

# Broward SLI

State Legislative Information

September 26, 2011

Number 1 - Volume XIV

## Committee Week 1

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## FAC Legislative Policy Conference

The Florida Association of Counties (FAC) held its annual Legislative Policy Conference September 21-23 in Volusia County. Commissioners Lieberman, Ritter and Sharief attended the Policy Conference along with staff from the Office of Intergovernmental Affairs and Professional Standards (OIAPS). Conference attendees reviewed the policy statements and began development of the 2011-12 FAC State Legislative platform. The following FAC committees met to discuss changes to the platform and review the guiding principles to be included in FAC’s legislative program: Finance, Transportation and Administration, Public Safety, Health and Human Services, Growth, Environmental Planning and Agriculture, the Oil Spill Task Force, and the Numeric Nutrient Criteria Task Force.

The final FAC State Program will be discussed and approved at the Legislative Conference in Walton County, November 16-18, 2011. If you would like additional information, or would like to attend, please contact OIAPS at 954-357-7575.

## Reapportionment

The Senate Reapportionment Committee met Thursday to discuss and set its guidelines for redistricting in Florida. The committee, chaired by Sen. Gaetz, outlined the committee timeline as follows:

- **November 1** – Deadline for the public, interest groups and senators to submit proposed maps.
- **Week of December 5** – Consideration of a committee redistricting bill.

In an effort to avoid last-minute surprises, Chair Gaetz proposed a two-day notice rule for any amendments, including “late-filed” amendments, in hopes that would leave more time for analysis.

The committee, as of September 23, has received 64 proposed redistricting plans from the public, with 34 of those mapping out congressional districts and the rest related to Florida House and Senate districts. Residents of Broward County have submitted 3 plans; meanwhile, residents of Miami-Dade County have submitted 2 plans and residents of Palm Beach County have submitted 4. The committee plans to review each and every proposed map submitted and then jointly, in a transparent manner, determine the best way forward.

Senate Minority Leader Nan Rich said she supports requiring individual senators to submit their proposals at the same time as members of the public. Earlier this week,

the House's redistricting committee, Chaired by Rep. Weatherford, decided to accept public proposals until November 1, though members of the Florida House of Representatives will have until November 14 to submit maps.

Sen. Gaetz stated the committee will hold additional meetings in October and November to examine details of the four regions of the state. The first meeting, which is anticipated to be held October 5, will focus on North Florida, including the Panhandle and Big Bend. Another meeting in October will deal with an area roughly from Jacksonville to Orlando, while meetings in November will involve much of the state's west coast and South Florida.

Anyone wishing to submit a map can click on one of the following links:

House: <http://floridaredistricting.cloudapp.net/MyDistrictBuilder.aspx>

Senate: [http://www.flsenate.gov/session/redistricting/sign\\_up.cfm](http://www.flsenate.gov/session/redistricting/sign_up.cfm)

## **Distracted Driving**

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House Transportation and Highway Safety Subcommittee Chairman Drake pledged Tuesday that the panel will take up legislation aimed at reducing distracted driving and that he was open to considering a change in the law, or at least looking at the problem of driving while texting or doing other things. Rep. Slosberg asked Highway Safety and Motor Vehicles (HSMV) legislative affairs director Stephen Fielder how many distracted driving tickets are given in a year by the Highway Patrol. Fielder answered, "None, because there is not a law prohibiting distracted driving." Committee Member Rep. Slosberg also stated that he will file legislation this year to make it illegal for minors to text and drive, but probably not adults.

## **“Tax Cap” Amendment**

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The “Tax Cap” Constitutional Amendment, approved in the 2011 Legislative Session, if approved by more than 60% of the voters, would impose a new non-homesteaded property tax cap. This amendment, which will appear on the 2012 ballot, is intended to restrict the ability of state government to raise taxes, licenses, fees, fines or charges for services and limits the use of revenues received in excess of the constitutional limitation. It also replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation. The amendment, which only affects state government, would:

- Require excess revenues to be deposited into the Budget Stabilization Fund, used to support public education, or returned to the taxpayers.
- Subject the proceeds from fines and other revenues that are used for paying debt service on bonds issued after July 1, 2013 to the state revenues limitation.
- Authorize the Legislature to increase the revenue limitation by a supermajority vote.

According to a recent poll of likely Florida voters, commissioned by Keep it Local, Florida, nearly 40% opposed with just over 60% supporting the constitutional amendment.

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## Senate Transportation Committee

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The Senate Transportation Committee met on Wednesday and held a confirmation hearing for the appointment of Ananth Prasad as the new Secretary of Transportation. After approval from the committee, newly-appointed Prasad outlined his plan to get the department moving forward. Secretary Prasad must still be confirmed by the entire Florida Senate, which is expected to take place when Session convenes in January.

Funding for infrastructure improvements was discussed. Secretary Prasad stated that gas and fuel taxes are no longer a viable or reliable source for major projects. In order to help fund major projects, more tolls booths will be placed on highways that are used the most. A toll increase is only one of the many feasible solutions the Department needs to investigate and present to the committee.

The Secretary also stated that approximately \$1.8 billion will go into leveraging the Turnpike, and modifying toll lanes in Miami-Dade County. His goal is to use public private partnerships (P3s) to enable projects to get done quicker and save 20%-25% in the total cost of the project. Some P3 projects are financed by a private company and payment is made when the monies become available in the state budget.

The Department of Highway Safety & Motor Vehicles (DHSMV) submitted their 2012 legislative proposals to the committee, including the following new initiatives:

- *Vehicle insurance*: Shorten the number of days for drivers to provide proof of insurance.
- *Definition*: Modify the definition of “motor vehicle” to more accurately describe off highway vehicles.
- *Late fees*: Require foreign visitors to receive an original license each time they leave and return to the country to avoid unnecessary paper work.
- *Enhanced Drivers licenses*: Offer these licenses to meet the requirements of the Western Hemisphere Travel Initiative which allows U.S. Citizens crossing international borders to use this license as proof of identification in lieu of a passport. The estimated cost is \$70; approximately half the price of a passport.
- *Reports*: Eliminate the need for DHSMV to submit annual reports on seatbelt usage, originally implemented to prevent profiling.

The Red Light Camera agenda item was not discussed due to time constraints but will be taken up in a future committee meeting.

## Online Travel Companies Press Conference

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Rep. Kriseman held a press conference on Wednesday to discuss the ongoing controversy surrounding state and local sales taxes unremitted by online travel companies (OTCs). Currently, OTCs only remit taxes on the wholesale price of a hotel room, rather than the retail price charged, and claim the difference as an untaxable service fee, i.e. profit. Rep. Kriseman, whose position is shared by several other lawmakers and local government officials, believes that Florida law clearly requires OTCs to collect and remit taxes on the full amount charged to customers and that their failure to do so costs the state \$500 million in uncollected tax revenue. Rep. Kriseman has reached out to Attorney General Bondi multiple times on this issue but is yet to receive any substantive response. He also requested resolution from the Department of Revenue (DOR), who has claimed that it cannot adopt a formal position without

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direction from the Attorney General.

According to Kriseman and others, the issue is a matter of enforcement, rather than interpretation, as the law in its current form is clear; however, as the OTCs continue to operate in violation of the law, rulemaking may be necessary. As has been the case for the last several years, industry-supported legislation will likely be filed again this year to clarify that OTCs are only required to collect and remit taxes on the wholesale price of a hotel room. Broward County opposes any legislation confirming the ability of OTCs to operate under this type of model.

## Florida Statewide Medicaid Managed Care Program Status Update

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Justin Senior, AHCA General Counsel and Acting Medicaid Director, updated the Senate Budget Subcommittee on Health and Human Services Appropriations and others on the state's pending Medicaid waiver requests. Originally submitted to the federal Centers for Medicare and Medicaid Services (CMS) over the summer, AHCA's 1115 waiver extension and additional amendments include requests to:

- Mandatorily enroll a majority of individuals in managed care plans statewide.
- Allow health plans to develop customized benefits packages for specific populations.
- Impose a \$10 monthly premium on those enrolling in the SMMC program.
- Require a \$100 copayment for non-emergency ER visits.
- Have premium option for the Medically Needy population and continually enroll them for up to six months.
- Enable Medicaid recipients to participate in employee-sponsored health insurance.

While CMS has no formal deadline for responding to AHCA's requests, the process will likely take months. Mr. Senior provided that AHCA and CMS have been holding weekly conference calls since the process began. According to Mr. Senior, the federal government is maintaining the position that managed care plans use a Medical Loss Ratio, which would require providers to spend a set percentage of profits on patient care; specifically, CMS wants Florida Medicaid providers to spend a minimum of 85% on patient care. AHCA's submitted plan instead employs an Achieved Savings Rebate model, a profit sharing arrangement whereby providers split any savings they are able to achieve with the state. While the committee was somewhat divided on the issue, a handful of members remain committed to using an Achieved Savings Rebate model; however, as of now it appears that the federal government's approval of Florida's plan will be contingent on the inclusion of a Medical Loss Ratio.

Chair Negrón also suggested that the state still consider withdrawal from the federal program, even if just as a threat, in the event that CMS refuses to budge during negotiations. The original Senate bill included this provision last Session, but it was removed before the legislation ultimately passed.

Other issues discussed included changes to Low Income Pool (LIP) program requirements. CMS has apparently indicated there will be an early sunset date to the LIP program, with \$500 million in funding during the last year of the renewal period instead of the \$1 billion supplemental funding originally authorized. Implementation of Medicaid managed care will likely be a regular topic of discussion over the next few months as the federal government continues processing the state's proposals.

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## Assisted Living Workgroup Update

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The House Health & Human Services Quality Committee heard a presentation from the Assisted Living Workgroup (ALW). As background, last Session both chambers passed SB 1992, eliminating background screening requirements for certain individuals who work with seniors, and HB 4045, reducing certain regulations on assisted living facilities to maintain superior levels of service. Governor Scott vetoed both bills, citing that they failed to adequately protect seniors and other individuals in assisted living facilities. The Governor subsequently created the ALW to recommend improvements to the existing screening practices and tasked AHCA with creating an online system to supply information on quality of care and past performances of ALFs.

As of now, the ALW has determined that the number of patients needing assisted living care has expanded over the last ten years, and thus maintaining a high level of oversight and accountability has been increasingly difficult. Regular inspections take place every two years, with additional monitoring conducted depending on the site and services provided. Mandatory sanctions for violations include: fines, suspensions, revocation of licenses, and the possibility of closing the facility; however, federally licensed facilities are not required to go through the state inspection and must instead comply with federally mandated requirements.

As of now, three state-wide public meetings have been scheduled where public testimony and stakeholder input will be taken. Two of these have been held in Tallahassee and Tampa; a third meeting will take place in Miami at a later date.

## Implementation of HB 7095 – Relating to Prescription Drugs

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Several committees heard updates on the implementation of CS/CS/HB 7095, passed last Session, which addresses Florida's prescription drug abuse problem by imposing more stringent regulations on wholesale distributors, pain-management clinics, pharmacies, pharmacists, and physicians. Specifically, the legislation requires prescription drug distributors to report data to the Department of Health (DOH), and makes improper distribution and false reporting third degree felonies. The law also prohibits physicians from dispensing Schedule II and Schedule III controlled substances and makes such dispensing a third degree felony and grounds for licensure discipline.

After the bill was signed into law in June 2011, the Department of Health (DOH) sent over 400 letters to dispensing practitioners notifying them that they were no longer authorized to dispense selected controlled substances and alerting them to dispose of their inventory by August 1. During this quarantine period, practitioners had three options: (1) quarantine onsite; (2) facilitate the quarantine process and allow law enforcement to take the drugs into custody offsite; or (3) abandon the property and turn it over to the Florida Department of Law Enforcement (FDLE). On average, most physicians opted to abandon their property. Additionally, the DOH created a list of dispensing practitioners who pose the greatest public health threat; as a result, 23 physicians were inspected statewide, with the majority in South Florida.

In July, strike forces confiscated over 100,000 pills during statewide raids. Of those, FDLE returned approximately 6,000 to the distributors and quarantined just under 100,000 offsite. In some cases, practitioners are being prosecuted for intentionally distributing narcotics and/or improperly reporting inventory; HB 7095 included appropriations to cover litigation costs.

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## Implementation of 2011 Department of Juvenile Justice Legislation

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In the House Justice Appropriations Subcommittee, the Department of Juvenile Justice (DJJ) discussed implementation of legislation passed last Session. HB 997 requires local governments to establish juvenile citation programs, which are only available for first time juvenile misdemeanants. Under a diversion program, a law enforcement officer may issue a civil citation assessing not more than fifty community service hours, and requiring participation in intervention services appropriate to the identified needs of a the juvenile, when a juvenile admits to committing a misdemeanor.

Since its inception, the civil citation program has:

- Saved over \$3 million in booking fees.
- Seen a 34% increase with participants.
- Resulted in a 74% increase in program expansion.

Furthermore, 46 programs have been registered with DJJ and 663 youth have been issued a citation instead of arrest. Of these 46 programs, 11 were existing programs that have been made flexible to accommodate the changes made in HB 997.

The DJJ also discussed the effects of SB 2114, which changed the juvenile commitment criteria and required the DJJ to establish a minimum of two pilot sites to implement community-based juvenile justice systems over the next two years. Pilot sites were designated in Pasco, Pinellas, Orange, and Osceola counties. The law further requires the DJJ, by January 1, 2013, to contract with a regional coordinating agency (RCA) for the delivery, administration, and management of certain juvenile justice services, including: intervention; prevention; assessment centers; diversion programs; civil citation programs; home detention; alternatives to detention; community-based services; probation; independent living; evidenced-based programs; residential programming; and detention.

In addition, the court may no longer commit a delinquent juvenile to any restrictiveness level other than minimum risk, non-residential care. Exceptions to this new rule include probation violations that constitute felony violations, previous felony adjudications, three or more misdemeanor offenses, and considerations of the protection of society and the needs of the juvenile. According to DJJ, there has been a 31% reduction in commitments for misdemeanor offenses compared to last year.

Fiscally, \$5.4 million was allocated to serve misdemeanor youth in the community, through which the DJJ has developed a process for implementing rate agreements with Community Mental Health Centers and substance abuse treatment providers. DJJ has also issued an invitation to negotiate (ITN) for electronic monitoring.

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