

# PBC Legislative Update

MAY 11, 2011

VOLUME 5 NUMBER 14

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## **State Issues - FINAL Week of Session**

### **Session Ends Officially Ends**

**By: County Staff**

The 2011 Legislative Session officially ended in the early hours of Saturday morning with the Senate formally adjourning at 3:35am. In our early assessments and opinion, Palm Beach County had a very successful 60 days accomplishing quite a bit of our legislative agenda and preventing a significant amount of legislation contrary to the County's best interests from becoming law. We thank Chairman Joseph Abruzzo, Vice Chair Ellyn Bogdanoff and the entire Palm Beach County Legislative Delegation for their efforts this session. Below is an initial report of how our legislative priorities fared during the final week.

## **COUNTY PRIORITIES THAT PASSED**

### **Pill Mills/Prescription Drug Monitoring Program - HB 7095 by Rep. Schenck/SB 818 by Sen. Fasano**

*By: Foley & Lardner, Moya Group, Ericks Consultants, Corcoran & Johnston, and County Staff*

**HB 7095** was the final version that was passed unanimously by both the House and Senate on the last day of the 2011 Legislative Session. This legislation was a collaborative effort by many including Attorney General Pam Bondi and Governor Rick Scott, both of whom were present for the final vote in the House.

This bill makes comprehensive changes to the way pill mills are regulated and targeted. The major portion of the bill prohibits doctors from dispensing pain meds in their offices, creates new penalties for doctors who overprescribe controlled substances, and requires prescriptions to be filled at pharmacies. The bill also requires the use of the Prescription Drug Monitoring Program (PDMP) Database, which, according to the Department of Health, will become operational by the end of August 2011. The reporting requirement for the PDMP has been reduced from 15 to 7 days and requires criminal background checks of those who have access to it.

The approved version of HB 7095 contains an exemption of hospices, nursing homes, and cancer centers from the 5,000-unit cap on Schedule II and III controlled substances and modifies the pharmacy permitting process. It also includes tracking of narcotics sold by wholesalers to pharmacies and doctors, and provides for a buy-back program for doctors who return unused narcotics to distributors. Pharmacies, including those located at pain management clinics, will now operate under stringent regulations. Lastly, it provides for \$3 million in funding to local law enforcement agencies to enforce the new rules.

The bill is now headed to the Governor for his signature.

### **FRS Pensions**

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

The House and Senate made changes to FRS pension plans this session. Thank you to **Sen. Lizbeth Benacquisto** who was one of the lead negotiators in the Senate on the legislation. The table below is a summary of the major components in the bill.

<b>CS/CS/HB 1405 &amp; SB 2100</b>
<b>EMPLOYEE CONTRIBUTION</b>
Requires a 3 percent employee contribution for all FRS members. DROP participants are not required to pay employee contributions.
<b>DROP</b>
Maintains the Deferred Retirement Option Program to all participants. Changes the interest rate for DROP to 1.3% for members entering on or after 7/1/11.
<b>RETIREMENT ELIGIBILITY – AGE/YEARS OF SERVICE (CS)</b>
Increases the normal retirement date for all members initially enrolled on or after July 1, 2011:  For Special Risk: Increases the age from age 55 to 60 or from 25 to 30 years of service. For all other classes: Increases the age from 62 to 65 or from 30 to 33 years of service.
<b>COMPENSATION and AVERAGE FINAL COMPENSATION</b>
For members initially enrolled after 7/1/11, AFC means the average of the 8 highest fiscal years of compensation for creditable service prior to retirement, termination or death.
<b>VESTING</b>
Employees initially enrolled in the pension plan on or after 7/1/11, such members will vest 100% of employer contributions upon completion of 8 years of creditable service.
<b>DEFINED BENEFIT PLAN</b>
Maintains Defined Benefit plan for all employees.
<b>COLA</b>
Eliminates cost-of-living adjustments (COLA) for service earned on or after July 1, 2011. Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the expiration of COLA, the COLA formula will expire effective June 30, 2016, and the 3% cost of living adjustment will be reinstated.

### **Enterprise Zones**

*By: County Staff and Pittman Law Group*

This legislation provides authority to a governing body of a jurisdiction that nominated an application for an enterprise zone that includes a portion of the state designated as a RACEC to apply to OTTED to expand the boundary of the enterprise zone by up to 3 square miles. The intent of the bill is for the expansion to be applied to the enterprise zone in Belle Glade.

This language was included in **HB 143 relating to Tax Credits**. It was the last bill approved in the waning hours of Session – at 3:35 in the morning!

Thank you to **Reps. Steve Perman** and **Will Snyder** and **Sen. Joe Negron** for making this happen.

### **Inspector General Bill**

*By: The Pittman Law Group, the Moya Group and County Staff*

**SB828 by Sen. Bogdanoff/HB 667 by Rep. Clemens** creates an exemption from the public records requirements for information received as part of active investigations of the Inspector General on behalf of a unit of local government.

**HB667** passed the House and was substituted for **SB828** in the Senate, where it passed unanimously. The bill now moves to the Governor's office for his signature. Thank you **Sen. Bogdanoff and Rep. Clemens**.

### **Juvenile Civil Citations**

*By: County Staff*

**SB1300 by Sen. Storms/HB997 by Rep. Pilon** allows Counties to develop a civil citation program. Civil Citation Programs (CCP) and other diversion programs provide law enforcement with an alternative to taking youth into custody. Under a diversion program, a law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation assessing not more than 50 community service hours, and requiring participation in intervention services appropriate to identified needs of the juvenile. If the child fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, the law enforcement officer must issue a report alleging the child has committed a delinquent act and a juvenile probation officer must commence the intake process pursuant to s. 985.145, F.S.

The Juvenile Civil Citation legislation, **HB997**, passed the House and was substituted for **SB1300** in the Senate. It ultimately passed the Senate and now awaits action by the Governor.

### **Drug Courts**

*By: County Staff*

**SB400 by Sen. Wise/HB81 by Rep. Rouson** related to drug courts passed this week. **HB81** was laid on the table in lieu of the Senate bill, **SB400**. Both chambers passed the legislation and the bill was signed into law by the Governor on May 5<sup>th</sup>.

Post-adjudicatory drug courts are designed to divert drug-addicted offenders from the prison system by providing supervised community treatment services in lieu of incarceration. This bill expands post adjudicatory treatment-based drug court programs as a sentencing option by increasing the total number of sentencing points an offender may have accumulated and still qualify for the program, and by providing that an offender who violates his or her probation or community control for any reason may be admitted to the program.

### **BUDGET**

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

The budget was placed on members' desks on Wednesday evening and was voted out by the House and Senate just after 10:30 on Friday night largely along party lines, 79-39 in the House and 31-8 in the Senate. The 2011/12 budget amounts to \$69.67 billion, with \$23.18 billion in General Revenue and about \$46.49 billion from Trust Funds. Key programs to Palm Beach County are funded as follows:

<b>Program</b>	<b>FY 2010/11 Appropriation</b>	<b>Budget Conference Report for FY 2011/12</b>
<b>EDUCATION</b>		
Palm Beach State College - Multipurp Clsrm/Admin Bldg, site - West Central	\$19,750,000 (vetoed by Gov. Crist)	\$7,300,000

FAU Scripps Facility	\$2,000,000	\$0
<b>HEALTH AND HUMAN SERVICES</b>		
Belle Glade Senior Center	N/A	\$1,400,000
<b>NATURAL RESOURCES</b>		
Florida Forever	15,000,000	0
Northern Everglades and Estuary Protec. (DACS)		3,000,000
Northern Everglades Special Projects (DACS)		4,000,000
Everglades Restoration (DEP)	10,000,000	29,955,500
Drinking Water Revolving Loans	99,654,969	91,043,594
Wastewater Treatment Construction Facility Construction	171,580,534	164,343,724
Total Maximum Daily Loads (Grants)	6,250,000	6,385,000
Water Management District Trust Fund		15,863,535
Mosquito Control	2,166,168	1,293,368
Beach Renourishment and Restoration	15,536,535	16,251,074
<b>GENERAL GOVERNMENT – DCA, Housing</b>		
Regional Planning Councils	2,500,000	2,500,000
Community Development Block Grants	33,000,000	34,000,000
Community Services Block Grants	17,976,599	17,876,599
Home Energy Assistance	124,264,000	111,164,000
Weatherization	9,700,000	13,000,000
HFC - Affordable Housing Programs		5,000,000
Housing Finance Corporation (HFC) - Affordable Housing Programs	37,500,000	32,500,000
Housing Finance Corporation (HFC) - State Housing Initiatives Partnership (SHIP) Program	0	5,000,000
Special Election Funding	1,956,301	1,600,000
Libraries	24,046,017	24,092,039
Library Cooperatives	1,200,000	1,000,000
Historic Preservation Grants	768,250	618,250
<b>TRANSPORTATION</b>		

(21,300,000 in direct aid)

Transportation Disadvantaged Program		39,904,800
Transportation Disadvantaged - Medicaid		65,486,126 (less 4%)
<b>STATE COURTS</b>		
Traffic Hearing Officers	1,339,864	1,339,864
Drug Courts	14,483,000	12,483,000

### **Beach Renourishment**

*By: County Staff*

The House and Senate agreed to spend \$16.2 million for beaches. Those funds will cover the first 12 projects on the State's renourishment project prioritization list, an improvement over the Governor's proposal to eliminate funding. Although Palm Beach County's budget requests are not included in the top 12, funding for the City of Delray Beach's request of \$2.28 million in State matching funds for its \$14.5 million Delray Beach renourishment project has been included on the State priority list. Monitoring funds that will come to the County under this allocation are 1) North Boca: \$99,500 and 2) Ocean Riddle: \$49,203. In addition, previous allocations for Palm Beach County's Singer Island project remain allocated in the trust fund.

### **Belle Glade Senior Center**

*By: The Pittman Group and County Staff*

One of Palm Beach County's top funding priorities this year was to secure funding for a new Senior Center in the Belle Glade community. Thanks to the efforts of **Sen. Joe Negron** and **Sen. Lizbeth Benacquisto**, \$1.4 million for the Center's construction has been included in the FY2012 budget.

Constructing a new, larger Senior Center allows the existing center to be converted into the County's second Homeless Resource Center, identified as a top priority of the County's Homeless Advisory Board and the Health Care District of Palm Beach County.

### **DJJ Proviso**

*By: County Staff*

Budget proviso language passed that will:

- Create a working group of the Department of Juvenile Justice and the Florida Association of Counties to formulate recommendations to fund alternatives for locally funded and operated juvenile detention and to provide these recommendations to the Governor and the Legislature by November 1, 2011; and
- Cap the funding liability of local governments responsible for funding pre adjudication detention. It is expected that some local governments may take on the responsibility of juvenile detention on their own. Other Counties do not want to be responsible for making up the difference in the overall funding pool. The proviso language states counties that opt to remain in the Department's detention centers shall have their billings decreased by the actual reductions in cost, with an exception to fiscally constrained counties.

Thank you to **Rep. Irv Slosberg** for his efforts in conference to secure this language.

### **HHS Equity Funding**

*By: County Staff*

Our CBC Lead Agency for Palm Beach County, Children and Family Connections, saw an increase this year of \$1,366,318. The Core funding Gain of \$869,587 was based on a DCF re-calculation of recurring base and Equity Model funding. An additional \$496,731 was gained from Title IVe allocations based on the Fair Share model.

The reallocation was made on the basis of the four factors listed below. This affected only the Core Service funding and did not touch funds for independent living, maintenance adoption subsidies, protective investigations training, nonrecurring funds, mental health wrap-around or special projects.

The equity allocation calculated based on the following weights:

1. Children in poverty 30%
2. Child abuse hotline 30%
3. Children in care 30%
4. Reduction in out-of-home care 10%

Beginning this fiscal year 75% of recurring funding are based on the prior year and 25% on the equity allocation model.

### **Article V Funding**

*By: County Staff and Corcoran and Johnston*

Language was included again in section 23 of the implementing budget bill that will repeal the requirement that local governments increase Article V funding by at least 1.5 % a year.

### **Growth Management**

*By: County Staff, Florida Association of Counties Staff, and Ericks Consultants*

A major overhaul of the Growth Management Act was passed this session in HB 7207. Below are some of the main components of that legislation:

- Repeal of 9J-5
  - Minimum Standards Placed in Statute
- Eliminates financial feasibility
- CIE Simplified
  - Review / Updates Required Annually
  - Not Subject to State Review
- Eliminates transportation, school, & parks concurrency as a statewide requirement.
  - Local Option Not Preempted
- Alternative State Review Process is standard review process, with changes.
  - Renamed: "Expedited State Review Process"
  - Does not apply to ACSC, Sector Plans, RLSAs and EARs
  - State Coordinate Review Process
- Dense Urban Land Area (DULA) Eliminated
  - No longer needed for concurrency exemptions
  - Definition retained for DRI exemptions only
- Definition of Urban Service Area Changed
  - Broader / Less Rigid
- Twice / year limit on amendments eliminated
- State agencies can only comment on state resources within their jurisdiction
- State can only challenge amendment based on review agency comments
- Affected persons can challenge within 30 days
- Evaluation and Appraisal Report (EAR)

- Requires local review once every 7 years.
  - If updates are required, must notify State Land Planning Agency in writing of proposed changes.
  - Updates require plan amendments, which are subject to standard state review process
- Comments on state resources that would be adversely impacted, if not resolved, may result in challenge by State Land Planning Agency (SLPA)
  - State can only challenge amendment based on review agency comments
  - Affected persons can challenge within 30 days
  - Sector Planning
    - Removes Pilot Program & Limitations on Sector Plans
    - Establishes 15,000 Acres as minimum size
    - Does not require demonstration of need
  - Permit Extensions
    - Creates an additional 2-year extension for projects previously granted a 2-year extension in 2009 (SB 360)
    - Creates a 4-Year cap for total extensions granted and provides additional extensions above those granted in 2009 and 2010.
    - DRIs – Additional 4 years
      - Local Government Must be Notified by Dec. 31, 2011
  - Proportionate Share Mitigation
    - Attempts to clarify how formula is calculated and applied for transportation improvements.
    - Requires FDOT to conduct a study and provide a report to the Legislature by December 1, 2011
  - Century Commission Abolished on June 30, 2013

#### **DCA Reorganization**

- ▶ Creates the Department of Economic Opportunity
  - Transfers the Divisions of Community Planning and Housing and Community Development to new agency
  - Defines new agency as the State Land Planning Agency
  - State planning review functions to be under new Division of Community Development
- ▶ Division of Emergency Management (DEM) is administratively moved the Executive Office of the Governor
- ▶ Building Code Compliance transferred to DBPR
- ▶ Florida's Community Trust transferred to DEP.

#### **Airport Public Records - HB 913 by Rep. Horner/SB 994 by Sen. Latvala**

*By: County Staff*

On Thursday, April 28th, the House heard and passed HB 913 by a vote of 92-24. House Bill 913 then passed the Senate 38-1 on Tuesday, May 3<sup>rd</sup>.

This legislation provides for an exemption from public records requirements for proprietary and confidential business information submitted and held by a public airport and for any proposal or counterproposal exchange between the governing body of a public airport and a nongovernmental entity relating to the sale, use, development, or lease of airport land or airport facilities. Additionally, the bills provide for exceptions, future review and repeal and include statements of public necessity.

House Bill 913 is now headed for the Governor's desk to be signed into law.

### **Household Moving Services**

*By: County Staff*

**HB901 by Rep. Horner/SB296 by Sen. Wise** reduces regulatory requirements for intrastate moving services by requiring biennial, rather than annual, licensing registration as well as removes the local licensing registration requirements that some local governments may have. It does, however, grandfather in existing local ordinances that were in place prior to January 1, 2011. It should also be noted here that in the Legislature's larger government reorganization package a move was made to deregulate moving services. Moving services were removed from that proposed list of industries to deregulate.

HB901 passed the House 114-0. It was then sent to the Senate in Messages. It was later taken up on the Senate floor, where it passed 39-0. Its next stop will be the Governor's desk.

### **School Readiness**

*By: County Staff*

Under the government reorganization legislation that passed the Legislature, the school readiness and voluntary prekindergarten programs have been transferred to the Department of Education under the newly created Office of Early Learning. Approximately \$1.016 billion was allocated to Early Learning this year, representing a 9.7% reduction from the previous year's \$1.040 billion appropriation. The Children's Services Council of Palm Beach is still working out the numbers to see what the cuts equate to for Palm Beach County in terms of childcare spots.

### **School Nutrition**

*By: County Staff*

**HB7219** by Rep. McKeel & State Affairs Committee/**SB1312** by Sen. Siplin transfers responsibility for the School Nutrition Program from the Department of Education to the Department of Agriculture & Consumer Services. The Senate bill passed both Chambers and now awaits action by the Governor.

### **Local Bill Update**

*By: County Staff*

All of the following local bills were heard in the Senate on Monday, May 2<sup>nd</sup>, passed unanimously 39-0, and are on their way to the Governor:

#### **HB 741 by Rep. Berman – Lake Worth Drainage District**

This legislation expands the powers of the Lake Worth Drainage District by granting it the authority to enter into interlocal agreements with local governments and public and private utility providers to develop and operate water supply facilities in Southeast Florida. House Bill 741 passed the full House on Wednesday, April 27th with a unanimous vote of 117-0.

#### **HB 1045 by Rep. Clemens – Loxahatchee Groves Water Control District**

This local bill creates section 8 of the Loxahatchee Groves Water Control District's (District) charter providing for the dedication of width of four roads located within the District. House Bill 1045 passed the full House on Wednesday, April 27th with a unanimous vote of 117-0.

#### **HB 4191 by Rep. Hager – Palm Beach County**

House Bill 4191 was heard and passed the full House on Wednesday, April 20th by a unanimous vote of 115-0. This local bill was requested by the Palm Beach County

Board of County Commissioners and repeals the South Lake Worth Inlet Advisory Committee. It was determined that the advisory committee was no longer needed, as the dredging of the inlet and subsequent changes to adjacent property that included the development of a county park had been completed.

### **HB 1489 by Rep. Albritton – Sebring Airport Authority**

House Bill 1489 by Rep. Albritton creates the powers to establish, operate, and maintain foreign-trade zone (FTZ) status under the alternative site framework (ASF) in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee, and South Bay. All of the impacted counties and the Cities of Belle Glade and Pahokee have issued letters of support for their inclusion in Sebring Airport Authority's FTZ under the ASF, with the stipulation that the zone will be made available on a uniform basis to companies within the region, in a manner consistent with the legal requirement that each FTZ be operated as a public utility. The purpose of the zones is to attract and promote international trade and commerce. This legislation passed the full House by a unanimous vote of 117-0 on Wednesday, April 27<sup>th</sup>.

## **COUNTY PRIORITIES THAT DID NOT PASS**

### **TRANSPORTATION**

During the 2011 Legislative Session, many transportation issues came before the House and Senate that would affect Palm Beach County. A few of these issues were included in the Department of Transportation (HB 1363/SB 1180) and Department of Highway Safety and Motor Vehicles (HB 1353/SB 1150) packages. Unfortunately, those bills did not pass and the good issues in them died along with it. These areas include the following:

#### **1) Fuel Tax Fix - HB 1363 by Rep. Brandes/SB 1180 by Sen. Latvala**

*By: The Moya Group*

On Thursday, April 28<sup>th</sup>, the House heard and passed HB 1363 by Rep. Brandes by a vote of 116-0. The Senate, however, did not bring up HB 1363 or SB 1180 for a vote in the full Senate, and so the Department of Transportation package died. These bills, among other items, would have allowed local governments to use Local Option Fuel Tax dollars on the installation, operation, maintenance, and repair of street lights, traffic signs, traffic engineering and signalization.

#### **2) School Signs – HB 1363 by Rep. Brandes**

*By: County Staff*

Palm Beach County had established a pilot program that would allow for its school district to enter into partnerships with local businesses to display signs relating to those businesses on school district property in the unincorporated areas. The program was only effective through June 30<sup>th</sup> of this year. In HB 1363, the date of the program had been extended through June 30, 2013. However, because HB 1363 died in Messages in the Senate, this program will expire on June 30<sup>th</sup>, 2011.

#### **3) Background Screening – SB 1180 by Sen. Latvala**

Senate Bill 1180 contained legislation that provided for any governmental unit to request a background check or criminal history record information of anyone who is an applicant for licenses and for-hire vehicle driver's licenses of public vehicles. This provision died along with the bill in the Senate.

### **Energy - SB 2078 by Sen. Benacquisto/HB 7217 by Rep. Ford**

*By: County Staff*

This year's renewable energy legislation, SB 2078, died in the Senate Budget Committee. Senate Bill 2078 would have allowed investor-owned utilities to charge customers for renewable energy projects totaling \$375 million over five years. Amendments, offered by Senate Budget Chair Sen. J.D. Alexander, were adopted which removed the cost cap for new renewable projects but restricted utilities to purchasing renewable energy at the average retail electricity rate already charged to customers. Even with his amendments, Sen. Alexander spoke in opposition to the bill.

The House companion bill, HB 7217, died in the House State Affairs Committee.

### **Traumatic Brain Injury (TBI) - HB 17 by Reps. Nelson and Abruzzo/SB 138 by Sen. Bennett – Military Veterans Convicted of Criminal Offenses**

*By: County Staff*

House Bill 17 died in the House Judiciary Committee. The Senate companion bill, SB 138 by Sen. Mike Bennett, passed unanimously out of the Senate but died in Messages in the House.

This legislation would have required a judge to hold a "veteran's status hearing" before sentencing a defendant found to have committed the offense as a result of post-traumatic stress disorder (PTSD), a traumatic brain injury (TBI), substance abuse disorder, or psychological problems caused by his or her military service in a combat zone. The bill would have authorized the judge to place eligible veterans into a treatment program rather than proceed with criminal prosecution.

### **Homelessness**

*By: County Staff*

Legislation that would have created a revenue stream for homelessness services by creating an additional voluntary contribution check off item on vehicle registration forms or drivers' license applications died in Committee. **HB131** was sponsored by **Rep. Betty Reed**. The Senate companion bill, **SB 948**, was sponsored by **Sen. Tony Hill**.

### **911 Good Samaritan - HB 91 by Rep. Bernard/SB1146 by Sen. Sachs**

*By: County Staff*

The 911 Good Samaritan legislation was a top priority for Palm Beach County, especially the Sheriff's Department. The bill provides that a person who in good faith seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the person's seeking medical assistance. The bill also provides that a person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the overdose and the need for medical assistance.

The House bill, **HB91**, passed the House but died in Senate Messages. The Senate bill, **SB1146**, died in Committee.

### **Supervised Re-Entry Program for Inmates**

*By: County Staff*

**SB1334 by Sen. Bogdanoff/HB917 by Rep. Porth and SB1390 by Sen. Dockery** both contain language relating to the re-entry initiatives for offenders. The legislation provides legislative intent to encourage the Department of Corrections, to the extent possible, to place inmates in the community to perform paid employment for community work. It provides that an inmate may leave the confinement of prison to participate in a supervised reentry program in which the inmate is housed in the

community while working at paid employment or participating in other programs that are approved by the department. It does require the inmate to live at a department-approved residence while participating in the supervised reentry program.

Unfortunately, **SB1334** died on Calendar; **HB917** died in Committee; and **SB1390** died in Messages.

### **Numeric Nutrient Water Quality Criteria - HB 239 by Rep. Williams, T./SB 1490 by Sen. Evers**

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

On Thursday, April 21st, the House passed HB 239 by Rep. Trudi Williams by a vote of 90-27. The Senate companion, SB 1490 by Sen. Evers was never heard in its first committee of reference, the Senate Environmental Preservation and Conservation Committee, and therefore, and was never taken up in the Senate for a vote.

This legislation prohibits the implementation of certain nutrient water quality criteria by the Department of Environmental Protection, water management districts, and government entities. It was amended to remove the prohibition against local governments from imposing the federal numeric nutrient criteria standards. The bill also reclassifies the waterways classification system. Most environmental groups are opposed to the new system, but amendments were offered to fix objections over the Everglades.

We have been informed that Rep. Trudi Williams has been given permission to hold hearings over the summer on Water Policy Issues, so we will be following the continued discussions regarding Numeric Nutrient Criteria.

## **ISSUES OPPOSED BY THE COUNTY THAT DID NOT PASS**

### **Pre Trial Release**

*By: County Staff*

### **HB 1379 by Rep. Dorworth & SB 372/SB1398 by Sen. Bogdanoff**

Palm Beach County opposed **HB 1379 by Rep. Chris Dorworth** and **SB 372 by Sen. Ellyn Bogdanoff** relating to pretrial programs. This legislation was otherwise known as the "bail bondsmen bill." In addition to the Florida Association of Counties, law enforcement agencies also vehemently opposed the bill. It would have limited access to many pretrial programs by requiring defendants to pay for bonds when they can readily afford them and not place burdens on programs that are funded by taxpayers.

The Counties and law enforcement contend that the bill would lead to increased costs for taxpayers as more people will sit in jail because they cannot afford to pay bonds. The bill was amended to exempt low-income people who cannot afford the bonds, allow pretrial diversion to those who have been incarcerated for 48 hours, and would only apply the provision to those counties with a population of 350,000 or more.

The language from **SB 372 by Sen. Ellyn Bogdanoff** was also amended onto **SB 1398**, also sponsored by **Sen. Ellyn Bogdanoff**, relating to Judiciary. That language was also removed from the bill on the floor of the Senate.

### **Online Travel Companies**

*By: Ericks Consultants, Corcoran & Johnston*

**HB 493 and SB 376** would exempt online travel companies from paying a tax on the retail price that the customer pays to such companies and only require such companies to remit taxes on the wholesale rate it pays the hotels. This bill is opposed by Counties because the Tourist Development Tax is negatively affected by the OTCs refusing to submit such taxes on the full price of the rooms.

The bill passed the full House on Monday by a vote of 77 to 38. However, the bill was not heard by the full Senate, and died in messages.

**Red Light Cameras - HB 4087 by Reps. Corcoran and Trujillo/SB 672 by Sen. Garcia**

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

The Florida House of Representatives passed HB 4087 on Monday, May 2<sup>nd</sup> by a slim margin of 59-57; however, it was not heard in the Senate. The Senate companion, SB 672 by Sen. Garcia, was never heard in its last two committees. This legislation would have repealed the bill that passed last year that enacted the express authority for local governments to use red light cameras at traffic light intersections. This bill would prohibit the use of red light cameras across the state. Rep. Corcoran has stated that red light cameras do not save lives, rather they cause more rear end crashes due to the cameras.

An amendment by Rep. Corcoran was adopted and added to the Department of Highway Safety and Motor Vehicles package, SB 1150. Senate Bill 1150 died in returning House Messages in the Senate.

Rep. Corcoran's amendment included the following:

- Prior to installing a red-light camera at an intersection, a county or municipality must request that the Department of Transportation perform a safety hazard study for that intersection, and the county or municipality shall be responsible for the cost of the study.
- The red-light camera may not be installed until the DOT has performed the study and determined that the intersection warrants a red-light camera.
- Citations from a red-light camera may not be enforced when a driver is making a right turn on red or when a driver is making a left turn on red from a one-way street onto a one-way street.

## **ISSUES MONITORED BY THE COUNTY THAT DID NOT PASS**

### **Environmental Permitting**

*By: The Moya Group, Ericks Consultants and County Staff*

**House Bill 991 by Rep. Patronis**, relating to Permitting, was passed by the House but died without any action by the Senate, either on the Senate floor or in committees. The bill contained language supported by Palm Beach County that would have prohibited a state agency to require as a condition of approval for a permit or pending application, a permit or approval from any other local, state or federal agency if it has explicit statutory authority, and it requires expedited review of biomass plants if a local comprehensive plan does not include such. The bill required many environmental permits to be issued within 60 days as opposed to 90 days.

### **Wage Theft**

*By: County Staff*

These bills, also known as the "Florida Wage Protection Act," prohibit a county, municipality, or political subdivision of the state from adopting a wage theft ordinance or regulation that exceeds certain state and federal laws.

**SB 982 By Sen. Norman** died on Calendar. The House companion bill, **HB 241 by Rep. Goodson**, passed the House; however, the bill died in Messages.

### **Traffic Control Signals - HB 149 by Rep. Ahern/SB 1180 by Sen. Latvala**

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

House Bill 149 by Rep. Ahern passed the full House on Monday, May 2<sup>nd</sup> by a

unanimous vote of 118-0. However, neither it nor its Senate companion, SB 1180, the Department of Transportation package, was heard by the full Senate and therefore died on the last day of Session.

These bills contained provisions that would have required certain time thresholds for yellow light timing. The requirements are 3 seconds for 25 mph or less and shall increase one-half second for each increase of 5 miles per hour plus 10%. The maximum time for a yellow light is 6 seconds. The bill further rendered that any red-light camera ticket be unenforceable if the light is improperly programmed and does not consist of the required time interval pursuant to the lawful speed limit.

## **OTHER ISSUES OF IMPORTANCE THAT PASSED**

### **Film Incentives**

*By: County Staff*

Overall film incentives were increased by \$12 million; however, legislation that implements the appropriation will now restrict to 25% the amount of overall dollars that can be used for high impact television series. This will restrict the TV industries ability to fully utilize these funds to attract new television shows to the state.

### **Non-Homestead Property Assessments HB 381**

*By: Akerman Senterfit, Corcoran and Johnston, Ericks Consultants, and Foley and Lardner*

HB 381 passed on the House and Senate floor this week. The bill reduces the annual growth in assessment limitation on certain non-homestead property from ten percent to five percent upon voter approval of the amendment.

### **Property Rights (CS/SB 998 & CS/HB 701)**

*By: County Staff*

These bills provide additional legislative intent to the issues surrounding passage of the Bert Harris Act. Specifically, they would:

Restructure the definition of existing use to make it clear that the term "existing use" has two separate definitions:

(1) An actual, present use or activity on the real property, including periods of inactivity which are normally associated with, or are incidental to, the nature of the activity, or (2) Such reasonably foreseeable, non-speculative land uses which are suitable for the subject real property and compatible with adjacent land uses and which have created an existing fair market value in the property greater than the fair market value of the actual, present use or activity on the real property.

Clarify that both "inordinate burden" and "inordinately burdened" mean the same thing.

Specify that a moratorium on a development that is in effect for longer than 1 year is not a temporary impact to real property and may constitute an "inordinate burden". Change the requirement that property owners who seek compensation under the Bert Harris Act present the claim in writing to the head of the governmental entity from 180 days prior to filing an action to 150 days prior to an action (90 days for agricultural properties).

Specify that payment of compensation can be part of a settlement offer from the local government.

Clarify that enacting a law or adopting a regulation does not constitute applying the law or regulation to a property. This provision should allow property owners to sue

when the restrictions are applied to their property without being excluded by the statute of limitations even if the law or regulation was enacted more than a year before it is applied to the property.

Delete the section of the Bert Harris Act that provides for the sovereign immunity of government and replaces it with language that waives sovereign immunity for causes of action under s. 70.001, F.S. This is consistent with how the section of law was interpreted by the courts in *Royal World Metropolitan, Inc. v. City of Miami Beach*. Provide that the enactment of this bill would be applied prospectively and would not affect pending litigation.

After passing the House and Senate, the bill will now be presented to the Governor's Office for his signature.

**Fertilizers – HB 457 by Reps. Ingram and Nelson/HB 7215 by Rep. Crisafulli**

*By: Pittman Law Group and County Staff*

House Bill 457, otherwise known as the fertilizer bill, passed the House 113-0 but was not taken up by the Senate. However, the language from HB 457 was included in HB 7215, a Florida Department of Agriculture and Consumer Services bill. House Bill 7215 provides for a single, uniform state standard while allowing existing local ordinances in place before July 1, 2011 to remain in effect.

In 2009, the Legislature passed SB 494, relating to water conservation. Among its many provisions, SB 494 directed the Department of Environmental Protection (DEP) to adopt and enforce a Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes by January 15, 2010. That law encouraged adoption and enforcement of the model ordinance by local governments that are located in areas where water is impaired by certain nutrients. It also allowed local governments to adopt more stringent standards if specified criteria were met. Current law dictates that local governments that had adopted their own ordinance prior to January 1, 2009 are exempted from the provisions of SB 494, as are farm operations.

House Bill 7215 provides criteria for the future adoption of additional and more stringent local standards, including that these be part of an overall program for the control of multiple sources, science based, and that the DACS be notified of the adoption of the more stringent standards.

The revised legislation passed the House 117-0 on Monday, May 2<sup>nd</sup> and then passed the Senate 37-1 on Thursday, May 5<sup>th</sup>. HB 7215 is now on its way to the Governor for his signature.

**Open Carry Gun Law - HB 517 by Rep. Dorworth/SB 234 by Sen. Evers**

*By: Ericks Consultants and County Staff*

On Thursday, April 28<sup>th</sup>, SB 234 by Rep. Greg Evers was amended and passed the Senate 26-11. Sen. Ellyn Bogdanoff sponsored an amendment that now allows for accidental exposure of a gun to be legal as long as it is not in a threatening or intimidating manner. This legislation would no longer make it a third degree misdemeanor for those who have unintentionally exposed a concealed weapon in public. Senate Bill 234 has been drastically changed from its original version that would have made it legal to openly carry weapons.

On Wednesday, May 4<sup>th</sup>, SB 234 passed the full House by a vote of 99-17. This new, revised legislation makes it more palatable to those who were originally in opposition to the bill. Law enforcement and the Florida Retail Federation (FRF) have opposed the open carry law due to concerns relating to public safety and as a possible tourism deterrent.

Senate Bill 234 is now on its way to the Governor for his signature.

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**Constitutional Amendments**

*By: Corcoran and Johnston and County Staff*

Seven Constitutional Amendments passed this session that will be on the ballot in 2012:

**Smart cap:** If approved by voters, Senate Joint Resolution 958 will limit future growth in state revenues to a formula based on population growth and inflation. If the state collects money in excess of the cap, that money will go first to the budget stabilization fund and then to school property tax reductions. This cap includes state spending only and does not apply to local governments.

**Property taxes:** Would give first-time homebuyers a property-tax discount and lower the cap on the annual rise in assessments for non-homestead property from 10 percent to 5 percent.

**Property taxes:** Would expand a property-tax discount for veterans injured in combat.

**Abortion:** Bans the use of public dollars to pay for abortions

**Faith-based groups:** Repeals a Reconstruction-era constitutional amendment that bans using state dollars for religious purposes. Sponsor Sen. Thad Altman said it would allow the state to partner with successful church-affiliated social programs such as substance-abuse treatment. Critics say it could pave the way for use of public dollars for school vouchers.

**Health care:** Would ban mandated health care, an attempt to block President Obama's reforms.

**Courts:** Would require Senate confirmation of Supreme Court justices and give the Legislature greater power to review court rules.

**Reapportionment and Redistricting**

*By: Ericks Consultants and County Staff*

Redistricting Public Hearings will begin on June 20<sup>th</sup> in Tallahassee. Meetings in Southeast Florida will tentatively be held between August 15<sup>th</sup> and August 18<sup>th</sup>. For any additional information, you may go to [www.floridaredistricting.org](http://www.floridaredistricting.org) or [www.flsenate.gov/Committees/RE](http://www.flsenate.gov/Committees/RE).

The 2012 Legislative Session will start in January to begin the method of revising the Florida House and Senate State and Congressional district lines based upon the 2010 US Census results. In preparation of the reapportionment process, the House and Senate Redistricting Committees and Subcommittees have been meeting the past couple of weeks to listen to presentations relating to the redistricting procedure and a background on Florida Demographics and its correlation with the US Census. A tutorial was provided to members on the Redistricting Committee and respective Subcommittees on how to utilize the My District Builder website and create legislative House, Senate and Congressional districts. You can access that site by visiting the Florida Redistricting website provided above. Two House members from Palm Beach County will be represented on the Committees. Rep. Mack Bernard will serve on both the Redistricting and House Redistricting Committees. Rep. Joseph Abruzzo will serve on the Congressional redistricting Committee.