447 million and by Representative Jeff Flake (AZ) to cut community service block grants by another \$100 million.

NOTE: (It should be noted that amendments to restore cuts to CDBG and other programs of importance to local governments, did not pass.)

In other areas, the House:

- Passed several amendments which effectively block passage of the health care overhaul law;
- Passed an amendment to deny funds to the Planned Parenthood Federation of America and its affiliates, offered by Representative Mike Pence (R-IN);
- Rejected an amendment on behalf of a group of conservative Republicans, many of them freshmen, that would have cut an additional \$22 billion in spending by reducing funding for the legislative branch by 11 percent and all other continuing resolution funding by 5.5 percent, exempting funding for the Departments of Homeland Security and Veterans Affairs and aid to Israel.

**Numeric Nutrient Criteria**

*By: County Staff*

Thank you to Congressman Tom Rooney who successfully passed an amendment to the FY11 Continuing Resolution that would prohibit funds from being spent to implement the proposed EPA numeric nutrient criteria for Florida.

**Beach Funding**

*By: County Staff*

Thank you to Congressman Deutch, Hastings, Rooney, and West for voting against an amendment to the FY 11 CR that would have prohibited the use of federal funds from beach renourishment projects.

**Federal Reserve Forecasts**

Minutes of the January 25 meeting of the Federal Reserve, released Wednesday February 16th, reflect the Fed's improved forecast for the U.S. economy this year: an increase in 2011 GDP growth from a range of 3 percent to 3.6 percent to between 3.4 percent and 3.9 percent. Fed members also forecast that the unemployment rate would still be in the 8.8 percent to 9 percent range at the end of this year, but that it would drop over the following two years, into the 6.8 percent to 7.2 percent range by the end of 2013.