

PBC Legislative Update



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Legislative Update — November 2017

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STATE ISSUES

1. Florida Legislature: Second Committee Week

FEDERAL ISSUES

Senate Works on Tax Bill

By Becker & Poliakoff

Monday morning the Senate will begin marking up their version of the tax bill, which was released late last week. The House markup of their bill wrapped up last Thursday and the House Rules Committee is scheduled to meet on Wednesday, with a full House vote anticipated later this week, and then potentially the full Senate vote the week of the 27th, following the Thanksgiving recess.

21st Century Flood Reform Act

By Becker & Poliakoff

NFIP Extension

The NFIP would be reauthorized through FY2022.

Premiums

The 21st Century Flood Reform Act would first attempt to update premiums to reflect the actual risk households face. The original version of the bill would have required premiums to rise by 6.5 % for properties in high risk areas that are charged less than the full risk rate. The bill would also reduce the annual limit for individual policyholder premium increases from 18% to 15 %.

FEMA Mitigation Grants

All multiple loss properties and severe repetitive loss structures would be eligible for FEMA Mitigation Grants. The grant program would be authorized to be funded by as much as \$225 million. Grants can be awarded for local and state planning as well as relocating, demolishing, or flood-proofing structures.

Private Insurance/Free Market Provisions

This bill would eliminate the non-compete requirement. The non-compete requirement ensures that insurers participating in the NFIP's Write Your own program cannot simultaneously sell NFIP and private flood insurance. Under this legislation, insurers participating in the WYO program could also sell their own private flood insurance policies.

Write Your Own Modifications

The allowance paid to write- your- own- companies would be reduced. It would decrease from 30.9 % to 27.9% of a charged premium. FEMA would help offset this by reducing costs for WYO companies by at least half of the allowance limitation.

New Penalties

False statements made during a claim could carry civil penalties up to \$10,000. Offenders would also be barred from receiving insurance under the program for a minimum of 2 years. Furthermore, insurance companies who issue underpayments would also face punishment.

11/6 Substitute Amendment

- Would limit annual premiums for residential property owners (taken from H.R. 2868)
- Require communities to develop mitigation plans for repetitive- loss properties (taken from H.R. 1558)
- Expand the availability of coverage for properties that meet floodplain management standards (drawn from H.R. 2875)

Concessions to House Package Made in the Last Two Weeks

- **Protections for Grandfathering and Changes to Treatment of Repetitive Loss Properties** - With regards to how properties are treated after they have filed a claim, this legislation “resets the clock” to zero claims for the purposes of rate increases after a claim has been filed. This means that only after a policyholder has filed two claims AFTER enactment of this bill (should it become law) would they sustain a rate increase because they filed a claim. After the filing of a second claim, rates on that property will increase 10% annually, and after the filing of a third claim, rates will increase by 15% annually until risk rates are met. If you are already paying a full risk rate, your rate will not increase.
- **Prioritization of Mitigation Dollars** - Mitigation dollars will be prioritized for properties that have flooded, and past claims can be counted for that prioritization.
- **Excessive Lifetime Claims** – This change increases the threshold for properties to be classified as those with excessive lifetime claims to mean any property that exceeds three times the amount of the replacement value of the structure. This is an increase from the original bill language - up from twice the replacement value of the structure.
- **Treatment of Properties with a Replacement Value of \$1M** – The prohibition of coverage on properties with \$1M replacement costs has been stricken.
- **Commercial Opt-Out** – The opt-out of mandatory purchase requirements for commercial properties has been delayed 1 year.

STATE ISSUES

Florida Legislature Second Committee Week

By Ericks Consulting & County Staff

Select Committee on Hurricane Preparedness

Presentations on Hurricane recovery and preparedness continued this week. The House Select Committee on Hurricane Response and Preparedness heard presentations that focused on protecting vulnerable populations. The presenters included Florida’s Area Agencies on Aging, Florida Health Care Association local County Emergency Management, and the Agency for Health Care Administration on current standards for shelters and health care facilities, continuity of health services during the storm, disaster preparedness, and on the emergency rule requiring generators for nursing homes within a certain timeframe.

Legislation of Interest

- **Super Majority Vote for State Taxes or Fees**
This joint resolution proposes an amendment to the state Constitution that would provide that no state tax or fee can be imposed by the legislature, or authorized by the legislature to be raised except through legislation approved by two-thirds of the membership of each house of the legislature. The joint resolution requires that any

proposed state tax or fee imposition, authorization or increase must be contained in a separate bill that contains no other subject. The joint resolution also specifies that the proposed amendment does not authorize the imposition of any state tax or fee otherwise prohibited by the state Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

This resolution moved out of the first committee of reference (15 Y, 6 N) and has been filed as HB 7001.

- **Gaming**

House Tourism and Gaming subcommittee heard from the Division of Business and Professional Regulation on multiple hot-ticket gaming items and heard from the state's top economist on the Seminole Compact. The discussion with DBPR entailed new applications, animal safety and welfare, simulcasting, designated player games and the agency's position on what they can and cannot do. They also discussed slot machines in charter and non-charter counties that passed referendums, available Jai-Alai permits, and the question of the Legislature's acceptance of and Executive Branch authority to enter into the Compact agreement settlement the Governor entered into earlier this year.

The state's economist gave a complete overview on how the revenue estimating conference looked at the terms of the compact once it expired and took into account the grace period that was given for payments. The legislature built the budget without the revenue share of the banked card games, however the tribe continued to make payments so the state split the funds and built a reserve (July 2015-2017). As part of the settlement agreement, the Tribe released the state from returning those funds, which at that point made those funds available. This summer, \$233.8 million of reserves was released. The bulk of it, \$226.8 million went to the state and the balance goes to the local government share. The new forecast adopted in August included \$124.9 million general revenue added back into the \$307 million. The forecast made this non recurring, however there is a risk associated with this. Since August, final numbers in 2016-2017 showed the lowest growth in the history of the Compact showing flat amount each month at \$19 million then a true-up payment (agreement between the State and Tribe) which will impact when the state will receive the money.

- **Community Redevelopment Agencies (CRAs)**

Senate Community Affairs voted 5-1 to approve a bill that would reform Community Redevelopment Agencies. The bill includes: requiring CRAs to stick with an adopted budget, capping administrative and overhead costs to 18%, requiring ethics training for board members, requiring audit and performance data be posted online, requiring municipal CRAs to send adopted budgets to the county in which it is created within 10 days since adoption. The bill also prohibits use of tax incremental funding for festivals that promote tourism. CRA reform is a priority of several members, including the House Speaker, in light of a grand jury report and of recent high-profile scandals. Unlike the House bill, the Senate bill does not phase-out the existence of CRAs. The Senate bill has three more committees of reference. The House bill - HB 17- is scheduled to be heard in its first and only committee of reference next week.

- **"Sanctuary" Cities**

House Judiciary voted 11-7 to pass a Speaker priority bill that would require local agencies to enforce Federal immigration law similar to legislation filed the previous Session. Opponents argue that bill puts a strain on local resources, undermines public safety by creating a fear for immigrants to report crimes and seek help, and supports a policy that tears families apart. Supporters argue in the importance of the

rule of law as well as the dangers and strains on resources posed by undocumented immigrants. As is typical of Speaker priorities, the bill was fast tracked to go straight to a vote of the full House when the Session convenes in January. Its Senate companion has not yet been heard in its first of two committees of reference in the Senate.

- **Opioid Epidemic**

Presentations on the opioid crisis continued this week with a discussion in House Health Quality, which focused on challenges faced by Medical Examiners and on the Prescription Drug Monitoring Program.

- **Florida Veterans Care Program**

SB440 was heard in its first committee of reference (Health Policy) – it voted favorably (8 Yeas, 0 Nays). SB440 creates the Florida Veterans Care program (program) in statute, within the Agency for Health Care Administration (AHCA) to provide Florida veterans and their families an alternative for health care that is operated similar to or through the Medicaid managed care program. The bill authorizes AHCA to seek and negotiate a federal waiver, state plan amendment, or other federal authorization necessary to implement the program. Participation by Florida veterans and their families is voluntary. SB 440 now moves to Senate Military and Veterans Affairs.

- **Local Tax Referenda**

HB 317 was heard in its first committee of reference (Local, Federal & Veterans Affairs Subcommittee) it voted favorably (12 Yeas, 2 Nays). HB 317 requires any referendum to levy a discretionary sales surtax must be held during either a primary or a general election. Any such referendum held during a primary election must be approved by at least 60 percent of electors voting on the ballot question. A referendum held during a general election may be approved by only a majority of electors voting on the question. Amendment 149247 was also adopted (proposed by Rep Ingoglia) the amendment removed a provision requiring the governing body of a municipality to approve any ad valorem tax increase by at least 60 percent of the members voting. The amendment also requires discretionary sales surtax referenda to be held during either a primary or general election. The amendment requires approval by at least 60 percent of the electors voting if the referendum is held during a primary election.

- **Background Checks for Firearms Purchases**

Senate Judiciary unanimously voted to pass a bill (SB 152) that would expand payment methods for firearm sellers, importers and manufacturers to pay for background checks. Current law only authorizes payments via cashier's checks, money orders or personal checks, while the bill would authorize electronic fund transfers, debit and credit cards. The bill is in effort to encourage more background checks while not burdening private industry. It has two more committees in the Senate. Its House companion has not yet been heard in its first committee. Meanwhile, the same committee temporarily postponed a bill to next week that is similar to a proposal from the previous Session that would allow a person with a concealed weapon's license to carry their firearm to and from a courthouse-temporarily surrendering it at the courthouse.

- **Florida Forever**

Senate Environmental Preservation and Conservation unanimously approved a bill that would annually dedicate \$100 million to the Florida Forever Trust Fund from the Land Acquisition Trust Fund. Florida Forever was given any funding in the previous budget and has faced funding challenges over the years that have yet to be addressed by the Amendment 1 passed by voters in 2014. The bill has two more

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committees of reference in the Senate. Its House companion has not yet been heard in committee.

- **Environmental Regulation Commission**

Senate Environmental Preservation and Conservation unanimously approved a bill to require the Governor make an appointment to the commission within 90 days of a vacancy and sets a minimum of 4 votes to modify a proposed rule on water quality standards. The bill is in response to the ERC's adoption of controversial proposed rules for water quality standards that took place with commission vacancies that included the local government representative and environmental representative. Some felt that the vacancies were intentional in order to approve the rules, which are now being challenged. The bill has two more committees of reference in both the Senate and House.

- **Coral Reefs**

Senate Environmental Preservation and Conservation unanimously approved a bill that would establish the Southeast Florida Coral Reef Ecosystem Conservation Area offshore of the Florida coastline from the Biscayne National Park to the St. Lucie Inlet. The bill has two more committees of reference in the Senate. Its House companion is scheduled for its second of three committees of reference next week.

