

PBC Legislative Update

MARCH 14, 2011

VOLUME 5 NUMBER 7

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State Issues

First Week of Session

PALM BEACH COUNTY DAY

By: County Staff

Over 100 government, business, and civic leaders converged on Tallahassee for Palm Beach County Day this week. Six County Commissioners made the trip to advocate portions of the County's legislative agenda. Among the many meetings scheduled during the day was time with Senate President Mike Haridopolos, Speaker of the House Dean Cannon, House Minority Leader Ron Saunders, Agriculture Commissioner Adam Putnam, and Palm Beach County Legislative Chair Joseph Abruzzo.

High on the list of issues was advocating for tough laws to continue regulation of pain management clinics, continued flexibility to provide pre-trial services to prevent jail overcrowding, new measures to help economic development in the Glades region of the County, and suggestions on pension changes.

Palm Beach State College President Dennis Gallon spoke throughout the day of the need to continue to allow for expansion and growth of the College particularly in the Western region of the County, and Vern Crawford led a delegation in a series of meetings with top brass on the House and Senate education committees. Ed Chase, CEO and President of the Northern Palm Beach County Chamber of County advocated for priority business initiatives including the local embrace of the Six Pillars program. Ken Lassiter, President of COWBRA spoke of the need for "glitch" changes to condo association laws, and Councilman Todd Wodraska and Jamie Titcomb advocated for the League of Cities legislative agenda.

In all, it was a productive first week of session communicating local priorities and continuing to shape many pending legislative initiatives that will have an impact on county legislative priorities.

TABOR

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

SB 958, relating to State Revenue Limitation was heard on the Senate Special Order calendar this week and rolled to third reading. This resolution proposes amendments to the State Constitution replacing the existing state revenue limitation based on inflation and population changes. The new state revenue limitation will not apply until the state fiscal year 2014-15.

Pensions

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

Senate Bill 1130, by Ring – Retirement Plans

On Thursday, the Senate Committee on Governmental Oversight and Accountability, passed Senate Bill 1130, relating to Retirement, with a Committee Substitute. The vote was 12-1, with the no vote cast by Vice-Chairman Siplin. The bill language now reflects that state employees do not have to contribute toward their pension plan if they annually earn \$40,000 or below. Employees who earn between \$40,000 and \$75,000 must contribute no more than 2%, and those who earn \$75,000 and higher must contribute no more than 4%. Future employees are given the opportunity to remain in a defined benefit plan if they earn less than \$75,000. The vesting requirement was moved from 6 to 8 years for all new state employees.

According to the Committee Chair, the bill does not:

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

It is important to note that the *Governmental Oversight & Accountability Committee* is only the first step and changes are still possible as the budget continues to evolve. The Governor is still recommending a 5% percent contribution across the board for all FRS members.

The bill is expected to be heard next by the *Senate Budget Committee* before it reaches the floor. Some changes are expected during that stop.

On Wednesday, the House Government Operations Subcommittee heard presentations by Dr. David Mathin, a professor at Florida State University, entitled, "Trouble Ahead: Florida Local Government and Retirement Obligations." They also heard a presentation by the League of Cities on Municipal Pension Reform Proposals. Public testimony was taken from the Police Benevolent Association, the Division of Retirement at the Department of Management Services, and Fred Angelo, from the Professional Firefighters and Paramedics of Palm Beach County.

DOT Com Legislation

By: Ericks Consultants and County Staff

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. In Palm Beach County, approximately \$2 million a year is allocated to our beach and shore program.

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

House Health and Human Services

HHSC 11-03 and 11-04 – Controlled Substances and Office of Drug Control

On Thursday, the House Health & Human Services Committee passed PCB HHSC 11-03, relating to Controlled Substances and PCB HHSC 11-04, relating to the Office of Drug Control.

PCB HHSC 11-03 proposes to ban the sale of controlled substances by dispensing practitioners, limiting the dispensing of these prescription drugs to established pharmacies. The proposed committee bill provides for the following:

- Makes it illegal for doctors to dispense controlled substances. Doctors would have to write a prescription for the legal use of controlled substances and patients would receive their prescription from a pharmacy.
- Prohibits wholesale drug distributors from selling controlled substances to practitioners.
- Creates a mandatory buy-back program for physicians to transfer controlled substance inventory back to distributors by a date certain.
- Requires the Department of Health to declare a state of emergency and requires law enforcement to quarantine the inventories of high-risk dispensing practitioners.
- Makes controlled substances possessed by dispensing practitioners after the date of the buy-back program contraband, and requires law enforcement to seize it.
- Repeals existing pain management clinic regulations to reflect that this proposed legislation prohibits the dispensing of medication at pain management clinics.

Representatives Kreegel, Renuart, and Harrell, expressed some concerns with the limitations this bill sets on dispensing doctors.

PCB HHSC 11-04 proposed to eliminate the state's Prescription Drug Monitoring Program (PDMP). As you know, the Governor supports this measure while Senate President Haridopolos and Attorney General Bondi do not.

On Wednesday, Purdue Pharma offered to donate \$1 million over the next two years to assist in the operation of the PDMP.

Thank you to Rep. Mark Pafford for his comments and questions during the committee meeting that reflect the position of the County on the preservation of these regulations and the PDMP.

Growth Management

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

House of Representatives / Growth Management Policy

Growth Management is one of the most discussed and contentious issues debated by the Legislature every session, and it appears that this session will be no different. Both the Senate and the House are expected to have significant growth management legislation, which currently is under development. The House has had more public discussion and workshops on the issue so far, and this week the House Community and Military Affairs Subcommittee held a lengthy workshop on growth management issues. During the workshop the Committee discussed aspects of 225-page draft that is expected to be incorporated into a proposed committee bill (PCB) early next week.

The direction at this point in the House seems to be taking the Department of Community Affairs (DCA) out of the majority of the growth management process,

leaving the majority of the decisions at the local level and having only those issues that affect important state resources and facilities be reviewed at the state level; addressing transportation concurrency and backlog issues; addressing the issue of "need;" streamlining the processes; repealing Rule 9J-5; and encouraging large scale planning processes. However, the details are still being worked out and there remain many voices to be heard on the issues between now and the end of the session.

The Committee will release a proposed committee bill (PCB) possibly as early as Monday, and is likely to consider the PCB in a meeting on Wednesday.

Unemployment Compensation

By: Ericks Consultants

HB 7005, by Economic Development and Tourism Subcommittee, regarding Unemployment Compensation reduces the number of weeks a person can receive state benefits from 26 to 20 weeks. The bill also requires screenings for applicants. It also swings many presumptions in favor of the employer thus making it easier to deny benefits for laid off workers.

The bill passed the House along party lines 81-39.

Local Option Fuel Tax

By: The Moya Group and County Staff

County lobbyists and Commissioners met with both Senators and House members about clarifying state statute to allow for the use of its local fuel tax dollars for the installation, operation maintenance and repair of street lighting and traffic lighting. In addition, DOT officials joined some of the meetings in the House. We will continue to work to include this language in legislation to address the continued use of gas tax funds for these specific purposes.

House Medicaid Reform Proposal

By: Akerman Senterfit

Summary

- Like the Senate bill, this bill proposes that Florida move all Medicaid patients (with a few exemptions) into private Managed Care. This transition and the subsequent new structure will be administered over by AHCA.
- The plan attempts to create competition while still mandating full coverage of services and creating financial incentives based on quality patient care.
- Competitive companies will be those that offer the most comprehensive services that meet a specific population's needs.
- Specific standards for accountability are explicitly written into the bill.
- Unlike the Senate Bill, the House proposes this transition to happen over 5 years beginning July 1, 2012.
- Florida will be split into 7 regions, already defined in the bill. Each region has a minimum and maximum amount of plans, also defined in the bill. Plans will enter 5-year contracts with no automatic renewals. Performance standards will be established and raised over the contract.
- Children's Medical Services will remain a statewide plan and exempt from competitive procurement (though it must meet the other standards).
- Payment rates will be negotiated as part of the selection process and based on historic utilization and spending, adjusted for clinical risk instead of a universal capitated rate utilized by the Senate bill.

Qualified Plans

- Provider Service Networks, Exclusive Provider Organizations, HMOs and Health Insurers are eligible to participate.
- Companies can not offer "carve-out" plans and must offer full coverage of services. Each region will have one or two PSNs guaranteed participation provided there are bidders to ensure that customers can choose between a PSN and an HMO.

- Besides price negotiations, companies will be considered based on their accreditations on quality assurance, experience working with similar populations (they can target their bids on certain groups), availability of primary care in the provider's network, establishment of community partnerships that create reinvestment in community services, commitment to quality improvement, provision of extra benefits, especially dental and disease management and initiatives that improve health outcome, evidence of pre-bid agreements with providers, pre-bid agreements with providers of essential services such as children's hospitals, medical school faculties and trauma centers.
- Preference will be given to plans which demonstrate signed contracts with physicians that meet specific standards, that recognize patient centered medical homes and ACOs, that will employ Floridians and that cover both acute and long term care services.

Accountability

- Plans must meet network adequacy standards and maintain a database of providers online that AHCA and the public can view and post feedback on providers.
- Plans must maintain anti-fraud programs and AHCA must continuously analyze claims to find any evidence of under utilization or systematic denial.
- Administrative expenses will be capped. Premium dollars are spent on care or handed back to the state. Spending too little on care will result in turning some profits back over to the state.
- Plans that manage care well and achieve savings can however keep a profit of up to 7%.

Long Term Care

- There will be two types of plans:
 1. Comprehensive plans that combine medical and home and community based services
 2. Long-term care plans that only provide home and community based services.
- Traditional Aging Service Providers will be preserved and included into the plan.

Developmental Disabilities

- The House bill includes developmental disabilities (unlike the Senate version) and offers the same two types of plans as Long Term Care. Any HMO must be a comprehensive plan that already is under contract in the area. All recipients of the services on the date that plans become available will be eligible for enrollment.
- Plans must involve consumers and families in design and oversight of plans.
- Payment will be based on five levels of service. Placement into a level will be decided by APD.

Transportation Disadvantaged

- The House version calls for transportation services to be provided with a single, statewide contract with the Commission for the Transportation Disadvantaged.

Plan Regions

- Region VI - Southeast Florida Region: Broward, Glades, Hendry, Martin, Okeechobee, Palm Beach, St. Lucie.
- Region VII - South Florida Region: Miami-Dade, Monroe.

General Comparison with the Senate Bill

- Both plans are aimed at shifting financial burden and risks to the private sector and moving AHCA into a contract monitoring role.
- The House version does not use a Medical Loss Ratio (the Senate calls for 90%) and instead caps administrative expenses at a fixed number determined by AHCA.
- The Senate version calls for recipients to participate in smoking cessation, alcohol abuse or weight loss classes for those deemed in need of it to receive benefits. The House version encourages plans to create incentive programs

for offering these measures.

- The 7 region plan in the House would create larger risk pools than then 19 region plan in the Senate.
- The House version contains no option to break away from the Medicaid program is waivers are not received.
- Where both versions call transportation services covered and are mandated to be offered, the Senate version removes the requirement that they contract with the existing coordinated system with the Commission for the Transportation Disadvantaged. The CTD system has been in place for 30 years and by going to "competitive procurement", the CTD is worried about gaps forming from companies that won't take the extra steps that they will. There is also concern that the companies they've been contracting with, that they feel confident in, are going to be forced to deal the added confusion of RFPs.
- The House version calls for a 5 year roll out of changes where the Senate version would be fully in place by 2013.

Medical Expenses/Detainees/Inmates

By: Ericks Consultants

HB 257, by Hooper, Financial Responsibility for Medical Expenses of Inmates 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 passed unanimously in the House Insurance Subcommittee and the Senate Health Regulation Committee with only one no vote.

Impact Fees (SB 410)

Impact fees continue to be a source of contention in the realm of growth management. In 2006, the Legislature enacted s. 163.31801, F.S., to provide requirements and procedures to be followed by a county, municipality, or special district when it adopts an impact fee. By this statute, an impact fee ordinance adopted by local government must, at a minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures; if a local government imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund.
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of a new or amended impact fee.

In 2009, the House passed HB 227, which amended s. 163.31801, F.S. to place the burden of proof on the local government to show, by "preponderance of evidence," that any impact fees instituted by them meet these statutory standards. Since this amendment was passed, suits have been filed against the Legislature by counties claiming the bill is an unconstitutional preemption of the Separation of Powers clause, since earlier cases by the Florida Supreme Court have ruled that "a preponderance of evidence" need not be established, but that the fees simply meet the less stringent requirements of the dual rational nexus test.

On Wednesday, the Senate Judiciary Committee passed **SB 410**, which amends s. 163.31801, F.S. to explicitly state that "a preponderance of evidence" is required. The bill also provides for retroactive operation of this act which, if found unconstitutional by the courts, will instead be applied prospectively.

The bill will be heard next by the Rules Committee, its last committee of reference.

Federal Issues

Numeric Nutrient Criteria Fly In

By: County Staff

On March 1-3, a group from Florida representing local governments, utilities, agriculture and business interests traveled to Washington DC to meet with members of the Florida Delegation regarding Numeric Nutrient Criteria proposals from the EPA. Our group met with most of the Florida Delegation and expressed their support for efforts to readdress the scientific basis for criteria and to express the need to continue working with the EPA during the 15 month extension period given by EPA to reexamine the criteria for the diverse types of water bodies in Florida. Of significant concern for Palm Beach County is the ability to continue our current reuse program that has over \$200 million in local utility investment.

Thank you to Congressman Tom Rooney for his continued efforts to allow Florida additional time to work with EPA on the development of the NNC Standards.

NACo Legislative Conference

By: County Staff

County Commissioner Priscilla Taylor and staff traveled to Washington DC for the National Association of Counties Legislative Conference from March 4-7. In addition to a number of steering committee meetings on issues ranging from transportation to criminal justice to tax policy, we had the opportunity met with both members and staff from the Palm Beach Congressional Delegation. We presented the County's federal priorities and strategized about funding requests and other budget related proposals. As expected, most believe this will be a very difficult year to secure funding based on specific earmarks in the budget. Most funding will need to be obtained through grant writing and through specific federal agency requests.

At the NACo Board of Directors meeting, many resolutions supporting county national priorities were adopted. PBC Legislative Affairs Director and NACo Board member Todd Bonlarron participated in the Board meeting. The NACo Board will meet next at the Western Regional meeting in May.

Palm Beach County

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