

Broward SLI

State Legislative Information

February 15-19, 2016

Week 6 - 2016 Session

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Broward Comes to Tallahassee – Broward Days 2016

Broward Days 2016 kicked off on Wednesday, February 17th at the Governor’s Club with the traditional luncheon, in which CFO Jeff Atwater was the keynote speaker. In addition to CFO Atwater, Broward Days had additional speakers: Broward Delegation Chair – Rep. Gwyn Clarke-Reed, Broward County Mayor – Marty Kiar, Ft. Lauderdale Chamber President – Dan Lindblade, and other elected officials. In attendance was Commissioner Chip LaMarca, Deputy County Administrator – Rob Hernandez, and other county staff, who all met with legislators to advocate for the County’s priorities.

On the agenda were mini-panels that consisted of lobbyists, members of the press corps, former House and Senate members, and current department heads in state and local government, and individuals in private industry. The panelists addressed lobbying and advocacy tips, the budget process, and predictions about how Session may end and look in the future. This 2-day event, wrapped up on Thursday, February 18th with a discussion of business trends and the ever-growing South Florida economy.

Mandatory Juvenile Citation Bill Moves Forward

On Tuesday, February 16th, the Senate Criminal Justice Committee barely passed CS/SB 408 (3-2), by Sen. Altman – relating to Juvenile Civil Citations and Similar Diversion Programs. CS/SB 408 requires a law enforcement officer to issue a civil citation or require the juvenile’s participation in a similar diversion program for the following first-time misdemeanor offenses:

- Possession of alcoholic beverages by a minor;
- Battery, provided the victim approves of the issuance of the civil citation or similar diversion program;
- Petit theft;
- Retail theft;
- Affrays and riots;
- Disorderly conduct;
- Possession of cannabis or other controlled substances;
- Use, possession, sale, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia; and
- Resisting an officer without violence.

During the meeting, the Committee made several changes to the bill, including:

- Permitting the issuance of a civil citation or referral similar diversion program for a first-time misdemeanor offense that are not listed in the bill or any second or third-time misdemeanor offense, regardless of whether the offense is an enumerated misdemeanor offense.
- Identifying additional misdemeanor offenses for which a civil citation may be issued: possession of alcoholic beverages by a minor; battery, under certain circumstances; petit

theft; retail theft; disorderly conduct; possession of cannabis or other controlled substances; resisting an officer without violence, etc.

- Deleting the provision requiring prior approval if a law enforcement officer makes an arrest instead of issuing a civil citation.
- Extending the time period that a youth is required to report to a community service performance monitor from 7 to 10 working days after the civil citation has been issued.

The bill moves to its next committee of reference – Children, Families, and Elder Affairs. A similar bill, HB 7085, by Rep. Trujillo is in the House Judiciary awaiting scheduling. CS/SB 408 and its analysis can be viewed at: <http://flsenate.gov/Session/Bill/2016/0408/?Tab=BillText>

Value Adjustment Board Bill Moves to Last Committee

On Tuesday, CS/SB 766, by Sen. Flores – relating to Ad Valorem Taxation unanimously passed out of the Senate Finance and Tax. The bill as amended, removes a new procedure created by the bill requiring the Department of Revenue to review the processes of the property appraiser and VAB after the tax roll has been reduced by more than two percent for three consecutive years.

The bill also prohibits the assessment of penalty and interest when an assessment limitation is improperly granted due to a clerical mistake or omission by the property appraiser. In addition, it extends the time by 10 days for certain counties to hold public hearings and certify the non-ad valorem assessment roll. Finally, the bill makes the authority for a school district to levy a prior period funding adjustment millage equal to 75 percent of the most recent prior period funding adjustment millage when the tax roll is not yet complete, permanent. CS/SB 766 next goes to Appropriations before heading to the Senate for a full floor vote.

Unlike its House companion, CS/CS/HB 499, by Rep. Avila, CS/SB 766 doesn't change the composition of the Value Adjustment Board. CS/CS/HB 499 was successfully voted out of the House Appropriations Committee and has been placed on 2nd Reading Calendar awaiting consideration in the full House.

CS/SB 766 and its analysis can be viewed at:

<http://flsenate.gov/Session/Bill/2016/0766/?Tab=BillHistory>

CS/CS/HB 499 and its analysis can be viewed at:

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=55425>

Maximum Millage Rate Bill Passes Second Committee

On Tuesday, February 16th, CS/CS/SB 1222, by Sen. Flores – relating to the maximum millage rate was voted favorably out of the Senate Finance and Tax. The bill changes the maximum millage rate that counties, municipalities, or special districts, may levy without a supermajority or unanimous vote of the governing board to the millage levied in the prior year, adjusted for change in per capita Florida personal income, unless the change is negative.

County staff is working with the Florida Association of Counties and Florida League of Cities to amend the bill in order to incorporate language that will not negatively affect the County. The bill next moves to Appropriations. Its House companion, HB 1015, by Rep. Nunez was temporarily postponed during Week 5 the House Local & Federal Affairs Committee but has not been rescheduled to be heard in committee.

CS/CS/SB 1222 and its analysis can be viewed at:

<http://flsenate.gov/Session/Bill/2016/1222/?Tab=BillHistory>

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Government Accountability Gets Eight Thumbs Up

On Tuesday, the Senate Community Affairs unanimously approved CS/CS/SB 686, by Sen. Gaetz – relating to Government Accountability. The bill, also known as the Florida Anti-Corruption Act of 2016 requires each house of the Legislature to adopt rules requiring lobbying firms to report their lobbying activities; and specifies that the Governor, the Commissioner of Education, or their designee may notify the Legislative Auditing Committee of an entity’s failure to comply with certain auditing and financial reporting requirements.

The bill also prohibits a member of the Legislature from accepting employment with a private entity that directly receives state funds; requires local governmental entities to keep their final budgets, and any amendments, on their website for a period of 2 years after adoption; requires that various governmental entities adopt internal controls to prevent and detect fraud, waste, and abuse; and requires governmental entities to investigate claims of unauthorized compensation, amongst other requirements.

The bill next goes to the Senate Appropriations Committee before heading to the Senate for a full floors vote. Its House companion, CS/HB 593, by Rep. Metz unanimously passed the House Appropriations Committee on Tuesday and next goes to the State Affairs Committee.

CS/CS/SB 686 and its analysis can be viewed at:

<http://flsenate.gov/Session/Bill/2016/0686/?Tab=BillHistory>

CS/HB 593 and its analysis can be viewed at:

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=55517>

Local Tax Referenda Passes First Senate Committee

On Tuesday, CS/SB 1100, by Sen. Brandes – relating to Local Tax Referenda – was voted favorably out of the Senate Community Affairs as a committee substitute. The bill was amended to conform to its House companion CS/HB 791, discussed in last week’s legislative update (Week 5). The bill prohibits local governments from calling a special election to levy a discretionary sales surtax. The bill also specifies threshold passage rates for such surtaxes when a referendum is held during a presidential preference primary or other primary election, and when the surtax referendum election is held during a general election.

The bill next goes to Senate Finance and Tax. CS/SB 1100 and its analysis can be viewed at:

<http://flsenate.gov/Session/Bill/2016/1100/?Tab=BillHistory>.

Mental Health Court Bill Passes Second Committee

On Wednesday, February 17th, CS/SB 604, by Sen. Diaz de la Portilla – relating to mental health services in the criminal justice system – unanimously passed the Senate Appropriations Subcommittee on Health and Human Services as a committee substitute. The bill was amended to conform to the House position, as discussed in the Week 5 Legislative update, including adding Broward County as part of the Forensic Hospital Diversion Pilot Program.

CS/SB 604 next goes to the Senate Appropriations Committee, its final committee of reference.

CS/SB 604 and its analysis can be viewed at:

<http://flsenate.gov/Session/Bill/2016/0604/?Tab=BillText>.

Mental Health Treatment Bill Moves On

On Thursday, February 18th, CS/HB 769 by Rep. Peters – relating to mental health treatment received unanimous support in the House Judiciary Committee – its last committee of reference before reaching the House for a full vote.

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The bill requires an admitting physician in a state forensic or civil facility to continue the administration of psychotropic medication previously prescribed in jail when a forensic client lacks the capacity to make an informed decision and, in the physician's opinion, the abrupt cessation of medication could risk the health and safety of the client. This authority is limited to the time period required to obtain a court order for the medication. In addition, the bill:

- Requires that a court hold a hearing within 30 days after receiving notification from a treatment facility that a defendant who was previously adjudicated incompetent or was previously adjudicated not guilty by reason of insanity is now competent to proceed or no longer meets criteria for continued commitment.
- Requires the defendant to be transported to the committing court's jurisdiction for the hearing.
- Permits a court to dismiss charges for specified nonviolent offenses for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for 3 years after the original determination.
- Changes the timeframe for mandatory dismissal of all charges for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for 5 continuous, uninterrupted years since the court's original determination of incompetency.

Its companion bill, CS/CS/SB 862, by Sen. Legg is in its last committee of reference – Fiscal Policy – awaiting to be heard. CS/HB 769 and its analysis can be viewed at:

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=55700>

Behavioral Health reform Bill Ready for Senate Floor

SB 12, by Garcia, relating to mental health and substance abuse, unanimously passed its last committee of reference on Thursday, February 18th as a committee substitute. As amended, the bill:

- Expands the membership of the Criminal Justice, Mental health, and Substance Abuse Statewide Grant Review Committee; allows not-for-profit community providers or managing entities to apply for grants; and creates a grant review and selection committee that will select grant recipients;
- Allows the state attorney to have access to clinical records and witnesses when representing the state in Baker Act hearings;
- Revises the DCF's contracting requirements for managing entities; allows managed behavioral health organizations to be eligible to bid for managing entity contracts under certain circumstances;
- Requires Medicaid managed care plans to work toward integration and coordination of primary care and behavioral health services for Medicaid recipients; and
- Requires intern registration for clinical social work, marriage and family therapists, or mental health counselors to be valid for five years, and subsequent intern registrations may not be issued unless the candidate has passed the theory and practice examination required under current law.

SB 12 has been placed on the February 23rd Special Order Calendar for consideration by the full Senate. The bill and analysis can be viewed at:

<http://flsenate.gov/Session/Bill/2016/0012/?Tab=BillHistory>.

Medical Examiners Bill Gets Much Needed Fix

On Wednesday February 17th, CS/SB 620, by Sen. Grimsley – Medical Examiners – passed the Senate Fiscal Policy Committee as a committee substitute. The bill sought limit fees charged when

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a body is to be cremated, buried at sea, or dissected to \$50. However, the Committee adopted an amendment by Sen. Margolis allowing counties that have issued 3,000 or more medical examiner approvals (for such cremations, burials at sea, or dissections) in the prior year to continue to charge the fee the Board of County Commissioners established by resolution or ordinance prior to February 17, 2016. The bill now heads to the Senate floor.

CS/SB 620 and its analysis can be viewed at:

<http://www.flsenate.gov/Session/Bill/2016/0620/?Tab=BillHistory>

Senate Gaming Bills Pass

On February 17th, the Senate Regulated Industries Committee passed Senate Proposed Bill (SPB) 7074 relating to the Gaming Compact between the Seminole Tribe of Florida and the State of Florida. The bill ratifies the Compact entered into between the Governor and Seminole Tribe of Florida. The Committee also adopted an amendment allows fantasy contests to be conducted in Florida and such contests do not impact the revenue sharing payments under the Compact.

The bill has been referred to the Senate Appropriations Committee. SPB 7074 and its analysis can be viewed at: <http://www.flsenate.gov/Session/Bill/2016/7074/?Tab=BillHistory>

Also approved was SPB 7072 – relating to Gaming. SPB 7072 revises gaming laws, including state lotteries, pari-mutuel wagering, slot machines, and authorized cardrooms. Specifically, the SPB does some of the following:

- Allows a greyhound racing permitholder, jai alai permitholder, harness racing permitholder, and quarter horse racing permitholder to determine, on an annual basis, whether it will offer live racing or games at its pari-mutuel facility, but continue to operate its cardroom or slot machine facility. Ending the requirement for the offering of live racing or games but continuing to offer slot machines or cardrooms is known as “decoupling.”
- The bill prohibits the issuance of new pari-mutuel permits after July 1, 2016, and relocation of permits is no longer allowed. All inactive (dormant) pari-mutuel permits are revoked.
- Reduces the tax rate on slot machine revenue to 25 percent from 35 percent and reduces the tax payable on handle by greyhound racing permitholders from 5.5 percent to 1.28%.
- Deletes the breaks tax payable by greyhound racing permitholders.
- Establishes a permit reduction program, in which the division is authorized to purchase and cancel active pari-mutuel permits. Funding for the program, which may not exceed \$20 million, is generated by revenue share payments made by the Seminole Tribe of Florida after October 31, 2015. The division must cancel a permit purchased through the program. This provision expires July 1, 2018, unless reenacted.
- Establishes a thoroughbred purse supplement program, effective July 1, 2018. The program is created to maintain an active and viable live thoroughbred racing, owning, and breeding industry in Florida. Funding for the program is generated by revenue share payments made by the Seminole Tribe of Florida under the Gaming Compact and received by the State after July 1, 2018. The funding for the purse supplement program is \$20 million annually.
- Requires greyhound track veterinarians to prepare and sign detailed reports under oath, on a form adopted by the division of all injuries to racing greyhounds that occur while the greyhounds are on a racetrack.
- Allows issuance of an additional slot machine license in a county for the purpose of enhancing live pari-mutuel activity. Any pari-mutuel permitholder in that county that is not a slot machine licensee may apply for the license, upon payment of a \$2 million nonrefundable application fee.

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- Authorizes house banked blackjack table games, with a maximum of 25 such tables at each facility, at eight facilities in Miami-Dade and Broward counties where the operation of slot machines is authorized.
- Requires the enactment of SPB 7074, respecting the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, or similar legislation ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015.

The bill has been referred to the Senate Appropriations Committee for consideration. SPB 7072 and its analysis can be viewed at:

<http://www.flsenate.gov/Session/Bill/2016/7072/?Tab=Analyses>

“Pastor Protection” Reaches Senate Floor

SB 110, by Sen. Bean – relating to churches or other religious organizations, has been placed on the Senate 2nd Reading Calendar after receiving a favorable vote in its last committee stop – the Senate Rules Committee. SB 110 provides that clergy, churches and religious organizations, and their employees may not be required to solemnize a marriage or provide certain services or accommodations for a marriage if the action would cause them to violate a sincerely held religious belief.

Refusal to solemnize a marriage or provide certain services or accommodations will not become the basis for a civil or criminal cause of action by the state or its political subdivisions. Additionally, the refusal may not become the basis for the state or its subdivisions to penalize or withhold benefits or privileges, including tax exemptions or government contracts, grants, or licenses from the refusing individuals or entities. While the bill sponsor asserted the bill is aimed at protecting the religious liberty of all individuals, the bill is largely seen as targeting the LGBT community by allowing LGBT individuals seeking to marry to be denied services and accommodations.

The House companion, HB 43, by Rep. Plakon is on the Calendar on 2nd Reading in the House. An updated bill and analysis is not available for viewing online.

TNC Insurance Provisions

On Thursday, February 18th, CS/CS/SB 1118, by Sen. Simmons was voted favorably (11-2) in Appropriations, its last committee of reference. The bill is now ready for a full Senate consideration. CS/CS/SB 1118 addresses the insurance provisions regarding Transportation Network Companies (TNCs). The bill specifically identifies the two scenarios in which particular insurance coverage is required. The first is when a driver is **logged on a TNC’s digital network or engaged** in a prearranged ride. The following minimum insurance requirements apply:

- \$125,000 for death and bodily injury per person;
- \$250,000 for death and bodily injury per incident; and
- \$50,000 for property damage.

The second is when a TNC driver is **not logged on the TNC’s digital network or engaged** in a prearranged ride. In this instance, the following minimum insurance requirements apply:

- \$25,000 for death and bodily injury per person;
- \$50,000 for death and bodily injury per incident; and
- \$10,000 for property damage.

In January, the House voted to pass a broader bill, CS/CS/HB 509, by Rep. Gaetz. The bill includes insurance provisions when a driver is logged on a TNC’s digital network, but not engaged in providing TNC service. Under the house bill the following minimum insurance requirements apply:

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- \$50,000 for death and bodily injury per person;
- \$1000,000 for death and bodily injury per incident; and
- \$25,000 for property damage.

When a TNC driver is engaged in providing TNC service, the following minimum insurance requirements apply:

- Primary automobile liability insurance providing at least \$1,000,000 for death, bodily injury, and property damage.
- Personal injury protection benefits that provide that provide the minimum coverage required of limousines under ss. 627-730-627.7405, the Florida Motor Vehicle No-Fault Law.

CS/CS/HB 509 requires less insurance coverage than required of other for-hire vehicles when a driver is logged on to the TNC digital network but not engaged in providing TNC service. However, it provides greater coverage when the driver is engaged in providing TNC service. The senate bill sponsor expressed his willingness to work with all stakeholders as CS/CS/SB 1118 moves toward full Senate consideration. CS/CS/SB 1118 and its analysis can be viewed at: <http://www.flsenate.gov/Session/Bill/2016/1118/?Tab=BillText>.

Public Records Exemptions for Security Systems Plans Bill Ready for Senate Vote

On Thursday, February 18th, the Senate rolled CS/SB 1004, by Sen. Hays to 3rd Reading and the bill will receive a full Senate vote on February 23rd. The bill renews the public records exemption for security system plans and adds additional circumstances for which information regarding security system plans that are otherwise confidential and exempt may be disclosed. Should the bill become law, information about security system plans may be disclosed:

- To a property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in the furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

CS/SB 1004 and its analysis can be viewed at:

<http://flsenate.gov/Session/Bill/2016/1004/?Tab=BillHistory>

Peril of Flood Bill in House

On Thursday, February 18th, the House Economic Affairs Committee considered and approved CS/HB 929, by Rep. Ahern, relating to Peril of Flood.

The bill authorizes insurers to issue flood insurance policies on a flexible basis and extends the date by which insurers may use certain statutory rate standards for establishing & using flood coverage rates. The bill also extends the current exemption allowing the export of coverage to a surplus lines carrier from July 1, 2017, to July 1, 2020.

The exemption is broadened to eliminate statutory pre-conditions requiring comparability of premiums, policy contents, and deductibles, as well as a condition requiring the insurer to notify a policyholder of the availability of coverage from Citizens Property Insurance Corporation, which by law is not allowed to offer flood coverage.

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CS/HB 929 has been placed on the Calendar on 2nd Reading in the House. The companion bill, SB 584 by Sen. Brandes, is in the Senate Appropriations Committee, its last committee of reference.

CS/HB 929 and its analysis can be viewed at:

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=55885>

Attorney's Fees/Public Records Bill Ready for Senate Vote

On Wednesday, February 17th, the Senate Fiscal Policy Committee unanimously approved CS/CS/CS/SB 1220 by Sen. Garcia, relating to public records as a committee substitute. As passed, the bill requires that a court assess and award reasonable costs of enforcement, including reasonable attorney fees, against an agency, if the court determines the:

- Agency unlawfully refused to permit the public record to be inspected or copied; and
- Complainant provided written notice identifying the public record request to the agency's custodian of public records at least 5 days before filing the civil action.

However, a complainant is not required to provide written notice of the public record request, if the agency does not prominently post the contact information for the agency's custodian of public records in the agency's primary administrative building where public records are routinely created, sent, received, maintained, and requested and on the agency's website, if the agency has website.

The bill further provides a court may not assess and award any reasonable costs of enforcement, including reasonable attorney fees, against the agency if the court determines the request to inspect or copy the public record was made primarily to harass the agency or cause a violation of Chapter 119, F.S. Additionally, as a compromise with the bill's detractors, CS/CS/CS/SB 1220 was amended to remove provisions that allowed a court to not assess reasonable enforcement costs if the court determined:

- Any alleged delay or error in permitting a public record to be inspected or copied was a technical violation of Chapter 119, F.S., which amounted to harmless error under the circumstances; or
- The civil action was frivolous, malicious, or *reasonably appeared* to have been intended to harass an agency.

CS/CS/CS/SB 1220 is on now on the Special Order Calendar for February 24th in the Senate. The bill and its analysis can be viewed at: <http://www.flsenate.gov/Session/Bill/2016/1220>.

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