

PBC Legislative Update

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FOR PALM BEACH COUNTY
DAY - JANUARY 11, 2012**

December Update – The Last One of the Year

State Issues

Redistricting

by: Pittman Law Group and County Staff

December featured the initial release of both Florida Senate and House redistricting maps.

The Senate Reapportionment Committee voted Tuesday, December 6th, on Congressional and Senate Redistricting maps. The vote was 23-3 with seventeen Republicans and six Democrats voting in favor of the maps. The proposed Senate map provides for 5 Senate Districts within Palm Beach County. Of these five Senate Districts, three are solely within Palm Beach County. Currently, Palm Beach County contains six Senate districts with three districts having a majority of their precincts within the County. All Senate districts account for approximately 696,345 registered voters. The Senate will be voting the maps out of committee on January 11th and expect them to be up for a floor vote the following week.

The House Redistricting Committee revealed 7 Congressional maps and 5 House maps. In each of the redistricting maps, 49 districts were primarily Republican, 33 were designated as Democratic districts with 21 districts considered swing districts. However, according to analysis by staff members, based on the 2008 and 2010 elections only 15 counties would be reliable swing seats.

The five maps released appear to adhere to the Fair Districts amendments approved in 2010 as 34 created seats currently have no incumbent. Additionally, at least 24 incumbents are now pitted against each other in the maps.

Maps can be obtained by clicking on the following links:

Florida Senate proposed maps: <http://www.flsenate.gov/Session/Redistricting/>

Florida House proposed maps: <http://www.myfloridahouse.gov/Sections/Redistricting/Redistricting2012.aspx>

You can also click on: www.floridaredistricting.org for additional information.

GOVERNOR'S BUDGET

by: Pittman Law Group

In December, Governor Scott released his \$66.4 Billion Budget Recommendations for the 2012-13 fiscal year. One of the most publicized changes was Governor Scott's proposal for an additional \$1 Billion in public education spending for the 2012 calendar. In total, Governor Scott's

recommendations are \$2.9 billion dollars lower than the current year budget.

In the Governor's proposal, among the 34 state departments only eight agencies will see increases in funding from the current year budget. Among these eight entities, the Agency for Agriculture and Consumer Services saw the biggest gain with a \$1 billion increase.

In addition to those increases, Florida Forever was re-funded with approximately \$40 million funding for Florida Everglades restoration. This amount is \$29 million more than in the current budget. Additionally, \$15 million is designated for the Florida Forever conservation land-buying program. Last year this program was not funded at all.

Some of the biggest cuts were in the health care field, with the Agency for Health Care Administration having a recommended \$1.7 billion reduction in funding. Among the cuts, Medicaid, the federal-state program for the poor and the elderly in nursing homes, would take a \$2 billion reduction; \$1.7 billion comes from federal matching funds. That cut includes a \$1.8 billion reduction in reimbursements to hospitals. Medicaid currently accounts for 30 percent of the state budget.

In the \$2.9 billion decrease, the Governor intends on eliminating nearly 4,500 jobs with nearly 2,800 of these positions being eliminated from the prison system. Governor Scott also recommends that the Agency for Workforce Innovation and Community Affairs receive no funding for the 2012-13 Fiscal Year.

Gambling

by: Pittman Law Group

In December, the Senate Regulated Industries Committee conducted a workshop on Destination Resort Legislation. Economists reviewed the impact of destination resorts in Florida and estimated the State will gain \$455.7 million in additional revenue from the passage of SB 710 (Bogdanoff) and HB 487 (Fresen). However, economists stated that this revenue could fluctuate depending on any amendments to these bills.

Senator Bogdanoff stated that she plans to file an amendment that will address some of the underlying assumptions of the economic analysis. Those amendments may include increasing the scheduled license fees for the casinos from \$50 million to \$125 million each and an increase in the 10 percent tax rate on casino gaming.

After adding these amendments, Senator Bogdanoff continued stating that she would like state economists to produce a direct, indirect and induced job analysis before the bill is presented before the *Senate Regulated Industries* committee again.

Internet Sales Tax

By: County Staff

On Thursday, December 8th, the Senate Budget Subcommittee on Finance and Tax held a workshop on Sales Tax Collections by Out-of-State Retailers, otherwise known as Internet Sales Tax.

According to the Florida Senate Interim Report 2012-107, Florida state sales and use tax is imposed at a rate of 6 percent on the retail sale price of tangible personal property. However, when a purchase is made from an out-of-state retailer, it is often difficult to enforce the sales and use tax because the state must rely on the retailers to collect and remit the tax due or depend on purchasers to remit the tax themselves. Florida lacks the authority to require the seller to collect and remit the tax unless a retailer has a nexus in the state.

There are thirteen states that have passed legislation focused on out-of-state retailers and at least twelve additional states have proposed language on this issue.

Two bills have been filed this year, SB 430 by Sen. Evelyn Lynn and HB 321 by Rep. Michelle Rehwinkel Vasilinda, that would force a seller located at an out-of-state venue to impose an internet sales tax. However, at the Senate Finance and Tax meeting, Sen. Elyn Bogdanoff, Chair of this subcommittee, stated that she plans on constructing a committee bill that would make any collection of taxes revenue neutral, either by an overall drop in property or sales taxes, or by including four sales tax holidays throughout the year. This committee bill is expected to be introduced in January.

The organizations that support the upcoming proposed committee bill are Associated Industries of Florida, Florida Retail Federation and the Florida Chamber of Commerce. Retailers that have a "brick and mortar" location within the state are also supportive of the potential Internet sales tax language. A few family businesses spoke in favor of the Internet sales tax because they see the current situation as a disadvantage as compared to online businesses that don't have to enforce and remit the sales and use tax. On the other hand, online retailers such as Amazon.com would rather allow the federal government to manage the issue.

911 Good Samaritan Act - HB 125 (Bernard) / SB 278 (Sachs)

by: County Staff and Pittman Law Group

On Wednesday, December 7th, Rep. Mack Bernard's House Bill 125 passed the House Health & Human Services Access Subcommittee by a unanimous vote. Its next stop is the full House Judiciary Committee.

This 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 911 Good Samaritan Act also relates to a person who experiences a drug-related overdose and is in need of medical assistance. That person 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 Senate version of this bill is still waiting to be placed on the agenda in the Senate Criminal Justice Committee. It was temporarily postponed during the November Committee Meetings.

Environmental and Water Issues

by: County Staff

Reclaimed Water (HB639; SB1086)

The House Select Committee on Water Policy convened on Wednesday, December 7th to consider HB639 regarding "Reclaimed Water" sponsored by Representative Dana Young. Senator Rene Garcia (R-District 40) is sponsoring the identical Bill in the Senate. The Bill removes reclaimed water from consideration as a "water in the state" until it has been discharged back into state waters (e.g. aquifers, rivers, or estuaries, etc.), but does not impair or limit a water management district's authority to regulate the consumptive use of water from other sources. The Bill further requires DEP to adopt revisions to the Water Resource Implementation Rule to include criteria for the use of "impact offsets" and "substitution credits". These rules are intended to create positive opportunities for further use of reclaimed water to conserve traditional water supply sources from overuse. This Bill does not have any fiscal impact on local governments or the private sector. Supporters of the Bill included the Florida Association of Counties, the Florida League of Cities, the Florida

Chamber of Commerce, the Florida Water Environment Association – Utility Council, the American Water Works Association, the City of Tampa and Palm Beach County Water Utilities. Representatives of the Sierra Club Florida, Audubon of Florida, and the Clean Water Action spoke in opposition to the Bill. The Bill passed 14-1 in Committee and has three more committee stops before reaching the House floor.

Environmental Permits (SB602; HB373) - [SB 602 - Environmental Permits](#)

The Senate Environmental Preservation and Conservation Committee convened on Tuesday, December 6th to consider SB602 regarding “Environmental Permits”, which is sponsored by Senator Rhonda Storms (R-District 10). Representative Rich Glorioso (R-District 62) is sponsoring the identical Bill in the House. The Bill expands eligibility for entities created by special act, local ordinance, or interlocal agreement of counties or municipalities that are entitled to a permit processing fee waiver or reduction. It directs DEP to initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports and requires water management districts and the DEP to establish an urban redevelopment conceptual permitting program, specifying that urban redevelopment projects that satisfy the permit would qualify for a general permit. The Bill passed 7-0 in Committee and has three more committee stops before reaching the Senate floor.

Environmental Regulation (HB503; SB716) - [HB 503 - Environmental Regulation](#)

The House Agriculture and Natural Resources Subcommittee convened on Tuesday, December 6th to consider HB503 regarding “Environmental Regulation”, which is sponsored by Representative Jimmy Patronis (R-District 6). Senator Michael Bennett (R-District 21) is sponsoring a similar Bill in the Senate. This Bill creates, amends, and revises numerous provisions relating to development, construction, operating, and building permits, permit requirements and procedures, programmatic general permit and regional permits, and permits for specific projects. Specifically, this bill prohibits counties or municipalities from requiring as a condition of approval for a development permit that an applicant obtain a permit or approval from another state or federal agency; requires the FDEP to review an application for certain permits under the Beach and Shore Preservation Act and clarifies that process, even providing that the FDEP can issue a coastal construction permit in advance of the issuance of any incidental take authorization as provided for in the Endangered Species Act and its implementing regulations; prohibiting the FDEP from requiring certain sediment quality specification or turbidity standards as a permit condition; to reduce or waive permit fees; and reducing the amount of time the FDEP or WMD has to approve a permit from 90 to 60 days after receipt of an original application or last item of timely requested additional information.

This Bill provides that any county or municipality having a population of 400,000 or more that implements a local pollution control program regulating all or a portion of the wetlands or surface water throughout its geographic boundary must apply for delegation of state ERP authority on or before January 1, 2014. However, the Bill provides that this provision does not apply to ERP or reclamation applications for solid mineral mining or to any new solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine. Certain inland multimodal facilities are also authorized for expedited permitting. This Bill also provides for the issuance of general permits for certain surface water management systems without agency action of the FDEP or WMD (e.g. Boat ramps of certain sizes, riprap at the base of existing seawalls, etc.). Four amendments were considered and HB503 was passed favorably (13-1) as a Committee Substitute Bill with three more committee stops before reaching the House Floor.

Federal Issues

3% Withholding Tax Repeal

By: County and NACo staff

Last month, in a major victory to businesses and governments across the Country, Congress passed legislation to repeal a mandate that state and local governments withhold 3 percent from payments to their vendors for goods and services and send it to the Internal Revenue Service.

Repeal of this unfunded federal mandate has been a Palm Beach County and NACo legislative priority since 2006. The mandate was added to the final House-Senate conference version of 2006 tax legislation without any consultation with state and local government officials or their national organizations and members of Congress were not aware of the provision or what it would mean to local governments or businesses within their districts.

While the withholding mandate was enacted into law in 2006, regulations to implement it were postponed several times at our request.

Payroll Tax Cut Extension

By: Becker & Poliakoff

On December 23, the House passed a two-month extension of a payroll tax cut and funding for jobless benefits, ending weeks of conflict over the legislation. House passage, by unanimous consent, sent the bill to the Senate, which agreed earlier to clear the measure automatically upon receiving the bill from the House. President Obama signed the bill into law.

The revised measure would maintain the 4.2% Social Security payroll tax paid by employees, which was reduced from 6.2% last year, through the first two months of 2012. The bill is almost identical to a two month extension compromise that the Senate passed Dec. 17.

This final version maintains the \$18,325 cap on wages subject to the reduced tax rate to allow businesses to keep their current tax withholding systems and ignore the provision. If the payroll tax cut is not extended for a full-year, some people who have earned more than \$18,325 over two months would have to pay more to the federal government when they file their 2012 tax returns.

The bill also extends some expanded unemployment benefits and maintains current payment rates for doctors who see Medicare patients through the end of February. The Centers for Medicare and Medicaid Services had already directed its claims processing contractors to withhold payments for services rendered in the early part of January, anticipating that Congress would eventually delay the scheduled 27% payment cut.

Transportation Bill

by: Becker & Poliakoff

On Dec. 12, President Barack Obama signed a bill providing \$71.6 billion to the Transportation Department into law on November 18.

The law increases funding for highway-formula programs even though the spending will use up almost all of the money available in the Highway Trust Fund, leaving it unable to support a highway program in FY 2013 without new surface transportation authorization and a lot of additional revenue.

The Federal-Aid Highway Program allocates money mostly by formula to state

departments of transportation to spend on interstates and major state highways, bridges and roads. California, Texas and Florida received the most funding through the formula in FY 2011. The law provides \$39.9 billion in contract authority for state departments of transportation, of which \$39.1 billion is the limitation on obligations, the cap on what states can spend in FY 2012. Outside the formula, \$739 million is for federal-aid highway programs that are exempt from the cap. The agreement also provides a separate \$1.7 billion for emergency relief.

The law provides \$10.5 billion for the Federal Transit Administration, of which \$8.36 billion will be disbursed by formula and bus grant programs. The formula funding is taken from the Highway Trust Fund's transit account and is greater than the amount available in the account. The mass transit account had a closing balance of \$7.3 billion on the last day of fiscal year 2011. If that account is depleted Congress would have to find more money or the administration would have to spend less.

The law continues the Transportation Investment Generating Economic Recovery (TIGER) grant program but provides \$27 million less than the appropriation in FY 2011. Up to 35 percent of the \$500 million provided could go to TIGER grants that may also be used for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.

The agreement provided no funds for grants to transit agencies to buy energy-efficient buses.

The law provides no funding for high-speed rail and intercity passenger rail service, the only one of the five programs in which the conferees settled on the House position.

The law reduces funding for Amtrak's operating subsidies by 17 percent from FY 2011. To receive funding to cover operating losses, the passenger rail service has to provide the Transportation Department a financial analysis, along with revenue and capital expenditure projections for each route on which it seeks an operating subsidy.

FY 2012 APPROPRIATIONS

By: Alcalde & Fay and Becker & Poliakoff

In mid-December, the House approved the \$1 trillion omnibus bill, which the Senate later approved. The bill wraps nine remaining Fiscal Year (FY) 2012 appropriations bills (Energy & Water Development; Interior; Defense; Homeland Security; Labor, Health and Human Services, and Education; Legislative branch, State and Foreign Operations; Military Construction, Veterans Affairs; and Financial Services) into a year-end omnibus package.

Some of the programs funded in the bill are:

- **Environmental Protection Agency**
Funding for the EPA State Revolving Fund, which provides formula funding to states for low-interest loans and some grants to communities for local clean water and wastewater infrastructure projects.
- **Department of Labor**
Funding for the Employment and Training Administration, which provides training and employment services grants under several programs including: Workforce Investment Act (WIA); Dislocated Workers; Youth Grants; and Community-Based Job Training.
- **Department of Health and Human Services**
Funding for the Health Resources Services Administration (HRSA), which provides grants to communities and organizations to improve and expand

health care services for underserved population groups, focusing on the following program areas: Health Professions Training; Maternal and Child Health; HIV/AIDS; and local Primary Health Care/Health Centers.

- **Department of Homeland Security**

Funding for several State and local grant programs, including; the Homeland Security Grant Program (HSGP); Assistance to Firefighters Grant (AFG) Program; Emergency Operation Center (EOC) Grant Program; Interoperable Emergency Communications Grant Program; Transit Security Grant Program (TSGP); Urban Area Security Initiative, and the Pre-Disaster Mitigation (PDM) Program.

On November 19th the President signed into law, a “minibus” appropriations bill which combined the FY 2012 Agriculture, Commerce-Justice-Science, and Transportation-Housing and Urban Development Appropriations Bills.

Of specific interest, the minibus provided funding for several key programs that have proven critical to local governments.

- **Department of Justice**

A total of \$2.2 billion was included for DOJ state and local law enforcement programs, including funding for: Byrne Justice Assistance Grants - JAG (\$470 million); Juvenile Justice Safety Programs (\$262 million); Community Oriented Policing Services (COPS) grants (\$199 million); and Second Chance/Offender Reentry Programs (\$63 million).

- **Department of Transportation**

Funding was included for several key Department of Transportation programs, including: National Infrastructure Investments (TIGER) Program (\$500 million) and Federal Highway Administration (FHWA) Discretionary Programs (\$412 million).

- **Department of Housing and Urban Development**

Funding was also included for several key Department of Housing and Urban programs, including the Community Development Block Grant Program – CDBG (\$2.9 billion), Homeless Assistance Grants (\$1.9 billion), Tenant-Based Assistance -Section 8 (\$18.9 billion); Housing Opportunities for Persons with AIDS – HOPWA (\$332 million); Housing for the Elderly (\$374.6 million); and Housing for Persons with Disabilities (\$165 million).

REAUTHORIZATION OF SURFACE TRANSPORTATION LEGISLATION

By: Alcalde & Fay

On November 9th, the Senate Environment and Public Works (EPW) Committee held a markup of its proposed two-year surface transportation reauthorization legislation, Moving Ahead for Progress in the 21st Century (MAP-21). During the hearing, Chair Barbara Boxer (D-CA) reiterated that MAP-21 was a “reform bill” consolidating 90 current transportation programs into just 30. The measure does, however, continue funding at current levels (plus inflation), which is projected to protect more than 1.8 million jobs (according to DOT). Furthermore, the bill is expected create up to one million more jobs through leveraging in the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.

Ranking Member James Inhofe (R-OK) noted that a “safe, efficient, and reliable transportation system is necessary to spur economic growth and job creation. However, our nation’s transportation system faces numerous challenges that are well-documented” pointing out that MAP-21 still has a \$12 billion shortfall. Senator Inhofe committed to continuing his work with the Chairman of the Finance Committee, Senator Max Baucus (D-MT), in developing a bipartisan

funding solution, adding that "The only way this bill will move forward is if it is fiscally responsible and does not add to the deficit."

Meanwhile, on the House side, Transportation and Infrastructure (T&I) Committee Chair John Mica (R-FL) continues to push for a five-year transportation authorization bill that would cut federal surface transportation programs by 34 percent unless new sources of revenue are found. In late November, T&I staff indicated the Committee would not be marking up the House version of the Surface Transportation bill before the end on 2011. Instead, the Committee will plan to move the legislation in January or February on 2012.

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