

PBC Legislative Update



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Legislative Update February 9-12th Committee Week

STATE ISSUES

DJJ DETENTION COSTS

By: Ericks Consultants

The Senate Appropriations Subcommittee on Criminal and Civil Justice heard presentations from the Governor's Office, Secretary of the Department of Juvenile Justice, the Attorney General, and representatives for the Public Defenders and State Attorneys on their Legislative budget requests. Chairman Negron expressed disapproval with six counties- including Palm Beach County- currently involved in a Juvenile Detention Cost Sharing dispute with the State. The counties are challenging the State's cost share calculations and have not paid the State's claim of the program costs as a resolution has yet to be reached. With support of other committee members, Chairman Negron threatened that the counties that do not pay the total amount of the detention cost billed to them will have the outstanding balance stricken from their appropriations requests in order to balance the budget. A suggestion was made to change the payment structure of the shared costs, moving away from monthly payments, to larger and less frequent payments.

The committee made a similar threat towards counties that have not yet implemented a Civil Citation Program to help curb recidivism among juveniles.

SOBER HOMES

By: Ericks Consultants and Ron L. Book, PA

The House Children, Families & Seniors Committee unanimously approved HB 21 by Representative Hagar that would provide for some oversight of "recovery residences." The bill, which passed out of the House with only one "no" vote last year, would instruct DCF to approve a credentialing entity to develop and administer a voluntary certification program, including background checks for recovery residence operators. The bill would require DCF to publish a list of certified residences on its website. The legislation would provide a way to protect those in recovery from unsavory business practices of some residence operators while still respecting the Federal Americans with Disabilities Act and Fair Housing Act limitations on regulation. The City of Delray Beach, Palm Beach County, the Florida League of Cities, the Florida Association of Counties, and Florida Certification Board testified in support of the bill. The Florida Association of Recovery Residences and the Florida Alcohol & Drug Abuse Association both urged the Legislators to adequately fund the program. The bill has two more committee stops before going before the full House. Its Senate companion, SB 326 by Senator Clemens, will be heard in the Senate Committee on Children, Families, and Elder Affairs on 2/19/15.

PRIVATE PROPERTY

By: Ericks Consultants

The House Civil Justice Subcommittee voted unanimously to approve a bill that would provide that settlement agreements between owners and governmental entities apply if issues are resolved via an extension of Bert Harris legislation. The bill would also codify the Koontz ruling in the U.S. Supreme Court, which would also create cause of action for damages caused by unconstitutional exaction of property in this state. Committee members were active in the discussion, expressing approval of the first portion of the bill, while being skeptical of introducing Koontz into statute. Florida League of Cities and Florida Association of Counties expressed concern over expansion of the Koontz ruling, calling it vague and unpredictable, and citing that this would expose local-level governments to frivolous suits, and subsequently could have a cooling effect on permitting. The Association of Florida Commercial Developers supports the bill, and claims that it is not a grand extension of public policy. While the committee passed the bill, multiple members stated they would like to see provisions added to protect governments from frivolous litigation. The bill is now in its second of four committees of reference. Its Senate companion has not yet been filed.

HAZARDOUS WALKING

By: Ericks Consultants

The House Local Government Affairs Committee unanimously approved a bill that would revise the process by which hazardous walking conditions for school children are identified and addressed. The bill would require local government representatives to jointly inspect potential hazardous walking conditions along with law enforcement, school district representatives, and an MPO representative if applicable. Should the group reach consensus that the conditions are hazardous, the group would provide a report in writing to the school superintendent, who would then request a statement from the responsible local government as to their plan to address the situation within a "reasonable" amount of time. The local government must then place the project into their five-year capital plan or road plan or provide a statement within the plan as to why the project could not be included. If the investigating group does not reach a consensus, the group will provide a report to the school superintendent. The school district may then decide to seek a declaratory judgment from a circuit or county court. The bill would provide protection from lawsuits brought against local governments for hazardous walking conditions, however it would also expand the definition of what can be considered hazardous. The Florida League of Cities thanked the sponsor of the bill for working with them to correct issues in the language from last year but still opposes the bill due to the burden that could be potentially imposed upon the local governments. The bill has two more committees of reference before going before the full House. Its Senate companion is scheduled in its first of four committees of reference next week.

LOW VOLTAGE ALARM SYSTEMS

By: Ericks Consultants

The House Business and Professional Regulations Subcommittee unanimously approved a bill that would reduce the maximum amount a local government may charge for permit fees for low-voltage alarm systems from \$55 to \$40. The bill would also prohibit local governments from charging any additional fees for the installation of a new or replacement of an old system. The bill also clarifies that a wireless alarm system does not require a permit. The bill has two more committees of reference before going before the full House. Its Senate companion has not yet been heard in its first of three committees of reference.

PROPERTY APPRAISERS

By: Ericks Consultants

The House Finance & Tax Committee voted unanimously to pass a bill that would clarify that the Board of County Commissioners (BCC) must fund the property appraiser's budget at the level approved by DOR, even during an administrative appeal. The BCC can only fund a lesser amount should the DOR amend its original approval. The bill has one more committee of reference in the House. Its Senate companion has not yet been heard in its first committee of reference.

VACATION RENTALS FILED IN HOUSE

By: Ericks Consultants and Ron L. Book, PA

Representative Moraitis filed a bill in the House this week to allow local governments to set a minimum stay requirement for vacation rentals of at least 7 days. HB 4009 by Representative Eagle would delete the term and definition of vacation rentals and transient apartments, from classification and regulation as public lodging establishments. At this time there is no Senate companion filed.

AFFORDABLE HOUSING

By: Ericks Consultants and Ron L. Book, PA

The Senate Appropriations Subcommittee on Tourism and Economic Development held a meeting on SHIP and SAIL, where they heard from the Florida Housing Finance Corporation as well as local SHIP administrators. While both the SHIP and SAIL programs will receive funding this year, the percentage of the State Affordable Housing Trust Fund dollars has yet to be decided. Each presenter requested a predictable funding mechanism for the programs. The Chair expressed a desire to fund SAIL on a more equal footing with SHIP than last year's allocation. During the meeting, multiple members voiced support for funding the programs, noting their effectiveness and positive economic impact. The Florida Supportive Housing Coalition suggested that the legislature amend legislation for SHIP to include Rapid Rehousing and short-term rent assist to address homelessness.

As a result of SB 586 and its method of restructuring how doc stamp money is distributed, the Florida Housing Coalition has taken the position of opposing SB 586. The bill would significantly reduce funds that go into the housing trust funds. As a result of Amendment 1 approved by voters in November, 33% of doc stamp revenues goes toward the Land Acquisition Trust Fund. The percentage is the same but the amount of doc stamp funding is lower, therefore the distributed funds to the housing trust funds will be lower.

BUSINESS TAX INCENTIVES

By: Ericks Consultants

The House Economic Affairs Committee heard a presentation by the State's head economist, Amy Baker, on research into Return On Investment (ROI) measurements for all of the State's various incentive programs. Baker offered suggestions on how to improve ROI measurements after admitting the limits of the current metrics. The Chairman expressed concern that incentives are nothing more than a well-intended attempt "to engineer something that cannot be engineered" (i.e. job creation, eliminating blight, etc.). Meanwhile, the Florida League of Cities and Florida Association of Counties is jointly developing a proposal to present before the House Economic Affairs Committee next week that we hope will be accepted as a starting point for an Enterprise Zones renewal vehicle for the House. At the Chairman's direction, the proposal will more than likely focus on individual incentive "tools" rather than a different iteration of the Enterprise Zone program. The retail industry is also working with interest parties to contribute to the movement to keep some local economic incentive program or tools in place.

ENTERTAINMENT INDUSTRY TAX CREDIT

By: Ericks Consultants and Ron L. Book, PA

The House Finance & Tax Committee held a discussion on Entertainment Industry Incentives as part of its tax reform workplan. The committee heard from a panel of industry and association representatives as well as the State's economists and other economic experts on the effectiveness of the incentives and the impact of the TV, film, and video game industries in Florida. The Chairman made clear that his desire is to re-tool the program and fund the incentives in an effective way rather than to continue to not have the incentives.

WATER AND AMENDMENT 1 FUNDING

By: Ericks Consultants

The House State Affairs Committee voted 13-5 to file its comprehensive water policy package after amending their original draft to- among other changes- include more focus on springs and allow for more regulatory flexibility. Several business and agricultural industry groups supported the bill as well as the Florida Association of Counties. Some opponents of the bill expressed concern that the policy ignored urban water issues such as rising demand on supply and septic tanks. The bill hearing is scheduled in what is currently its only committee of reference next week. The Senate will hear six bills relating to Amendment 1 funding next week, while the Senate vehicle for Amendment 1 policy implementation was just filed this week. On the appropriations side, both the House Agriculture & Natural Resources Appropriations Subcommittee and the Senate Appropriations Subcommittee on General Government heard presentations on Amendment 1.

COMMUNICATIONS SERVICES TAX

By: Ericks Consultants and Ron L. Book, PA

Governor Scott has proposed a significant cut in CST, which is the tax on cell phone and cable service, by \$470 million or approximately 3.6%. His proposal would cut more than a third of the money paid to the state in communication services taxes, which are split between local and state governments. However, the Governor has indicated that in his proposal, his plan is for the state to cover the local governments' revenue reductions, and has said, "we are going to hold [local governments] harmless."

SB 110 has been filed by Senator Hukill that cuts the CST paid by customers, and reduces the percentage of allocation of CST to the state from 63% to 54.5%, which in theory maintains the current percentage allocated to local governments. However, as the overall intake is reduced, so then is the portion that is allocated to local governments. This act would apply to taxable transactions that are dated on or after January 1, 2016. This issue is a key part of the Governor's overall tax cut package.

SB 110 will be heard next week in the Senate Committee on Communications, Energy, and Public Utilities. The House companion legislation will be part of a House Finance and Tax committee bill yet to be filed.

TEXTING AND DRIVING

By: Ericks Consultants

The House Criminal Justice Subcommittee meeting voted 9-3 to approve a bill that would allow a person proven to have been texting while driving when causing a fatal accident to be charged with vehicular homicide. Some members opposed the bill on the argument that increasing punishments, and therefore prisoners, for one distraction does not properly raise awareness on the root problem of unfocused driving. The bill sponsor noted the bill would not create any mandatory sentence minimums and the judge of each individual case would have discretion. Enforcement of the bill would only be used in the most serious

situations. The bill has one more committee of reference before going before the full House. Its Senate companion has not yet been heard in its first of four committees of reference.

MENTAL HEALTH & SUBSTANCE ABUSE

By: Ericks Consultants

The Senate Appropriations Subcommittee on Health & Human Services heard from a panel consisting of representatives from DCF, community mental health organizations, law enforcement, public defenders and the Supreme Court Task Force on Mental Health on funding and coordinating mental health and substance abuse services in the State. The panelists highlighted that investing in mental health services ultimately saves money by reducing impacts on jails, emergency rooms and social costs. Panelists also pointed out gaps in coordination of services and gave suggestions on how to improve follow up with patients. Members of the committee commented that this "could be the year" for mental health funding as the issue affects each member's district. The committee also heard testimony from a managing entity representative who called for more coordinated access to data across the various sectors that handle mental health cases.

Local Government Pension Reform

By: Ron L. Book, PA

SB 172 by Senators Bradley and Ring, regarding local government pension reform will be heard next week in the Senate Community Affairs committee, 2/17/15, at 9:00 am. The bill addresses two areas of reform: the minimum benefit accrual rate and the insurance premium tax revenues.

Health Insurance Coverage for EMS

By: Ron L. Book, PA

SB 516 by Senator Bean and cosponsored by Senator Garcia, would place restrictions on the reimbursement amount an EMS agency may receive for providing services. The bill prohibits a non-participating EMS provider from collecting an amount in excess of the amounts determined by insurance companies as is customary. EMS payments would be determined by either an insurance negotiated payment, an amount calculated under the methodology used by the insurer to determine the reimbursement amount to a nonparticipating provider for the service, reduced only by a coinsurance amount or copayment, or the amount that would have been paid under Medicare for services. This bill has not yet been heard, and has been referenced to the following committees: Banking and Insurance, Health Policy and Appropriations. HB 681 the companion bill sponsored by Representative Trujillo was filed this week.

Enterprise Zone Program Sunset

By: Ron L. Book, PA

The Florida Enterprise Zone (EZ) program set forth in statute, sunsets, or expires, in 2015. Senator Detert, Chairman of the Commerce and Tourism committee, has made it known that she would like a full revision of the program, if the program were to be extended. She has stated in past years and again recently, that she feels the program needs to expire or needs an extensive overhaul. Leadership has remained skeptical of the value of the Enterprise Zone program. Both the House and Senate have held several workshops on the program. The Florida League of Cities and Florida Association of Counties have continued to represent the benefits of the EZ programs across the state and advocate in favor of the program extension. At this time the outlook is not certain. Florida TaxWatch released its study and spoke in committee to recommend that the EZ program should continue, making changes to the

marketing strategy which should be more focused on jobs created in beginning and second stage companies, and develop a multiple tiered system that would be more suited to small and large businesses.

SB 392 sponsored by Senator Clemens substantially revises the policies and the purpose of the Florida Enterprise Zone Act; it revises the conditions under which a county and/or municipality may apply for the designation of an area as an enterprise zone; provides that the municipality or county that applies for designation of an enterprise zone has jurisdiction over the enterprise zone's administration and does extend the expiration date of the Florida Enterprise Zone Act. This bill has been referenced to four committees and has not yet been scheduled for a hearing.

Regional Planning Councils

By: Ron L. Book, PA

SB 484 filed this week by Senator Simpson, would eliminate the 11 Regional Planning Councils across the state, by eliminating duties and shifting responsibilities to local government entities. This bill would also authorize local governments to enter into agreements to create regional planning entities if they so choose.

The bill was referenced this week to the following three committees: Community Affairs; the Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations. We expect a House companion to be filed in the next week or two.

Gaming

By: Ron L. Book, PA

This week, Representative Gaetz (R) and Representative Moskowitz (D) held a joint press conference to discuss their bipartisan effort to remove requirements that greyhound tracks that hold card games, also conduct greyhound races, known as decoupling. Representative Gaetz, Chairman of the House Finance and Tax committee said that he would not support any gaming legislation coming through his committee that did not include decoupling.

FEDERAL ISSUES

PBC Awarded HIV Emergency Relief Project Grant

By: County Staff

The Palm Beach Board of County Commissioners was awarded an HIV Emergency Relief Project Grant for \$5,975,290. The grant's purpose is to enhance access to high-quality community-based care for low-income individuals and families with HIV and to strengthen strategies for reaching minority populations. "This is much welcomed funding. The bad news is that south Florida still has a high incidence of HIV/AIDS," said Congresswoman Lois Frankel. "The good news is that with proper care and access to services, persons infected with the disease can live long fulfilling lives."

Bipartisan Bill Introduced to Protect U.S. Waters from Federal Overreach

By: Becker & Poliakoff

U.S. Congressman Paul A. Gosar (AZ-04) introduced H.R. 594, the Waters of the United States Regulatory Overreach Protection Act, which garnered 114 bipartisan co-sponsors. The bill would prevent the EPA and other federal agencies from improperly expanding the Clean Water Act and seizing jurisdiction over water that is currently under control of states and private ownership.

On March 25, 2014, the EPA and the Corps of Engineers released a proposed rule that would assert Clean Water Act jurisdiction over nearly all areas with even the slightest of connections to water resources, including man-made conveyances. Congressman Gosar's bill prohibits the EPA and Corps from "developing, finalizing, adopting, implementing, applying, administering, or enforcing" the proposed rule, the agencies' interpretive rule, and any successor document, or any substantially similar proposed rule or guidance.

Water Resource Issues in the 114th Congress

By: Becker & Poliakoff

Water issues that will potentially receive attention from the 114th Congress include emergency drought or flood legislation; private and public hydropower; water research; science investment and coordination; investment in new federal and nonfederal infrastructure and reinvestment in aging dams, locks, and levees; and environmental policy. Additionally, river basins such as the Columbia River, Missouri River, and the Sacramento and San Joaquin Rivers will likely be of interest to the new Congress, due to recent water conditions, disasters, or legal or agency developments. Ongoing issues include competition over water, competitiveness and efficiency of U.S. harbors and waterways, and innovative and alternative financing approaches.

DC in Review—Week of February 9th

By: Becker & Poliakoff

THE WHITE HOUSE: Submitted to Congress an authorization for use of military force against the Islamic State terror group.

THE HOUSE: The House passed the Senate bill authorizing the construction of the \$5.4 billion Keystone XL Pipeline. The bill will be sent to President Obama who has threatened to veto it. The section of the pipeline approved by the bill would span 1,179 miles and connect oil sands fields in Alberta, Canada, to existing pipelines in Steele City, Nebraska. The White House veto threat cites the need for the State Department to finish its review.

The House voted 240-39 to pass H.R. 644, which would make permanent, certain tax deductions: donations of food inventory, tax-free donations of money from individual retirement accounts, and deductions for property donated for conservation. The excise tax on investment income of private foundations also would be reduced.

The House passed H.R. 636. Expensing rules under section 179 of the tax code would be made permanent and it would be expanded to cover rules relating to S corporations.

Also under consideration was H.R. 240, a Homeland Security appropriation bill providing \$39.7 billion to keep the Department of Homeland Security running through September. The House measure includes language that bars DHS from using funds to carry out a series of executive actions on immigration, including Deferred Action for Child Arrivals and the Nov. 20 action to prevent the deportation of millions of additional undocumented immigrants.

House Appropriations Chairman Hal Rogers began hearings on President Obama's FY 2016 budget request.

The House Judiciary's Immigration and Border Security Subcommittee held a hearing Wednesday on legislation similar to that introduced in the 113th Congress:

- H.R. 2278, to fortify the Immigration and Nationality Act's law enforcement within the U.S.
- H.R. 5143, to allow expedited removal of unaccompanied immigrant children who are not victims of a severe form of trafficking and who do not have



Palm Beach County

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Hal R. Valeche

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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

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fear of a return to their country.

- H.R. 5137, which would modify the treatment of unaccompanied children in federal custody because of their immigration status.

The House Transportation and Infrastructure Committee held a hearing on reauthorizing surface transportation programs and the effect on economic and job growth.

The House Armed Services Oversight and Investigations Subcommittee held a hearing on detainee transfers from Guantanamo.

THE SENATE: Finance Committee Chairman Orrin Hatch (R-UT), House Energy and Commerce Committee Chairman Fred Upton (R-MI) and Senator Richard Burr (R-NC) announced a plan to replace the Affordable Care Act with tax credits to help individuals buy insurance. The lawmakers said they have no immediate intention to introduce it as a bill and that the plan doesn't include cost estimates.

According to Chairman John McCain (R-AZ), the Armed Services Committee will vote to approve Ashton Carter as the new secretary of Defense, with a confirmation vote on the floor by the end of next week.

The Senate Health, Education, Labor and Pensions Committee held a hearing on the re-emergence of vaccine-preventable diseases, and senators from both parties stressed the importance of vaccinations. Sen. Rand Paul, who recently came under fire for his comments on vaccinations, did not attend the hearing. The Senate Armed Services Committee approved a bill restricting transfers of detainees from the prison at Guantanamo Bay, Cuba. The measure suspends international transfers of high and medium risk detainees, prohibits transfers of Guantanamo detainees to Yemen, extends the current prohibition on transfers to the U.S., and increases transparency regarding risk assessments of the remaining Guantanamo detainees.

UP NEXT WEEK IN TALLAHASSEE:

Pension Reform

<http://flsenate.gov/Session/Bill/2015/0172/BillText/c1/PDF>

Civil Liability of Farmers

<http://flsenate.gov/Session/Bill/2015/0158/BillText/Filed/PDF>

Agricultural Tax Exemptions

<http://flsenate.gov/Session/Bill/2015/0398/BillText/Filed/PDF>

Local Government Services

<http://flsenate.gov/Session/Bill/2015/0337/BillText/Filed/PDF>

VAB Proceedings:

<http://flsenate.gov/Session/Bill/2015/0260/BillText/Filed/PDF>

Crisis Stabilization Services

<http://flsenate.gov/Session/Bill/2015/0340/BillText/Filed/PDF>

Florida FWC Anchoring and Mooring Survey Results Presentation

Sentencing

<http://flsenate.gov/Session/Bill/2015/0115/BillText/Filed/PDF>

Emergency Fire Rescue Services & Facilities Surtax

<http://flsenate.gov/Session/Bill/2015/0209/BillText/Filed/PDF>

Communications Services Tax:

<http://flsenate.gov/Session/Bill/2015/0110/Amendment/445494/PDF>

Sober Homes

<http://flsenate.gov/Session/Bill/2015/0326/BillText/Filed/PDF>

Hazardous Walking

<http://flsenate.gov/Session/Bill/2015/0154/BillText/Filed/PDF>

FLC & FAC Rollout of Enterprise Zone proposal first draft in House Economic Affairs "Save Our Homes" Recapture discussion in House Finance & Tax