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February 16-20 Committee Week

Juvenile Justice

HB 173, by Rep. Adams, is a reintroduction of legislation Broward County opposed in 2008. The bill has already passed out of two committees of reference successfully with only two remaining stops, one which Rep. Adams chairs. FAC convened a conference call with county staff to discuss concerns and brainstorm strategy. When the bill was heard on Tuesday, Rep. Adams testified that passage of the legislation would be revenue neutral. County lobbyists were shocked by this assertion, in light of the committee's own staff analysis indicating the bill had negative fiscal consequences for counties. Further, the staff analysis raised serious constitutional questions.

FAC staff assigned to the bill met with the Rep. Adams after her testimony to offer rebuttal data. Broward County staff met with several house members on the next committees of reference to reiterate our opposition and highlight constitutional issues. As a result, we have been asked to prepare additional materials for members in advance of the next committee stops. In addition, we have reached out to judges, juvenile justice researchers/criminologists, and others, to ask for their input.

HB 173 remains problematic because of its expanded use of predispositional secure detention, which is paid for by counties. Of further concern is the bill's significant departure from the Blueprint Commissions Recommendations to utilize prevention and detention alternatives wherever possible. Since youth are unable to bond out, holding juveniles in

secure detention awaiting hearings expands a public policy that retains unconvicted minors in the most costly and dangerous setting.

With the assistance of Rep. Robaina, Chair of the Civil and Criminal Justice Policy committee, HB 173's next stop, a work group of advocates both for and against the bill will be convened to meet with the sponsor and staff director.

State Budget Update

Revenue estimates this week show the state down over \$700M in the current fiscal year, including a complete depletion of the current reserves. FY2010 budget deficits may soar to \$7B. While much has been made of the impact non-recurring American Recovery and Reinvestment Act dollars may have on Florida's budget crisis, most of those in leadership have indicated their commitment to balance the budget as if the stimulus dollars were not in existence. The Governor's budget recommendations will be released today, built on November revenue estimates. As described above, those FY 2010 estimates are already quite outdated--by approximately \$2B.

Because the House and Senate will make their budget recommendations based on the March Revenue Estimate, the Legislature will be forced to make much deeper cuts. Faced with these realities, it is expected that non-recurring revenues used to pay for recurring costs will far exceed the 3% cap.

ARRA and its Impact on State Budget and Funding

The American Recovery and Reinvestment Act of 2009, aka the Economic Stimulus, was signed into law on Tuesday. Governor Crist and his cabinet made a presentation on the same day to describe the fiscal impact the bill would have on Florida. In that meeting, the Education Commissioner revealed that the Education proviso language remained unclear, and the need for Florida to obtain a waiver of the bill's MOE requirements was still uncertain. As a result, the \$12.2B dollars expected to be sent to the state or local governments in the next ten days does not include \$4.6B anticipated for education, should Florida be deemed eligible. The Governor stated that of the \$12.2B, approximately half of that will go to counties or municipalities. In the case of Transportation funds, dollars may go directly to MPOs or districts.

FDOT Secretary Kopelousos discussed the USDOT funds which are subject to strict 120-day expenditure timeframes; of the dollars given to Florida, 50% must be spent within 4 months of the day the state actually receives the money. The Secretary also highlighted the reporting and performance measures tied to the dollars, which include demonstrating substantial job creation. Apart from FDOT road and infrastructure accounts, \$300M is being set aside for Transit projects. Secretary Kopelousos described her expectation that those funds would go directly to counties to purchase buses.

Proposed Seaport Security Bill Unveiled

The Senate Military Affairs and Domestic Security Committee met this week and discussed draft port security legislation prepared by the Committee's staff. SPB 7054 repeals §311.111, F.S., relating to security area designations within

seaports, but retains the use of "restricted access areas" as in federal law. The bill also repeals §311.125, F.S., removing the requirement to develop the Florida Uniform Port Access Credential. The draft bill, however, saves some provisions from these two statutes and moves them to §311.12, Florida Statutes, relating to seaport security standards. Some of the bill's provisions include:

- Sets the minimum security standards for seaports pursuant to the 2000 Seaport Security Assessment. Seaports are allowed to adopt supplemental or more stringent security measures. FDLE is allowed to exempt all or part of a seaport from the minimum security standards if the seaport or specific area is determined not to be vulnerable criminal activity or terrorism.
- Adds certain federal criminal offenses that disqualify a person from employment by or access to a seaport to the state list of disqualifying offenses including criminal anarchy and inciting insurrection, racketeering activity, extortion, money laundering, and bribery.
- Fingerprint criminal background screenings must be conducted every 5 years and Florida Crime Information Center (FCIC) name-based criminal history clearances must be performed at least annually or more frequently, on a random basis, to ensure persons continue to meet the screening requirements for access to restricted areas. This continues the practice of requiring duplicative criminal history checks which costs Florida seaports and their tenants millions annually.
- FDLE is required to establish a waiver process and the bill sets forth the waiver requirements for persons unqualified to work at or have access to a seaport. The present requirement that FDLE notify the seaport who denied employment or

access of the final disposition of a waiver request is removed.

- The draft authorizes FDLE to conduct at least one annual unannounced inspection at each seaport and mandates that seaport directors immediately implement security changes or improvements FDLE recommends or determines are needed in its inspection report. It is unclear whether such improvements must be implemented regardless of costs or the availability of less costly, risk-based alternatives.

The Committee heard testimony from various stakeholder groups including FDLE, the Governor's Director of Drug Policy, the Florida Ports Council, Associated Industries of Florida and the Florida Maritime Leadership Coalition. Senators questioned the continued need for requiring a second Florida-based background screening rather than accepting the federal check performed when port workers obtain their TWIC cards. In addition, Senators raised concerns about monies wasted from the purchase of hardware to implement the FUPAC card, which never occurred; the hardware now sits mothballed in a warehouse. Senators expressed concern about the anti-competitive effects of the current security regime and its costs to public seaports and their tenants.

Despite the members' clear dissatisfaction with the draft bill, the Committee voted to introduce the legislation in order to ensure the Committee had a bill to work from in the upcoming session. Several Senators made statements indicating they were ready to do away with the current security credentialing requirements. We expect the Committee to consider a revised bill early in the legislative session.

Online Travel Company Legislation

Senator Lynn has agreed to sponsor the Senate version of our bill, already filed by Janet Long in the House.

County Power Preemption Bill Filed

SB 1856 by Sen. Mike Bennett is a far-reaching preemption that would prohibit any local regulation that requires private property owners to expend funds to enhance services or functions provided by local governments which benefit the general public at the expense of the property owner. The legislation is a priority of the Florida Retail Federation (the "Federation").

This sweeping preemption of local government powers would apply to cities and counties. The Federation first discussed this concept during a presentation at a recent meeting of the House Economic Development Policy Committee in February and the language was then limited to only businesses. The proposal has now been expanded to cover all property owners. The examples the Federation cited to support the need for this bill included the Miami-Dade generator ordinance (which the Legislature ultimately preempted); the draft Broward County ordinance requiring security cameras in parking lots withdrawn almost two months ago; and a Boca Raton ordinance that regulated shopping carts. However, the broad language in SB 1856 goes beyond these three issues and has the potential to preempt local ordinances and regulation in a wide range of areas. The bill has yet to be referenced to any committees.

Growth Management Legislation Fast-tracked

As reported in our update of February 6th, the Senate Community Affairs Committee, on February 17th, considered SB 360 which makes several changes to Florida's growth management laws. The Committee approved the bill unanimously as a committee substitute. Some of the changes to the original bill include:

- Extending the compliance deadline for local governments to submit

financially feasible capital improvement elements (CIE) from December 1, 2008 to December 1, 2011, and eliminating one of the penalties for failing to adopt a public schools facility element.

- Clarifying that Transportation Concurrency Exception Areas are not created for designated transportation concurrency districts within a county that has a population of at least 1.5 million that uses its transportation concurrency system to support alternative modes of transportation and does not levy transportation impact fees within the concurrency district. Senator Ring sponsored the amendment that achieved this change which is intended to preserve Broward County's transit oriented concurrency system.
- Decreasing text amendments to comprehensive plans from twice a year to once a year, unless the text amendment is directly related to a future land use map amendment.
- Giving local governments with an average of at least 1,000 people per square mile or a county, including the municipalities located therein, which has a population of at least one million an exemption from the Development of Regional Impact (DRI) program.
- Creating a waiver from transportation concurrency requirements on the state's strategic intermodal system for certain Office of Tourism, Trade, and Economic Development (OTTED) job creation projects.

unanimously approved the CS/SB 360. During his presentation of the bill, Senator Bennett, the bill's primary sponsor, indicated that additional amendments favoring local governments will likely be made at the next committee stop. Potential changes may include tightening the definition of "dense urban land area", providing language that requires a developer to address transportation-related impacts, and modifying the proposed DRI exemption within local governments meeting the dense urban land area definition. The bill's next stop is the Senate Ways & Means Policy Steering Committee. We expect the bill to be considered on the Senate Floor during the second week of the legislative session.

On February 19th, the Senate Transportation Committee heard and