

# Broward SLI

State Legislative Information

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## Session Week 4

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## Budget

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Budget bills in both the House and Senate propose to make deep cuts in education, health care and other services to close the projected \$3.75 billion gap.

Senate budget-writers unveiled their spending plan late Monday that was \$3.3 billion higher than its House counterpart. The Senate budget proposal weighs in at nearly \$69.8 billion and the House budget proposal weighs in at close to \$66.5 billion.

In general terms, the Senate appropriates more funding to education, criminal justice and the broad category including natural resources, environment, growth management and transportation than does the House. The House plan appropriates more for human services and general government. The biggest difference is in the environment and transportation segment of the budget, in which the Senate included \$12.3 billion to the House's \$9 billion; meanwhile, the proposals are approximately \$800 million apart on human services -- the Senate spends \$28.4 billion to the House's \$29.2 billion. The two chambers will also have to decide whether to raid the State Transportation Trust Fund and how much to sweep from the fund if they do.

The House budget committee approved their \$66.5 billion state spending plan Wednesday that would reduce the state's workforce by 5,245 jobs, pull \$710 million from public employee paychecks and cut Florida schools by \$1.1 billion. The House's proposed budget passed 15-8.

The House and Senate are both expected to pass their budgets next week. The two budgets are \$3.3 billion apart, largely due to the Senate's insistence to include water management districts, some expressway authorities and county court clerks in the Senate budget. But the Senate also calls for a much heavier reliance on privatization for savings and has much deeper cuts in health programs. By contrast, the House removes more than \$300 million from the state's road-building trust fund.

## Pension Reform

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The Senate Budget Committee favorably approved a new pension reform bill (SPB 7094) by a vote of 13-8 on Thursday. Pension reform has become a pivotal part of the Legislature's efforts to close a \$3.75 billion budget shortfall and is intended to bring in approximately \$1.1 billion, including more than \$940 million in general revenue.

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The Senate bill:

- Requires all employees to contribute 3 percent of their pre-tax gross salaries toward their pensions.
- Closes the Deferred Retirement Option Program (DROP) to those not already enrolled and stops current employees from getting cost of living adjustments for salaries earned after July 1.
- Prevents employees hired July 1 or later from joining the existing defined benefit retirement plan, which guarantees lifetime payments. Instead, they would be offered optional defined contribution plans similar to a 401(k). The length and level of benefits would depend on how good a job each employee does in choosing investments. The benefits change is being pushed by Gov. Scott but is not in the House's pension bill (HB 1405).

Stripped from the new Senate bill is a provision passed by a previous Senate Committee that created contribution tiers for state employees, with the highest-paid state employees required to devote a larger portion of their salaries toward retirement. Under that plan, sponsored by Sen. Ring, employees making more than \$40,000 would contribute 2 percent to the pension plan or 4 percent if they make more than 75,000. That would have excluded 75 percent of state workers who make less than \$40,000 who would not have been required to contribute. The state would gain about \$710 million from having employee make pension contributions; however, contributing 3 percent would cost the average public employee making \$39,000 a year nearly \$1,200.

The House bill, CS/HB 1405, sponsored by Rep. Workman:

- Requires that state workers pay 3 percent of their salary annually for their pension.
- Keeps in place the current styled pension plan.
- Eliminates DROP for those not already enrolled.

The proposed House measure, intended to save the state more than \$800 million, was favorably approved by the House Appropriations Committee on Wednesday but does not include a Senate provision that would reduce cost-of-living pension adjustments for existing employees and end them for new hires.

Senate Budget Chairman Alexander pledged to consider several changes to the measure; however, changes would be considered in the broader context of the Legislature's efforts to close a \$3.75 billion budget shortfall. He said this won't be the Legislature's final product but would put the Senate in posture to bargain with the House.

## **TABOR (Smart Cap)**

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A proposed constitutional amendment (PCB FTC 11-02) that ties state revenue collections to growth passed the House Finance and Tax Committee on Wednesday by a 16-7 vote. The Taxpayers' Bill of Rights (TABOR), if approved by voters, would limit state revenue growth to inflation and population growth following a phase-in period. The Senate passed its version of TABOR, CS/SB 958 (Bogdanoff), last week (27-13). Neither bill includes a local government revenue cap.

Broward County opposes any legislative or constitutional efforts to impose expenditure

or revenue caps on local governments. Staff is closely monitoring this legislation and its development.

## **Crime Lab Funding Amendment Approved**

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The Senate Budget Committee on Thursday adopted an amendment to SPB 7122, the proposed budget conforming bill relating to criminal justice matters, intended to direct more revenue to local crime labs. The amendment, sponsored by Sen. Bogdanoff, redesignates the discretionary \$100 assessment in s. 938.25, F.S., which courts may impose on defendants convicted of a controlled substance violation, as mandatory court assessment. In addition, the amendment expands the assessment to cover all criminal convictions where the services of criminal analysis laboratory are used in connection with the investigation or prosecution of the crime. Sen. Bogdanoff stated the amendment was necessary to provide increased funding to local crime labs that have seen state support dwindle in the last few years despite increasing workloads and backlogs. The amendment was adopted without objection from committee members.

## **Homestead/Nonhomestead Property Tax**

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CS/CS/CS/HJR 381, sponsored by Rep. Dorworth, was favorably approved (20-2) by the House Finance & Tax Committee on Wednesday. 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 shall be available for properties purchased on or after January 1, 2012. The Joint Resolution proposes to 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.

The County strongly opposes the bill. The Senate companion bill, SJR 658, sponsored by Sen. Fasano was favorably approved by the Senate Community Affairs Committee on March 14 (9-0) and is currently pending in Senate Judiciary. The statutory implementing bill for SJR 658 and HJR 381, SB 1722 passed the Senate Community Affairs Committee 9-2 on Thursday.

## **Medicaid Reform**

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On Thursday, the House passed HB 7107 and HB 7109 by Rep. Schenck and the Health and Human Services Committee, the two bills that together constitute the House Medicaid Reform package. The proposal would shift all Medicaid beneficiaries into managed care plans over the next five years; managed care plans would competitively bid to provide services within a region, and there would be a cap on the total number of plans available per region. Many amendments were offered that would scale back the massive overhaul; however, they ultimately failed or were withdrawn. HB 7107 passed by a vote of 80-38; HB 7109 passed by a vote of 78-39.

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The Senate version of Medicaid reform, SB 1972 by Sen. Negron, passed unanimously in the Health Regulation Committee on Wednesday. The Senate proposal is also based on shifting Medicaid beneficiaries into managed care, but continues to exempt persons with developmental disabilities and those in nursing homes prior to July 2011. However, unlike the House proposal, SB 1972 does not maintain the requirement that AHCA contract with the Commission for Transportation Disadvantaged, although stakeholders, including the Florida Association of Counties, are actively pushing the Senate to include this provision in its bill. Additionally, SB 1972 eliminates the Medically Needy program, renaming it as the Medicaid Nonpoverty Medical Subsidy program and limiting its services to physician services only.

SB 1972 will be heard next in the Budget Subcommittee on Health and Human Services Appropriations on Wednesday.

## Growth Management

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House and Senate committees heard their respective growth management proposals this week: HB 7129 by Rep. Workman, and SB 1122 by Sen. Bennett. Originally just a 21-page bill addressing only certain aspects of growth management, Sen. Bennett offered a 262-page strike all amendment to his bill that brings it in line with the House's major growth management overhaul, HB 7129 (formerly PCB CMAS 11-04). With the goal of streamlining the development process and government in general, the proposed reforms would strip most of the state's oversight role in planning and development, vesting the majority of review powers in local governments. Major changes proposed in both bills include:

- Repealing Rule 9J-5, which outlines the state's role and procedures used in reviewing comprehensive plan amendments.
- Creating an expedited review process for most plan amendments.
- Expanding the existing "optional sector plan" program to be available statewide. Sector plans are intended for long-range, large-scale planning of areas encompassing 15,000 acres or more.
- Making concurrency for parks and recreation, schools, and transportation optional; however, concurrency requirements for solid waste, drainage, potable water and sanitary sewer facilities would remain in place. However, in the event that a local government adopts optional concurrency requirements, it can only rescind such requirements through a comprehensive plan amendment.
- Changing the legal standard of review, making it more difficult for citizens to challenge land use planning decisions.

There are still some differences between the House and Senate bills, including how they address financial feasibility requirements, which the House eliminates altogether and the Senate merely postpones until 2013. Also, while the Senate has filed several bills related to growth management this Session, the strike-all amendment conforming SB 1122 to HB 7129 makes clear that SB 1122 will be the Senate's major growth management package this year.

SB 1122 passed unanimously in the Community Affairs committee; it is now in Environmental Preservation and Conservation. HB 7129 passed favorably by a vote of 13-5 in the Economic Affairs Committee, its last committee reference.

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## Environmental Permitting Bills

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SB 1404 by Sen. Evers was temporarily postponed in the Environmental Preservation and Conservation Committee last week. A strike-all amendment was filed by Sen. Latvala, bringing SB 1404 largely into conformance with HB 991 by Rep. Patronis, the House companion bill which has already passed two of its five committees of reference. SB 1404 is expected to be back up this week; HB 991 is now in the Economic Affairs Committee.

## Prescription Drug and “Pill Mill” Bills

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Several bills designed to combat the state’s prescription drug abuse and “pill mill” problems will be discussed in the Office of Economic and Demographic Research (EDR) Criminal Justice Impact Conference on Monday.

- SB 818, by Sen. Fasano, would: enhance criminal penalties for physicians who violate the law established in 2010 regarding standards of patient care in pain management facilities; authorize certain health care practitioners to complete a continuing education course relating to the prescription drug monitoring program (PDMP); and require that the PDMP comply with the minimum requirements of the National All Schedules Prescription Electronic Reporting Act. SB 818 has already passed unanimously in the Health Regulation and Criminal Justice committees, and is now in the Budget committee.
- HB 897 and SB 794, by Rep. Nehr and Sen. Diaz de la Portilla, respectively, would prohibit certain offenses within 1000 feet of homeless shelters, including the sale, manufacture, delivery, or possession of controlled substances. SB 794 passed unanimously in the Criminal Justice Committee and is now in the Children, Families, and Elder Affairs committee. HB 897 has been referred to three committees of reference but has not yet been heard.

Broward County supports legislation to address the continuing social and medical problems of prescription drug abuse, and opposes efforts to repeal or delay implementation of the PDMP.

## Destination Resorts

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SB 1708, sponsored by Sen. Jones, was withdrawn from consideration by the Senate. The bill would have permitted five “destination resorts” with full casinos but was hampered by amendments allowing some pari-mutuels to add casino games and slots. The measure also created issues regarding last year’s deal with the Seminole Tribe of Florida, which has a revenue sharing arrangement to run limited casinos. Other gaming bills remain in play including Rep. Fresen’s HB 1415 and Sen. Braynon’s SB 2050.

## Enterprise Zones

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SB 1296, sponsored by Sen. Detert, which advances the date of the expiration of the Florida Enterprise Zone Act, in effect eliminating enterprise zones in the state of

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Florida, is currently pending before the Senate Commerce and Tourism Committee. HB 1099, the House companion bill sponsored by Rep. Holder, is pending before the House Economic Development and Tourism Subcommittee. Neither bill has been heard nor been scheduled for a hearing. The County strongly opposes these bills.

## **Qualified Energy Conservation Bond Developments**

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Broward County received potential amendment language from Travis Yelverton, with the Governor's Energy Office (GEO), that could be used to create the Florida Qualified Energy Conservation Bond (QECB) Allocation Act. QECBs are direct subsidy bonds originally authorized by the federal government under the 2008 Energy Improvement and Extension Act and increased under the American Recovery and Reinvestment Act of 2009. The bonds are issued by state or local governments to finance projects that constitute qualified conservation purposes, which include reducing energy consumption in public buildings and implementing community green building programs. Florida received \$190,146,000 for QECB program, and is required to further allocate portions of this sum to the state's large local governments, which are defined as having populations of more than 100,000. However, enabling state legislation is required to facilitate the allocation to local governments; the County hopes this can be accomplished this Session through the amendment language. In concert with the GEO, Broward County is actively supporting the amendment and hopes to see it offered on SB 2078, Relating to Energy, in the Communications, Energy, and Public Utilities Committee on Monday.

## **Beach Funding**

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Statewide beach funding was included in both the House and Senate appropriations packages. On Wednesday, the House Appropriations Committee passed HB 5001, containing \$8.2 million in trust fund reversions to fund six named projects and the ten percent inlet management statutory requirement. However, no funding is allocated for post-construction monitoring. The Senate Budget Committee's General Appropriations Act, SB 7084, includes \$16.2 million (split between trust fund and general revenue sources) to fully fund the top twelve projects on the DEP's Beach Restoration and Nourishment Projects List; ten percent of the total allocation will go to monitoring and inlet management. HB 5001 has been placed on the House Special Order calendar for Wednesday. SB 7084 is being considered by the Budget Committee.

## **House Ocean Outfall Bill Moves**

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The House Agriculture and Natural Resources Subcommittee heard and passed HB 613 relating to Ocean Outfalls. The bill was amended to reflect the agreement reached between the Department of Environmental Protection and affected outfall utilities. As passed, the bill makes the following changes to current law:

- Extends the date for discharges of domestic wastewater through an ocean outfall to meet advanced wastewater treatment and management (AWTM) requirements from December 31, 2018 to December 31, 2023.
- Maintains the date for eliminating discharges of wastewater through an ocean outfall and for utilities to have in place a functioning reuse system that reclaims at least 60% of the facility's baseline flow at December 31, 2025.

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- For utilities operating more than one facility, the 60% reuse may be met from the entire wastewater systems' annual flow as of December 31, 2025.
- Maintains the unlimited backup discharges of domestic wastewater through an ocean outfall during times of reduced demand for reclaimed water from the functioning reuse system. Such discharges must meet the AWTM requirements.
- Allows peak flow backup discharges not exceeding 5% of the facility's cumulative baseline flow, measured on a 5-year rolling average and requires that such discharges meet the DEP's applicable secondary waste treatment and water-quality-based effluent limitations.
- Extends certain planning and reporting compliance dates.
- Requires the detailed plan that an outfall utility must submit to DEP to identify technically and economically feasible reuse options, and to include an analysis of the costs associated with meeting state and local water quality requirements, and comparative costs for reuse using outfall flows and other domestic wastewater flows.
- Requires the detailed plan to evaluate reuse demand in context with several factors considered in the South Florida Water Management District's (SFWMD) Lower East Coast Regional Water Supply Plan.
- Requires DEP, SFWMD and the outfall utilities to consider the above information for the purpose of adjusting, as needed, the reuse requirements, and requires DEP to report to the Legislature any changes that may be necessary in the reuse requirements by February 15, 2019.

The bill's reference to the Agriculture and Natural Resources Appropriations Subcommittee has been removed and the bill is scheduled to be heard in the State Affairs Committee, its last committee of reference, on Thursday, April 7<sup>th</sup>. CS/SB 796, the companion measure, is expected to be heard in the Senate Community Affairs Committee on Monday, April 11<sup>th</sup>.

## Seaport Bills Advance

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CS/CS/HB 283, relating to seaport security, cleared its two remaining committees in the House and is now headed to the calendar for floor consideration. The bill, which repeals the state duplicative seaport security standards, passed the Justice Appropriations Subcommittee on Monday, and the Economic Affairs Committee on Thursday. The bill was amended to remove the Florida Department of Law Enforcement's seaport inspection and reporting responsibilities. In addition, language was added concerning the establishment of Port Citrus. CS/SB 524, the companion senate bill, awaits a hearing in the Budget Committee, its final stop before floor consideration. Because CS/SB 524 has passed its previous committees unanimously, the bill may be available for expedited consideration under the Budget Committee's new consent agenda process.

In addition to the seaport security bills, the House and Senate acted on several seaport related bills this week. The Senate Transportation Committee heard and passed, as a committee substitute, CS/SB 768, which modifies several financing and permitting provisions to facilitate seaport infrastructure development and make Florida's seaports more globally competitive. Several amendments were made to the bill, including:

- Amending §311.07(2), F.S., to provide that "for the 5 fiscal years beginning

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with the 2011-2012 fiscal year through the 2015-2016 fiscal year, a minimum of \$100 million each year shall be made available from the State Transportation Trust Fund, and all funds, except for \$8 million, shall be used to fund the Florida Deepwater Seaport Program, which shall be for port infrastructure projects that expand this state's role as a global hub for trade and investment, and that enhance the supply chain system in the state to process, assemble, and ship goods to markets."

- Clarifying the maintenance dredging exemption in the bill to provide that a permit is not necessary under chapters 403 and 373, F.S., if the dredging to be performed is no more "than is necessary to restore previously dredged areas to original design specifications or configurations, previously undisturbed natural areas are not significantly impacted, and the work conducted does not violate the protections for manatees under §379.2431(2) (d)."
- Authorizing that the "spoil material" from the maintenance dredging can be "deposited in a self contained, upland disposal site, and such site, if existing as of January 1, 2011, does not require a permit provided a Professional Engineer certifies the site has been designed in accordance with generally accepted engineering standards for such disposal sites, has adequate capacity to receive and retain the dredged material, and has operating and maintenance procedures established that allow for discharge of return flow of water and to prevent the escape of the spoil material into the waters of the state." A seaport must provide DEP with notice of intent to use this exemption 30 days prior to commencing maintenance dredging activities and must also include the professional engineer's certification.
- Recognizing Port Citrus as one of Florida's seaports.
- Clarifying that overwater piers, docks, or similar structures located in a deepwater port are exempt from the state's stormwater permitting process if the seaport has a stormwater pollution prevention plan for industrial activities under the National Pollutant Discharge Elimination System (NPDES), and the plan also provides similar pollution measures for other activities not subject to the NPDES which occur on such piers, docks or structures.

The bill now moves to the Senate Budget Committee for its final committee stop. In the House, the State Affairs Committee similarly amended and passed CS/HB 399 on Thursday. The committee did not, however, include the \$100 million seaport investment amendment, and the bills have different port development language. The House bill now moves to its last committee of reference, the House Economic Affairs Committee.

On Thursday, March 31<sup>st</sup>, the Senate Budget Committee considered and passed SPB 7198, a budget conforming bill, containing the \$100 million seaport funding language in Section 2 of the bill. The conforming bill also consolidates several tolling authorities under the Florida Turnpike Enterprise and provides for the Florida Department of Transportation to manage the economic development road fund.

## OTC Legislation Dies and Is Resurrected

The House Finance and Tax Committee on Wednesday considered HB 493, which amends the state's tourist-related tax statutes on transient rental accommodations to



preserve the merchant business model used by online travel companies. The Committee heard testimony from several stakeholders favoring and opposing the bill. The most significant testimony, however, was presented by Mr. Steven Wolens, who is defending Broward and Osceola Counties in separate suits that OTCs have filed challenging the counties' respective assessments of unpaid tourist development taxes. Mr. Wolens advocated against passing HB 493, informed Committee members about the current OTC litigation nationwide, the misrepresentations made by OTCs in filings with the SEC and other state officials, and answered the members' many questions.

Following over an hour of testimony, the Committee debated the bill for another 30 minutes before voting to defeat the measure 11-12. The Chairman, Rep. Precourt, moved forward with the Committee's agenda while members on the losing end of the issue worked the committee to switch the votes of their colleagues. Republican freshman members who voted against the bill were called out of the room over the next two hours as House leadership members worked to reconsider the bill. In the end, a sufficient number of members switched their positions to allow reconsideration and temporary postponement of the bill until the next committee hearing scheduled for Tuesday, April 5<sup>th</sup>, at 11:45 AM.

## Pretrial

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On Monday, the Senate Criminal Justice Committee again calendared SB 372 for consideration after the bill's temporary postponement the prior week. Sen. Bogdanoff's bill had several amendments filed in an effort to increase its favorability. The committee, consisting of only five members, had several senators depart over the course of the committee's two scheduled hearing hours. It was cause for concern for those opposing the bill, as the vote-count against the legislation constantly fluctuated. Finally, the committee Chair returned and engaged in a side-bar with the bill's sponsor. The committee ran out the clock, without taking up SB 372, which has been calendared again, for Monday, April 4<sup>th</sup>.

On Tuesday, the House Criminal Justice subcommittee considered HB 1379, by Rep. Dorworth. The bill met with considerable opposition from audience members testifying against the bill, as well as representatives on the committee. However, in an unexpected turn of events, the bill passed 7 to 6, with Rep. Porth supporting the legislation. The bill goes next to the House Judiciary Committee.

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