

PBC Legislative Update



JANUARY 24, 2016

VOLUME 9 NUMBER 2

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Legislative Update—2016 Session Week Two

STATE ISSUES

WEEK HIGHLIGHTS

By Ericks Consultants

This week, the Legislature decided not to contest the court ruling on the Senate redistricting maps. There may be many incumbents, whether they are in the House or the Senate running against each other in the 2016 cycle. Also, the budget forecasters expect that our state will have almost \$400 million less for its budget than was originally expected. Lawmakers are concerned that this ultimately will result in less money for their take home projects. With that being said, the Governor still feels that he can accomplish his billion dollar tax cut package that includes eliminating all corporate income taxes charged to manufacturers and retail companies, permanently cutting sales tax on manufacturing equipment, gradually reducing the sales tax charged on commercial rents and having a sales tax holiday on school supplies and hurricane preparedness. The Senate began the long awaited discussion on the Gaming Compact and it was clear that the Compact would face an uphill battle throughout Session.

TNC – UBER BILL

By County Staff, Anfield Consulting and Ericks Consultants

SB 1118 (Simmons) unanimously passed the Senate Banking and Insurance Committee. The bill takes a much different approach to regulating the industry than the House version. SB 1118 would require TNC drivers to carry approximately the same level of insurance as taxi drivers, whereas the House version proposes a sliding scale. The bill would require different levels of insurance during times when the driver is providing a ride or logged in to the app but not providing a ride and all other periods of time. The committee adopted an amendment that reduced coverage requirements from \$1 million to \$120,000 for death and bodily injury per person, \$250,000 for death and bodily injury per incident and \$50,000 for property damage during periods of time when the driver logged in. Another difference is that the Senate bill does not deal with background checks, permit fees, and local pre-emption, as does the House version. The Senate bill has two more committees of reference in the Senate. The House bill is now ready to go before the full House.

SOBER HOMES

By County Staff

SB 1138 (Clemens) passed its first committee, Children, Families, and Elder Affairs, unanimously. The bill would prohibit unethical marketing practices by substance abuse treatment providers and operators of recovery residences, such as soliciting or receiving kickbacks or bribes to secure residents, promising free rent and other perks to potential residents, and using predatory marketing. The bill has two more Committee stops: the Appropriations Subcommittee on Health and Human Services and the Appropriations Committee. Reps. Rooney and Hagar are sponsoring the House version.

RESIDENTIAL FACILITIES

By Corcoran & Johnston

On Tuesday, the House Health Innovation Subcommittee met to hear HB 885, relating to Residential Facilities, by Representative Avila.

This bill amends s. 419.001, F.S., and requires the greater distance requirement (within a radius of 1,200 feet) to apply when determining the proper distance between a community residential home and a home of six or fewer residents which otherwise meets the definition of a community residential home. The bill expressly states that this requirement is to be applied to prospectively. The bill also requires all licensing entities to utilize the statutory method for measuring distances established ins. 419.001(5), F.S., when determining whether a home meets zoning requirements.

A strike-all amendment was offered that limits the distance restrictions for all facilities with 6 or less citizens to 1200 feet. There was public support for from the City of Miami and the City of Lake Worth. In debate of the amendment, Representative Costello expresses his support for the bill and the amendment; however, he wishes the limit would be 2500 feet. The amendment and HB 885 passed the committee without objection.

FRACKING

By County Staff, Anfield Consulting and Ericks Consultants

By a 12-6 vote, the House State Affairs Committee approved HB 191 (Rodrigues), a bill that would create a regulatory framework for fracking in Florida. A permitting process would be established through the Department of Environmental Protection and companies would have to disclose what chemicals they use to the state, but only after drilling has already begun. Local governments would not have the authority to regulate the practice. The bill would also fund a \$1 million study to be conducted by the DEP to study the effects of fracking. The bill was amended to include language addressing local government preemption concerns by stating that no permits will be granted unless a company first notifies the local government that they will apply for a permit.

The Florida Association of Counties and Florida League of Cities have been working with the sponsors on language that will clarify the bill's preemption to still allow for local regulation. While the bill is now ready to go before the full House, the sponsor stated that he is still working on this compromise language, which will include local zoning. Proponents of the bill contend that fracking is currently unregulated and allowed and that the bill would regulate the practice by requiring a permit through the Department, requiring the disclosure of chemicals used in the practice and increasing fines for violations. Opponents contend the practice is not allowed and should be banned to protect against potential disasters. The Senate bill, SB 318, which has stronger environmental controls, has two more committees of reference in the Senate.

WATER PACKAGE

By Anfield Consultants and County Staff

The Governor signed into the law a comprehensive water package, HB 552 that was passed during the first week of the Legislative Session. The package tackles springs protection and restoration, updates statutes with information from Basin Management Action Plans for critical areas such as Lake Okeechobee and its estuaries, revises permit requirements, provides an assessment of water bodies and examines the feasibility of creating an interactive map of the water bodies online among other things.

INSPECTOR GENERAL

By County Staff

SB 752 (Abruzzo) passed its first of two committees, General Oversight and Accountability, by a 4-0 vote. The bill exempts from public inspection and disclosure certain personal identifying information of an agency employee whose duties include conducting internal audits. This would apply to both current and former employees, as well as their spouses and children. Proponents argue that, since such employees have been subject to threats, this legislation is necessary for their safety. A two-thirds vote of both the House and Senate would be required to pass the bill since it creates a public record exemption.

MARCHMAN ACT REVISIONS

By County Staff

HB 741 (Kerner) passed the Children, Families, & Seniors Subcommittee by a 12-0 vote. Its Senate companion, SB 762 (Abruzzo), also unanimously passed its first committee, Children, Families, and Elder Affairs. The bills would create a public record exemption for a petition for involuntary assessment and stabilization filed with a court as part of a Marchman Act proceeding. The bills would require a two-thirds vote for final passage since they create a public record exemption.

PUBLIC LANDS

By County Staff and Anfield Consulting

HB 1075 (Caldwell) unanimously passed the Agriculture & Natural Resources Subcommittee. The bill, supported by the state's Department of Environmental Protection, creates new standards for overseeing, acquiring, and disposing of state lands. **SB 1290** is currently in the (S) Environmental Preservation and Conservation

GAMING COMPACT

By County Staff, Corcoran & Johnston and Ericks Consultants

Senate Regulatory Affairs heard from the Governor's Office and Seminole Tribe on the Indian Gaming Compact and the recently-signed \$3 billion agreement between the Tribe and the Governor, which provides a framework for the Legislative package that would ratify the agreement. Three committee members expressed explicit opposition to the agreement over opposition to a destination casino permit in Miami-Dade. Opposition was also based on the agreement expanding slots to Palm Beach County Kennel Club, which is only one of several communities outside Miami-Dade and Broward who have passed referendums in favor of slot machines. The Governor's Office stated the intent of the agreement was to get as high of a guaranteed payment from the Tribe as possible while still providing as much flexibility to the Legislature as possible. The Tribe stated it wasn't concerned with outside competition but would only guarantee payment to the state if it maintained a level of exclusivity that would make good business sense. The Tribe also stated that, should the Supreme Court rule that slot machines must be expanded to all communities which passed local referendums, the guaranteed payments to the State would decrease accordingly or may no longer be required under Federal law. The Tribe is seeking to add craps and roulette and willing to grant pari-mutuels a tax decrease and a limited version of blackjack. The meeting was only the beginning of the discussion. The Chair will hold another meeting next week to hear thoughts from the State's top economist as well as other stakeholders.

LICENSURE OF LIFE SUPPORT SERVICES

By County Staff, Ericks Consultants and Corcoran & Johnston

Senate Judiciary voted 7-3 and House Local Government Affairs voted unanimously to approve SB 742 that would require counties to craft ordinances for COPCNs for air ambulance and emergency transport. The bill is in response to a dispute between Collier County and its fire control district and is supported by fire control districts and the Florida League of Cities. The legislation would require the county to establish an independent quasi-judicial appeals process and would allow for fire control districts to provide services. Both committees amended the bill. The Senate amendment required ordinances be adopted by January 2017, removed the requirement that the ordinance be "objective," and exempted fiscally constrained counties. The House language in HB 517 mostly mirrors the Senate language, but would still require ordinances to be "objective." The Senate sponsor promised to continue working with the counties to address their issues with the language. The Florida Association of Counties opposes the bill. Both bills have one more committee of reference in each Chamber. The House companion, HB 517 (Renner, Campbell) unanimously passed the Local Government Affairs Subcommittee.

DEVELOPMENTS OF REGIONAL IMPACT

By County Staff, Ericks Consultants, Anfield Consulting and Corcoran & Johnston

Senate Fiscal Policy unanimously approved a DRI bill, SB 7000 after adopting an amendment to expand the bill. The bill would remove the requirement for the State Coordinated Review process for DRIs that are consistent with local government comprehensive plans, reducing costs for the private and public sectors. The committee adopted an amendment to increase the size of enclaves that may be annexed by a municipality from 10 to 150 acres. The amendment also authorized a county to employ tax increment financing to fund economic development activities. The bill is now ready to go before the full Senate. Its House companion is scheduled to be heard next week.

ALARM SYSTEM REGISTRATION

By Ericks Consultants

House Business & Professions approved HB 779 that would preempt local alarm system registration in order to establish a statewide uniform system. The sponsor stated that the language was similar to a majority of local ordinances in place, including false alarm provisions. The bill caps fees for registration to a one-time payment of \$25. One member had concerns that the fee cap could harm local governments ability to provide its service; however, many of the committee members spoke out against annual fees. The sponsor promised to work with local governments that may have an annual fee process in place and stated that he was working with the League of Cities. The bill has two more committees of reference in the House. Its Senate companion is scheduled to be heard next week.

ATTORNEYS FEES FOR PUBLIC RECORDS VIOLATIONS

By County Staff and Ericks Consultants

House Government Operations unanimously approved HB 1021 that would give judges discretion in awarding attorneys fees in public records violations. The bill is meant to protect taxpayer dollars from a newly developed cottage industry of attorneys who file numerous public records requests with the intent to profit from lawsuits over violations. Local governments support the bill. The AFL-CIO and others opposed the bill and stated that the bill would undermine the public records laws by making lawsuits for violations unaffordable. Supporters countered that the bill is not prohibiting attorney's fees but merely giving discretion for judges to determine legitimate requests and violations from those abusing the system. The bill has two more committees of reference in the House. Its Senate companion is scheduled to be heard next week. Meanwhile, Senate Governmental Oversight and Accountability postponed a bill, SB 724,

that would make public records custodians personally liable for attorneys fees in cases of blatant refusal to comply with a request instead of the government having to expend taxpayer dollars.

MUNICIPAL ELECTIONS

By Ericks Consultants and Corcoran & Johnston

House Local & Federal Affairs voted 10-6 to file HB 7059 that would preempt the schedule of municipal elections to the state, forcing local governments to either hold their elections in November on odd number years unless all municipalities in one county can agree to the same alternative date. The intent of the bill is to increase voter participation in municipal elections. The Chairman also believes bill would be a cost savings to some local governments and that the bill would perhaps bridge a gap between the state and municipal governments should everyone be campaigning at the same forums during the same time. Local government representatives opposed the bill highlighting concerns, including the bill's impact on charter home rule authority, voter ballot fatigue, partisan influence into non-partisan elections, canvassing boards, staggered terms and campaign costs. The bill is now ready to go before the full House. It does not have a Senate companion.

HISTORIC AND ARCHEOLOGICAL ARTIFACTS

By Ericks Consultants

House Economic Development & Tourism approved HB 803 that would create a program to discover historical and archeological artifacts and would allow for normal citizens to retrieve artifacts without violating the law. Opponents were concerned that untrained individuals could unintentionally damage artifacts. The bill has two more committees of reference in the House. Its Senate companion has not yet been heard in committee.

VACATION RENTALS

By Ericks Consultants

House Economic Development & Tourism heard a presentation from AirBnB on its business model and practices as well as local regulatory challenges. The committee chair stated he wanted to be proactive in looking at the issue as more local governments wanted to "get their hands on the tax money." AirBnB testified that the majority of its users use the service to help pay their mortgages and other bills and that safety incidents were infrequent as people tend to be more careful when staying in someone's home as opposed to commercial lodging. They stated that too much regulation ensures that average homeowners could no longer use the service, as only professionals would be able to comply with complex laws. AirBnB also testified that it was working with the Florida League of Cities to address issues.

MILLAGE RATES

By Ericks Consultants

House Finance & Tax approved HB 1015 that would change how local governments are allowed to calculate millage rates. Rather than a 10 mill cap, the bill would require local governments to adopt rates based upon actual millage levied the prior fiscal year. The Florida League of Cities and Florida Association of Counties testified in "opposition light." While neither organization supports the current language, they are working with the sponsor to address their issues. Many members expressed concern over the current language as well but all agreed the sponsor had found a problem in how millage rates are calculated, due to a law passed during the recession, and wanted to allow her to continue to work on the language. The Florida Association of Counties warned against a ratcheting down effect if locals were forced to adopt based upon the prior year as it would incentivize a government to levy more than absolutely necessary out of fear of limiting itself too much moving forward. One member also argued that local elected officials are accountable to the people should they adopt a millage rate that is too high. The bill has two more committees of reference. Its Senate companion has not yet been heard in committee.

DISCOUNTS TO PARK ENTRANCES AND TRANSIT

By Ericks Consultants

Senate Military Affairs unanimously approved SB1202 that would require counties and municipalities to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of deceased military members and first responders. It would also require regional transportation authorities to provide a partial or a full discount on fares for certain disabled veterans. The South Florida Regional Transportation Authority supports the bill. The bill has two more committees of reference in the Senate. Its House companion will be heard in its first committee of reference next week.

RECAPTURE RULE

By Ericks Consultants

House Appropriations voted 15-4 to approve HB 7015 that would place on the ballot a constitutional amendment to eliminate the recapture provision for local governments in Save Our Homes. The bill would prevent local governments from collecting the same level of property taxes despite property values decreasing for both homestead and non-homestead properties. Opponents argued local governments having to pick winners and losers and shift the tax burden; the effect would result in identical homeowners paying drastically different tax rates and have a negative impact on businesses. The Florida Chamber of Commerce and Florida Realtors support the bill. The bill is now ready to go before the full House, having received only one committee of reference after being filed as a Finance & Tax committee bill. Its Senate companion is scheduled to be heard next week.

PROPERTY PREPARED FOR TAX-EXEMPT USE

By Ericks Consultants

House Local & Federal Affairs approved HB 842 that would allow tax-exempt organizations to remove property being prepared for educational, literary, scientific, religious, or charitable purposes from the tax rolls prior to the implementation of those purposes. Property owners have 30 days to repay the owed taxes plus interest if the property is not in use for the exempt purpose within 5 years or if it is transferred to a non-exempt purpose. It has an estimated \$1 million recurring negative impact to local tax revenues. The bill has one more committee of reference in the House. Its Senate companion has two more committees of reference and is scheduled to be heard next week.

RED LIGHT CAMERAS

By Ericks Consultants and Corcoran & Johnston

House Economic Affairs approved HB 4027 to repeal red light cameras. The sponsor cited a study that shows crashes at intersections with red light cameras have increased and alleged that profit, rather than public safety, was the motivation behind red light cameras. A majority of the committee members spoke against red light cameras and disagreed that the programs increase public safety. The Florida League of Cities and Florida Association of Counties testified that while neither organization is supportive of or opposed to red light camera programs, each local government was different and some may have experienced a decrease in crashes. The bill has one more committee of reference in the House. Its Senate companion has not yet been heard in committee. Meanwhile, Senate Transportation heard from the Department of Highway Safety and Motor Vehicles on its red light camera report, which found that violations had decreased since implementation of red light camera programs.



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DANGEROUS DOGS

By County Staff

SB 334, the companion to HB 91, unanimously passed the Senate Rules committee this week. The bill is intended to clear ambiguity in the existing law when a dog that has not been previously classified as dangerous causes serious injuries. Under current law, the dog would have to be euthanized, its owner unable to offer a defense and explain the circumstances; however, if a dog has already been classified as dangerous, an owner can offer a defense. The bill would require that animal control authorities allow owners to offer affirmative defenses of dogs that have not been previously classified as dangerous during a euthanization hearing. The bill also protects the home rule authority of local governments. Both the House and Senate bills go to the floor for consideration.

FEDERAL ISSUES

Federal Issues

By Becker & Poliakoff, Alcalde & Fay, and County Staff

THE HOUSE: Was not in session this week.

THE SENATE: H.R. 4038, the American SAFE Act, was blocked after failing to receiving the 60 votes necessary for it to clear the Senate. The bill would have only allowed refugees from Syria or Iraq to enter the U.S. if the Homeland Security Department, FBI, and Office of the Director of National Intelligence unanimously agree that the individual does not pose a security threat and provide a certification to Congress.

The Senate failed to override President Obama's veto of a resolution that would have overturned the Environmental Protection Agency's "Waters of the U.S." rule.

The Senate Agriculture Committee marked up draft legislation reauthorizing the child nutrition programs for five years.

The Senate Environment and Public Works Committee marked up S. 556, preventing the Environmental Protection Agency from regulating lead bullets and fishing tackle under the Toxic Substances Control Act.

The Senate Finance Committee heard from Andrew Slavitt, acting administrator of the Centers for Medicare and Medicaid Services, on financial and oversight controls.

The Senate Health, Education, Labor and Pensions Committee held a hearing on the federal government's role to improve mental health care. Brian Hepburn, the executive director of the National Association of State Mental Health Program Directors, and Hakeem Rahim, the CEO of Live Breathe LLC, are among those who testified.

Attorney General Loretta Lynch testified before the Senate Appropriations Commerce-Justice-Science Subcommittee on the Justice Department's role in implementing executive actions related to gun sales.