



BROWARD COUNTY - TALLAHASSEE LEGISLATIVE UPDATE

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Week Three

Insurance Parity

On March 18th several bills of interest related to health and human services were heard. HB 19 by Rep. Homan and others, requiring coverage for mental health and substance abuse treatment by health insurers, passed favorably in Health Innovation. This behavioral health “parity” bill has been introduced at the both the state and federal levels for over ten years and has never passed. Other states that have implemented mental health and substance abuse parity legislation have reported insignificant increased costs to insurers and dramatic improvements for consumers.

HB 1291 on autism spectrum disorders, sponsored by Rep. Porth, also passed in Health Innovation. This legislation requires insurers to provide coverage for autism spectrum disorders in the same manner and with the same deductibles, co-pays and limitations as they would for any other physical illness and/or disability. Companion bill SB 2654 by Sen. Geller also passed favorably in Banking and Insurance this week. Both bills require public institutions of higher education to include courses on autism spectrum disorder in teacher certification degree programs. The bills also require outreach and education efforts to be undertaken by the Department of Health, to improve public awareness of the disease and its symptoms to increase early detection. The fiscal impact provided in staff analyses for HB 1291 and SB 2654, although unclear, appears to be substantial and is cause for concern. Leadership in both chambers have clearly stated that bills with any fiscal impact to the state will not be passed this Session.

HB 19 and HB 1291 both now move to the Healthcare Council.

Online Travel Companies

Information surfaced this week that Expedia.com and other online travel companies are seeking a legislative remedy regarding payment of tourist and convention development taxes due for online leases or rentals of transient accommodations. It is rumored this issue may be raised in the form of an amendment to tax administration related legislation SB 2788 before the Senate Finance and Taxation Committee or in a proposed committee bill (PCB) expected to be taken up in the House Government Efficiency and Accountability Council (GEAC) next week. However, at this time, no amendment has been filed.

VAB and Property Tax Reform Bills

Both Value Adjustment Board (VAB) bills scheduled for hearing in Policy and Budget Council Tuesday, HB 1283 and HB 7005, were TP'd. Broward County has expressed concerns about the requirement that the VAB pay attorneys' fees in several of the bills that have been introduced. HB 129, relating to the Just Valuation of Property passed in the Government Efficiency and Accountability Council, as did HJR 421 increasing the homestead exemption, thus “curing” the inequities between new homeowners in the state and those that have owned homesteaded property for many years. If HJR 421 passes, it will be placed on the ballot for voter approval. The Budget Office has estimated that the negative fiscal impact of HJR 421 would be \$82 million annually.

Government Transparency

SB 392 by Sen. Storms was heard on Wednesday in Senate Community Affairs. The legislation requires that local governments must electronically post contract information relating to each contract executed between the local government and a corporation or an individual, or for a county officer, between the county officer

and a corporation or an individual. The information must be posted using basic expenditure categories in uniform format established in the bill. The website must be accessible without charge to any individual with internet access using standard browsing software. To the extent possible, each local government's website shall provide a link to an electronic copy of the contract. Any public record that is exempt from inspection or copying under chapter 119 or general law, is exempt from the provisions of this act. A strike-all amendment was offered by the sponsor and several aspects of the original bill's onerous implementation issues were addressed. The strike-all, which was adopted, exempts local governments that do not have existing websites

from the bill's timelines. Larger counties and municipalities must begin uploading contracts for \$5,000 or more executed on or after October 1, 2009, for public viewing on websites. For smaller, fiscally-constrained counties and municipalities that do have websites, compliance with the bill is extended. The bill requires that each county designate one department or agency to act as centralized repository for all contractual information, which would be very problematic. The staff analysis for SB 392 indicates that establishing a fiscal impact on local governments will be difficult to ascertain and different for each political subdivision. SB 392 passed favorably and has three additional committees of reference with no House companion.

Energy Legislation

The House Energy Committee on Wednesday recommended the filing of Proposed Committee Bill ENRC 08-01. At this point, the bill will be filed and receive a bill number for further consideration by the House Environmental and Natural Resource Council. The following provisions apply to local governments:

Renewable Energy Source Exemption – Section 5 of the bill provides for a reduction in the assessment of improved real property for the installation of any renewable energy source. This presents an issue of concern since installation of a renewable energy device will more likely cause an increase in a property's value. The Senate's energy bill, SB 1544 by Sen. Saunders, exempts consideration

of the increased value to a property resulting from the installation of the solar energy devices.

Power Plant Siting Provisions – Sections 10, 11, and 49 – 76 contain power plant siting provisions. At this time, these provisions appear to be limited to glitch changes recommended by the Department of Environmental Protection (DEP).

County Buildings – Section 19 of the bill provides that all county buildings (as well as cities, school districts, water management districts, universities, colleges, and courts) must be constructed to meet either LEED standards, Green Globes standards, the Florida Green Building Coalition standards, or another nationally-recognized, high-performance green building rating system as approved by DEP.

Metropolitan Planning Organizations (MPOs) – Section 24 encourages MPOs to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions.

Florida Green Governments Grants Act – Although there is no specific appropriation contained in Section 44, if any funds are appropriated, they are to be used to assist local governments (including cities, counties, and school districts) in developing programs that achieve green standards.

Guaranteed Performance Savings Contracting for Water and Wastewater – The bill expands these contracts to allow their use for water and wastewater, in addition to energy. Cities and counties are defined as "agencies" for purposes of this section, but provisions relating to CFO oversight specifically do not apply to local governments.

The Senate Environmental Preservation and Conservation Committee also considered and passed SB 1544 on Wednesday. The Senate energy bill has many similar provisions as recommended in the House, but differences do exist. It is expected that any differences will be worked on and resolved as the bills move through the legislative process.

Ocean Outfall Legislation

After two public hearings and several stakeholder meetings, the Senate Environmental Preservation and Conservation Committee on Wednesday considered and passed SB 1302 by Sen. Saunders adopting a strike-all amendment that converted the bill from dredging legislation to one addressing the elimination of ocean outfalls in Southeast Florida. Commissioner Jacobs testified against the legislation addressing the County's environmental concerns with the proposed legislation. As passed, the bill:

Provides legislative intent that finds ocean outfalls compromise the coastal environment and the quality of life and local economies that depend on coastal resources. In addition, finds that it is in the public interest to eliminate the ocean outfalls and provide for more stringent treatment and management of domestic wastewater.

Prohibits the construction of new ocean outfalls and limits existing outfalls to permitted discharge capacity as of July 1, 2008. Existing outfalls are allowed to continue operating subject to the limitations in the bill.

Requires that discharges of domestic wastewater through ocean outfalls meet advanced wastewater treatment and management requirements by no later than December 31, 2018. This means that outfall discharges must comply with the advanced waste treatment requirement of §403.086(4) or meet a reduction in outfall baseline loadings of total nitrogen and phosphorus that is equivalent to the AWT requirements of subsection (4). The baseline loadings will be expressed as an average annual daily loading value determined by DEP from monitoring data available for calendar years 2003 through 2007.

Exempts a domestic wastewater facility that discharges through an ocean outfall from the advanced wastewater treatment and management requirements if, by

December 31, 2018, the facility has a fully functional reuse system comprising 100% of the facility's actual flow on an annual basis for reuse activities.

Requires that each domestic wastewater facility that discharges through an outfall to have in place a functioning reuse system by no later than December 31, 2025. A "functioning reuse system" is an environmentally, economically, and technically feasible system that provides a minimum of 60% of the wastewater plant's actual flow on annual basis for reuse activities including irrigation of public access areas, residential properties, or agricultural crops; groundwater recharge; industrial cooling; or other reuse activities authorized by DEP.

Treatment infrastructure, in addition to AWT that is necessary to support a functioning reuse system must also be in place by December 31, 2025.

Utilities that operate more than one outfall may comply with the reuse requirement if the combined actual reuse flows from the facilities served by the outfalls are at least 60% of the sum total of the total actual flows of the facilities.

Discharge of domestic wastewater through an ocean outfall is prohibited as of December 31, 2025, except as a backup discharge that is part of a functioning reuse system. Backup discharges are limited to periods of reduced demand for reclaimed water and must comply with the advanced water treatment and management requirements in the bill.

Permit holders that discharge through an ocean outfall must submit to DEP, by July 1, 2013, a detailed plan (e.g., facilities, land acquisition, financing, rate increases, etc.) to meet the requirements of the bill. The plan must be updated by July 1, 2016. A permit holder is also required to submit, by December 31, 2009, and every five

years thereafter, a report summarizing the actions taken to comply with the bill's requirements. DEP must establish an enforceable compliance schedule for each permit that authorizes the discharge of domestic wastewater through an ocean outfall. Every five years, DEP is also required to submit a report to the Governor and Legislature concerning implementation of the bill.

Provides priority points under the State Revolving Loan program for projects that eliminate ocean outfalls.

The South Florida Water Management District is directed to include projects in their regional water supply plans that support the elimination of ocean outfalls, give a priority in funding for reuse projects that assist in eliminating the outfalls, and directs the water management district to require the use of reclaimed water in lieu of surface or groundwater.

Because the bill passed as a committee substitute, it could be referred to other Senate substantive committees such as Community Affairs or Communications and Public Utilities in addition to the General Government Appropriations Committee which the original bill had as its next committee of reference. The decision to refer the bill to other substantive committees rests with Senate President Ken Pruitt.

Public Construction Works

HB 683 by Rep. Weatherford makes substantial changes to state law concerning the competitive award of local government road and public construction works. The bill was considered in the House State Affairs Committee on Wednesday and passed unanimously after the Committee adopted a strike-all amendment that addressed some of the concerns raised by local governments. As passed, the bill modifies state law as follows:

Requires local governments to competitively award projects to repair or perform maintenance on a public building, structure or public construction works; and removes the repair and maintenance

exemption for public facilities that is in current law.

Limits the exemption from competitively awarding public building, structure, or public construction works projects where the financial source may be diminished or lost to those circumstances where the local government undertaking the project did not materially contribute to a delay in funding or competitively awarding the project.

Requires that in addition to holding a public hearing, a local government that decides to undertake a public construction project using its own services, employees, and equipment must make certain findings relative to costs. The bill allows a contractor to challenge the local government cost findings.

Provides that contract clauses in local government contracts that limit, waive, release, or extinguish the rights of a contractor to recover costs or damages for delays caused by the acts or omissions of the local government or contractual entities in privity with the local government are void and unenforceable as against public policy; provides that local government decision as to whether a contractor is entitled to additional compensation or time is subject to de novo review in a state court or other appropriate jurisdiction. Contractual clauses that provide for reasonable liquidated damages to compensate a contractor in cases of delay are preserved.

Exempts public airports from the new repair and maintenance restrictions and the provisions making no delay damages clauses void and unenforceable do not apply to public airport construction contracts.

Expands §336.41, relating to county road and bridge works to include municipalities and requires the county or municipality to competitively award all construction, reconstruction and repair of roads and bridges. Current law only applies to 80% of the 2-cent constitutional gas tax.

Removes the annual cap on work performed by a local government with its own forces, replaces the annual cap with a per project cap of \$250,000, exclusive of material costs and provides that no single

project or combination of adjacent projects done with local government forces shall exceed one mile in length.

The bill next moves to the House Government Efficiency and Accountability Council for consideration. However, local government and industry representatives continue to meet to discuss concerns with the legislation and to negotiate necessary changes.