Transparency Florida Act
Sen. Alexander has sponsored SB 1796, The Transparency Florida Act, seeking to ensure that the public is given access to information about the use of taxpayer funds by “governmental entities.” While commendable, the scope of this bill is cause for concern to local governments, since the definition of “governmental entities” means “any state, regional, county, municipality, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, any department, division, bureau, commission, authority, district, or agency thereof or any public school district, community college, state university, or associated board.”

Municipalities with populations of 10,000 or less are exempted. The bill focuses on offering information, through a single website, about appropriations received by “governmental entities” from the state’s General Appropriations Act, which is not, per se, problematic. However, in Section 2, 215.985, F.S., subsection 6(a)-(d), created by the bill, it states: “By March 1, 2010, the committee shall develop a schedule for adding other information to the website by type of information and governmental entity . . . Additional information may include: (a) disbursements by the governmental entity from funds established within the treasury of the governmental entity. . . (b) revenues received by each governmental entity. . . (c) information about the governmental entity’s bonded indebtedness. . .”

Broward County has drafted two amendments to SB 1796 to change the language in section 6 of the bill from the Legislative Audit Committee making recommendations to the Legislative Budget Committee (LBC) in March 2010, to the Legislative Committee on Intergovernmental Relations (LCIR) making those recommendations. By making this change, we will ensure county representation in the recommendation process. Senator Crist has been approached with these amendments, which we hope to have filed before the bill is heard in its second and last committee of reference.

Dot Com Bills
On Thursday, SB 1970 by Sen. Lynn passed unanimously in the Senate Commerce Committee. The bill would allow full state and local consideration to be paid by online travel companies. There are three more additional committee stops, and the bill has not yet been heard in the House.

In today’s Revenue Estimating Conference (REC), SB1970/HB579 was further discussed. Placing accurate revenue impacts for the state on these bills will enhance the chances for it to be heard in the House.

The revenue estimators spent nearly an hour-and-a-half debating numerous economic aspects of the legislation, from online travel companies’ (OTC) market share, penetration, mark-ups, and the impact of the bills’ amnesty provisions. Dr. Jim Zingale, representing Orange and Broward Counties, argued for a computational methodology that considered more recent survey tools (JD Powers and Associates Annual Independent Travel Website Satisfaction Survey), instead of the 2004 data.

One revenue estimator indicated the online travel industry had provided, last evening, data indicating that only online, third-party “leisure and unmanaged business travel” should be considered when assessing online market share of hotel sales. The industry provided information asserting that JD Powers survey
numbers regarding OTC market share and mark-up figures were inaccurate because they included "package deals" (hotels + flights + rental cars), when the only accurate measure were sales of hotels only.

Estimators finally settled upon a bifurcated approach to impact—valuing impact to Orange and Osceola counties higher than that for the rest of the state, based on the percentage of leisure and non-managed business travel to those areas. Ultimately, REC members reached a consensus that the revenue impact of the amnesty provisions would be negative indeterminate.

The overall effect of the changes to the proposed formulas and projections is still unknown, but preliminary estimates as a result of the change to the overall market share from approximately 20% to 13% is expected to project revenues of approximately $28.4 million for the state and $22.3 million for local governments.

Stakeholders in favor of requiring the full consideration paid have concluded that revenues from this source make it a possible end of session budget issue. One of our Senate advocates, Sen. Altman, attended the Conference, and it is believed that he is prepared to amend the language included in SB 1970 to eliminate the amnesty language in order to raise the revenue estimates.

**State Retirement - SB 1182/HB 479**

Affectionately known as the "double-dipper bills," this legislation, along with another version in the House and Senate, seek to limit Florida retirees' ability to retire from a position, draw from the Florida Retirement System (FRS), and obtain another government position while continuing to draw from FRS. The bills' sponsors took a variety of questions as the two pieces of legislation were heard this week in their respective chambers, including, whether the bills would face Constitutional challenges. Concerns have been raised as to whether Florida will be treating their own retirees differently than retirees from other states that would be able to draw from their system and become employed in Florida. Additionally, the bill will encourage FRS retirees to leave our state.

The bills' sponsors argue that the system is being abused and that people are retiring, and then returning to their positions a week later, so that they can "double-dip."

Both bills passed out of their committees, with members vowing to work on ways to fix the problems that are the impetus for the legislation, without unnecessarily punishing public servants.

**Older Adult Funding Issues**

- **SB 770—Area Agencies on Aging (AAAs)**
  This bill and its companion in the House, HB 935, clarify that AAAs are private, non-profit entities and not quasi-governmental, thus protecting them from the 15% cuts expected to state agencies. Further, these bills require AAAs to develop their own grant solicitations for Community Care for the Elderly and not use DOEA in cases of disputes with grantees.

- **Community Care for the Elderly (CCE)**
  While the Senate and House both cut CCE programs, Nursing Home Diversion slots were increased by 1,000. Broward staff sought clarification of why Senator Rich argued for additional nursing home diversion slots in the Senate HHS Appropriations package, and asked the Senator to fight to reinstate CCE funding.

**Juvenile Justice**

- **HB173/SB654**
  On Monday, March 30th, HB 173 was heard in the Full Appropriations Council of Government and Healthcare, where it again received some vehement opposition. Broward staff was able to meet with Committee members Planas, Roberson, Skidmore, and Brandenburg before the Council met, to provide additional talking points and questions. A representative from the Annie E. Casey Foundation spoke about a nationwide petition being circulated in opposition to the bill and while several members remained adamant, the final vote on
the bill was 26 to 5. Following the vote, strategy discussions occurred among a variety of opponents as well as a review of the need for a 2/3 vote on the floor because of the unfunded mandate issues in the bill.

Rep. Adams began amending pieces of HB 173 on to alternative vehicles in anticipation of challenges in the Senate. Staff discussions revealed that SB654, HB173’s companion, may be heard in Senate Criminal Justice the week of April 13th, but not receive further consideration. Staff will continue to work to keep the harmful language in HB 173 out of the Senate Blueprint Commission or DJJ agency bills.

- **SB 1724—Budget Conforming Bill**
  An increased license fee will be used to increase the grants and donations trust fund for juvenile prevention programs.

**Advertisements and Notices by Governmental Entities - SB 2292**

Scheduled for hearing in Senate Community Affairs this week, this bill which extensively revises the circumstances in which a local government may use its own website for the purposes of legal advertising was temporarily postponed.

Presently, Section 50.011, F.S. details requirements governing the publication of legal advertisements and notices in a newspaper, including all legal notices and advertisements of sheriffs and tax collectors. Publication must be in a newspaper that is printed and published at least once a week, and containing at least 25 percent of its words in the English language. The newspaper must qualify or be entered to qualify as periodicals matter at the post office in the county where published, and be generally available to the public for the purpose of publication of official or other notices. This bill states that for purposes of legal notices and advertisements required by statute to be published by governmental entities, the term “publicly accessible website” means a governmental entity’s official website that is accessible on the Internet.

SB 2292, by Sen. Storms, is enthusiastically supported by local governments, including Broward, which can save millions, should the bill succeed. However, media outlets were out in force against the legislation. More than 25 appearance cards were handed in, forcing the bill to be temporarily passed until next week.

**Tobacco Tax**

The Senate Finance and Tax Committee postponed all other bills that were scheduled for a hearing on March 31 and only took up SB 1840 regarding a tobacco surcharge. More than thirty appearance cards were received and numerous proponents and opponents of the legislation spoke. One of the major concerns remains the economic impact, especially to one large retailer situated in Florida. Under current Florida law, the retailer that buys direct from the manufacturer, stamps the packages, and ships to direct retailers, remits taxes to the state at that time and recoups those costs much later when the next-level retailers who are selling to the actual consumers, pay for the product. Representatives of other tobacco manufacturers also expressed concerns about the legislation’s economic impact and raised fears of creating a tobacco black market or having persons purchase tobacco over state lines or via the Internet. Alabama and Georgia continue to have low tobacco taxes, and one speaker remarked that Indian reservations are able to sell direct to consumers, tax free, via the Internet.

However, proponents of the bill, from the American Cancer Association and Lung Association, to hospital associations and counties, articulated the problem of $2B in tobacco-related medical expenses in Florida being covered by Medicaid. Less than 10% of those costs are recouped through taxes on the sales of tobacco products.

If passed, the surcharge is expected to raise more than $700 million annually. Additionally, the surtax is expected to discourage the use of tobacco.

After two hours of questions and public testimony, the bill passed out of committee.
unanimously. It may be heard in its next committee stop, Ways and Means, next week.

Public Construction Projects
SB 616 would allow private construction bids that are up to 10% more than the local government’s estimated costs to prevail. Governments with in-house capacity to complete public works and others capital projects, including emergency repairs to county-owned facilities, would be required to go out to bid on many of those projects. Of further concern is the fact that the local government’s cost estimate is a public record, allowing private bidders to use the information when costing their projects.

Proponents of the bill argue that being able to successfully win contracts, even when they are up to 10% more than the governmental entity’s estimate, is a fairness issue—that local governments have salaried staff and administrative capacities that are not built-in to the costs of projects, making it impossible for private industry to compete. Heard in Community Affairs on March 31, the bill was temporarily postponed after testimony from builders, construction associations, counties and cities, indicated that issues and language still needed to be “worked out” among the group. The builders did acknowledge that they are “on the same page conceptually” with cities and counties. Broward staff is working closely with other affected parties on compromise strike-all language for Sen. Bennett to be filed, before the bill is heard on Monday.

Florida Energy and Climate Commission
HB 1533 by Rep. Gibbons passed unanimously in the Policy Council this week. A 2008 study by the Department of Community Affairs, in conjunction with the Florida Energy Affordability Coalition, concluded that low income people tend to live in less energy-efficient homes and spend a higher percentage of their income on home energy. In response to these and other findings, HB 1533 directs the Florida Energy and Climate Commission (FECC) to prepare a report on energy efficiency in low-income households and rental properties. Among other things, the FECC report must identify energy efficiency programs offered to low-income households in Florida by Community Action Agencies and other similar organizations. Because Broward County has a Community Action Agency, it may be important to consider what effects this legislation could have on county programs providing assistance to low-income households and whether the bill would mandate any changes or restrictions on those programs.

Environmental Protection
HB 1349 by Rep. Patronis, which addresses the Department of Environmental Protection (DEP) permit powers, passed in the General Government Policy Council this week by a 13 to 4 vote. Several amendments to the bill were offered and adopted. Amendment 1 provides that if an application for an environmental resource permit or license is prepared and signed by a licensed professional and deemed complete by DEP, it is presumed to comply with the provisions of the permitting statute. According to the amendment, licensed professionals include professional engineers, landscape architects, surveyors, and geologists who are licensed under their respective statutes. If DEP denies an application presumed to be in compliance, or if a third party challenges the application, DEP or the challenging party has the burden of proving that the application does not comply with the statute. Thus, the amendment shifts the burden of proving compliance from the applicant to the permitting agency or a third-party challenger. The amendment also provides a means of issuing formal complaints against professionals who sign off on permit applications that are later found to warrant review by the permitting agency. A DEP representative expressed concern that the licensed professionals listed in the bill do not include the kinds of professionals who are most qualified to determine the environmental impacts of projects, such as biologists and ecologists. A spokesperson for an environmental organization asserted that neutral parties such as DEP and water management districts (WMDs), and not the various licensed professionals listed in the bill, should have the authority to determine whether a project is in the public interest in accordance
with the statute. Responding to the objections, Rep. Patronis made clear his intentions to work with the interested parties to improve the bill. HB 1349 will next be considered by the Natural Resources Appropriations Committee.

**Proposed Committee Bill NRAC 09-02**

PCB NRAC 09-02, which revises statutory provisions governing various trust funds and programs within DEP and the Florida Wildlife Commissioner (FWC), was considered by the Natural Resources Appropriations Committee this week. The PCB includes a provision of great concern which establishes a solid waste disposal fee of $1.25 per ton of solid waste disposed of at a permitted solid waste management facility. The expected $50 million in proceeds would be deposited into the General Revenue Fund. Many stakeholders, including local governments, opposed this section. They challenged the validity of this fee on the ground that it is essentially just a tax on waste disposal, a service which local governments are required to provide. While conveying concerns over the need to raise $50 million in revenues in this bill, Chair Poppell expressed a willingness to consider alternatives as the PCB moves forward.

Beginning in fiscal year 2009-10, the proposed bill would also redirect tax revenues previously distributed into the Land Acquisition Trust Fund and Ecosystem Management and Restoration Trust Fund to the General Revenue Fund. Both representatives and members of the public expressed concern over this permanent redirection of funds and raised the question of whether a sunset provision could be added that would allow the program to lapse at a point in the future when the state's economic situation improves.

**Seaport Security Bill Passes**

Tuesday, the Senate Military Affairs and Domestic Security Committee finally took up the Committee's proposed committee bill on seaport security, SB 2684 for consideration. At the start, Sen. Aronberg, the Committee's Chair, withdrew the proposed committee substitute discussed and temporarily postponed on March 26th. The Committee then took up a proposed strike-all by Sen. Bennett which would have adopted the federal Transportation Workers Identification Credential (TWIC) as the only credential needed to access secured and restricted areas in a seaport and eliminated the additional Florida Department of Law Enforcement (FDLE) criminal history required under current law. However, Sen. Bennett withdrew his amendment as a courtesy to the Chair.

The Committee then took up a late filed committee substitute by Sen. Lynn and after two amendments by the Chairman, passed the bill as a committee substitute on a 7-1 vote, with Sen. Hill voting in the negative. Sen. Hill had offered an amendment to include the Miami River Port within the state's security apparatus but it failed on a 4-4 tie vote. As passed, the bill makes the following changes:

- Aligns the definitions of secure and restricted access areas with federal law. Therefore, areas designated as secure or restricted access areas in federal security plans will be the controlling areas under state law for access credentialing.

- Persons having regular access to secure or restricted areas of the seaport must hold a valid TWIC card or be escorted. Persons outside such areas are not required to be screened using either a federal or state criminal history background check.

- Persons holding a TWIC card will not have to be screened again for a federal NCIC check, unless the individual received the TWIC card through a federal waiver. Individuals must sign an affidavit stating they did not receive the TWIC card under a federal waiver process.

- All persons holding a valid TWIC, however, will have to be screened using the Florida fingerprint-based criminal history background check. The
disqualifying offenses are not changed, but the length of time from release of incarceration has been reduced to five years consistent with federal law. The Florida Department of Law Enforcement (FDLE) must establish a waiver process for individuals who do not possess a TWIC card, who obtained a TWIC through a federal waiver or who is found to be ineligible for employment or unescorted access at a seaport.

- Seaports must still process the background checks and make determinations as to access eligibility. A statewide database is being created to ensure individuals are not charged twice for background checks adjudicated by another seaport.

- The bill authorizes fees for the costs of a background check, establishes a new $50 fee to cover the costs associated with entering or maintaining the person in the system, including retention of their fingerprint or other biometric and identifying information, and allows a seaport to charge a limited administrative fee to cover initial processing costs. The new $50 fee is to be paid every five years in line with TWIC. These fees, however, may not be charged by more than one seaport.

- FDLE must also conduct at least one annual assessment briefing before the governing board of the seaport. All members of the governing board must attend the briefing, and attendance records must be announced at their next regular meeting of the governing board.

- The Office of Drug Control must commission an update to the Florida Seaport Security Assessment 2000 referenced in current law and must submit a report to the Legislature for review by January 1, 2010.

- The bill adds new members to the Seaport Security Standards Advisory Council, including a seaport tenant representative and seaport worker representative. In addition, the bill requires the Office of Drug Control to convene the council every four years to review the minimum seaport security standards set forth in §311.12(1), Florida Statutes.

- FDLE is directed to create a “pilot project” of at least three seaports to host the centralized database using existing hardware originally purchased for the FUPAC program by the Department of Highway Safety and Motor Vehicles.

The bill next moves to the Senate Criminal Justice Committee for consideration. In the House, the Criminal and Civil Justice Policy Council will be taking up PCB CCJP 09-03 which was recently filed. The proposed committee bill contains the provisions found in CS/SB 2684 without the requirement that FDLE conduct annual assessment briefings for seaport governing boards.

**House Seminole Compact Legislation**

The House Select Committee on Seminole Indian Compact Review on Friday considered and passed Proposed Committee Bill SICR 09-01 with only one committee member, Rep. Hays, voting against the measure. The committee bill authorizes and directs the Governor to negotiate and execute a gaming compact with the Seminole Tribe of Florida. The House measure only authorizes slot machines and high stakes poker, with other Class III games such as baccarat, chemin de fer, blackjack, roulette, and craps being excluded.

The bill establishes minimum requirements for the operation of the Tribe’s gaming facilities and revenue sharing requirements between the Tribe and State, with escalating guaranteed minimum payments in each of the first three years of the compact. These payments range from $100M to $150M respectively. In later years, the minimum guaranteed payment is
$100M, unless the percentage rates based on net-win produces a greater amount to the state. The bill contains a compact term which provides that the Tribe agrees to pay an additional five percent of its annual revenue share to the state to offset local government impacts. The bill does not, however, provide any guidance on how the proceeds are to be distributed amongst impact local governments. The bill will now be filed, numbered, and referred to appropriate committees or councils.

The House bill significantly differs from the Senate version, SB 788 by Sen. Jones. SB 788 has passed Regulated Industries and will be considered by its last committee of reference, Ways and Means, next week.

The Governor and Senate are strongly advocating for passage of a Compact, in order to utilize the revenues as part of the plan to fund the 2009-2010 budget.

**Budget**

The House appropriations committees released their proposed budgets and conforming bills on Tuesday afternoon which, when compared to the Senate's proposals from last Friday, appeared to be far less dramatic and severe than was anticipated. While neither the House nor Senate budgets clearly delineate how the ARRA (stimulus) money is spent or distributed in specific accounts, it is clear that the overall House social services budget was working with a larger bottom line: an indication that the House may be trying to spend the full $4.9B of GR relief available from the stimulus in the 09-10 budget year. It appears from the Governor's and Senate's budgets that the approximately $7B in discretionary stimulus funding that can relieve general revenue deficits was utilized in a "balanced" fashion: with $3.5B used in 09-10 and $3.5B used in 10-11, thus reducing the need for additional severe cuts next year--in an election cycle.