



Broward SLI

State Legislative Information

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Week 4 & 5 - 2015 Session

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Broward Days Descends on Tallahassee

After a one year hiatus, Broward Days revived its presence in Tallahassee on March 26th and 27th with impressive displays from Hello Sunny, Seminole Tribe, the Broward League of Cities, GoSolar, Port Everglades, the Cultural Division showcasing Broward 100 events, and other local cities and agencies. The second and third floors in the Capitol rotunda area housed different informational tables about the County and showcased the history of the 31 cities within the County. In addition, on March 27th, the Capitol courtyard hosted an ice cream truck just next to a beach ball themed fun post.

On Wednesday, March 26th, Broward County Mayor Tim Ryan, along with Tallahassee Mayor Andrew Gillum and Broward Delegation Chair Sen. Jeremy Ring, welcomed all participants during a luncheon held at the Governor's Club. Mayor Ryan reiterated the importance for state legislators and local governments to work together, specifically in the area of transportation and health care. The day continued with panel discussions about the varying legislative agendas including property insurance rates, LIP funding, gaming, TNCs, and the controversial Medicaid expansion alternative moving through the Senate.

On Thursday, March 27th, Broward Days began with Agriculture Commissioner Adam Putnam speaking at the continental breakfast, followed by a round table healthcare related discussion with representatives from Baptist Health, TaxWatch, and the Florida Chamber. While continuing to showcase Broward in the Capitol rotundas, Broward Days ended with a stimulating luncheon at the Florida Chamber in which a presentation outlining business trends and opportunities in the South Florida economy was reviewed. The Chamber specifically identified Broward County trends for economic development, housing, and employment.

Civil Citation Compromises Pass in House and Senate

Civil citation legislation in both chambers continues to move but some supporters view the current bills as watered down. HB 99 by Rep. Clarke-Reed and SB 378 by Sen. Garcia have both been amended to remove the mandatory nature of civil citation issuance. As originally filed, the bills required law enforcement, upon making contact with a juvenile who admits having committed a misdemeanor to issue a warning or to issue a civil citation and/or require participation in a similar diversion program. Both bills no longer have the "shall" language that makes this a requirement. However, the bills do clarify that civil citation or similar diversion program is not limited to first-time offenses and may be used in a second or subsequent offense. The bills, seen as a compromise with law enforcement groups, should reach the Senate and House floors in the next two weeks.

Aviation Fuel Tax Bill Overhauled in both Chambers

HB 595 and SB 722, companion bills were both filed to remove Florida's exemption from the aviation fuel tax and reduce the aviation fuel, kerosene, and aviation gasoline tax rates from 6.9 cents per gallon to 5.4 cents per gallon. However, both bills were amended significantly in recent committees.

The amended house bill now repeals the aviation fuel tax credit for "any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions."

It also creates a provision providing for a commercial aviation incentive program for qualified air carriers that demonstrate to the Department of Economic Opportunity (DEO) certain levels of commercial aviation activity in Florida. Each year, Florida commercial air carriers may apply to the DEO for an incentive award. The DEO will evaluate passenger enplanement and destination data reported by program applicants to the U.S. Department of Transportation (USDOT). Based on this information, the annual total amount of awards to be distributed to qualified air carriers beginning in fiscal year 2018-2019 (\$17.6 million) will be allocated by the DEO as follows:

- 28 percent (\$4.93 million) to the applicant with the most passenger enplanements in Florida in the prior calendar year;
- 22 percent (\$3.87million) to the applicant with the second most passenger enplanements in Florida in the prior calendar year;
- 20 percent (\$3.52 million) to the applicant with the third most passenger enplanements in Florida in the prior calendar year;
- 10 percent (\$1.76 million) to each of the top three applicants serving the most destinations in Florida in the prior calendar year.

The amended Senate version replaces the existing credit or refund of the tax paid for aviation fuel delivered by a licensed wholesaler or terminal supplier to an air carrier that offers transcontinental jet service and increases the air carrier's Florida workforce by certain amounts with a credit or refund "for any of three air carriers that has the greatest growth during a state fiscal year, beginning July 1, 2015.

Neither bill directly impacts Florida airports but the language could result in certain airlines being put at an economic disadvantage when offering Florida routes. SB 722 has two committees of reference remaining and HB 595 has one.

SB 7024 State Board of Administration

SB 7024 – State Board of Administration unanimously passed the Senate on Tuesday April 1, 2015. The bill directs the State Board of Administration to distribute any residual balance in the Fund B Surplus Funds Trust Fund, after the original principal balance has been repaid to the trust fund participants, based on each's participant's proportional share of the November 2007 interest earnings that were withheld from distribution and transferred to

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the Fund B Surplus Funds Trust Fund. The bill also repeals the current limitation on the authority of the State Board of Administration to invest the funds of the Florida Retirement System Trust Fund in institutions doing business in or with Northern Ireland.

The companion bill, HB 913, is expected to pass the House with no opposition. Broward County staff has indicated that passage of the bill will account for an approximate \$214,000 receivable for the County.

Public Works Projects Preemption Stalls

SB 934, relating to Public Works Projects by Sen. Brandes, is believed to be dead for the 2015 Legislative Session. The bill would prohibit the state and political subdivisions that contract for construction, maintenance, repair, or improvement of public works from placing certain conditions on a contractor, subcontractor or materials supplier. The bill applies to all projects which include state money. If passed, political subdivisions may not require contractors to: pay employees a predetermined amount of wages or wage rate; provide employees a specified type, amount, or rate of employee benefits; control or limit staffing; recruit, train, or hire employees from a designated or single source; designate any particular assignment of work for employees; participate in proprietary training programs unless such training is a condition or a product warranty or guarantee; or enter into any type of project labor agreement.

SB 934 passed the first committee of reference but was voted down in Senate Community Affairs by a 1–6 vote. In a procedural move, however, the bill was reconsidered and left pending for possible action next time the Community Affairs Committee convened March 30th. Fortunately, that did not happen and the committee is not scheduled to meet again during the 2015 Session. HB 527, the companion measure in the House, is in the State Affairs Committee, its last committee of reference.

Multiple Mental Health Reform Packages Continue to Advance

SB 1452– Mental Health in Criminal Justice System by Sen. Detert cleared the Senate Judiciary Committee on March 31, 2015. SB 1452 establishes problem-solving courts to address the unique circumstances and potential for treatment of defendants with serious mental illness, veterans, and substance abusers. Veterans’ courts and mental health courts will be authorized to transfer cases to other counties on the same basis as that currently afforded to drug court treatment cases. The bill makes other changes to attend to the special needs of defendants who are veterans or who have a serious mental illness.

The bill expressly recognizes mental health court programs. A mentally ill defendant, at the post-adjudicatory stage of the criminal process, is eligible for participation if, the offense charged is a nonviolent felony that scores low points on a score sheet, the defendant is amenable to treatment, and the defendant has a prior history or present state of serious mental illness or a prior history of incompetence to proceed at trial. SB 1452 also creates the Forensic Hospital Diversion Pilot Program, which replicates the model of the Miami-Dade Forensic Alternative Center into two additional counties. In addition to Miami-Dade, the DCF will implement the program in Escambia and Hillsborough Counties. The purpose of the program is to divert incarcerated defendants found mentally incompetent to

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proceed or not guilty by reason of insanity into a therapeutic setting which offers beds and community outpatient treatment. A different mental health package, HB 7119 and SB 7068, also passed important committees.

HB 7119 – Mental Health and Substance Abuse Services, passed the House Healthcare Appropriations Subcommittee on March 31, 2015. The bill makes changes to the statewide system of safety-net prevention, treatment, and recovery services for substance abuse and mental health (SAMH) administered by the Department of Children and Families (DCF). DCF currently contracts with seven managing entities (ME) that in turn contract with local service providers to deliver SAMH services. The bill revises state law that provided DCF the initial authority and guidance for transitioning to the managing entity system. The bill makes changes to providing services and enhances operation of ME by:

- Allowing managed behavioral health organizations to bid for managing entity contracts when fewer than two bids are received;
- Requiring care coordination, specifying to services that shall be provided within available resources, and prioritizing the populations served;
- Requiring DCF to develop performance standards that measure improvement in a community’s behavioral health and in specified individuals’ functioning or progress toward recovery;
- Specifying members for managing entities’ governing boards, and requiring managed behavioral health organizations serving as managing entities to have advisory boards with that membership; and
- Allowing managing entities flexibility in shaping their provider network while requiring a system for publicizing opportunities to join and evaluating providers for participation.

The bill requires DCF to contract for a study of the safety-net system, with an interim and final report submitted on specified topics. The bill also requires DCF and the Agency for Health Care Administration to report on options for increasing the availability of federal Medicaid SAMH services. SB 7068 mostly mirrors the House version but the bill was amended before passing the Senate Children and Families Committee. SB 7068 was amended to prohibit representatives of providers and any organization that has a contract with an ME to be on the governing board of the ME. This provision directly affects Broward County’s ability to have representatives (currently two – Commissioner Wexler, BBHC Chair, and HSD Director Mike Elwell) on the Board of Directors. Both HB 7119 and SB 7067 should be heard on the House and Senate floor soon.

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Uber/Lyft Preemption Measure Passes Final Committee

HB 817 – Transportation Network Companies, by Rep. Gaetz, passed Economic Affairs. The bill would preempt local governments from regulating TNCs and required state oversight of background checks and insurance requirements. The bill was amended in committee to allow local governments to collect access fees to airports. The bill passed 13-4 and is now headed to the House floor. The Senate does not have a similar measure filed as legislation, but does have bills which would require basic insurance requirements for TNCs.

Senate Advances Insurance Requirements for TNC's and Short-Term Rental

In the last two weeks, SB 1298 – Insurance for Short-Term Rental and Transportation Network Companies unanimously passed the Senate Banking and Insurance Committee and the Judiciary Committee. SB 1298 seeks to establish minimum insurance requirements for short-term rental network (STR) and transportation network companies (TNC). The bill requires the TNC and the STR to provide written notice to drivers and lessors of the insurance provided by the TNC and STR and requires the insurer to indemnify and defend its insured. The bill also defines short-term rental networks as an “organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietorship, or other entity for which participating lessors provide prearranged, short-term rentals for compensation using an application to connect a participating renter with a participating lessor.” SB 198 by Sen. Simmons has been treated as the Senate legislative vehicle for any TNC changes during the 2015 Legislative Session. The bill will be heard in Senate Appropriations before heading to the floor.

Pill Mill Regulations Reauthorized

SB 450 – Pain Management Clinics by Sen. Benacquisto will prevent the regulation of pain management clinics from being repealed on January 1, 2016. On Wednesday, April 1, 2015, the bill was unanimously approved by the Senate. In 2011, the legislature passed a wide-ranging law to crack down on prescription-drug abuse and trafficking but the legislation included a Jan. 1, 2016, expiration date on clinic regulations. SB 450 eliminates the expiration date in statute. Identical legislation in the House has unanimously passed all committees and is ready for floor consideration.

Local Building Code Bill Moves through Committee

SB 592 – Florida Building Code, by Sen. Sobel provides that amendments or modifications adopted within an edition of the local building code that relate to local government water conservation practice or design criterion not expire during a new cycle of code rewrite. The bill was amended in the Senate Community Affairs Committee to clarify technical amendments to the Florida Building Code adopted by local governments which relate to water conservation practices or design criteria would not automatically be rendered void every cycle, so long as these technical amendments are necessary to protect or provide more efficient use of water resources. The amendment helped better define the local intent of the measure. After being amended, the bill was approved unanimously. Despite the positive movement in the Senate, the House companion is very unlikely to pass in the other chamber.

Local Preference Prohibition Proceeds to Senate Floor

SB 778 – Local Government Construction Preference by Sen. Hays passed the full Senate Appropriations Committee 12-5. The measure would prohibit any project that receives at least 50 percent of funds from the state from using local preference ordinances which favor local businesses in any way. The bill is scheduled to be heard on the Senate Floor on

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April 8, 2015. Its companion, HB 113 by Rep. Perry, is in its last committee of reference, the House State Affairs Committee.

Wage Theft Criminalization Bill Passes in Senate

On March 23, 2015, SB 1318 – Relating to State Minimum Wage, by Sen. Latvala, unanimously passed the Senate Commerce and Tourism Committee. The measure would criminally penalize an employer for failing to pay an employee below the minimum wage or requiring employees to work off the clock. Currently, wage theft is only enforceable as a civil matter, but the measure would allow law enforcement to get involved if an employer does not adequately compensate the employee. The House companion, HB 589 by Rep. Jacobs is yet to move through its first committee.

House DJJ Plan Moves in House

HB 5201 – Relating to Juvenile Detention Costs, by Rep. Metz, would require non-fiscally restrained counties to pay \$55 million next fiscal year and require local governments to pay 57 percent of actual costs in future years. Additionally, the bill allows the Department of Revenue (DOR) to withhold revenue sharing funds if counties do not pay their respective cost share balance. The bill was heard in the House Appropriations Committee on Wednesday, March 25, 2015. Despite opposition from the Florida Association of Counties, HB 5201 passed, while receiving five votes in opposition. This week, HB 5201 was placed on the Special Order Calendar to be heard on the House floor, but was temporarily postponed. The postponement appears to be over budget disagreements between the House and Senate, including the DJJ budget for next year.

The Senate companion, SB 1414, by Sen. Bradley requires counties to pay 60 percent of secure detention costs beginning July 1st, but does not include revenue sharing withhold provision. The is scheduled to be heard in its first committee of reference, the Senate Criminal and Civil Justice Appropriations Subcommittee, on Wednesday, April 8th.

Far Reaching Economic Development Package Advances

SB 7067 – Economic Development by Rep. LaRosa is a comprehensive economic development and growth management bill. It passed the House Transportation & Economic Development Appropriations Subcommittee on March, 31, 2015 and has one committee of reference remaining. The 148-page bill contains multiple provisions that modify the definitions, processes, and administration of state funded economic development incentive tax refund and grant programs; assists small business development; encourages high-tech and second stage business development; modifies the New Markets Development Program to increase accountability; and the Local Enterprise Zone Program.

Among the multiple tweaks to economic development programs is an exemption for certain new developments from having to comply with impact fee, concurrency, or proportionate share requirements for transportation impacts for three years. Specifically the exemption window will apply to any new business development beginning on or after July 1, 2015, and before July 1, 2018. The exemption does not apply to business

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developments that consist of more than 6,000 square feet or new business developments that will include a business that employs more than 12 full-time employees. In addition, to maintain the exemption, a new business development must receive a certificate of occupancy on or before July 1, 2019. The exemption window will not apply to a new development in a local government's jurisdiction where such local government, by super-majority vote of its governing body, revokes the exemption. The exemption window will also not apply if the exemption alters a local government's financing contracts or bonds, or the developer elects to not have the exemption applied.

The bill also establishes the Local Enterprise Zone program and the Enterprise Zone Certification program. HB 7067 states a local government may adopt a resolution establishing a local enterprise zone program through which it grants exemptions from specified local taxes, fees, permits, and licenses for newly established or expanding businesses located within designated enterprise zone areas. A local government that establishes a local enterprise zone program must submit a copy of the resolution creating the program to DEO within 20 days. A local enterprise zone program must exempt all newly established or expanding businesses from the following taxes and fees imposed by the local government for a minimum of 24 consecutive months:

- Business taxes;
- Impact fees;
- Business, professional, and occupational regulatory fees;
- Green utility fees;
- Building permit fees;
- Special assessments, including, but not limited to, services associated with beach renourishment and restoration, downtown redevelopment, solid waste disposal, fire and rescue services, fire protection, parking facilities, sewer improvements, stormwater management services, street improvements, and water and sewer line extensions;
- Sign ordinance requirements, permits, and fees; and
- Tree and landscape ordinance requirements, permits, and fees.

Further, the bill mandates that for 24 consecutive months following the creation of a designated enterprise zone area, a local government may not issue a citation for a civil code or ordinance infraction on any business located within the designated enterprise zone. Additionally, newly established businesses may not be cited for civil code or ordinance infractions during the first 24 months of operation. For 24 months following an expansion that results in a 10% or greater increase in the number of full time employees, an expanding business may also be exempt from such citations. However, violations of civil codes or ordinances posing a direct threat to the health and safety of the public are not exempted. Additionally, the bill repeals the state funding program that supports the International Game Fish Association World Center.

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House and Senate Continue Different Tracks on Film and Entertainment Legislation

On Tuesday and Thursday this week, the House and Senate move forward their proposed Entertainment Industry packages. Specifically, on Tuesday, the House Finance and Tax Committee heard and passed HB 451, by Rep. Miller, after significantly rewriting the bill by a vote of 12-5.

As passed, the bill makes significant modifications to the incentives and benefits the state currently offers for film and entertainment productions. Florida law currently offers qualifying companies certain tax credits and tax exemptions. The bill modifies the processes by which companies may receive tax credits and exemptions. More specifically, the Finance and Tax Committee removed from the bill, the \$50 million tax credit allocation for FY 2017. The committee also deleted the proposed Production Action Fund, a new incentive program to allow certain production companies to apply for funds for a production or successive seasons of a production. HB 451 maintains the structure of the current criteria based program but adds language to require the Division of Film and Entertainment (Division) and Office of Economic and Demographic Research to apply a scoring system for the criteria. The tax credit allocations will depend on which production gets the highest score during the evaluation process.

The revised bill removed the availability for an additional five percent tax credit award for a qualified production for which at least 67 percent of its principal photography days occurred within a designated underutilized region. The bill now specifies a qualified production may receive an additional 15 percent tax credit on qualified expenditures on wages, salaries, or other compensation paid to individuals participating in the "Road-to-Independence" program under §409.1451, Florida Statutes, individuals with developmental disabilities as defined in §393.063, Florida Statutes, who reside in Florida, and veterans residing in the state. The revised bill also removed a current provision of law which treats credits applied for in one fiscal year in excess of the credits available for that fiscal year as having been applied for in the next fiscal year.

On Thursday, the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee considered and unanimously passed (on a 9-0 vote) SB 1046 by Sen. Nancy Detert. The bill renames the Entertainment Industry Financial Incentive Program as the Entertainment Industry Program. The new Senate version maintains the "Entertainment Action Fund" to respond to "extraordinary opportunities and to compete effectively with other states, and attract and retain production companies and provide favorable conditions for the growth of the entertainment industry" in Florida, as well as the current criteria based program. The revised Senate bill added language requiring the Division to develop a scoring system in determining priority of funding productions. In addition, the bill maintains a family friendly (5%) and underutilized area (5%) bonus, in addition to the new proposed 15% tax credit bonus for on qualified expenditures relating to wages, salaries, or other compensation paid to individuals participating in the "Road-to-Independence" program, Florida residents with developmental disabilities, and veterans who are state residents.

CS/CS/HB 451 next goes to the House Economic Affairs Committee where it is expected to be heard this coming week. CS/SB 1046 moves on to the Senate Appropriations Committee and could be also be heard next week.

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