

Broward SLI

State Legislative Information

February 1-5, 2016

Week 4 -2016 Session

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FAC Legislative Day

On February 2-4, 2016 the Florida Association of Counties (FAC) held its annual "Legislative Day" in Tallahassee. The occasion allows for county commissioners from all 67 counties to receive a legislative update and meet with legislators to discuss county priorities. In attendance was FAC President and Broward County's Vice Mayor Barbara Sharief, and Commissioner LaMarca. FACs Legislative Briefing began with Governor Rick Scott addressing his tax cut proposals, job growth status, and support for some of the county's environmental and economic initiatives. FACs legislative priorities were highlighted and county commissioners met with legislators and briefed them on the status of several bills that would affect counties overall.

Port Everglades Advocacy Team Fly-In

Led by Commissioner Chip LaMarca, the Port Everglades Advocacy Team travelled to Tallahassee on February 1-2, 2016, to advocate for an increase in the state's funding allocation to the Florida Seaport and Transportation Economic Development Council from \$15 million to \$25 million. The team also advocated for full funding for the Florida Department of Transportation's 5-year Work Program and thanked state officials for their future commitment to many of the County's transportation-related infrastructure projects at Port Everglades, such as the Turning Notch and the Deepening and Widening projects.

Meetings were held with Senate President Andy Gardiner, Department of Economic Opportunity Executive Director Cissy Proctor, Transportation Secretary Jim Boxold, Frank Collins, Deputy Chief of Staff for Governor Rick Scott, Rep. Lake Ray, Rep. Frank Artiles, and several members of the Broward Legislative Delegation (Senators Smith, Sobel and Ring, and Rep. Richard Stark). In addition to Commissioner LaMarca, advocacy team members attending the Fly-In included: Gail Bulfin, Greater Fort Lauderdale Alliance; Sam Stephenson, Port Everglades Pilots Association; Eric Roth, Premier Beverage; Bob Ledoux, FECl; and Nancy Leikauf, Port Everglades Association. Staff from Port Everglades and Intergovernmental Affairs Section of OIAPS also participated in the Fly-In.

Red Light Camera Repeal Zooms Through

CS/SB 168, by Sen. Brandes, a full red light camera repeal bill, narrowly escaped the Senate Transportation Committee by a vote of 4-3. The House companion, HB 4027, by Rep. Artiles is in the House Appropriations Committee. Both bills will repeal the use of red light cameras statewide and preempt local government from using red-light cameras.

Sanctuary Cities Bill Receives House Support

On February 3rd, the House passed (80-38) CS/CS/HB 675 by Rep. Metz – relating to Federal Immigration Enforcement. The bill prohibits state and local government entities from enacting any law, or adopting any policy, practice, procedure, or custom prohibiting or hindering

communication with federal officials, compliance with immigration detainers, or other activity relating to federal immigration enforcement. The bill requires state agencies, local governments, and law enforcement agencies to adhere to any detainer issued by the U.S. Immigration and Customs Enforcement if an inmate is suspected of being in the country illegally.

Before the final vote, Rep. Metz, the bill's sponsor, proffered an amendment requiring that any order approving a consent decree or granting an injunction or civil penalties, or any final judgment in a private cause of action, must contain written findings of fact describing with specificity the sanctuary policy and each sanctuary policymaker who voted for, voted against repeal, or allowed to be implements the sanctuary policy. The findings must be reported to the Governor within 30 days and the Governor may suspend or remove the sanctuary policymaker from office as authorized in the State Constitution. The amendment also removed language in the bill allowing the recovery of court costs and reasonable attorney's fees in injunctive actions brought by the Attorney General, state attorney, or a state attorney designated by the Governor to bring such action against a state agency, local government, or law enforcement agency. The amendment also removed language waiving the state's sovereign immunity in private causes of action, and moved the effective date back from October 1st to July 1, 2016

Rep. Gaetz also proffered an amendment allowing a local government to require, by ordinance, that a person, detained under a lawful and valid immigration detainer, reimburse the county for any expenses incurred in detaining the person. However, if the detainer is improperly issued, then detainee is not liable for any detention costs the county incurred. Lastly, the amendment expressly authorizes local governments and law enforcement agencies to petition the federal government to reimburse detention and compliance related costs associated with federal immigration enforcement. Both amendments were adopted and the bill was approved mainly along party lines. Meanwhile, its Senate companion, SB 872 has not yet been heard in its first committee and with three committees of reference, passage at this time looks doubtful.

Millage Rate Bill may need Some Tweaks

CS/HB 1015, by Rep. Nuñez – relating to the determination of maximum millage rates, changes the formula for calculating the simple majority vote for setting the maximum millage rate. The bill sets the maximum millage as the rolled back rate based on the “amount of taxes actually levied in the prior year” adjusted by the change in per capita Florida income unless the state's per capita income is negative.” This is a significant change to the formula which is presently the rolled-back rate based on the “amount of taxes which could be levied in the prior if the maximum millage rate had been applied, as adjusted for change in the per capita Florida personal income.” If a county adopted a higher rate by an extraordinary vote, $\frac{2}{3}$ or unanimous, then the maximum millage would be the rolled-back rate.

The formula change will require more local governments to adopt their future millage rates by extraordinary vote. Another consequence of the bill is to eliminate the “capacity” some local governments built up from making difficult financial decisions during the economic downturn between FY07 and FY12. For example, Broward County's FY 2016 countywide millage rate is 5.723 mills; the maximum millage rate the Board could have levied based on current law is 6.830, providing a capacity of slightly over 1.1 mills. If HB 1015 were to become law, this capacity would be lost.

On February 1st, the House Local Government Affairs Subcommittee adopted a strike-all amendment to the bill which provides that if the change in the Florida per capita personal income is negative, the maximum millage rate shall be equal to the rolled-back rate, and passed the bill along a party line vote (8-4). Its Senate companion, SB 1222, by Sen. Flores is in Senate Finance

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and Tax. Broward County, along with the Florida Association of Counties, Florida League of Cities, and other affected counties, is working with the both bill sponsors to adopt amendments that would eliminate or significantly lessen the financial impact of the bill.

Local Tax Referenda Move to Next Committee

HB 791, by Rep. Ingoglia was voted favorably in the House Finance and Tax Committee on February 3rd. The bill requires any referendum to levy a discretionary sales surtax be held on the day of the general election and be approved by 60 percent of electors voting. The bill also prohibits a county or school district from spending funds for materials or publications promoting the referendum measure, except expenditures related to advertising the referendum.

Rep. Moskowitz submitted an amendment to lower the approval threshold to 50 percent of the electors voting on the day of the general election. After heavy debate and discussion on the amendment, he provided an amendment to his amendment; however, withdrew both after confirming the bill sponsor's willingness to work with the Florida League of Cities and Florida Association of Counties to clarify language and come up with a solution before its next committee stop – the House Local & Federal Affairs Committee. The companion measure, SB 1100, has not moved in the Senate.

Fracking Preemption Gains Major Opponent

This week, Senate Appropriations Committee Chair, Sen. Tom Lee, stated that he is placing the fracking preemption bill on hold in his committee. The House version, HB 191, passed the full House last week. However, the Senate Appropriations must pass SB 318 before it heads to the full Senate for consideration. Sen. Lee stated publicly that the Florida Department of Environmental Protection (DEP) has been notably absent throughout session and needs to come up with "honest answers" to questions.

"We want credible, scientific responses to questions. Not special interest responses. And so I think a lot of people have concerns about a number of differences in the bill as it relates to our substrate made of limerock -- versus where fracking is going on in other places of the country -- as well as the preemption language and how there's no sunset to it[,]" and address such questions with "credible, scientific responses," said Lee. He did indicate, however, the bill would most likely be heard, but maintained his stance that DEP must get involved prior to any passage of the bill.

Tax Cut Package on its way to Full House

On Wednesday, February 3rd, the House Finance and Tax Committee passed the House's proposed tax cut package, PCB FTC4, now redesignated as HB 7099 by Rep. Gaetz. The bill includes almost \$1 billion in cuts. As passed, HB 7099 provides for a variety of tax reductions, including the following:

- Permanently reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 5%, beginning January 1, 2017, with an additional one percentage point reduction (to 4%) in calendar year 2018 only.
- Includes new, extended or expanded sales tax exemptions for: machinery and equipment for manufacturing, agricultural postharvest activities, and metals recycling;
- Sales at school book fairs for one year; sales of college textbooks and instructional materials for one year;
- Building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity;
- Electricity and building materials used by new or expanding Florida data centers;

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- Sales of food and drink by military veterans service organizations to their members, and resale of admissions for three years.
- Clarifies requirements for the current exemption on sales of aircraft that will be registered in a foreign jurisdiction.
- Includes the following sales tax holidays:
 - A ten-day “back-to-school” holiday for clothing, footwear, school supplies, and computers;
 - A one-day “technology” holiday on sales of computers and related accessories;
 - A one-day “small business” holiday, for sales by small businesses;
 - A one day “hunting and fishing” holiday for hunting firearms, ammunition, camping tents, and fishing supplies.
- For property taxes, the bill: clarifies that for a limited period, economic development tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015; expands the homestead exemption available for the surviving spouses of totally and permanently disabled veterans; creates a property tax discount on property used for affordable housing; and allows a midyear transfer of the disabled veteran homestead exemption.
- For corporate income tax, the bill: temporarily increases total tax credits available for voluntary brownfields clean-up, research and development tax credits, and renewable energy technology and production tax credits.
- Further changes in the bill include:
 - Equalization of the tax rates on apple and pear cider; changes to allowable and required uses of tourist development taxes;
 - Elimination of a current exemption from and a reduction of the aviation fuel tax rate;
 - Clarification of administration of the tax on other tobacco products;
 - Clarification of documentary stamp tax treatment of housing authority notes; requiring at least 5% of community redevelopment agency revenues be spent on youth centers; and
 - Replacement of the current tax calculation on liquor and tobacco sold on cruise ships with a simpler, revenue neutral calculation.

In addition to the above tax breaks, HB 7099 also:

- Modifies the definitions of “new business” and “expansion of an existing business” in Section 196.012, F.S. and clarifies that the 100% ad valorem tax exemption in Section 196.1995, F.S., may be granted to a new or expanding business located in an area which was designated as an enterprise zone as of December 30, 2015, but not a brownfield area, only if the new or expanding business was approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance prior to December 31, 2015. The bill also clarifies that exemptions already granted prior to expiration of the enterprise zone program may continue for up to 10 years regardless of expiration of the enterprise zone program.
- Makes changes to the use of tourist development taxes as follows:
 - Requires a minimum of 35% of tourist development tax revenues that are left over after making required bond payments be used to fund promotion and advertising of tourism in the state. It also allows, in coastal counties only, up to 10% of remaining tourist development tax revenues to be used to fund additional emergency medical and law enforcement services that are required as a result of tourism, as long as such funds are not used to supplant pre-existing expenditures on such services.
 - Adds a requirement that a written application must be submitted to the governing body of the county in order to propose an expenditure of tourist development tax revenues. Each governing body is allowed to determine the requirements for the application, but it must include a description of the proposed expenditure and

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estimate of the cost at a minimum. The bill requires that a return on investment analysis or cost-benefit analysis must be performed before a county may make any expenditure of tourist development tax revenues in excess of \$100,000. The analysis must be performed by an individual who has prior experience with input-output modelling, cost-benefit analysis or the application of economic multipliers such as the Regional Input-Output Modelling System created by the Bureau of Economic Analysis within the United States Department of Commerce. The cost of the analysis is to be paid from the tourist development tax revenues.

- Creates an additional means of enforcing the allowed uses of tourist development tax. Any remitter of the tax, or any organization representing multiple remitters of the tax, in an action filed pursuant to Ch. 120, F.S., (The Administrative Procedure Act), may challenge a county's decision to devote such tax revenues to a particular use or uses that the challenger claims is contrary to uses allowed by law. However, no such challenge will be allowed with respect to a facility for which tourist development tax revenues have been pledged to secure and liquidate revenue bonds. During the pendency of the administrative proceeding and any resulting appeals, no tourist development tax revenues may be used to fund the challenged use or uses. No deference is to be afforded the county's interpretation of statute. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney's fees.
- Requires any CRA which serves an area where at least 50% of children aged 18 and younger live below the poverty line to spend at least 5% of Redevelopment Trust Fund revenues annually to support youth centers, if a youth center has submitted a written request for such support and the expenditure does not materially impair any bonds outstanding as of March 11, 2016. "Youth center" is defined as a facility owned and operated by a government entity, or a corporation not-for-profit registered pursuant to chapter 617, F.S., the primary purpose of which is to provide educational programs, after school activities, counseling, and other services to children aged 5 to 18 years, and which has operated for a period no less than two years prior to requesting support from the community redevelopment agency. The term does not include public or private schools, child care facilities as defined in s. 402.302, F.S., or private prekindergarten providers as defined in s. 1002.51, F.S., but does include indoor recreational facilities as defined in s. 402.302, F.S. which are owned and operated by a government entity or corporation not for profit registered pursuant to chapter 617, F.S.

HB 7099 is scheduled to be heard on the floor when the full House convenes in session on February 10th.

Appropriations Update

Last week the respective Appropriations Committees in each Chamber considered and passed the FY 2017 budget plan (HB 5001). The House Appropriations Committee approved their budget plan on an 18-7 vote after adopting one technical amendment. The Senate Appropriations Committee approved their measure (SB 2500) unanimously (19-0) after adopting over 30 amendments. Each budget bill, along with the implementing bill and any necessary conforming bill, will be formally heard on the floor of its respective chamber on Wednesday, February 10, 2016.

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