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Contents

- **Collective Bargaining Impasse**
- **Competing Online Travel Companies**
- **Pretrial Release Stakeholder Meeting Held**
- **Juvenile Justice Cost Shifts**

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Collective Bargaining Impasse Legislation Moves in Senate

Senate Bill 610 by Sen. Fasano focuses on who is the legislative body for purposes of resolving impasses during the collective bargaining process. When resolving impasses, the bill specifically provides that the clerk of the courts, the sheriff, property appraiser, supervisor of elections, and tax collector will be the “legislative body” for their own employees. As currently defined in §447.203, F.S., a legislative body must have the authority to appropriate funds and establish policy governing the terms and conditions of employment.

The bill creates an exception by recognizing constitutional county officers as “sovereigns” and allows them to be legislative bodies for collective bargaining purposes, even though they do not possess the power to appropriate funds. As amended in the Senate Governmental Oversight and Accountability Committee, the bill now also provides that when a constitutional county officer has been abolished and replaced with an elected or appointed charter officer, the charter officer is subject to the provisions of the charter, if the charter is not inconsistent with general law or special law approved by the voters.

SB 610 now moves to its last committee stop, the Policy and Steering Committee on Ways and Means. HB 417, by Rep. Hays, has not been scheduled for hearing before its first committee of reference.

Competing Online Travel Companies’ Legislation Filed

Legislators have filed several bills relating to taxing transient rental accommodations. Sen. Lynn and Rep. Long have filed SB 156 and HB 335, respectively, to clarify that internet-based transactions for hotel and other transient rental accommodations are subject to state sales tax and local tourist development taxes. Online travel companies (OTC) will have to register with DOR and remit taxes on the total rent charged to customers unless the hotel owner or operator agrees in writing to collect and remit the applicable taxes on the OTC's behalf. The bills specify requirements for any such agreement between an owner/operator and OTC. An OTC must register with any county that self-administers its tourist development tax program. The Department of Revenue is required to provide OTCs with amnesty for unpaid taxes, penalties, & interest, under specific conditions, for rentals that occurred prior to July 1, 2010 and the department is authorized to adopt emergency rules to implement the amnesty provisions. If either bill is enacted, the act would take effect on July 1, 2010.

Sen. Gaetz and Rep. Patronis have filed SB 2436 and HB 1241, respectively, which represent the OTC industry position. The bills modify certain definitions in the tourist development tax laws and state sales tax laws to make clear that the terms “consideration” “rental” or “rents” as used in such laws mean the amount received by the operator of a transient accommodation (hotel, motel, etc). The bills specifically exclude coverage for payments OTCs receive when booking reservations on behalf of a hotel operator. In addition, while hotel operators must separately state the room rental charge and applicable taxes on a receipt, OTCs are specifically exempt from this requirement.

Pretrial Release Stakeholder Meeting Held

Rep. Dorworth, the sponsor of HB 445 relating to pretrial detention and release programs, and Rep. Ambler, Chair of the House Public Safety and Domestic Security Policy Committee, held a meeting with interested stakeholders on February 17th to discuss concerns with the proposed bill. The meeting brought together representatives from the courts, pretrial release programs, state attorney and public defender associations, the Association of Pretrial Professionals, Florida Sheriff's Association, Florida Association of Counties, several individual counties, and representatives from the bail bond industry. Many at the meeting expressed concerns with the bill's limitations on pretrial release eligibility, costs to local jails, and limitation on judicial discretion.

HB 445, as currently proposed, requires that all pretrial programs conform to the policies and restrictions established in the bill. A defendant will be eligible for pretrial release only if the defendant:

- Is charged with a misdemeanor or a felony that is not a dangerous crime as defined in §907.041(4), F.S.;
- Has no history of failing to appear at any court proceeding;
- Is not subject to or on probation for another charge and is not facing charges for another crime anywhere else in Florida;
- Has no prior conviction for violence, including in cases where adjudication was withheld by the sentencing court, which is deemed a conviction;
- Satisfies any other eligibility requirement established by the board of county commissioners or a court; and
- Is indigent as defined in Florida Rule of Criminal Procedure 3.111.

Additionally, the program must, before a defendant is placed on pretrial release, provide a written certification to the court stating the defendant satisfies each eligibility requirements above. The bill prohibits a defendant from using the services of, or interacting with, a pretrial release program when seeking to post a surety bond. Lastly, HB 445 would prohibit assessing a defendant released through pretrial release program any fee or charge except as authorized in state law.

Juvenile Justice Cost Shifts expected

As has been the case for the last several years, legislation is expected to be filed to continue shifting the costs of juvenile detention to counties. The Department of Juvenile Justice's (DJJ) newly implemented billing system has resulted in many counties, like Broward, initially being told they were receiving reimbursements and later receiving large bills. Counties continue seeking solutions to the escalating price-tag of the juvenile justice system and are again preparing to negotiate with House and Senate leadership to seek: billing caps, per diem rates, and changes to existing Departmental policies that will reduce the use of pre-adjudicatory secure detention.

One of the rumors floating around Tallahassee is that DJJ will actually try to push pre-adjudicatory detention responsibilities on to counties. While some counties are contemplating whether they can actually provide the service for less than they are currently being billed through the DJJ formula (for Broward it costs approximately \$9 million), others are concerned whether the service system can accommodate the need for expanded diversion, behavioral health and educational programs. The Florida Association of Counties has asked its members to discuss the potential benefits and detriments to taking on the responsibility of juvenile justice.