

PBC Legislative Update



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Legislative Update—2016 Session Week Six

STATE ISSUES

THE STATE BUDGET

By County Staff and Corcoran and Johnston

Lawmakers may spend the upcoming weekend beginning negotiations on the fiscal 2016-17 budget. On Thursday, House Speaker Steve Crisafulli told members there was “still a great deal to be worked out.” Crisafulli said he is hopeful the two chambers will “begin conference early next week.” The state House and Senate passed their spending plans out of their respective chambers last week.

The House voted 85-29 to approve its \$79.9 billion spending plan while the Senate voted unanimously to approve its \$81 billion budget. Both plans increase education funding and set aside money for reserves.

HOUSE ECONOMIC DEVELOPMENT PACKAGE

By Ericks Consultants

House Transportation & Economic Development approved HB 1325, the House version of the Economic Development package, a bill that would reform the State’s Quick Action Closing Fund (QAC) as requested by Governor Scott as part of his top two priorities. The package- and the differences between the House and Senate versions- plays a major role in budget negotiations after allocations and the tax package. The House bill adopted some of the Senate’s plan, but has not officially allocated the \$250 million that Governor Scott is asking for and that the Senate package allocates. While both packages change the QAC, the plans differ on return-on-investment metrics, residency requirements, and authority of the Governor to approve projects among other things. The House bill does not contain film and tv incentive reform favored by the Senate. It does contain provisions to exempt small businesses with 12 or less employees from concurrency/impact fees for three years unless overturned in a majority vote by the local government board, which is not in the Senate package. It also grants more authority to the Florida Development Finance Corporation. The Speaker fast-tracked the bill, stating he felt the House package was a good product and removing all other committee references. It is now ready to go before the full House. The Senate bill has one more committee of reference in the Senate.

SOBER HOMES

By County Staff

House Health & Human Services approved HB 823 that would set up a Pilot program within the Palm Beach County State Attorney’s office. The program would address unethical marketing and business practices implemented by sober homes and would be required to provide a report to the state on October 1st of each year the program is in place. The bill has two more committees of reference in the House.

SB 1138 (Clemens) passed its first committee, Children, Families, and Elder Affairs, unanimously during week two of session and will be on the Senate HHS Appropriations Agenda Tuesday. The bill would prohibit unethical marketing practices by substance abuse treatment providers and operators of recovery residences, such as soliciting or receiving kickbacks or bribes to secure residents, promising free rent and other perks to potential residents, and using predatory marketing. The bill has two more Committee stops: the Appropriations Subcommittee on Health and Human Services and the Appropriations Committee.

TNC – UBER BILL

By County Staff, Anfield Consulting and Ericks Consultants

Senate Appropriations voted 11-2 to approve SB 1118 that would impose insurance requirements on Transportation Network Companies. The bill would require different levels of insurance during times when the driver is providing a ride or logged in to the app but not providing a ride and all other periods of time.

When a driver is logged on a TNC's digital network or engaged in a prearranged ride, the following minimum insurance requirements apply:

- \$125,000 for death and bodily injury per person;
- \$250,000 for death and bodily injury per incident; and
- \$50,000 for property damage.

When a TNC driver is not logged on the TNC's digital network or engaged in a prearranged ride, the following minimum insurance requirements apply:

- \$25,000 for death and bodily injury per person;
- \$50,000 for death and bodily injury per incident; and
- \$10,000 for property damage.

The bill would also require notice be given to drivers that it is illegal to accept a ride not arranged through the TNC application and such rides will not be covered by insurance. Uber supporters are concerned the insurance requirements that deal with when the driver is not logged in to the system are too excessive. The bill does not go as far as the House proposal, which would preempt local control of TNCs and has lower minimum insurance requirements. The Senate bill is now ready to go before the full Senate. The House bill passed out of the House. Whether the two chambers can work out their differences will determine if the bill passes this Legislative Session.

LOCAL GOVERNMENT TAX REFERENDA

By Ericks Consultants

Senate Community Affairs voted 4-2 to approve SB 1100 that would require that a referendum for a discretionary sales surtax may only be held at a general election, a presidential preference primary election, or a primary election. The committee amended the bill to match the compromise language adopted in the House. The bill would require a 60% threshold for passage only if the election is during a Presidential primary election and allow for a majority vote threshold if the election is during a general election. The bill does not go into effect until after the 2016 elections. The House bill, HB 791, is now ready for the full House.

FRS REFORM

By Ericks Consultants

House Appropriations voted 16-9 to approve an FRS reform bill that is a priority of the Speaker. HB 7107 would make the 401k investment plan the default plan for new employees rather than the defined benefits plan. The bill also includes two provisions to appeal to the Senate: a provision that would increase death benefits to families of Special Risk Class members that die in the line of duty and a provision to correct a double-dipping glitch that discourages retired employees from seeking positions which would return them to the FRS system. Several employee unions opposed the bill and expressed concerns over the cost to reform a

system that is currently well funded and stable. The bill has a \$5.1 million appropriation from general revenue and trust funds and an estimated \$3.6 million fiscal impact on counties and municipalities for FY 2016-17. It is now before the full House.

NATURAL GAS REBATE PROGRAM

By Anfield Consulting, Ericks Consultants and County Staff

House Regulatory Affairs approved HB 285 that would allow the Department of Agriculture and Consumer Services to award excess funds in the State's natural gas fuel fleet rebate program to applicants who have already received the \$250,000 in fiscal year maximum funding. The bill gives priority to government owned fleets. Associated Industries of Florida, Florida Natural Gas and other energy industry representatives support the bill. The bill is now before the full House. The Senate passed its Senate companion last week. In the Senate version, any unencumbered funds remaining in the natural gas fuel fleet vehicle rebate program after June 30 of each fiscal year will revert to the General Revenue Fund. Associated Industries of Florida, Florida Natural Gas and other energy industry representatives support the bill.

GAMING COMPACT

By County Staff, Ericks Consultants and Corcoran & Johnston

This week Senate Regulated Industries heard the much-anticipated Gaming legislation, SB 7074 and 7072. Under the legislation that passed out of committee allows pari-mutuels to add slot machines in six counties (Brevard, Hamilton, Gadsden, Lee, Palm Beach and Washington), as well as now having the ability to decouple from live races (purse pools are provided for Thoroughbreds). Please note that the House legislation does not expand the addition of the slots, but does allow for decoupling with a much smaller amount allocated to a purse pool. The committee also shot down the inclusion of an amendment that would authorize fantasy sports due to a point of order on whether or not the language was germane by Senator Latvala. However, there was language included to the bill that authorizes the Seminole Compact allowing for fantasy sports without affecting the tribe's payment to the state. Some may say that the addition of the slots in those counties will make it more difficult for it to pass in the House, as well as the intense lobbying against decoupling and it's relation to the Seminole Tribe's Compact agreement. The Senate will now decide where the legislation goes next in its Chamber and the House will hear their legislation the week after next. The Senate Committee spent most of the time on the legislation, which did not allow for much testimony.

The House gambling bills would ratify the gaming compact negotiated by Gov. Scott and the Seminole Tribe, They would decouple greyhound tracks, allowing them to remove dog racing while adding poker and slots and further would allow slots in Palm Beach County and at a new facility in Miami-Dade.

ATTORNEYS FEES FOR PUBLIC RECORDS VIOLATIONS

By County Staff and Ericks Consultants

Senate approved SB 1220 that would give judges discretion in awarding attorneys fees in public records violations. The bill would also allow for a five-day period for the public records custodian to comply with the request and avoid legal action, the committee adopted an amendment that corrected the five-day language to avoid unintended consequences. The bill is meant to protect taxpayer dollars from a cottage industry of attorneys who profit from lawsuits over public records violations. Local governments support the bill. Several public advocacy and press organizations oppose the bill, claiming it weakens public records laws. The bill is now ready to go before the full Senate. Its House companion has one more committee of reference.

MENTAL HEALTH AND SUBSTANCE ABUSE

By Ericks Consultants

Mental Health & Substance Abuse omnibus packages (HB 7097/ SB 12) moved through their final committees of reference this week. House Health & Human Services and Senate Appropriations approved the bills unanimously. The House and Senate packages still differ significantly and are now ready to go before the full Chambers.

MILLAGE RATES

By County Staff and Anfield Consulting

Senate Finance & Tax approved SB 1222 that would change how local governments are allowed to calculate millage rates. Rather than a 10 mill cap, the bill would require local governments to adopt rates based upon actual millage levied the prior fiscal year as adjusted for change in income unless the income change is negative. Opponents argue the bill will result in unintended consequences of incentivizing a government to levy more than absolutely necessary out of fear of limiting itself too much moving forward. The Florida Association of Counties, Miami-Dade County, Broward County and the Florida League of Cities oppose the bill. The House bill has one more committee of reference, but has been postponed since last week. The Senate bill has one more committee of reference.

HB 1015 (Nunez) was temporarily postponed by the House Local & Federal Affairs Committee. The bill changes the formula for calculating the simple majority vote maximum millage rate. Instead of using a rolled back rate assuming the previous year's maximum rate was levied, the revised formula uses a rolled back rate using the prior year's *actual* levy. The formula change would reduce the simple majority maximum tax rate for most counties, cities, and special districts.

KRATOM

By Ericks Consultants

Senate Criminal Justice voted unanimously to add kratom to the list of controlled substances after adopting an amendment to make it a first-degree misdemeanor for minors to possess it or to sell to minors. SB 1182 has two more committees of reference in the Senate. The House bill, HB 73, has one more committee in the House.

MEDICAL EXAMINER

By Ericks Consultants and Corcoran & Johnston

Senate Fiscal Policy approved SB 620 that would cap fees counties can charge for state mandated medical examiner services for cremations at \$50. The committee adopted an amendment that would allow for Broward and Miami-Dade County to be capped at their current rate, above the \$50 cap on all other counties. An amendment to prohibit all fees for Veterans cremations was withdrawn, however the sponsor stated she would consider bringing back the amendment when the bill is before the full Senate when pressed by committee members. Meanwhile, a House committee adopted onto a Department of Health bill language that would prohibit all counties from charging any fees for medical examinations before cremations as well as affect death certificate service fees. Opponents contend that the fee is used to offset the costs of the mandate and is especially necessary in larger, urban counties that require a large number of cremations. The Senate bill is now before the full Senate. Its House companion that would prohibit any fee is ready to go before the full House. The Department of Health vehicle (HB 941) is before the full House as well.

PETROLEUM RESTORATION PROGRAM

By Ericks Consultants

House State Affairs unanimously passed HB 100 to reform the Abandoned Tank Restoration Program and the advanced cleanup process. The bill is now ready for the full House. Its Senate companion was passed out of the Senate last week.

BUILDING CODES

By Ericks Consultants

Senate Appropriations on General Government unanimously approved a building code reform package, HB 704 that includes provisions ranging from water heaters, swimming pools, and fire prevention code and building code administrative issues. Among the bill's many provisions, it would prohibit municipalities from denying development permits for a single family home solely due to the lot or lots not meeting the current underlying zoning dimensional standards for minimum lot size and area. It would also affect local enforcement fees for recording contracting licenses or workers compensation documents. The sponsor stated in committee that the bill would continue to change as it works through the process as several industries raised concerns with various provisions. The bill has one more committee of reference in the Senate. Its House bill has one more committee of reference in the House.

FLOOD INSURANCE

By Ericks Consultants

House Economic Affairs unanimously passed HB 929 that would have the State administer a \$50 million matching grant program for technical or financial assistance to local governments to enact flood risk reduction policies and projects. It is successor legislation from the flood insurance package passed last Session. The bill additionally would give the Florida Communities Trust authority to work on flood mitigation projects. The Florida Association of Counties, the Florida League of Cities and the Nature Conservancy support the bill. The bill is now before the full House. Its Senate companion is in its final committee of reference in the Senate.

VALUE ADJUSTMENT BOARDS

By Ericks Consultants

Senate Finance & Tax and House Appropriations approved SB 766 intended to address a backlog of VAB petitions in Miami-Dade and bring certainty to the budgets of local governments, special districts and school districts. The Florida League of Cities, Florida Association of Counties, Miami-Dade School Board and Miami-Dade County supported the bill. The Senate bill has one more committee of reference in the Senate. The House bill is now before the full House.

DISABILITY PRESUMPTION

By Ericks Consultants

Senate Governmental Oversight & Accountability unanimously approved SB 456 that would create a presumption for firefighters that cancer resulting in death or disability was suffered "in the line of duty," entitling the firefighter to line-of-duty death and disability benefits and increasing employer contributions to FRS in order to fund them. The committee adopted an amendment that removed requirements that local governments maintain records of any exposure of a firefighter employee to known carcinogens and inform firefighters of exposure within 48 hours. The amendment also limited the number of cancers to four: multiple myeloma, non-Hodgkins lymphoma, and testicular and prostate cancer. Firefighters must pass a pre-employment physical examination and, for at least five years before death or disability, be employed as a firefighter, hold no other employment associated with high levels of cancer, and be tobacco free. A special actuarial study concluded FRS contribution rates will need to be increased by 0.01% and would result in a \$300,000 annual impact to counties, not including worker's compensation claims. The League of Cities testified against the bill, calling it an unfunded mandate that should be kept at the local bargaining level. The Firefighters testified in support of the legislation and noted the University of Miami was currently working on a study

due next year that linked firefighting with cancer. The sponsor argued against local governments unwilling to care for those who get cancer from protecting their communities. The bill has one more committee stop in the Senate. Its House companion has not been heard in its first of four committees of reference and is likely dead.

RED LIGHT CAMERAS

By Ericks Consultants and Corcoran & Johnston

House Appropriations voted 15-12 to approve HB 4027 that would repeal red light camera programs in Florida by July 2019. The bill would have an estimated \$63.3 million recurring impact on local government revenue. The Florida Association of Counties, Florida League of Cities, and Florida Police Chiefs opposed the bill in committee. The bill is now before the full House. Its Senate companion has two more committees of reference in the Senate.

ANCHORING

By Ericks Consultants

Senate Environmental Preservation and Conservation voted 5-4 to approve a bill that attempts to target areas experiencing problems due to the local government preemption on anchoring and mooring. SB 1260 would make it a non-criminal infraction to anchor an hour before sunset to an hour before sunrise in designated areas throughout the state, no areas in Palm Beach County are included. The local government preemption was extended two years ago to allow FWC more time to complete a pilot project study. Rather than allow areas not within the pilot project to pass differing local bills addressing their areas, the bill seeks to provide uniform regulations for the designated areas. The committee adopted an amendment to address some concerns with the marine industry, exempting commercial vessels and providing for safe harboring, as well as remove a controversial area located in northwest Florida. Boating representatives spoke in opposition, arguing that the bill was diminishing their rights to public waterways in favor of private property owners who are uncomfortable when boaters anchor near their homes for prolonged periods of time. The bill has two more committees in the Senate. The House bill has one more committee of reference in the House.

BOATING SAFETY

By Ericks Consultants

House Transportation & Economic Development Appropriations unanimously approved a bill that would make boat owners who install certain personal location devices registered with NOAA to reduce their vehicle registration fees owed to the Department of Highway Safety and Motor Vehicles. HB 427 by Rep. Magar contains a \$5 million appropriation to offset the reduction in fees and is a key priority of the Senate President Designate. Palm Beach County testified in support of the legislation. The bill is now ready to go before the full House. The Senate bill has been in its final committee of reference, Senate Appropriations, since the first week of Session.

GROWTH MANAGEMENT

By Ericks Consultants and Corcoran & Johnston

House Economic Affairs and Senate Transportation and Economic Development Appropriations unanimously approved growth management packages. HB 1361 would add more flexibility to the DRI process. It would also reduce the acreage to qualify for sector plans from 15,000 acres to 5,000 acres and increase the size of enclaves that can be locally annexed from 10 to 110 acres. The House bill contains provisions that would require a rebuttable presumption be provided before a change must undergo the DRI process. It also contains a provision that requires local governments to consult with DOT before approving changes relating to strategic intermodal facility projects. The Senate bill, SB 1190, contains provisions that allow for counties to employ tax increment financing for economic development packages. The House bill is before the full House. The Senate bill has two committees of reference left and is scheduled for next week's agenda.



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AIRPORT ZONING

By Ericks Consultants

A bill that would affect local government zoning control of airport structures moved through two House committees and one Senate committee this week. HB 1379 is now ready for the full House. The Senate bill has two more committees of reference.

ENVIRONMENTAL CONTROL

By Ericks Consultants and Anfield Consulting

House State Affairs approved an environmental control package (HB 589) that after adopting an amendment that removed a provision that local governments must own and actively use a resource recovery center in order to set minimum flow controls and that necessity of the controls must be proven first. The bill would exempt landfill gas-to-energy from the resource recovery center definition. The bill would also expand the water quality credit program to include voluntary land set-asides and allows for variances in discharge into state waters so long as nothing violates EPA standards. The bill also sets up an account in order to fund closing and long-term care of waste management facilities. The South Florida Agriculture Association supports the bill. While there is no official fiscal estimate, DEP estimates \$1 million will be needed to close and care for five sites currently identified. The House and Senate bill each have one more committee of reference. Meanwhile, the same committee approved legislation (HB 987) that would, among other things, establish a waste management facility closure account within the Solid Waste Management Trust Fund and provide for long-term care of facilities. It would also move the tire abatement program to a grant program under the trust fund. The bills are ready to go before the full House.