



Volume X, Issue 3 • January 25, 2008
REPORT OF JANUARY 21-25, 2008 COMMITTEE WEEK

Joint Legislative Sunset Committee

The Florida Office of Program Policy Analysis and Government Accountability (OPPAGA) is conducting the required sunset review of the Department of Highway Safety, Division of Motor Vehicles, Water Management Districts, Department of Environmental Protection, and others. Field meetings for public debate and comment are scheduled for January 30th in Tampa, as well as January 31st in Winterhaven (with live web streaming video). Both hearings will focus on Departments of Agriculture and Consumer Services, Citrus and Environmental Protection, as well as Water Management Districts.

At the January 22nd committee presentation, OPPAGA detailed findings on several divisions of Department of Highway Safety, including options relating to restructuring the DMV regarding **Titles and Registration Division**. Recommendations included: (1) abolishing the program; (2) transferring the entire program to the Department of Revenue; (3) increasing fees to make the program self-sufficient or; (4) expanding the use of private contracts. Tax collectors, who are elected in all but the charter counties, do not support increasing fees to enhance self-sufficiency. Those non-charter-county tax collectors also do not want to contract with private entities, as Broward County presently does for some Title and Registration services. OPPAGA did not see any cost savings in the transfer to Department of Revenue, although there was limited committee support for this proposal.

The **Mobile Home Compliance** function of DMV was also reviewed, with three options discussed: (1) transfer to the DCA, since that Department handles modular homes and contracts with private entities to complete compliance monitoring; (2) transfer to the federal government (HUD) since 13 other states have done so; (3) increase fees to make the program self-sufficient.

While there appeared to be some committee support for the transfer to HUD, the cost-savings in doing so were limited to approximately \$780,000 or 38 FTEs. Several of those FTEs would have to remain in place since Florida Statute requires that mobile home inspectors be on-site in operating plants, of which Florida currently has twelve. The Manufacturer's Association spoke adamantly against the change, citing that the DMV is considered a best-practice model nationally, offering an efficient and "streamlined" process for licensing, bonding, insuring, inspecting and warranting mobile homes. The Committee will begin making decisions regarding restructuring after the January 29th vote and the public hearings scheduled for next week.

Special Taxing Districts

The House Urban & Local Affairs committee heard a presentation by the Florida Association of Special Districts (FASD). The FASD explained the typical issues faced by Special Districts, as well as issues specific to the 2008 Legislative Session. Of particular note were sunset reviews, alternative water supply appropriations, government-in-the sunshine exceptions for pre-litigation negotiations, and FRS special risk designation for mosquito control pilots.

Presently, 1,571 special districts exist throughout Florida, with at least one in each county. Broward County has 97. The presenter described types of districts and their functions. FASD explained that they primarily represent independent taxing districts. Dependent taxing districts can be created or dissolved by local governments and were only briefly mentioned. The committee discussed the origin of laws limiting voting in Special Districts to landowners and agreed that general law allows citizens in those areas to petition the governing board to create democratically elected board members. The Chair requested a review of all legislatively created Special Districts in the next meeting.

Florida Association of Counties (FAC) 2008 Legislative Program

The President of FAC, Commissioner Teresa Jacobs, presented the Program at the Senate Community Affairs Committee. After extensive discussions of unfunded mandates, transparency and the January 29th ballot initiative, the two groups agreed that having a joint summit of government officials to explore ways to more effectively communicate and work together would be productive and welcomed.

Juvenile Justice

Rep. Sandy Adams and Sen. Carey Baker have filed HB 273 and SB 792, respectively, in order to address the reported increase in violent crimes committed by juveniles statewide. On January 22nd, the House Juvenile Justice Committee considered and passed an amended version of HB 273.

As modified, HB 273 permits a court to retain jurisdiction over a child and the child's parent or legal guardian whom the court has ordered to pay costs, fees, and costs associated with court-appointed counsel until such costs and fees are satisfied. Law enforcement officers will be able to take a child into custody for violations of pretrial release conditions. The bill also revises various statutory provisions relating to detention care and establishes additional grounds for placement of a child in secure detention. The time periods a youth may be held in secure detention care pending an adjudicatory hearing is increased from 21 to 30 days, and the length of court-extended time to allow the prosecution or defense additional preparation time is also increased from 9 days to 15 days.

The bill proposes legislative intent which recognizes the court is in the best position to determine whether or not to commit a youth to the DJJ and to determine the most appropriate placement level for a youth committed to the DJJ.

Counties are authorized to create, by ordinance, a juvenile crime prevention fund to be administered by the county or another agency designated by the County Commission. Proceeds of the fund shall only be used to finance local juvenile crime prevention programs including creating consequence or suspension centers, truancy programs, or other areas of local concern relating to juvenile crime. The court must assess a sum of

\$50, as a court cost, against each youth who pleads guilty or nolo contendere, or is found guilty of a criminal law or a county or municipal ordinance. The Clerk of Courts must collect the assessed cost and remit it to the county's fund. The Clerk may withhold 3% as income for his or her office.

HB 273 next moves to the Safety and Security Council for consideration. If approved by the Council, the bill will move on to the House Fiscal Policy and Budget Council. The bill may have a fiscal impact on the state budget due to the potential increase in predisposition secure detention care costs that may occur in fiscally constrained counties for which the state is financially responsible current law. SB 792, only recently filed, has not been scheduled yet for any committee hearing.

Taxation and Budget Reform Commission

The Taxation and Budget Reform Commission (Commission) finished its public hearings and has begun to consider various proposals filed by its members and substantive committees. The Commission held public hearings around the state from September through December to give the public an opportunity to share their views and recommendations on taxation and budget issues.

Following the completion of the public hearings, members began filing constitutional proposals and statutory recommendations for consideration by the Commission's four substantive committees (Government Services, Government Procedures & Structure, Finance and Taxation, and Planning & Budgetary Processes). Substantive committees have also filed proposals within their areas of jurisdiction for consideration.

A constitutional proposal must pass all committees of reference, before it is placed on the Commission's agenda for consideration. If passed, the proposal is sent to the Style and Drafting committee for ballot title and summary preparation. Once reported out of the Style and Drafting Committee, the proposal is placed on the Commission's agenda for final passage. If approved by an affirmative vote of at least 17 Commission members, the Commission must then vote to transmit the constitutional proposal to the Secretary of State for filing. To appear on the November 2008 General Election ballot, constitutional proposals the Commission intends

to file with the Secretary of State must be transmitted by May 4, 2008.

To date, Commission members and committees have filed 34 proposals, including constitutional proposals (CP) and statutory recommendations (SR). At least 14 proposals have been discussed or considered and voted out by one or more substantive committees. The full Commission has passed and transmitted to the Legislature SR 11 which recommends the Legislature exempt the Taxation and Budget Reform Commission and the Constitutional Revision Commission from the statutorily imposed 75-word ballot summary limitation. On January 18th the full Commission considered and passed CP 4 authorizing the Legislature to prohibit the consideration of storm-hardening improvements and the installation of renewable energy source devices when determining the assessed value of a property, with SR 5 creating its implementing statute.

Major taxation and budget proposals on issues such as portability and the repeal or review sales tax exemptions are expected to be taken up after the January 29th vote. The Commission will next meet on January 30th from 9:00 AM to 3:00 PM in Tallahassee. Substantive committees and the Commission will also meet during February 11-15th and February 25-29th.

Regional Conflict Counsel

In December the Second Judicial Circuit Court in Tallahassee invalidated the new offices of Criminal Conflict and Regional Civil Counsel (RCC) created by the Florida Legislature in the 2007 Regular Session. The state immediately filed a notice of appeal which automatically stayed Judge P. Kevin Davey's ruling pending review by the state's appellate courts.

Based on a motion filed by the Florida Association of Criminal Defense Lawyers (FACDL), who brought the action challenging the statute, Judge Davey partially lifted the automatic stay and substantially limited the continued operations of the Regional Conflict Counsels.

However, in a 6-0 decision issued on January 17th, the Florida Supreme Court overturned and vacated Judge Davey's order partially closing the Regional Conflict Counsel offices pending a final ruling. The Court concluded that the FACDL had not demonstrated the compelling circumstances

required for vacating the automatic stay provided under Florida Rules of Appellate Procedure for public officials acting in their official capacity. Now, the circuit court's order declaring the RCCs unconstitutional is again fully stayed and the Regional Conflict Counsels can continue to function fully, including hiring personnel, buying needed equipment, and entering into leases for space, until the Florida Supreme Court enters a final ruling in the case. Oral argument before the Court is set for February 27th.