

PBC Legislative Update



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Legislative Update — August/September 2016

HURRICANE MATTHEW

Palm Beach County Legislative Affairs is grateful to all of our community, county, and governmental partners for your efforts during our close call with Hurricane Matthew. We know how hard each and every one of you worked and that made all the difference in ensuring that our county was prepared for whatever came and able to quickly return to normal after the storm passed. Thank you all so much.

FEDERAL ISSUES

FY 2017 Appropriations Update

By Alcalde & Fay

On Wednesday Congress approved a 10-week continuing resolution (CR) to fund the government beyond the end of the current fiscal year on September 30th. The measure easily cleared both chambers amidst strong bipartisan votes (72 to 26 in the Senate, 342 to 85 in the House) and was signed into law by the President on Thursday. Agreement on the final package came after several days of tense negotiations amidst the looming threat of a government shutdown. However, the CR was ultimately cleared after Congressional leadership reached a separate agreement to include an authorization of emergency funding in a separate water resources bill (outlined below), a sticking point among many Democrats in both chambers.

The short-term CR will fund the federal government through December 9th at FY 2016 funding levels, albeit with an across-the-board reduction of .496 percent in order to comply with the \$1.067 trillion discretionary spending cap. The bill also includes a full FY 2017 Military Construction-VA appropriations bill, which essentially serves as the vehicle for advancing the stopgap spending bill. The proposed CR also contains \$1.1 billion in emergency funding to combat the Zika virus (see below for additional details) and \$500 million in targeted flood and disaster relief for several states including Louisiana, Maryland and West Virginia. The disaster relief funding is recognized as an initial “down payment” to immediately assist impacted communities.

When Congress returns in November for the post-election lame duck session, they will have roughly four weeks to complete work on the remaining appropriations bills for FY 2017. Both Senate Majority Leader Mitch McConnell (R-KY) and House Speaker Paul Ryan (R-WI) have indicated that their preferred approach will be to group several funding bills into smaller packages, commonly referred to as a “Minibus”, instead of a much larger catch-all Omnibus spending bill. As a reminder, the House and Senate Appropriations Committees have approved all 12 of their respective appropriations bills; however, the full House has only passed four of the appropriations bills (Defense, Financial Services, Interior & Environment,

and Legislative branch), whereas the full Senate has only passed two of the appropriations bills (Energy & Water, and Transportation, Housing and Urban Development).

Sober Homes

By Becker & Poliakoff and County Staff

With Congress being out of session, the Joint Statement on Group Homes from the Department of Justice and the Department of Housing and Urban Development that was expected to be released by the end of August was delayed. The Statement is expected, however, to be released soon. Representative Lois Frankel's office is working with national disability groups to argue that the present situation is not beneficial to those seeking treatment and that the overconcentration of group homes is a de facto institutionalization.

Congressman Darrell Issa (CA-49) introduced HR 6070, the "Safe Recovery and Community Empowerment Act." This legislation would fix the Fair Housing Act in order to end the prohibition on state and local governments' ability to manage the exponential growth of sober living homes or their ability to ensure the facilities are providing the safe environment that is necessary for those in recovery to overcome addiction, as well as for those living in surrounding communities. Provisions in the bill would do the following:

Zoning and Licensing of Residential Recovery Facilities

- Amends the Fair Housing Act to specifically allow any local, state or federal government body to enact and enforce a zoning ordinance or other regulation that limits the number of sober homes within a particular area.

- Enables sober home zoning to be enforced only if necessary to preserve the residential character of communities and if it allows at least some sober homes to be located within a particular area.
- Prohibits overall caps on the number of sober homes in a city.

- Requires a sober home, its new owner, and its operator to obtain a license or permit to operate, meet a set of consumer protection standards, and register with the government.

Rights of Residential Recovery Facility Residents

- Requires sober homes receiving payments or reimbursements for housing or drug testing services from Medicare, Medicaid, the Affordable Care Act, or via private insurance purchase on an exchange to meet a set of standards:

- Requires sober living homes to provide residents with a safe and sober living environment that is completely free from illegal drugs, alcohol, abuse, and harm.

- Requires homes to be licensed and registered and to meet state-passed standards.

Army Corps of Engineers Earmarks

By Becker & Poliakoff

Rep. Tom Rooney recently introduced H. Res. 813, which "amends the Rules of the House of Representatives to exclude from the definition of, and moratorium on, "congressional earmarks" any provisions or report language arranging for, authorizing, or recommending a specific amount of spending authority for an expenditure with or to an entity, or targeted to a specific state, locality, or congressional district, if the language relates to an existing or proposed water resources development project of the U.S. Army Corps of Engineers."

Essentially, this would lift the earmark ban for WRDA-authorized Army Corps projects, which would be of huge benefit to cities and counties in Florida and could quickly advance Everglades, beach, and other infrastructure projects.

If successful, this could indicate that the GOP caucus may be open to an end to the overall earmark moratorium that has contributed the logjam we've seen in Congress over the past few years.

Zika Virus

By Alcalde & Fay

As referenced above, the approved CR includes \$1.1 billion in emergency funding to combat the Zika virus, with approximately \$400 million in offsets. Among the domestic funding included in the final package is the following key allocations:

- \$394 million for the Centers for Disease Control and Prevention (CDC) for mosquito control and surveillance efforts, including technical assistance for states, and international response activities. Approximately \$44 million of this is set-aside to reimburse states for Public Health Emergency Preparedness funding transferred for Zika response activities;
- \$397 million for the National Institutes of Health (NIH) and the Biomedical Advanced Research and Development Authority (BARDA) for the development of a Zika vaccine and related diagnostics; and
- \$75 million to reimburse health care provided in states and U.S. territories with active Zika transmission for those without private health insurance.

The final Zika package does not include language that would have provided a 180-day waiver from certain permitting requirements for using federally-approved pesticides, and largely avoids issues related to Zika funding used by Planned Parenthood by simply not naming the organization as a recipient (although allowing its subsidiary to receive reimbursements for related efforts in Puerto Rico).

FEMA Flood Mapping

By Alcalde & Fay

On August 22nd, FEMA issued a notice of proposed rulemaking related to the implementation of Executive Order 13690 "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input," signed by President Obama in January of 2015. The proposed regulations would effectively institute new floodplain protection standards and require construction by homeowners or companies in flood-prone areas, using federal funds, to be 2-feet above the 100-year floodplain level, or 3-feet for certain "critical action" projects (hospitals, nursing homes, etc.). Projects could also build to a 500-year floodplain level, or use the best available scientific models (including those incorporating sea level rise, climate data, etc.).

The notice of proposed rulemaking available [here](#) and is open for public comment until October 21, 2016.

Remote Sales Tax Legislation

By Alcalde & Fay

In late August, House Judiciary Committee Chairman Bob Goodlatte (R-VA) released a discussion draft of a remote sales tax bill, called the Online Sales Simplification Act (OSSA). The draft bill is the latest iteration of the Marketplace Fairness Act (MFA), or legislation that would address a loophole in the current tax code by effectively allowing state and local governments to collect sales tax on online and remote sales, which they are already owed under current law. The Chairman's bill seeks to reach a compromise between business community and state/local governments, encouraging states to join a clearinghouse for

collecting sales tax. However, the bill would move away from previous versions of the MFA by requiring states to adopt a single rate, with the seller's home state collecting sales taxes on a particular purchase, and sending those funds to the aforementioned clearinghouse. The rate would reflect the statewide rate of the buyer's home state, with base-states determined by a seller's

Goodlatte's draft bill would prod states to take part in a clearinghouse for conveying online sales tax revenue. Under the plan, the seller's home state would collect sales taxes on an online purchase, based on the single statewide rate of the buyer's home state. The seller's home state (and the sourcing for the transaction) would be determined by where the seller is headquartered (physical presence) and has the largest number of employees. Funds would then be sent to the state clearinghouse for distribution. The bill does have holes that the Chairman is reportedly working on completing in the coming days and weeks. While the proposal has garnered some pushback from some local government advocacy groups, the Chairman's draft bill was recently supported by a coalition of 107 internet and direct-mail businesses and advocacy groups.

WRDA Reauthorization

By Alcalde & Fay

On Wednesday, the House approved comprehensive legislation, the Water Resources Development Act (WRDA) of 2016 to address the needs of America's harbors, locks, dams, flood protection, and other water resources infrastructure.

The bipartisan legislation, H.R. 5303, introduced by House Transportation & Infrastructure Chairman Bill Shuster (R-PA), passed the House by a vote of 399 to 25 and authorizes infrastructure improvements that have been proposed at the local level, reviewed by the Corps according to strict congressionally established criteria, and submitted to Congress for consideration. WRDA 2016 contains no earmarks, maintains the strong bipartisan reforms included in the Water Resources Reform and Development Act of 2014, and adheres to the new transparent process established in that law for congressional review of proposed Corps of Engineers water resources development activities.

Notably, the measure authorizes more than \$9 billion in federal funding for 31 Chief's Reports and 29 feasibility studies, as well as increases flexibility and removes barriers for state, local, and non-federal interests to invest in infrastructure. Included in this funding is \$170 million for infrastructure improvements for communities such as Flint, Michigan with public health emergencies due to contaminated drinking water. These investments are fully offset by deauthorizations, and the bill sunsets new authorizations to help prevent future project backlogs.

The bill will now be conferenced with the Senate version, which we expect to be approved before the end of the year. Additional information, including bill text and summaries can be found [here](#).

Overtime Rule

By Alcalde & Fay

As you may recall, in 2014 the Obama administration began an effort to update the rules surrounding federal wage and hour standards. As part of that effort, [the Department of Labor released a proposal](#) that would more than double the salary threshold under which employees qualify for overtime pay. Concerns have been raised that without congressional action, drastic changes to federal overtime policies will take effect on December 1, 2016 that will stifle workplace flexibility and opportunity, impose significant burdens on small businesses, jeopardize crucial nonprofit services, and increase the cost of higher education.

As part of his continued efforts against the rule, House Workforce Protections Subcommittee Chairman Tim Walberg (R-MI) introduced legislation, the Regulatory Relief for Small Businesses, Schools, and Nonprofits Act (H.R. 6094), to require a six-month delay in the effective date of the new overtime rule. If approved, the delay would provide employers, small businesses, nonprofits, and colleges and universities more time to prepare for dramatic changes resulting from the department's final rule.

This measure follows earlier legislation ([H.R. 4773](#)) filed by Rep. Walberg that would ensure the Administration pursued a more balanced and responsible approach to updating federal overtime rules. That bill, required the Department to fully and accurately consider the economic impact of the rule on small businesses, nonprofits, and colleges and universities when promulgating final rules.

Additional information on the bill, including text and summaries can be found [here](#).

Affordable Housing Credit Bill

By County Staff

On July 15 Senator Maria Cantwell (D-WA) and Senate Finance Committee Chairman Orrin Hatch (R-UT) introduced the Affordable Housing Credit Improvement Act of 2016 ([S. 3237](#)), a comprehensive bill to expand and strengthen the Housing Credit. More importantly, there is a provision that would help homeless college students acquire housing through an incentive.

NACo Update

By County Staff

Mayor Mary Lou Berger states, "This year's NACo Annual Conference in Long Beach was the best one that I have attended. Renewing friendships, exchanging ideas and discussing important issues with County Commissioners from all over the country reminds me that we are not alone in our efforts to provide the best service to our constituents. My most memorable moment was seeing my first Pokémon!"

Grant Update

By Alcalde & Fay

We wanted to let you know that the Department of Homeland Security has announced that it has begun accepting applications under the [FY 2016 FEMA Assistance to Firefighters Grant \(AFG\) Program](#).

AFG funding is awarded to help firefighters and other first responders obtain critically needed equipment, protective gear, emergency vehicles, training and other resources needed to protect the public and emergency personnel from fire and related hazards. Approximately \$310 million has been made available under this year's program for up to 2,500 awards. The application deadline is **Friday, November 18**. Additional program information and application materials can be found [here](#), or by contacting the AFG Help Desk at (866) 274-0960 or by email at FireGrants@fema.dhs.gov.

Election Update

By County Staff

In the Republican primary for the United States Senate, Senator Marco Rubio defeated businessman Carlos Beruff, while in the Democratic primary Congressman Patrick Murphy defeated Congressman Alan Grayson. The two will now face each other in November's general election.

In the race to replace Congressman Murphy, businessman Randy Perkins won the Democratic nomination, while Iraq war veteran Brian Mast won the Republican, defeating five other opponents including Rebecca Negron, wife of incoming state senate president Joe Negron. Perkins and Mast will face each other in the general election.

STATE ISSUES

Zika Virus

By County Staff

Florida House leaders asked federal officials to approve the release of genetically modified mosquitoes in the state to help reduce the spread of Zika. Incoming House Speaker Richard Corcoran and incoming Democratic House Leader Rep. Janet Cruz sent a letter to Secretary Sylvia Burwell of the U.S. Department of Health and Human Services. Fifty-nine other House members from both parties signed the letter. Local members include Reps. MaryLynn Magar, Bill Hager, Lori Berman, and Kevin Rader.

Furthermore, Governor Scott announced that Florida will authorize \$25 million in state funds to support research efforts in development of a Zika vaccine and to bolster testing for the virus.

Economic Incentives

By County Staff

Governor Scott has announced that he will seek \$85 million for economic incentives from the state legislature in the 2017 session. Incoming House Speaker Richard Corcoran has reiterated his opposition to incentive funding. Last year, the Legislature rejected Scott's efforts to fund economic incentives at \$250 million.

Synthetic Drugs

By County Staff

Attorney General Pam Bondi announced an emergency rule that would ban the synthetic drug U-47700, the cause of several deaths in the state. Most often, the drug is found in powder or granular form but may also be found in a pill resembling a prescription drug, liquid form, or a nasal spray.

New Legislation

By County Staff

The following laws took effect October 1:

SB 436, the Public Servant Protection Act, criminalizes threats of death or serious bodily injury against law enforcement officers, state attorneys, firefighters, judges, elected officials, and the families of these public servants.

HB 387, "Carl's Law," increases civil and criminal penalties for anyone who attacks or harms people with disabilities. Carl Stark, a 36-year-old autistic man from Saint Augustine, was shot and killed in 2015 after being targeted by a group of teenagers looking to steal a car.

SB 218 would, in part, make it a first-degree misdemeanor to have two or more electronic benefit transfer cards, or EBT cards, and sell or attempt to sell one of the cards. A second offense would be a third-degree felony. The law is aimed at reducing trafficking in EBT cards.

HB 545 prohibits people under 18 from being prosecuted for prostitution and makes clear that sexually exploiting a child in prostitution should be viewed as human trafficking. The measure also stiffens the penalty for people who knowingly rent space used for prostitution.

HB 75 expands laws already on the books when it comes to electronic monitoring devices. As of October 1, it is a third-degree felony to ask another person to remove a device or help someone dodge surveillance when required to wear or use a monitoring device.

SB 912 cracks down on illegal electronic skimmers that are found at Florida gas stations and on ATM machines. The measure increases the penalties for people who are caught with counterfeit credit card information. The proposal also requires gas station owners and managers to up their security measures on self-service fuel pumps.

SB 1470 revises rules dealing with stone crab and spiny lobster traps. The law makes it clear that anyone with fewer than 100 undersized spiny lobsters may face a misdemeanor violation for each lobster. Anyone with more than 100 undersized spiny lobsters faces third-degree felony charges.

Insurance Fraud

By County Staff

Chief Financial Officer Jeff Atwater released an update on the structural changes his office is undergoing to strengthen the fight against insurance fraud. It can be read in its entirety here: http://www.myfloridacfo.com/pressoffice/newsletter/2016/072016/July_2016.aspx

Election Update

By County Staff

David Silvers and Al Jacquet have been officially elected to the Florida House of Representatives.

LOCAL ISSUES

Appointments

By County Staff

Commissioner Melissa McKinlay has been appointed by the new President of the National Association of Counties, Bryan Desloge, to serve as a Vice-Chair of the Agriculture & Rural Affairs Policy Steering Committee. She has also been appointed by the Florida Association of Counties' Board of Directors to serve on the 2017-2018 Constitution Revision Commission.

Daliah H. Weiss (Wellington), and Cymonie S. Rowe (Boca Raton) have been appointed by Gov. Rick Scott as judges in the 15th Judicial Circuit, which includes Palm Beach County. Weiss has been a county judge since 2012. Rowe is a senior trial attorney for Liberty Mutual.

Michelle Andrewin has been appointed by Department of Management Services Secretary Chad Poppell to the Florida Advisory Council on Small and Minority Business Development.

Donte Mickens has been appointed by Gov. Scott to the Florida Rehabilitation Council

Election Update

By County Staff

Mack Bernard has been officially elected to the Board of County Commissioners for District 7.

BCC Briefs

By County Staff

At the September 27, 2016, Board of County Commissioners meeting, the board took the following action:

Animal Care & Control – adopted a series of amendments to the county’s Animal Care & Control ordinance. Effective October 1, commercial operating permits will not be issued to new pet stores and pet dealers selling dogs and cats. Eight existing permitted operators in good standing will be grandfathered in, as long as the animals they sell are obtained from USDA-licensed breeders, dealers and transporters that have no record of animal cruelty or neglect. A permit may be revoked if an operator is cited for two major violations in a five-year period. Major violations include failing to vaccinate an animal for sale, falsifying records, and failing to isolate sick animals. The new rules apply countywide, but individual municipalities may opt out. The board also approved one new full-time Animal Care & Control officer II position.

Baseball – approved a sports development program agreement with the Florida Department of Economic Opportunity setting forth the terms by which the state will pay the county \$50 million over a period of 25 years to pay a portion of the debt service on bonds issued for construction of the Ballpark of the Palm Beaches.

SELF – approved an agreement with Solar Energy Loan Fund of St. Lucie County (SELF) to provide energy efficiency retrofit loans to low and moderate-income homeowners in Palm Beach County. SELF partners with the Green Veterans to provide on-the-job training in collaboration with Palm Beach State College and participating contractors including but not limited to Gold Coast Builders, the AFL-CIO and other apprenticeship programs.

Lantana Square – adopted a resolution approving a developer’s request for a brownfield area designation for construction of a retail center to be known as Lantana Square. No county funds are required for implementation.

BDB – approved a five-year agreement with the Business Development Board of Palm Beach County (BDB) in the aggregate amount of \$7.157 million for business recruitment, expansion and retention services and general marketing of the county.

Project Cranium – conceptually approved an economic development incentive grant in the amount of \$89,000 over eight years for Project Cranium to expand its operations in Riviera Beach and relocate its regional headquarters. The company plans to invest \$11.9 million and create 178 new jobs over a five-year period at an annual average wage of \$53,484 and retain 255 existing jobs. The five-year estimated local economic impact is \$342 million.

Lifeguards – discussed current policy related to qualifications for Ocean Rescue lifeguards.

EMT-certified lifeguards are seeking special-risk pay status with the Florida Retirement System. Staff was directed to bring back a report on comparable wages, required versus voluntary training, and a rewrite of job descriptions for ocean and pool lifeguards.

Roads – agreed to not allow contractors to perform any county road construction work during the first week of a new school year when the project area is in the immediate vicinity of a school.

Vehicles for hire – approved an amendment to the county’s vehicle-for-hire ordinance with regard to reciprocity for vehicle-for-hire companies operating in neighboring counties.

Child Care – sitting as the Child Care Facilities Board, commissioners approved a series of changes to the rules and regulations governing family daycare facilities as recommended by the Child Care Advisory Council and the Florida Department of Health.

Administration – recognized and thanked Assistant County Administrator Shannon R. LaRocque for her 11 years of service with the county. Ms. LaRocque is leaving to become the utilities director for the Village of Wellington.

At the August 16, 2016, Board of County Commissioners meeting, the board took the following action:

Airports – authorized the issuance of the Palm Beach International Airport Series 2016 revenue refunding bond through a competitive negotiated bid process awarded to Raymond James. The refunding resulted in net present value savings of \$15.63 million in debt service over the life of the bonds.

Herbert Hoover Dike – adopted a resolution urging Congress to provide the necessary funding to complete rehabilitation of the Herbert Hoover Dike and urging the US Army Corps of Engineers to expedite its repairs to ensure the public health, safety and welfare of cities surrounding Lake Okeechobee and the Army Corps’ ability to manage lake water levels so as to significantly reduce impacts to coastal estuaries.

Homeless services – approved a budget transfer of \$950,000 from the general fund contingency and authorized the county administrator to serve as the Adopt-A-Family nominee and to execute a contract for the purchase of four properties, including 19 apartment units, owned by the Center for Family Services to continue operations of an emergency homeless shelter. The purchase is contingent upon satisfactory completion of appraisals and standard due diligence.

Financially Assisted Agencies – approved FY-2017 allocations for the Financially Assisted Agencies (FAA) program totaling \$12.13 million. Program services include domestic abuse/sheltering, homelessness, behavioral health, special needs/developmental disability, economic stability/poverty and senior services.

Roads – approved mid-year amendments to the five-year road program with one change from the preliminary approval in July: delaying the Jog Road intersection project for a year. The board also adopted a resolution abandoning of a portion of the unimproved right of way of S. Edgewater Drive located east of Prosperity Farms Road and north of PGA Blvd.



Palm Beach County

Board of County

Commissioners

Mary Lou Berger, Mayor

Hal R. Valeche, Vice Mayor

Paulette Burdick

Shelley Vana

Steven L. Abrams

Melissa McKinlay

Priscilla A. Taylor

County Administrator

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Lantana Square – authorized a public hearing to be held on September 27, 2016, for the Lantana Square green reuse area. The property owner, Banyan Development plans to construct a retail center and is seeking a Brownfield area designation. No county funds are required for implementation.

Gulfstream Polo – continued to September 27, 2016, at 9:30 a.m. consideration of an ordinance establishing a community development district (CDD) on approximately 203 acres comprising Gulfstream Polo.

Public Safety – approved issuance of a special secondary service certificate of public convenience and necessity (COPCN) with Universal Protection Services, LLC to provide advanced life support (ALS) first response, non-transport services to the Polo Club of Boca Raton.

Body cameras – directed staff to meet with the sheriff and his staff on the possibility of equipping sheriff deputies with body cameras and develop a plan for implementation.

Beach concessions – extended the term of the concessionaire service agreement with Hawkhaven, LLC doing business as Lazy Loggerhead Café for continued operation of a 1,300-square-foot concession building at Carlin Park in Jupiter at an annual rate of \$77,468.

Community Services – recognized and thanked Community Services Director Channel Wilkins, who is moving back to New Jersey.