

Broward SLI

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Highway Safety & Motor Vehicles Legislative Package

The House Economic Affairs Committee considered and passed, as a committee substitute, CS/HB 1223 on February 22. The bill amends and revises the various Florida laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). The bill also addresses two issues in Broward County's 2012 State Legislative Program: 1) Red-light camera citations issued to deceased persons; and 2) Medical examiner access to the DHSMV's Driver and Vehicle Information Database (DAVID).

The committee adopted a strike-all amendment which contained the DAVID access provision, and two additional amendments to the strike-all, including an amendment by Rep. Kiar addressing the issuance of red-light camera citations to deceased persons. Rep. Kiar's amendment provides an additional defense when the owner of a car issued the red-light camera citation is deceased. If the car owner was deceased on or before the date the uniform traffic citation was issued, the family's representative or other designated family member may file an affidavit with the government entity issuing the citation or the court. The bill specifies what documents must accompany the affidavit in order for the citation to be dismissed. If the affidavit establishes that the owner was deceased at the time the citation was issued, and the vehicle was either sold or stolen, or the registered license plates had been turned into the DHSMV or were stolen, after the owner's death but before the infraction occurred, the government entity who issued citation must dismiss it and notify the individual who filed the affidavit of the dismissal.

CS/CS/HB 1223 will be considered on the House Floor on February 28. It is expected to pass. The Senate companion, CS/SB 1122, is scheduled to be heard in the Senate Budget Committee the same day.

Transportation Package

On February 24, the House Economic Affairs Committee took up and passed the transportation package for the 2012 Session, CS/CS/HB 1399. The committee adopted a strike-all amendment and six additional amendments before passing the bill 14-4. One of the adopted amendments changed the structure of the SFRTA's governing body. Previously, the House Transportation & Economic Development Committee had adopted an amendment that granted the Governor six appointments to the governing board and prohibited the SFRTA from expanding into other South Florida areas.

The amendment adopted on Friday, allows the SFRTA to expand its service into Martin, Saint Lucie, and Monroe counties and allows FDOT to approve expansions into other

counties. The amendment also provides the Governor with five (rather than six) appointments to the SFRTA's governing board. The Governor's appointees must come from the area served by the SFRTA. If the SFRTA expands into other counties, the new counties will be able to appoint a county commissioner and the Governor will appoint the citizen member. Expansion counties will no longer be able to appoint citizen members to the SFRTA's governing board as Broward, Miami-Dade, and Palm Beach counties have the ability to do under present law. Additionally, the department's appointee to the SFRTA governing board will now be an ex-officio, nonvoting member.

The strike-all amendment also revised the FDOT liability concerning the installation of the bus benches and transit shelters by cities and counties on state roads. The strike-all removed the requirement that cities and counties indemnify the department for any "noncompliant" bus benches or transit shelters installed on local, county or state roads. The new language addresses installations that occur before July 1, 2012 on state roads, providing that cities and counties must ensure that bus benches and transit shelters installed on state roads comply with applicable laws and rules, including the Americans with Disabilities Act, or remove them. The department is protected from liability for any bus benches and transit shelters cities and counties installed prior to July 1, 2012. For installations that occur on or after July 1, 2012, if a city or county contracts for the installation of bus benches or transit shelters with a third party, the contract must contain a provision requiring the third party to indemnify FDOT for any such bus benches or transit shelters installed on state roads. Cities and counties must annually certify their compliance with this requirement, and the certification submitted to FDOT must include the names and address of each person responsible for indemnifying the department. A city or county must also remove or relocate any bus bench or transit shelter, at its own cost, within 30 days after receipt of the department's notice that a particular bus bench or transit shelter is unreasonably interfering with the "convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of the state highway system road."

In addition, an amendment to the strike-all by Rep. Ray, clarified language to ensure that FDOT delivers a Freight Mobility and Trade Plan to the Governor and Legislature no later than July 1, 2013, intended to assist the state in making freight mobility investments that will contribute to the state's economic growth. The strike-all amendment also revised the bill's language concerning stormwater permitting and mitigation of water quality impacts caused by port activities. The strike-all amendment, likewise, included language that requires FDOT, by July 1, 2012, to initiate rulemaking to adopt a general statewide permit for stormwater management systems that serve airside activities at airports.

The bill, once reported out of the committee, will be placed on the House calendar to await consideration by the full House. The Senate transportation package will be considered Tuesday, February 28, in the Senate Budget Committee.

DOH Reorganization update

Rep. Hudson's overhaul of the public health system, HB 1263, will be heard Monday at 2pm in the House Health and Human Services committee. Although the component of the legislation of greatest concern to Broward County – a shift of public health responsibilities from the state to counties – has been removed, the bill includes proposed reductions to the Children's Medical Services program and the closure of the A.G. Holley state tuberculosis hospital in Palm Beach County.

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Medicaid

On Thursday, the Senate approved SB 1998 by Sen. Negron. The contents of SB 1998 passed on the Senate floor and were substituted into HB 5301. HB 5301 will force counties to pay back all county contributions to Medicaid that the AHCA certifies are past due. This approach is troubling because many of the counties have reported that the AHCA has traditionally overbilled or billed counties for residents of other counties. HB 5301 will also limit the number of paid emergency room visits to six per fiscal year for Medicaid patients. HB 5301 passed 29-9 with two Senators abstaining and is now in House returning messages.

Juvenile Justice Issue Update

During a full Senate Budget meeting, Sen. Wise proposed an amendment to the appropriations bill to create a juvenile reentry task force, on which counties were not included. Counties communicated their concerns to Sen. Wise and discussed the potential duplication of efforts between the stakeholder working group and subcommittees being established by the Department of Juvenile Justice (DJJ) to review and recommend revisions to the juvenile justice statutes. The amendment was withdrawn and has not been re-filed.

DJJ staff has been in touch with Lisa Hurley of the Florida Association of Counties (FAC) to discuss the stakeholder working group, which will be reviewing and recommending sweeping changes to juvenile justice statutes next year; however, the working group has not yet scheduled its first meeting. It is unclear whether FAC has formally been invited to participate as a member of the working group, and who exactly would be representing county interests.

The reduction in the counties' cost-sharing responsibilities for preadjudicatory secure detention that was recommended in the Governor's proposed budget (\$2.7 M) was not picked up in either the House or Senate budgets. As reported in our budget update two weeks ago, the House has no language reducing the county share, while the Senate (SB 7070/1986) conforming bill has \$100,000, which has been identified as a placeholder. Thus, this funding reduction disparity will be resolved during conference.

Other substantive bills of possible interest, including parole for juveniles sentenced to life in prison for non-capital offenses, were heard this week.

Tangible Personal Property Taxes

On Thursday, the Senate Budget Subcommittee on Finance and Tax passed an amended version of SJR 1064, which proposes an amendment to the Florida Constitution to increase the tangible personal property (TPP) tax exemption from \$25,000 to \$50,000. The amendment would require approval by 60 percent of voters at the upcoming November election.

Originally, the bill would have allowed the Legislature to adjust TPP exemptions by general law. As amended, the bill no longer contains this derogation of home rule power, and instead only authorizes an increase in the total exemption; local governments still maintain the ability to grant additional exemptions in the future. SJR 1064 is now in Senate Budget. The House bill, HJR 1003 by Rep. Eisnagle, has also been amended to

authorize an additional \$25,000 exemption (for a total exemption of \$50,000), but no longer delegates authority to modify TPP exemptions to the Legislature. HJR 1003 was temporarily postponed on second reading.

Communications Services Taxes

Also during Senate Budget Subcommittee on Finance and Tax, Sen. Bogdanoff offered a strike-all amendment to SB 1060 establishing a Communications Services Tax Working Group, within the Department of Revenue, who would be tasked with reviewing existing tax policies and submitting recommendations for reform in time for the 2013 Legislative Session. The amendment effectively removed all language exempting certain bundled services, which on their own are not taxable, from the communications services tax; this change removes the fiscal impact on local governments. During committee, Sen. Bogdanoff stated that the admittedly complex issue needed more time for evaluation, and was not ripe for reform during the 2012 Session. SB 1060 will next be considered by full Senate Budget. Unfortunately, the House bill, by Rep. Grant, was not similarly amended and passed unanimously in the House with language that is estimated to have a \$21 M impact on local governments. HB 809 is now in Senate Messages. In the remaining weeks of Session, the County will work to ensure that if passed, the legislation has little or no negative fiscal impact and ideally, only includes the study language.

State Retirement Bill

HB 525, which would have drastically revamped special-risk class retirement benefits, was temporarily postponed at the request of the sponsor, Rep. Workman. Expressing frustration with the unwillingness of the Senate to move its version of the measure, Rep. Workman asked the House State Affairs committee to TP the proposed follow-up to last year's overhaul of the state pension system. The bill would have lowered the retirement age for employees in the special-risk category, which largely consists of law-enforcement officers and fire fighters, to fifty-five (55) years of age, while offsetting that cost by increasing the vesting period for employees in other pension plan classes from eight years to eleven years and changing the default plan for employees from the pension plan to the 401(k)-style Investment plan. Broward County estimated the bill would have cost the Broward Sheriff's Office over \$2.7 M, annually. The legislation is now effectively dead for the remainder of the session.

Broward Solar Amendment

Broward County's effort to change Florida law to allow property owners to submit electronic building permit applications for solar projects moved another step closer to reality. The House Economic Affairs Committee on February 22 approved a strike-all amendment to CS/HB 651, which included language creating a licensure exemption for property owners seeking to install, uninstall or replace solar panels on their residential properties, and exempting an owner from personally appearing before a building official to sign a building permit application for solar projects. However, the strike-all inadvertently left out a portion of the amendment which affords the same opportunity to homeowners using licensed contractors to undertake a solar project. Rep. Davis, the bill's sponsor, will be filing an amendment to correct the glitch when the bill is heard on the House floor Tuesday, February 28. CS/CS/HB 651 revises several laws regarding the state's building and construction industry.

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Similarly, the companion bill, CS/CS/SB 704, is now on the Senate calendar awaiting full Senate consideration. Amendments to update solar language already the bill have been provided to Sen. Bennett, the bill's sponsor. The amendments will be filed once CS/CS/SB 704 is placed on the Senate's special order calendar.

Streamlined Environmental Permitting

HB 503 by Rep. Patronis, the comprehensive environmental permitting bill, passed unanimously in the House on Thursday. On the floor, an amendment was adopted deleting the controversial section relating to the Biscayne Bay Aquatic Preserve. Specifically, the section, which has been adamantly opposed by environmental groups, would have exempted a municipal applicant proposing development of public waterfront promenade from having to show extreme hardship. Under current law, the sale, transfer, or lease of sovereignty submerged lands in the preserve is only permitted when an applicant can demonstrate both extreme hardship and that the sale, transfer, or lease is in the public interest.

A second amendment, supported by House leadership and filed just prior to third reading, was also adopted. The amendment provides that any building permit and any permit issued by the Department of Environmental Protection or a water management district under part IV of Ch. 373, F.S., having an expiration date from January 1, 2012, through January 1, 2014, is extended and renewed for a period of two years beyond its previously scheduled date of expiration. The extension also applies to development orders and building permits issued by local governments, as well as to commencement and completion dates for a project's required mitigation. The section does not apply to permits issued by the Army Corps of Engineers, permits determined to be in significant noncompliance, or any permit that, if extended, would delay or prevent compliance with a court order. HB 503 is now in Senate Messages; the Senate companion, SB 716 by Sen. Bennett, will be heard in the Budget Subcommittee on General Government Appropriations on Tuesday.

Septic Tank Evaluation Program

HB 999 by Rep. Dorworth, which repeals the statewide onsite sewage treatment and disposal system evaluation program, passed in the House State Affairs Committee by a 14-2 vote. Pursuant to the bill, any county or municipality containing a first magnitude spring would be required to develop and adopt an evaluation and assessment program by local ordinance; however, a local government could opt out of the program by a majority-plus-one vote. All other local governments (those not containing first magnitude springs) would be allowed to opt in to the program. Local governments opting in to the program would be prohibited from adopting requirements more stringent than contained in the bill; however, the bill does not limit a local government's authority to act outside the scope of the program or to adopt local environmental and pollution abatement ordinances for water quality improvement. Additionally, HB 999 grandfathers in existing septic system inspection programs, except that those provisions requiring a mandatory inspection at the point of sale in a real estate transaction would be preempted. HB 999 is now on the Special Order calendar. The Senate companion, SB 820 by Sen. Dean, is awaiting hearing in Senate Budget.

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Beach Management

SB 758 by Sen. Jones and HB 691 by Rep. Frishe both moved in their respective chambers this week. The bills, which have received widespread support from the Florida Shore and Beach Preservation Association, local governments, and environmental groups, would streamline the joint coastal and coastal construction permitting processes for beach renourishment and inlet management projects, increasing efficiency and delivering both time and cost savings. HB 691 was approved unanimously by the House and is now in Senate Messages. SB 758 is on Second Reading in the Senate.

Informed Consent Amendment

Last week, Sen. Margolis filed an amendment to SB 594 by Sen. Storms, which would have addressed the County's concerns with Florida's medical consent law, to ensure that informed consent for cosmetic surgical procedures is obtained at least one hour before a procedure is actually performed; however, the bill was temporarily postponed in committee. Hopefully, there will be another opportunity to have this issue discussed in committee and ultimately enacted.

Organ Donor Resolution

Broward County is proud to report that Sen. Smith is sponsoring a resolution urging Congress to pass HR 2755: Share Your Spare Act and HR 2969: Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act. HR 2755 by Rep. Russell of North Carolina will grant a \$10,000 tax credit for the donation of a life-saving organ from one living person to another. HR 2969 by Rep. Burgess of Texas would repeal the 36 month limitation on Medicare coverage of immunosuppressive drugs after a transplant. Removing this limitation would significantly lower the likelihood of organ failure and cost taxpayers less money.

Budget Conference Update

On Friday, Speaker Cannon released a memorandum to House members advising that conferees would be named as early as Monday morning and requesting that interested legislators indicate their preferences over the weekend. The calendar has been updated to reflect the inclusion of budget conference meetings each day this week, before the beginning of regularly scheduled meetings and in the evening, at their conclusion. Conference is most likely to begin mid-week. With the House and Senate passing budgets that are more than \$1 B apart, the process is expected to take at least a week, with many issues bumping to Senate Budget Chair Alexander and House Appropriations Chair Grimsley, or even to the President and Speaker, for resolution.

Of specific interest to Broward County are the significant disparities between the House and Senate versions of the Health and Human Services Budget:

- The House does not drastically reduce Adult Mental Health and Substance Abuse programs in the Department of Children and Families' allocations, while the Senate proposes 25-30 percent reductions.
- The Senate includes a \$1 M additional appropriation for the Community Care for the Elderly program – a priority for Broward County's Elderly and

Veteran's Services Division, who administers the program locally – allowing for older adults to age-in-place using evidence-based approaches.

- The most problematic aspect of the HHS budget remains the inclusion of a provision in the Medicaid conforming bill that will require counties to repay 85 percent of disputed AHCA Medicaid billings through withholding of revenue sharing; with a 100 percent payment required, prospectively, also through direct deduction of revenue share. Counties believe the AHCA billing system is seriously flawed, and the requirement of 100 percent payments going forward is unreasonable and unjust. Broward County estimates that if such a provision were to pass, it would cost \$7 M in the first year alone. Counties and hospitals remain vehemently opposed to the proposal and continue working to kill or amend the provision to create a more equitable and appropriate payment mechanism.

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