Florida Jobs Bills

The following bills currently moving through the legislature are intended to create jobs and increase capital for Florida’s economic development:

- **CS/SB 1752** was passed by the Senate and is currently in House Messages. The bill contains specifics for multiple economic development programs, including the entertainment tax credit, renewal of the Qualified Target Industry (QTI) incentive, and research commercialization matching grants. Its closest House companion bill, **HB 7201**, was passed by the House and is currently in Senate Messages. They are being referred to as the “Florida Jobs Bills.”

- **CS/HB 697** is currently pending in Senate messages and its companion, **SB 1430**, is pending before the Senate Transportation and Economic Development Appropriations Committee. It has one more committee stop if approved by TED. The “Film Florida” bills provide for tax credits of 20 percent of qualified expenditures. Additionally, filmmakers who make “family friendly” films based on Motion Picture Association of America guidelines for a G rating would be eligible for a 5 percent bonus credit. The bill also would allow the state to issue up to $75 million in corporate income and sales tax credits to qualified entertainment enterprises. The credits could be used to offset costs of production and materials and distributes available funds among a handful of general areas including commercial and music videos and independent productions and converts current cash incentives to transferable tax credits that won’t be redeemable until 2011. Proposed tax credit allocations over three years:
  - $55 million for FY2010-2011
  - $50 million for FY2011-2012

- **CS/SB 1856**, the Qualified Target Industry Tax Refund Program (QTI), passed 5-0 in the Senate Transportation and Economic Development Appropriations Committee on April 13th and is now pending before the Policy and Steering Committee on Ways and Means, its final committee stop before it hits the Senate floor. Businesses within the definition of a targeted industry and which locate or expand in Florida are eligible for a basic tax refund of $3,000 per new job created. The tax refund increases to $6,000 per job for businesses that locate in an enterprise zone or rural county. A targeted industry business also is eligible for a $1,000-per-job bonus if it pays more than 150 percent of the average area wage, and a $2,000-per-job bonus if the wage exceeds 200 percent of the
average area wage. Businesses that operate in a brownfield area are eligible for the so-called “brownfield bonus” of an additional $2,500 per new job. No business may receive more than $1.5 million in QTI refunds in a single fiscal year, or more than $5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the 1-year cap is $2 million and the and the overall cap is $7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year – consequently, QTI contracts between OTTED and a business typically are for a term of four years. This is a priority for the office of Economic and Small Business Development.

- CS/HB 1509 passed its final committee, the House Finance and Tax Council, 12-1. It authorizes counties and municipalities to extend economic development ad valorem tax exemptions and revises amounts of tax refund payments allowable under the QTI. It now heads to the House floor.

- CS/HB 7213, a bill relating to capital formation for infrastructure projects, passed the House Finance and Tax Council 12-2 on April 14th. The bill creates the Florida Infrastructure Fund Partnership, a for-profit company authorized to raise funds from investment partners for infrastructure projects in Florida. In the event of losses, The State of Florida would issue tax credits to cover the losses by investors and is limited to a maximum of $350 million. It is intended, as explained by sponsor Rep. Eisnaugle, to leverage private capital to grow jobs and lower the cost of capital for certain infrastructure projects in Florida.

Florida’s unemployment rate hit a new record high of 12.3 percent, the highest rate since the state started tracking in the 1970s. The rate translates into 1.1 million jobless out of a labor force of 9.3 million, according to the Agency for Workforce Innovation. The unemployment rate was up from a February revised rate of 12.2 percent, and up 2.7 points from the March 2009 rate of 9.6 percent. Florida’s jobless rate remains higher than the national rate, which was 9.7 percent in March.

**Teacher Merit Pay - SB 6**

After intense public outcry, Governor Crist vetoed SB 6 on Thursday, March 15th, a measure that would have linked teacher pay to student achievement. In summary, the bill would have revised how a portion of teacher merit pay is allocated and revised the current pay system based on seniority and educational degrees and replaced it with a system in which a portion of a teacher’s merit pay increases, continuing employment and ability to renew teaching certificates would be linked to student performance. Half of that appraisal would have been based on student learning gains on standardized exams.

**Florida Oil and Gas Drilling**

The Select Policy Council on Strategic and Economic Planning, chaired by Rep. Cannon, approved by voice vote sending a draft report to House Speaker Cretul that details the results of 10 hearings and 26 hours of testimony. The Council heard about the potential resources, the risks, and the methods used to extract oil from the Gulf of Mexico including new technologies, spill remediation, and impacts on sand source, military and visibility. Organizations testifying were Associated Industries of Florida and the Florida Petroleum Council which touted the push toward drilling, and the Sierra Club and Florida Wildlife Federation which were among those warning against opening the state’s waters to rigs and undersea pipelines. No legislation will be introduced in the 2010 legislative session but look for it to be a top priority for Republican leaders in the 2011 legislative session if they retain control of the legislature after the 2010 elections.
**Budget Conference**

Late Friday afternoon budget conferees were named and it was announced that an organizational meeting would take place on Saturday morning at 10:00am. Broward budget conferees are:

- At Large: Representatives Hasner, Sands, Gibbons, and Rivera (Chair) and Sen. Ring
- Pre-K-12/Education: Representatives Clarke–Reed and Kiar
- State Universities & Private Colleges/Higher Education: Sen. Gelber
- Transportation & Economic Development: Representatives Jenne and Rogers and Sen. Smith
- Criminal and Civil Justice: Rep. Porth
- Government Operations/General Government: Representatives Braynon and Gonzalez
- Health Care/Health and Human Services: Representatives Hudson and Skidmore and Senators Rich and Sobel
- Natural Resources/General Government: none
- Finance and Tax: Representatives Bogdanoff (Chair) and Thurston (no comparable Senate committee members were identified).

The announced Saturday morning meeting was abruptly canceled a few minutes before it was scheduled to begin. No further meetings have been scheduled at this time. Issues identified as reasons for the cancellation include: a failure to reach agreement on "allocations" – how much money should be set aside in specific areas and how much money should be held in reserve; the $1 billion anticipated federal funding incorporated in the Senate budget; disagreement of maintaining federal funding revenue that requires certain state spending levels in education or optional Medicaid programs; and the House position of using $400 million of state road building funding to balance their budget. Legislators must receive a final version of the budget no later than April 27th in order to end the legislative session on time.

**Medicaid Reform**

In a press conference preceding floor discussion, the Democrat Caucus protested that the Medicaid proposal was not appropriately vetted through health care committees. The two Medicaid bills, HB 7223 and HB 7225, nevertheless, were heard on the floor on second reading this week. Over thirty amendments were proposed and most were adopted. Amendments included requiring improved encounter data, a grievance process for patients, electronic filing of claims, prompt payment of claims, public hearings prior to contract renewals, enrollment procedures for individuals who move from one region to another, early screening, development of medical homes, and allowing an open slot for the development of Provider Services Networks if none has a applied in a region. The bills will be heard on third reading next week. The Senate had originally announced two days of public hearings on the House proposal but cancelled those meetings.
Reapportionment

A House proposed committee bill filed on Tuesday and heard on Thursday in the Select Policy Council on Strategic and Economic Planning and a Senate shell bill filed on Tuesday and heard on Friday in the Reapportionment Committee became proposed constitutional amendments to provide standards for establishing legislative and congressional district boundaries. Proponents of the constitutional amendment indicate the amendment, which must be approved by 60 percent of the electorate, is a complementary amendment necessary in order to clarify Amendment 5 and Amendment 6 by FairDistrictFlorida.org already on the ballot. Opponents view the proposal as a competing amendment. The FairDistrictFlorida.org amendments require legislators to design districts that are compact and do not give an advantage to an incumbent or someone of a particular political party. The proposed Legislative amendment requires the Legislature to take into consideration districts drawn to help get minorities elected and promote “communities of interest.”

The House bill, HB 7231, passed on a partisan vote of 11-5 and was sent directly to Ways and Means. It is calendared for Monday. Despite opposition by the League of Women Voters, the NAACP, and other interested parties, the Senate bill, SB 2288, passed on a 9-3 vote with Senators Ring, Wilson, and Smith voting in the negative. The Senate bill has a committee stop before going to Rules.

Proposed constitutional amendments by Sen. Justice and Rep. Yolly Roberson regarding redistricting were not heard. These bills would repeal Section 16 of Article III of the State Constitution relating to legislative apportionment and create a new section in Article II establishing a reapportionment and districting commission. The bills call for a nine member commission with two appointees each from the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House; the ninth member would be chosen by the appointed members. Elected public officials, party officers or employees, registered lobbyists, or legislative or congressional employees during the preceding two years would be prohibited from serving.

Senate Pill Mill Legislation

The Senate Criminal Justice Committee heard SB 2272, Related to Controlled Substances, and SB 2722, Relating to Pain Management, and combined the two bills. The bill requires a pain management clinic to be registered and owned or managed by a licensed physician, requires that the physician, effective July 1, 2012, to have successfully completed an accredited pain medicine fellowship or pain medicine residency, and requires the prescription drug monitoring program database to report information directly to law enforcement agencies to investigate patients who might be doctor shopping or practitioners who might knowingly assist patients to obtain controlled substances. DOH is directed to adopt rules with input from stakeholders to identify factors that would indicate violations that would notify law enforcement. Registration exemptions are identified for clinics associated with accredited medical schools, ambulatory surgical centers, clinics not involved in prescribing or dispensing controlled substances for pain management, clinics owned by corporations with total assets over $50 million, clinics owned by corporations exempt from taxations such as a charitable organization, and chiropractors who do not dispense controlled substances.

Senate staff analysis identifies present law and terms as follows:
• A prescription for a controlled substance listed in Schedule II may be dispensed only upon a written prescription of a practitioner, except that in an emergency situation, as defined by Department rule, it may be dispensed upon oral prescription but is limited to a 72-hour supply. A prescription for a controlled substance listed in Schedule II may not be refilled. A pharmacist may not dispense more than a 30-day supply of a controlled substance listed in Schedule III upon an oral prescription issued in this state. Currently federal law does not authorize electronic prescribing (e-prescribing) for controlled substances.

• Schedule II substances have a high potential for abuse, a currently accepted but severely restricted medical use in treatment in the United States, and abuse may lead to severe psychological or physical dependence. Examples: cocaine and morphine. Schedule III substances have a potential for abuse less than the substances contained in Schedules I and II, a currently accepted medical use in treatment in the United States, and abuse may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Examples: lysergic acid; ketamine; and some anabolic steroids.

• “Dispense” means the transfer of possession of one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user. Prescribing is issuing a prescription. For purposes of this PCS, a “prescription” includes an order for drugs that is written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a practitioner licensed by the laws of the state to prescribe such drugs, issued in good faith and in the course of professional practice, intended to be filled or dispensed by another person licensed to do so. “Administer,” for purposes of this PCS, means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person.

SB 2272 was removed from its last committee stop, Health and Human Services Appropriations, and is in Ways and Means. HB 225 has been placed on Special Order Calendar for Tuesday. Differences regarding the prescription monitoring database and the registration process remain.

**Human Services Bills**

Adult Protective Services, SB 336 and HB 91, which enhance protection for vulnerable adults and require that the central abuse hotline maintained by the DCF immediately transfer vulnerable adult abuse reports to county sheriff's offices, are both on second reading in their respective chambers.

HB 11 by Rep. Porth and SB 506 by Sen. Ring, Crimes Against Homeless Persons, are both on second reading. The bills define the homeless population and provide for reclassification of the degree of a felony or misdemeanor if there is evidence of prejudice due to homelessness.

Juvenile Justice Facilities and Programs, HB 813 and SB 1012, define ordinary medical care and require DJJ adopt rules to ensure the effective delivery of services to children in their care and custody. Both bills are on second reading.
**Chinese Drywall**

SB 2160 was heard in the Senate Policy and Steering Committee on Ways and Means on Thursday afternoon. The bill requires property appraisers to adjust the asset value of properties affected by imported drywall and even provides for a nominal just value of $0 under certain circumstances (i.e. During the period of repair). It also protects the homestead exemption by prohibiting these properties from being deemed “abandoned” during the repair period. Sen. Storms presented the bill as a bill of “fairness.” Homeowners who are in these affected homes have no remedy at this time because the defects are not covered by insurance, there is no liability under construction law, and while there may be a remedy in products liability, it is hard to sue a manufacturer in China.

The Florida Association of Realtors had a representative testify that the bill was attempting to accomplish uniformity in appraising properties affected by this drywall in the state. These homes are considered unmarketable, however property appraisers across the state value them differently.

The representative also fielded questions from Senators Lynn, Crist, and Gelber. Two issues with the bill were of main concern. First, there were concerns with adding a “knowing element” to the bill. Sen. Gelber wanted to be sure that the bill only applies to someone who buys the affected home without knowledge of the defect. Secondly, many Senators expressed concern about the remedy to the product defects. The general theme was “if the federal government cannot figure out how to solve the problem, how can the local property appraisers figure out how to fix the problem?” After the bill passed through the committee unanimously, Sen. Alexander expressed concern that someone still living in the home during the repair period would reap the benefit of reduced taxes.

**Local Landscape Irrigation Ordinances**

A bill providing flexibility to the Northwest Florida and Suwannee River Water Management Districts in using funds from the Water Protection and Sustainability Trust Fund has become the latest battleground relating to the authority of local governments to enact and enforce ordinances imposing restrictions on water use for landscape irrigation. An amendment filed by Rep. Holder to CS/HB 307 seeks to limit such local ordinances to implementing only those water restrictions that water management districts have adopted in their rules and orders. In essence, the amendment appears to prohibit the implementation of stricter local watering restrictions.

The amendment has allegedly been filed to address a recent determination by the Joint Administrative Procedures Committee (JAPC) which rejected a proposed administrative rule of the St. Johns Water Management District on the basis that local governments do not have authority to regulate water use. JAPC claims that authority is preempted under general law to the state’s several water management districts. Intergovernmental Affairs staff is working with representatives of the South Florida Water Management District to ensure that local authority to regulate water use for landscape irrigation purposes, including the authority to impose stricter standards, is not removed.

**Pretrial Release Bill Ready for Floor**

CS/HB 445 passed its last committee of reference last week and is now ready for consideration on the House Floor. The Criminal and Civil Justice Policy Council heard testimony, and discussed and debated the bill for more than one and a half hours on Monday, April 12th. Prior to passing the bill, the Council considered and adopted an amendment by Rep. Fetterman that further increases costs to pretrial release programs.
The Fetterman amendment requires that a pretrial release program provide the first appearance court with all pertinent information about the defendant, including the “defendant’s ability to pay for a surety appearance bond.” The amendment also provides that a defendant may participate in a pretrial release program only if the court finds the defendant “does not have the ability to pay or arrange for the posting of a surety appearance bond” and meets the other criteria specified in the bill. The bill passed by a vote of 10-5. The companion measure, SB 782, remained indefinitely postponed in the Senate Criminal Justice Committee and is unlikely to be heard in the Senate’s final week of committee meetings.

**2009 Session’s SB 216 Fix**

The Economic Development and Community Affairs Council amended CS/CS/HB 829 to limit the effect of SB 216, as passed last session, which restricted the ability of local governments to expend public funds for political advertisements and electioneering communications. CS/CS/HB 829 expands the flexibility of local governments in several respects. Specifically, the bill authorizes boards of county commissioners to negotiate the lease of county real property for a term not to exceed 5 years rather than going through the competitive bidding process; and allows government entities to transfer title to a road by recording a deed with the county or counties in which the right-of-way is located.

As amended, the bill also modifies §106.113, F.S., to delete references prohibiting the expenditure of public funds for electioneering communications relating to a referendum, issue, or amendment that is subject to a vote of electors. The amendment also clarifies the statute does not preclude a local government from adopting or publishing public notices, resolutions, ordinances, analyses, reports or other similar materials; nor prohibit a local government from contributing to a non-governmental entity if use of the contribution is not designated for political advertisements. The bill passed unanimously and now goes to the Calendar of bills available for consideration on the House Floor.

**International Days 2010 at Capitol**

International Days 2010 were held in Tallahassee last week giving Florida’s public seaports an opportunity to dialogue with government and business leaders about Florida’s current international business programs, and the continued need for seaport infrastructure investment and expansion of international trade and business programs. Seaport Directors from around the state including Port Everglades Director, Phillip C. Allen, attended the events and held meetings with key legislative and executive officials to promote legislative proposals making their way through the legislative process this Session. Mr. Allen, along with Miami Port Director Bill Johnson, also presented before a joint session of the Miami-Dade and Broward Legislative Delegations in support of the Legislature making greater investments in Florida’s public seaports in order to stay competitive with seaports in other states.

The Florida Ports Council also held a meeting to hear from Florida Chamber of Commerce President Mark Wilson about expanding business opportunities through Florida’s seaports, and Florida Drug Czar, Bruce Grant, along with representatives from the Florida Department of Law Enforcement, Governor’s Office and the Lt. Governor Kottkamp’s Office, to discuss the latest seaport security report prepared by TranSystems. The report questions the continued need for Florida’s seaport security standards given Congress’ passage of an extensive seaport security apparatus following 9/11 diminished competitiveness with neighboring states."
In addition, the report also found that Florida’s often duplicative standards have “severely impacted seaport operating budgets, resulting in reduced infrastructure improvements, a loss of jobs, and diminished competitiveness with neighboring states.”