

# PBC Legislative Update



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## **State Issues**

### **JANUARY COMMITTEE MEETINGS START**

#### **Elections Reform**

*By: County Staff*

This week, nine County Supervisors of Elections, including Palm Beach County's Susan Bucher, presented their findings and results from the past election day to both the House and Senate Ethics and Elections Committees and provided suggestions as to how to reduce the long queues and wait times at their voting locations. These suggestions included:

- Increase the early voting sites to include not only the current facilities of elections offices, libraries and city halls, but also to include community centers, civic centers, convention centers, and others.
- Expand the number of early voting days from 8 to 14. There was also discussion of allowing the Sunday prior to Election Day to be used for early voting.
- Limiting the amount of words for each constitutional amendment on the ballot. Many of the Supervisors of Elections stated a need for a 75-word maximum for each amendment.

Governor Rick Scott endorsed all of the above, as well as proposing an increase in the number of hours each early voting day from 6 to 12, and allowing Supervisors of Elections the discretion on whether or not to utilize the Sunday prior to Election Day as an early voting day. He did not, however, state specifically on whether or not the full text of the amendment should be included on the ballot, only that there should be a reduction in the length of the ballot, including the descriptions of the constitutional amendments.

#### **Pension Ruling**

*By: Ericks Consultants*

### **Florida Supreme Court Rules In Favor of Government Employee Contribution**

In a 4-3 vote, the Florida Supreme Court upheld the 3 percent pension fee levied on state, county, city and school employees this week. Governor Scott, who pushed for the contribution last legislative session, released a statement stating, "The court's ruling today supports our efforts to lower the cost of living for Florida families."

The House Governmental Operations Committee did an educational background presentation on local pension plans. Of particular interest to the Committee was the issue of re-entrance into the pension system after a withdrawal of pension funds. As presented by the Sr. Director of Finance of the State Board of Administration, roughly 70,000 individuals who withdraw pension funds are under the age of 40, typically in the form of a lump sum, and do so in an effort to further their education in graduate school. In 2010, legislation prohibited re-entrance into the pension system in an attempt to prevent double dipping, regardless of whether an individual's withdrawal

was before the legislation was effective. As a result, many young adults between the ages of 30 and 49 years old who have taken these funds are now considered retired and unable to re-enter the system. In an effort to eliminate the legislative intervention process to reinstate an employed status, which has an average cost of \$4,000 per case, this 2010 legislation is requested to be reviewed and revised.

### **Gaming**

*By: Ericks Consultants*

In the Senate Gaming Committee on Monday, there were several presentations of overviews of various aspects of gaming in Florida. Amy Baker of the Office of Economic and Demographic Research provided an economic overview of gaming. Secretary Ken Lawson of Department of Professional and Business Regulation presented on pari-mutuels. The Department of Lottery presented on the Lottery. Committee staff gave a presentation on the Seminole Compact.

Chairman Richter noted that a Request for Proposal (RFP) will be issued by the committee to conduct a study of all of the gaming activity in the state and its regulatory framework. We anticipate that there will be a lot of discussion this Session; however, no action will be taken until the results of the study come back most likely in next year's session.

### **A.G. Holley State Hospital Closure Update**

*By: County Staff*

On Wednesday, Dr. John Armstrong, Florida State Surgeon General and Secretary of Health, presented to the House Health Quality Subcommittee a report on the closure of the only Florida-owned Tuberculosis Hospital, A.G. Holley State Hospital in Lantana. The closure was mandated in last year's House Bill 1263 with a final closing date of January 1, 2013. The Department of Health contracted with alternate facilities, Jackson Memorial Hospital and Shands Jacksonville Medical Center, and transferred their remaining patients to those locations and closed the facility months before the January 1st deadline.

Due to the Department of Environmental Protection disposition process, a state owned property must go through a "surplussing" process before it can be disposed. The A.G. Holley facility must be offered to educational institutions such as state universities, community colleges and state agencies first. During the Healthy Quality meeting, Surgeon General Armstrong stated that Palm Beach State College has expressed interest in the vacated property. If the educational institutions pass on the property, then it will be offered for sale or lease to local governments, counties first and then municipalities. PBSC is currently working with the state on the lease agreement on the property.

### **Proportionate Share**

*By: County Staff*

Discussion regarding proportionate share occurred during the Senate Transportation meeting this week. There continues to be concern about the need to provide further clarity in statute regarding where responsibility lies when a property owner seeks to develop land that creates impacts on failing roads. Palm Beach County shared its language with several members of the House the week and will continue to work to try and address statutory clarification.

### **Health Care Reform**

*By: Akerman Senterfit*

Back to back health care reform meetings were held on Monday in both chambers and business owners as well as the uninsured appeared to testify and weigh in on the

various decisions that will be made in the coming months. Several physicians urged the lawmakers to expand Medicaid enrollment and a Palm Beach Gardens resident appeared to share the difficulties in insuring herself and her daughter. Both committees will continue to meet and take in public testimony before beginning to make recommendations to form into legislation. Decisions on whether or not to form a health exchange have still not been set. In regards to Medicaid Reform, the State granted five health plans. Several high profiles HMOs, including Humana, were denied agreements by AHCA.

### **Internet Sales Tax**

*By: The Moya Group*

SB 316 - Relating to Tax on Sales, Use, and Other Transactions was filed this week by Senator Detert. This legislation revises the term "mail order sale" to specifically include sales of tangible personal property ordered through the Internet. The bill states that certain persons who make mail order sales and who have a substantial nexus with this state are subject to this state's power to levy and collect the sales and use tax when they engage in certain enumerated activities. It includes language specifying that dealers are not required to collect and remit sales and use tax unless certain circumstances exist. It also creates a rebuttable presumption that a dealer is subject to the state's power to levy and collect the sales or use tax under specified circumstances.

A very similar piece of legislation filed by Senator Margolis, SB 88, was filed in November. Currently neither piece of legislation has been placed on the agenda to be heard in its first committee of reference. Currently there are no filled pieces of legislation regarding an internet sales tax in the House of Representatives.

### **Searches and Seizures**

*By: County Staff*

On Tuesday, Sen. Joe Negron presented Senate Bill 92, which creates the Freedom from Unwarranted Surveillance Act. This bill prohibits law enforcement agencies from using drones to gather evidence or other information. Any evidence that is collected in violation of this bill would be inadmissible in court. There are exemptions, however, when there are certain risks of a terrorist attack, when a law enforcement agency obtains a search warrant authorizing the use of a drone and under limited circumstances where a law enforcement agency must act on reasonable suspicion without a warrant.

This bill passed the Senate Criminal Justice Committee by a unanimous vote of 7-0.

### **Massage Establishments**

*By: Ericks Consultants*

January is Human Trafficking Awareness month. Fifteen to twenty thousand people per year are being trafficked into the United States and unfortunately Florida is one of the top 3 destinations for human trafficking. Representative Dave Kerner will be the lead on this legislation and presented the House Criminal Justice Subcommittee bill, PCB CRJS 13-01, which passed 13-0 with a couple of amendments. The legislation was presented as a way to change the professional image of massage therapy.

The language restricts hours of operation in massage establishments from 10 pm to 6 am. The workers within that establishment cannot live within that establishment unless it is zoned for residential use. The bill also allows for certain exemptions such as hotels/motels, health clubs, specific healthcare providers, hospitals, hospice, etc. Testimony was given by the Florida Massage Therapists Association. They would like to work with the committee to narrow the hours to allow for consideration for instances such as international travelers, airline pilots, theater performers, etc.

One of the most notable parts of the discussion was when Chair Matt Gaetz explained that each of their priorities will have a lead Republican and a lead Democrat assigned to that specific issue in their work plan. Representative Slosberg, the ranking Democrat on the committee, commended Chair Gaetz on this refreshing bi-partisan strategic approach.

## **Federal Issues**

### **PRESIDENT OBAMA UNVEILS EXECUTIVE ORDERS INTENDED TO REDUCE AND PREVENT GUN VIOLENCE**

On Tuesday the Obama Administration introduced several executive actions to reduce and prevent gun violence following the Sandy Hook Elementary shooting last month. The President also called on Congress to pass legislation that would curb gun related crime. As expected, the President's Executive Orders and statement was met with strong opposition from the National Rifle Association (NRA) and some members of Congress, and applauded by several Democratic lawmakers and gun control supporters. It remains to be seen what, if any, action Congress will take to introduce and pass legislation to carry out certain legislative recommendations put forth by the Administration.

### **WATER RESOURCES DEVELOPMENT ACT (WRDA) TOPS HOUSE TRANSPORTATION COMMITTEE'S 2013 AGENDA**

New chairman of the House Transportation and Infrastructure Committee, Rep. Bill Shuster (PA) indicated earlier this week that reauthorizing the Water Resources Development Act (WRDA) would be among the first tasks taken up by the committee. WRDA authorizes Army Corps of Engineers projects dealing with navigation, flood protection, and water infrastructure. The last WRDA legislation was enacted in 2007. Projects are typically authorized through an earmark, which has complicated the process since Congress instituted a ban on congressional earmarking in 2011.

A draft WRDA bill has been floated by Sen. Barbara Boxer (CA), chairman of the Environment and Public Works Committee.

### **FISCAL CLIFF AGREEMENT SUMMARY**

*By: Alcalde and Fay*

The bill, H.R. 8, the American Taxpayer Relief Act of 2012, was passed by the Senate on New Year's Eve by a vote of 89-8, with three Democrats and five Republicans voting against. The House then passed the bill by a vote of 257-167, below is a summary of notable provisions of H.R. 8.

#### *Tax Provisions*

- Permanently extends the Bush tax cuts for taxable income up to \$400,000 for individuals and \$450,000 for couples. Above those thresholds, the tax rate reverts to 39.6% from 35%.
- Permanently extends the estate tax exemption amount, but allows the maximum rate to reach 40%.
- Permanently fixes the Alternative Minimum Tax, which would otherwise have swept in an additional 33 million tax filers in 2012.
- Does not extend the two-year old "Payroll Tax Holiday," and returns social security payroll taxes to 6.2% from 4.2%.
- Raises capital gains and dividend taxes for the top tax bracket to 20% in 2013 from 15% in 2012. Maintains capital gains and dividend tax levels for all other tax brackets.

- Extends a number of modified tax credits included in the Bush tax cuts and 2009 American Recovery and Reinvestment Act, including adjustments to the child tax credit and to the Earned Income Tax Credit.
- Extends a number of business tax credits, such as bonus depreciation and capital cost recovery for small businesses.

#### *Sequestration*

- Postpones sequestration for two months to March 27, 2013, the same day that funding for the government on the current FY13 continuing resolution expires.
- Reduces FY13 sequestration levels to \$85 billion, from an estimated level of \$109 billion.
- Offsets the reduction by lowering the statutory cap on discretionary spending in FY13 (\$4 billion) and FY14 (\$8 billion), and by making it easier for individuals to transfer funds from tax-deferred retirement accounts to Roth IRAs.

#### *Other Provisions*

- Extends unemployment benefits until December 31, 2013.
- Extends the farm bill, which would otherwise have expired on January 1, until September 30, 2013.
- Blocks the implementation of scheduled reductions to Medicare payments for health care providers for 2013, otherwise known as the "doc fix."

#### **Upcoming Issues**

*By: Akerman Senterfit*

Below are what we feel will be the key issues for 2013:

#### **Debt Ceiling Extension and Sequestration**

The debt ceiling and the sequestration postponement are due to expire on or near March 1. The debate over deficit reduction will once again dominate the congressional agenda leading up to that date. Debates over these issues will intensify in mid-February as Congress approaches the deadlines that could devastate our economy if they are not met. The fight over the size and scope of government and whether there should be more or less revenue will be the principal ideological battle between both parties. The bill will continue to be negotiated, though a compromise seems difficult as the political rhetoric escalates and both sides narrow their willingness to compromise. Currently, there is no clear path to success in resolving a debt ceiling extension and a continued delay of the planned sequestration. However, a compromise will have to be found by both parties.

#### **Government Shutdown**

The federal government is currently running on a budget that expires on March 27th. The last six months of the fiscal year (ending September 30th) will have to be funded, which will require an agreement by the Republican-controlled House, Democratic-controlled Senate and President Obama. The same spending issues that have caused the partisan rifts will once again be back in the spotlight, and leading up to March 27<sup>th</sup>, there will be threats of a government shutdown if an agreement is not reached.

## **Gun Control**

Vice President Biden's White House group submitted recommendations to President Obama to deal with gun violence, mental illnesses, and school safety. The recommendations include new federal funds to strengthen school safety measures and mental illness programs, and stronger background checks for gun owners. A ban on assault weapons is also proposed. The White House recommendations will be sent to Congress where there could be legislative action taken on some of the provisions, but not early in the year. Early action will only be taken on recommendations that the President will enact through executive action. These recommendations will receive a big mention in the President's State-of-the-Union address which could feature members of the Newtown, CT community.

## **Immigration Reform**

While Congress has not passed a comprehensive immigration reforms since 1986, that could change this year. As U.S. demographic and political trends show strong gains among Hispanic populations and voters, immigration reform will be a key issue early this year. There will be efforts in Congress to address less contentious immigration reforms, but more comprehensive reforms could also be in line. Such an effort could include further penalties on employers who hire undocumented workers, a new DREAM Act, strengthened border controls, changes in the immigration process for foreign students who gain advanced degrees in the U.S., and a process to grant legal status for the 11 million immigrants in the U.S. illegally. The debate will begin early in the year and a bill could be passed by the end of the year.

## **Tax Reform**

Even though tax reform was part of the recently passed tax law averting the fiscal cliff, taxes will remain a big issue this year. The debt ceiling and sequestration issues will demand an immediate debate on deficits, and the President declared after passage of the recent tax law that any future deficit reduction efforts must include new tax revenues. As a part of this ongoing debate, the White House will continue to push for new limits on deductions and exemptions. Republicans are not yet ready to accept more tax increases, so the likelihood of quick tax reform at this point is not likely, but they will be part of the larger debate. Republicans may offer some additional and unspecified tax revenue negotiated in a subsequent comprehensive tax reform bill. Simplifying the tax code by eliminating targeted tax policies remains a goal of both parties. How the new revenue from that process is used is where the two parties will differ greatly and the real reason tax reform is so difficult. While Congress will attempt tax reform this year, it is highly unlikely that tax reform will be accomplished in this Congress.

## **Foreign Policy**

With new secretaries leading the State and Defense departments, their roles will be critical given the developments in many of the world's hotspots, including Iran, Israel, Syria, Egypt, Pakistan, the broader Middle East, North Korea, China and Japan. While most voter attention in the U.S. will be on domestic and fiscal issues, the U.S. will likely make changes with its alliances and plans in many areas. The basic theme will be U.S. restraint in shaping developments around the world. As always, any major development will quickly redirect Washington's focus and reshape the domestic policy.



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**Energy Independence**

Most Americans are excited over the potential of the U.S. becoming energy independent as a result of increased oil and gas production via new technologies, including fracking. However, there are groups with concerns over this development, including environmental groups who believe the impact from fracking on the environment and water supplies can be harmful. We will see battles between environmentalists and the energy industry over the proper regulatory management of the new production technologies, to what extent oil and gas supplies should be exported and whether federal lands holding energy deposits should be exposed to the production.

**Dodd-Frank Financial Reform**

The Dodd-Frank financial reform law will continue this year. Dodd-Frank, which has been in the process of implementation for the past two and a half years, will require over 200 new rules to be written. There will definitely be leadership changes at the Securities and Exchange Commission, Commodity Futures Trading Commission, the Labor Department, the Treasury Department and Financial Stability Oversight Council. These new leaders will play a key role in these financial regulations in the coming year. New qualified mortgage standards were released this week, and final regulations for the Volcker Rule and capital standards are expected later in the year.

**Key Dates**

President Obama's Inauguration	January 21
State of the Union Address	January 29
Debt ceiling resolution likely needed	Late February
Sequestration resumes	March 1
Government spending for the year expires	March 27