

PBC Legislative Update



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2013 State Legislative
Session

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State Issues

Seventh Week of the 2013 State Legislative Session

Budget

By: Ericks Consultants, Anfield Consulting, Corcoran & Johnston, Pittman Law Group

Budget conferencing, the process by which the Senate and House work out their budget differences, began on Thursday. They have continued meeting throughout the weekend. Several large differences remain between the two Chambers' separate proposals, however; the tone for negotiations has been fairly cooperative. All differences that are not resolved during conferencing will be "bumped" from the specific conference committees to the at-large Appropriations chairs on Tuesday. The differences include Medicaid expansion, college tuition increases, teacher pay raises, state employee pay raises, and clerks of court budget among other issues. Below are some of the **House and Senate local budget highlights.**

	<u>House</u>	<u>Senate</u>
TOTAL BUDGET	\$74.4 BILLION	\$74.3 BILLION
Environmental and Natural Resources		
Florida Forever	\$ 75,000,000	\$ 60,000,000
Water Projects	\$ 24,000,000	\$ 48,264,168
JW Corbett Levee	\$ 8,300,000	\$ 1,000,000
Glades Utility Water Infrastructure		\$ 1,000,000
Lake Worth Lagoon Initiative(4)		\$ 950,000
Loxahatchee River Initiative		\$ 1,000,000
Riviera Beach Water and Projects(3)		\$ 912,500
Everglades Restoration	\$ 32,000,000	\$ 70,000,000
Beach Restoration	\$ 20,229,017	\$ 35,652,992
Total Maximum Daily Loads	\$ 9,385,000	\$ 9,385,000
Petroleum Tank Clean-up	\$125,000,000	\$135,000,000
Criminal Justice		
PB Sheriff Prevention Intervention Plan	\$ 100,000	\$ 50,000
Transportation and Eco Development		
Transportation Disadvantaged Funding	\$112,000,000	\$112,000,000
Glades Street Funding	\$ 1,000,000	
Torrey Island Master Plan Development	\$ 75,000	
Libraries	\$ 22,235,000	\$ 21,000,000
Education		
Palm Beach State College Lox Campus		\$ 5,000,000

Budget Conference Weekend Update: We are pleased to report that after the weekend's most recent conference meetings the Torrey Island Master Plan (\$75,000) and Glades Road Resurfacing projects(\$1,500,000), Library Cooperative Grant Program (\$1,500,000) and State Aid for Libraries have been funded in both the House and Senate. Beach Funding, Water Projects, Everglades, Education Facility Construction are all still on the table for discussion.

Medicaid

By: Ericks Consultants and County Staff

Senate Health Policy voted to file a committee bill that would address Medicaid cost share between counties and the state. Senator Grimsley stated that new legislation was needed to address this year's transition to the new DRG system of payment.

Last year, the Legislature passed a bill that required counties to pay for a backlog of disputed costs without reforming the flawed system that led to those disputes. The bill provides a cost to Palm Beach County of approximately \$15.5 Million. It is expected that negotiations between the House and Senate will continue on this item throughout the remainder of session.

Medicaid Expansion

By: Ericks Consultants and County Staff

A Senate committee voted to approve two different plans, one that accepts Federal dollars and one that rejects Federal dollars, to expand Medicaid coverage to uninsured Floridians. Meanwhile, a House committee approved a plan that would not accept Federal dollars and would cover significantly less people. The two chambers will have to negotiate a compromise between two factions: one that trusts the Federal government will cover the costs and one that believes the country's financial problems will prevent the Federal government from fulfilling its obligations.

Transportation Package

By: Anfield Consulting, County Staff, and The Moya Group

Department of Transportation (SB 1132/ HB 7127)

Background and status update: This 100+ page bill, which is the FDOT's overall "transportation package" of changes, touches on a large number of subjects relating to transportation, transportation authorities, and transportation development. Additional amendments were added this past week that added a number of provisions. Below are some of the highlights included in the bills:

- Mitigation for wetlands impacts of transportation projects [\[Both\]](#)
- Authorization for FDOT to maintain local roads leading to state parks to ensure park access. [\[Both\]](#)
- A requirement for FDOT approval of outdoor public information systems on water management district lands if such approval is required by federal law to ensure that such systems do not violate federal highway regulations. [\[House Version\]](#)
- Provisions for an application and permitting process for the construction of communications facilities for high-speed rail, along with legislative intent and definitions towards this purpose. [\[Both\]](#)

In the Senate amendment the following language was added:

- Allow a board of county commissioners to lease real and personal property for purposes of economic development under 125.045, F.S.
- Provide that certain local governments cannot prevent vehicular traffic in and out of a state university facility parking lot if that university facility is regulated by the Board of Governors of the State University System.
- Prohibit public transit providers from using public transit block grants to pursue strategies or actions leading to or promoting the levying of new taxes through public referendum.

- Provide exemptions from ERPs (Environmental Resource Permits) for the following:
 - Construction, operation, or maintenance of wholly owned, manmade ponds as defined in s. 403.927 constructed entirely in uplands. (This exemption does not cover connections or expansions to wetlands or other surface waters.)
 - Activities affecting wetlands created solely by the unauthorized flooding or interference with natural flow of surface water caused by an adjoining landowner. (Requests for this permit must be made within 7 years of the flooding or interference. Does not include dredge and fill activities that discharge into federal waters or wetlands.)

CS/CS/HB 7127 is now ready for floor action. **CS/SB 1132** is currently in Senate Appropriations, its last committee of reference.

Community Transportation Projects (CS/CS/SB 972 & CS/CS/CS/HB 319)

By: Anfield Consultants

These two bills would extend the requirement to use state guidelines for LOS and proportionate share to alternative, mobility fee based transportation concurrency systems “whether in the form adopted into [a] comprehensive plan prior to the effective date of the Community Planning Act” or “as subsequently modified.”

The bills also provide that a local government may accept contributions from multiple applicants for planned improvements to the system, so long as it maintains a separate account for that purpose. The provisions of this section also clarify that local governments are not required to approve a development that does not meet local comprehensive plan standards or land development regulations “for reasons other than transportation.”

Family Medical Leave Preemption

By: Ericks Consultants

The Senate Appropriations passed SB 726 by a 12-7 vote. The bill would preempt any local employee family medical leave ordinances for businesses that contract with cities and counties. The bill also sets up a task force to study the issues behind family medical leave regulation. Members who opposed the bill questioned why the state would pursue preemption before the task force begins its work and issues its recommendation. They argued unsuccessfully to change the preemption to a moratorium until the task force concludes its study. The bill is now ready for the Senate floor. The House companion is considerably broader in its preemption and makes no mention of a task force. It passed by the House two weeks ago in a 75-43 vote.

Public Meetings

By: Ericks Consultants

HB 23, which would require a member of the public be afforded a reasonable opportunity to speak before a board or commission before action is taken on a specific proposition, cleared its final House committee this week. State Affairs voted unanimously in favor the bill. The Senate companion was unanimously passed by the Senate last month.

University Concurrency

By: Ericks Consultants

The House passed HB 7149, which includes a provision that would exempt state run universities from paying impact fees to a local government for development, in a 105-12 vote. The bill includes several other provisions that are vital to education, making it difficult to oppose. The Senate companion, however, does not include the university provision.

Land Use

By: Ericks Consultants

SB 1074 and HB 1145, which would among other things require a local government to keep an inventory of all underused space, cleared their final committees are ready for the floor.

Alarm Systems

By: Ericks Consultants and County Staff

The House and Senate versions of a bill that would regulate local government installation of alarm systems passed their final committees each respective Chamber. The legislation was modeled after the program originally implemented in Palm Beach County. HB 1442/SB 973 are both ready for the floor.

Elections

By: The Moya Group and County Staff

The Senate laid SB 600 on the table this week and took up and amended HB 7113 but did not pass the bill. It will be up for a final vote in the Senate next week. Because it has been amended further, it will be sent back to the House for another vote. HB 7113 was amended to allow the Secretary of State to discipline underperforming elections supervisors. If a supervisor remained noncompliant for three years in a row, he or she could be suspended by the Governor and ultimately removed by the Legislature. The bill was also amended to allow voters in some counties to cast regular ballots even if they have moved from another county but had not officially changed their address yet. This would only apply in situations where the new county uses an electronic database to track voters. An amendment failed that would have required early voting on the Sunday before Election Day. Additionally an amendment was added that would move the ADA requirement date for system compatibility from 2016 to 2020. That provision would save Palm Beach County between \$14-\$15 million dollars over the next two fiscal years.

Campaign Finance Reform

By: Ericks Consultants

SB 1382 unanimously cleared its final Senate committee this week. The bill would eliminate CCEs, increase the number of campaign finance reports a candidate must file, and allow for surplus funds for incumbents. The House and Senate are poised to negotiate individual contribution limits. The House version raises the contribution limits, while the Senate version maintains the \$500 cap. The Governor has stated he will not support a raise on the limits.

Senate Appropriations passed SB 402, which would allow for voluntary contributions to aid homelessness. SB 402 is now ready for the Senate floor. The House already passed its companion bill.

DHSMV – Red Light Cameras

By: Ericks Consultants

The House and Senate bills that would implement the Department's legislative reforms both cleared their final committees. The House bill now contains a provision that prohibits local government from issuing traffic tickets for right-on-red turns captured by red light cameras.

Criminal Justice Commission

By: The Moya Group

SB 1042 relating to Public Meetings/Criminal Justice Commissions by Senator Abruzzo was heard on the Senate Floor for the second time this week. Senate Bill 1042 provides an exemption from public meeting requirements for that portion of a meeting of a duly constituted criminal justice commission at which specified members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the commission.

The bills companion legislation, HB 361 by Representative Kerner, has successfully passed through all of its committee references and has been placed on the Special Order Calendar to be heard on the House Floor on 4/23/13.

Animal Shelters and Control Agencies

By: The Moya Group and Ericks Consultants

SB 674, by Senator Montford, relating to Animal Shelters and Animal Control Agencies, was passed on Third Reading on last week. The House of Representatives picked up SB 674 and substituted it for the Houses companion legislation, HB 997 by Representative Cummings. The House subsequently passed the SB with unanimous support and it has been ordered Enrolled by the Senate. This bill declares legislative priorities relating to the importation and uncontrolled breeding of dogs and cats. The legislation requires that each public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivisions prepare and maintain specific records. The bill is now awaiting the Governors signature.

Value Adjustment Boards

By: The Moya Group

SB 1200 by Sen. Wilton Simpson relating to Taxation of Property has been placed on the agenda to be heard in the Senate Appropriations Committee on 4/23/13 at 9am.

The House companion, HB 1193 by Rep. Beshears has successfully passed through all of its referred committees. HB 1193 has been Placed on the Calendar for Second Reading and awaits placement on the Special Order Calendar to be heard on the House Floor.

The bills delete the authorization for a value adjustment board, upon its own motion, to review lands classified by a property appraiser as agricultural or nonagricultural. The language also removes the requirement that a property appraiser must reclassify, as nonagricultural, certain lands that have been zoned to nonagricultural use. The bill deletes the authorization for a Board of County Commissioners to reclassify as nonagricultural certain lands that are contiguous to urban or metropolitan development. Also removed is the evidentiary presumption that land is not being used primarily for bone fide agricultural purposes if it is purchased for a certain amount above its agricultural assessment. The language also deletes the authorization for a value adjustment board, upon its own motion, to review property granted or denied classification by property appraiser as historic property that is being used for commercial or certain nonprofit purposes. HB 1993 also removes the authorization for a value adjustment board, upon its own motion, to review land granted or denied high-water recharge classification by property appraiser. Finally the legislation deletes the authorization for a value adjustment board to review property tax exemptions, upon its own motion or motion of a property appraiser, and deletes certain notice requirements relating to review of such exemptions. The bill provides for retroactive application.

Homelessness

By: Ericks Consultants

Senate Appropriations passed SB 402, which would allow for voluntary contributions to aid homelessness. SB 402 is now ready for the Senate floor. The House already passed its companion bill.

Juvenile Justice Circuit Advisory Boards and Juvenile Justice County Councils

By: The Moya Group

SB 676, by Senator Evers redesignates juvenile justice circuit boards as juvenile justice circuit advisory boards. The boards will exist in each of the 20 judicial circuits. It has been placed on the Senate Special Order Calendar to be heard on the Senate Floor on 4/25/13 if received. The bills House companion, HB 617 by Representative Pilon was Read for the Third Time on the House Floor on Wednesday. The House of Representatives showed unanimous support for the measure and it is currently in Senate Messages. Palm Beach County amended language to the House bill that would allow the board members to serve an additional two-year term beyond the original proposal of two, two-year terms.

Agritourism (SB 1106 & HB 927)

By: Anfield Consulting

Background: In 2003, the Legislature passed the Agricultural Lands and Practices Act, which prohibits counties from passing ordinances regulating, prohibiting, restricting, or otherwise limiting the agricultural activities of a bona fide farm or farm operation on land classified as agricultural if those activities are already regulated by a state or federal agency. The intent of the act is to protect growers from potentially duplicative ordinances passed by local governments.

Proposed Changes: These bill(s) would expand this law to cover not just counties but any other "governmental entities" (with the clarified exception of water management districts). Under the bill's provisions, agricultural operations would only be regulated under Best Management Practices, rules, or interim measures adopted by DEP, DACS, a WMD, the US Dep. of Ag., the US Army Corps of Engineers, or EPA. Local governments would also be prohibited from charging fees on bona fide agricultural activities regulated by state or federally mandated BMPS, interim measures, or rules.

Update: On Wednesday, the House took up CS/CS/HB 203 on Second Reading and adopted a single amendment, which narrows the definition of lands for "bona fide agricultural purpose" to what is defined in s. 193.461 (3) (b) which reads as follows: "The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- g. Such other factors as may become applicable.

2. Offering property for sale does not constitute a primary use of land and may not be the basis for denying an agricultural classification if the land continues to be used

primarily for bona fide agricultural purposes while it is being offered for sale.”

The **engrossed** House bill was rolled to Third Reading. The Senate companion, **SB 1190**, is currently in Senate Appropriations, its last committee of reference.

Numeric Nutrient Criteria (CS/HB 7115 & SB 1808)

By: Anfield Consulting

This legislation amends current law to direct DEP to establish numeric nutrient criteria for remaining waterbodies in the state that were not covered under the rules approved by EPA on November 30, 2012. The bills also specifies that once EPA removes federal numeric nutrient criteria and ceases future numeric nutrient criteria rulemaking in the state, Rule 62-302.531(9), F.A.C., described above, will be removed from the Florida Administrative Code. Any additional estuary criteria adopted by DEP during 2013 would be exempted from legislative ratification.

DEP would be directed to establish specific numeric nutrient criteria for unimpaired waters (including DEP’s calculation of the current conditions of those waters) and for those estuaries and non-estuarine coastal waters without numeric nutrient criteria established by rule or final order as of the date of the report, and directs DEP to send a report to the Legislature and Governor conveying the status of establishing numeric nutrient criteria.

Update: On Tuesday, the Senate took up **CS/SB 1808** on Second Reading and rolled it to Third Reading. **CS/HB 7115** is currently on Second Reading in the House.

Tax Collector Audit Amendment

By: Foley and Lardner

An amendment to help Tax Collectors more efficiently track bed tax collections was added to SB 1828 by Senator Hukill this week. This will help counties like Palm Beach who administer bed tax collections to identify and monitor their property files to ensure that the revenue due the county is collected and properly accounted. SB 1828 has been added to the Senate Special Order Calendar and is expected to be taken up on Thursday, April 25th.

Affordable Housing Loophole

By: Foley and Lardner

SB 928 – Community Development by Senator Simpson passed the Senate Appropriations Committee this week and has been added to the Senate’s Special Order Calendar for Thursday, April 25th. The bill includes the repeal of the ad valorem exemption for specific limited liability partnerships providing affordable housing. The closing of this loophole will have a substantial positive fiscal impact on the ad valorem tax collections for Palm Beach County. The House companion bill HB 437 by Representative Daniel Davis has been placed on the House Calendar and is expected to be added to the Special Order Calendar soon.

Federal Issues

Marketplace Fairness Act

By: NACo Staff

On April 16, Majority Leader Harry Reid (D-Nev.) set the stage to bring the Marketplace Fairness Act directly to the Senate floor. NACo has long advocated for this legislation as it would give state and local governments the authority to collect already existing sales and use taxes on remote sales, which includes the growing segment of online purchases. Consideration on the floor will likely occur this week.



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Immigration bill

By: NACo Staff

On April 16, the Senate bipartisan group working on immigration reform introduced the Border Security, Economic Opportunity, and Immigration Modernization Act. While the bill does not include a state and local government impact assistance grant program to help with health and education costs, it does include several provisions that counties support.

Weekly Update

By: Becker And Poliakoff

THE HOUSE: Will consider a package of cyber security bills, including one that would provide liability protection for companies that share cyber security information with the government and each other.

Government agencies would be required to continuously monitor their computer networks and conduct regular threat assessments under H.R. 1163, updating a 2002 law known as the Federal Information Security Management Act, or FISMA. The Oversight and Government Reform Committee approved the bill by voice vote in March and the House passed similar legislation last year.

Government agencies would be directed to develop a cyber-security research and development plan under H.R. 756, authorizing \$555 million for a three-year period for National Science Foundation programs, continuing a scholarship program and requiring an assessment of the federal government's cyber security workforce. The House Science, Space and Technology Committee approved the bill by voice vote in March and the House passed similar legislation last year.

The House will also take up H.R. 624 providing liability protection to U.S. companies for sharing cyber security information with the federal government. The House Permanent Select Intelligence Committee approved the bill earlier in April by an 18-2 vote. The committee adopted an amendment to clarify that the bill would not allow companies to engage in "hacking back" against cyber attackers.