

# Broward SLI

State Legislative Information

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## Session Week 7

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## Budget Conference

Immediately after passing the Judicial system reform bill today, which significantly impacts the way judges are nominated and creates a two chambered Supreme Court, the Senate Budget Chair Alexander gave an update on the budget allocation process. The Senate made their allocation offer one week ago. The Senate did not receive an adjusted "final offer" from the House last Tuesday as was anticipated.

After a two-day cooling-off period, the Senate again made an allocation offer which was transmitted to the House on Thursday evening, with the following components:

- Alien incarceration (having to do with costs for which the State believes the federal government should be paying).
- Florida Housing Finance Corporation dedicated doc stamp revenues are significantly swept in the allocation offer (both House and Senate propose a large Trust Fund sweep).
- \$150 million Transportation Trust Fund Sweep is offered.
- Higher Education allocation was agreed-upon by splitting the difference between the House and Senate positions.
- Health and Human Services received a \$6.9 billion allocation (much closer to House position, which is positive).
- Judiciary/Justice allocations were also averaged between the House and Senate positions, although the Senate refused to accept the elimination of many positions (State's Attorneys and Public Defenders).
- Tourism, Trade, and Economic Development (TTED) allocation offer is closer to the House position, with the exception of tax cuts, which remains to be debated in conference.
- **Administrative Funds include an agreed-upon 3% across-the-board contribution of employees in the Florida Retirement System (FRS).**
- A \$442 million reserve exists to assist with coming to agreement in areas where the House and Senate are still not in agreement.
- \$214 million remains in the Budget Stabilization Fund.

The House has been contacted numerous times, but the House Budget Chair has not been responsive. Chair Alexander encouraged Senate members to reach out to their colleagues in the House to ask that they accept the Senate's allocation offer. As of 5PM, Monday, the House had still not responded.

## Rules

Tomorrow is the 50<sup>th</sup> day of Session – the last day for regularly scheduled committee meetings pursuant to Senate Rule 2.9(3). Unless approved by the President, no committee shall meet after that day.

## Pretrial

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HB 1379 was heard last Thursday in the House Judiciary Committee. Counties with a population of 350,000 or less are exempted, by amendment, from the indigency requirement of the legislation. The indigency definition placed in the bill limits pretrial eligibility to 300% of federal poverty guidelines. Extensive testimony occurred, and several members asserted that opposition to the legislation was based on the fact that pretrial programs generate revenues for local governments; this is an inaccuracy. Additionally, counties were accused of having cozy relationships with pretrial vendors. HB 1379 passed on a 10-8 vote, with two of Broward's three members dissenting. SB 1398, the companion by Sen. Bogdanoff, is slated to move to Rules as its next committee of reference; however, it is not presently on the Rules Committee calendar for Tuesday afternoon.

## Growth Management

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HB 7129 by Rep. Workman and the Community and Military Affairs Subcommittee, the House major growth management reform package, passed by a vote of 86-31 on Thursday. Dubbed the "Community Planning Act," the bill purports to streamline the planning and development process by significantly reducing the state's oversight role in growth management while leaving most responsibility in the hands of local governments. Specifically, HB 7129:

- Applies the Alternative State Review Process, and expedited review process currently available in a limited number of jurisdictions, statewide.
- Repeals Rule 9J-5 of the Florida Administrative Code, which outlines the state's role and procedures used in reviewing comprehensive plan amendments, but incorporates some of its provisions into statute.
- Expands the existing "optional sector plan" program to statewide application.
- Makes concurrency for parks and recreation, schools, and transportation optional; however, local governments could opt to mandate concurrency for these elements at the local level.
- In the Future Land Use Element, modifies and incorporates additional language relating to "urban sprawl" and modifies the need requirement to be based upon a minimum population.
- In the Capital Improvements Element, removes the financial feasibility requirement and requires local governments to list their funded and unfunded capital improvements.
- Removes the state requirement for local governments to adopt an evaluation and appraisal report every seven years; however, local governments would still be required to evaluate their comprehensive plans once every seven years and adopt update amendments as necessary.
- Modifies provisions related to developments of regional impact (DRIs).

Although HB 7129 passed by a significant margin, it did not receive a two-thirds vote. Because of the unfunded mandate issues associated with the bill, this year's ultimate growth management bill will likely need to reach the two-thirds threshold, or else could be subject to litigation. HB 7129 is now in Senate messages; the major Senate growth management bill, SB 1122 by Sen. Bennett, is now in the Budget Committee.

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## Water Quality/Numeric Nutrient Criteria

HB 239, by Rep. Williams, passed in the House by a vote of 90-27 on Thursday. In response to the U.S. EPA's issuance of numeric nutrient criteria for Florida's waterbodies in 2010, the bill would prohibit all state, regional, and local governmental entities from implementing the federal nutrient criteria for the state's lakes and flowing waters where the criteria is more stringent than necessary to protect the biological community and designated use. However, as amended, the bill does not prohibit local governments from:

- Applying for any pollution discharge permit.
- Complying with the conditions of such permits, including federally-authorized National Pollution Discharge Elimination System (NPDES) permits.
- Implementing best management practices, source control, or pollution abatement measures for water quality improvement programs as provided by law.

HB 239 was also amended to include a new waterway classification system and to alter language to remove some concerns about the potential affects the new classification system could have on water quality in the Everglades. However, the Natural Resources Planning Management Division remains concerned about the bill. The Senate companion, SB 1490 by Sen. Evers, has not yet been heard in any of its committees of reference.

## Value Adjustment Board

SB 880, sponsored by Sen. Garcia, was favorably approved (18-1) with a strike all amendment by the Senate Budget Committee on Monday bringing it closer in line with the House companion bill. Sen. Thrasher, the Senate Rules Committee Chair, was the only no vote on the bill. The House companion, CS/CS/CS/HB 281, sponsored by Rep. Logan, was also favorably approved by the House Finance and Tax Committee (20-0) on Thursday. The bills require a petitioner before a value adjustment board who challenges an assessment of property to pay all non-ad valorem assessments and make a partial payment of at least 75 percent of ad valorem taxes before April 1, less any applicable discount. If the payment is not made by that date, the value adjustment board must deny the petition.

If the value adjustment board determines that the petitioner owes ad valorem taxes in excess of the amounts paid, the unpaid amount accrues interest at the rate of 12 percent per year from April 1. The bills also eliminate current language which provides for a four percent discount that applies for 30 days after the mailing of a tax notice resulting from the action of a value adjustment board. The legislation is expected to have a positive fiscal impact on local governments, and becomes effective on July 1, 2011.

## House Public Employee Severance Bill Heads to Floor

The House State Affairs Committee considered and passed CS/CS/HB 43, relating to public employee compensation packages, on a 12-3 vote, Thursday. The bill is intended to address recent severance pay abuses involving high-ranking public employees. As passed, the bill makes the following changes with respect to public employee compensation:

- Requires a unit of government that enters into a contract or employment

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agreement or renews or renegotiates an existing contract or agreement to include the provision of severance, limit the compensation to not greater than 20 weeks of pay, unless the unit of government approves the amount by a two-thirds voted of the membership of the body.

- Requires the inclusion of a provision in such contract or agreement that prohibits severance pay when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s. 443.026(29), F.S., by the unit of government.
- Provides for exceptions to requirements for severance pay.
- Restricts bonus schemes.
- Deletes provisions of law inconsistent with these restrictions.
- Prohibits confidentiality provisions in any employment agreement or contract involving extra compensation.

The bill has been placed on the House calendar of bills available for floor consideration. The Senate companion measure, CS/CS/CS/SB 88, also awaits Senate floor action. Unlike the house bill, however, the Senate version makes no allowance for severance pay unless it is paid from private funds and does not violate state ethics laws; is part of an interstate exchange of employees; is part of a settlement agreement of an employment dispute; or the severance pay provision was part of a contract entered into before July 1, 2011.

## **House Transportation Bill Passes Last Committee**

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CS/CS/HB 1363 unanimously passed the House Economic Affairs Committee last Thursday as a committee substitute. It was the bill's final stop before next heading to the House floor for consideration and approval. An adopted strike-all amendment made some additional technical and conforming changes to the bill. However, concern over the loss of federal funds because of the bill's outdoor advertising provisions, caused a brief postponement of the bill. Ultimately, the Committee adopted an amendment striking the tourist-oriented commerce sign pilot project proposed and removed an exemption for temporary farm operation harvest signs not exceed 32 square feet. The Senate Transportation bill, CS/CS/SB 1180, is on the Senate calendar awaiting floor action.

## **Building Code Legislation**

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The House Economic Affairs substantially amended and unanimously passed CS/HB 849, relating to building construction and inspections, as a committee substitute. The bill addresses numerous provisions of the state's building code. As passed, the bill:

- Exempts rules that adopt federal standards, and updates of or modifications to the Florida Building Code or Florida Fire Prevention Code, from Legislative ratification requirements.
- Deletes an exemption for emergency rules, as well as rules that adopt federal standards from a requirement that regulatory costs include an economic analysis of the rule's adverse impacts and regulatory costs.
- Prohibits the Florida Building Commission from adopting rules that limit any exceptions or exemptions provided for modifications or repairs of existing structures within the limits of an existing foundation under certain circumstances.
- Authorizes notices relating to a code violation to be sent by certified mail to the property owner at an address provided to the local government for the

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purposes of receiving notices or to the registered agent of a corporation for property owned by a corporation, and deletes the requirement for such notices to be sent by first-class mail.

- Redefines the term "sustainable building rating" to include a national model green building code.
- Requires that state agencies, local governments, and the court system adopt a sustainable building rating system or use a national model green building code for new and renovated buildings.
- Makes changes relating to the regulation of home inspectors, including continuing education requirements, home inspection reports, licensure of home inspector, and exempting licensed home inspectors from having to comply with mold assessment provisions.
- Provides that Part II of Chapter 481, F.S., does not preclude any person who engages in the business of landscape design from submitting such plans to governmental agencies for approval.
- Revises the composition of the advisory review board relating to public swimming pools and bathing facilities.
- Prohibits the Department of Agriculture and Consumer Services and other state agencies from requiring compliance with certain national standards for liquefied petroleum gas tanks, unless the department or agencies require compliance with a specified edition of the national standards.
- Revises intent with respect to the Florida Americans with Disabilities Act, and incorporates the Americans with Disabilities Act Standards for Accessible Design into state law by reference, and directs such design standards be adopted by rule into the Florida Accessibility Code for Building Construction.
- Revises provisions relating to parking spaces for persons who have disabilities to incorporate specific standards set forth in the bill.
- Revises requirements relating to the Florida Building Code, specifies national codes to form the foundation for state building standards and codes, and revises several provisions for the amendment or modification of the foundation code.
- Revises the criteria for Florida Building Commission approval of technical amendments to the code.
- Provides for the approval of certain windstorm products.
- Authorizes a cause of action against any person who advertises, sells, offers, provides, distributes, or markets certain products without approval.
- Revises requirements for increases in the energy efficiency standards of the Florida Building Code.

The bill now heads to the House calendar. A Senate measure, CS/CS/SB 396, is scheduled to be heard in the Senate Budget Committee on Tuesday, April 26<sup>th</sup>.

## Qualified Target Industry Tax Refund Program

CS/CS/SB 1318, sponsored by Sen. Benacquisto, relating to the Qualified Target Industry (QTI) Tax Refund Program, was favorably approved by the Senate Budget Committee today. The bill modifies the criteria by giving special preference to businesses that enhance trade opportunities and global logistics.

The QTI program is one of the most popular of the State's incentives. According to EFI's 2010 incentives report, of the 110 businesses that applied for the incentive last fiscal year, 78 were approved by OTTED and 63 have entered into agreements with OTTED.

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There are 69 active QTI projects. According to the incentives report, the owners of these projects have invested \$778 million in Florida, and created 7,427 jobs paying an annual average wage of \$46,345. The average statewide private-sector annual wage in 2010 was \$39,621, according to data compiled by the Florida Agency for Workforce Innovation.

## **Homestead/Nonhomestead Property Tax**

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CS/CS/CS/HJR 381, sponsored by Rep. Dorworth, was favorably approved by the House Economic Affairs Committee on Thursday. The Joint Resolution, if passed by a three-fifths vote of the membership of both the Florida House and Senate and approved by 60 percent of Florida voters, would take effect on January 1, 2013, and would affect properties purchased on or after January 1, 2012. The proposals would amend the State Constitution to:

- Prohibit increases in the assessed value of homestead property if the just value of the property decreases.
- Reduce the limitation on annual assessment increases applicable to nonhomestead property from 10 percent to 3 percent.
- Provide an additional homestead exemption for owners of homestead property who have not owned homestead property for a specified time before the purchase of the current homestead property.

CS/CS/658 is currently pending before the Senate Budget Committee. The Senate bill has been amended to reduce the non-homestead cap to 5% instead of the previous 3% limitation.

## **Veterans Property Tax Discount**

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Senate Joint Resolution (SJR) 592 is awaiting a vote of the Senate Budget Committee on Tuesday, April 16. The bill proposes an amendment to the Florida Constitution, to allow partially or totally disabled veterans who were not Florida residents at the time of entering military service to qualify for the combat-related disabled veterans' ad valorem tax discount on homestead property. This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

The House companion, CS/HB 439, passed the Economic Affairs Committee (15-0) on April 12 and is currently on the House Calendar, on second reading.

## **Citizens Property Insurance Bills**

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A summary of bills relating to Citizens Property Insurance include:

- CS/CS/HB 803, sponsored by Rep. Wood, is pending on the House Calendar, on second reading.
- CS/CS/CS/SB 408, sponsored by Sen. Richter, is pending on the Senate Calendar, on second reading.
- CS/SB 1714, by Sen. Hays, will be heard on Tuesday, April 26 in Senate Budget.
- CS/CS/HB 1243, by Rep. Boyd, is pending on the House Calendar, on second reading.

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