

# BrowardSLI

State Legislative Information

October 21, 2011

Number 3 - Volume XIV

## Committee Week 3

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## State Budget Shortfall

New revenue forecasts released Tuesday by the Legislature's General Revenue Estimating Conference predicted that Florida will have a budget shortfall of \$1.96 billion for FY 2012-13. Legislative Economist Amy Baker said crafting the budget for next year "will be much, much more difficult" with the state's projected tax revenues reduced by nearly \$1.6 billion over the next 20 months. Leveling job growth and international financial turmoil were singled out as the causes of the shortfall, along with higher expenditures due to the growth in Medicaid costs and a drop in ad valorem tax revenue.

State forecasters lowered their projections for growth in sales tax collections and documentary and intangible taxes; meanwhile, the recovery in the housing market is expected to "come along more slowly." Economists still have to estimate the amount of money the state will spend on Medicaid next year, a prediction likely to deepen shortfall; however, lawmakers last year set aside \$1 billion as a cushion for the current year's spending plan. The final budget shortfall could reach above \$2 billion if lawmakers continue to set aside \$1 billion in reserves.

According to Ms. Baker, economists don't anticipate a second recession, however, if the Eurozone's debt crisis or double-dip recession evolves, the revenue forecasts will have to be "completely reworked." In FY 2011-12, lawmakers cut about \$4 billion in spending to balance the almost \$69 billion budget. Leaders in the Legislature vowed to close the gaps without increasing taxes, and House Appropriation Chair Grimsley believes the Legislature can balance the budget without raising taxes on Floridians while also creating incentives intended to create more jobs.

## Online Travel Companies

The Florida Chamber of Commerce released their 2012 Legislative Package on Thursday, which included support for the current practice of not taxing service fees charged by online travel companies. Online travel companies do not currently pay the full amount of taxes that are owed after a customer books a hotel room through their online web sites. The Chamber believes that online travel companies shouldn't be forced to pay the disputed hotel taxes, equating it to imposing a new "services" tax. Legislation is expected to be reintroduced codifying the belief that online travel companies don't have to pay the disputed amounts. Broward County, alongside other counties and the Florida Restaurant & Lodging Association, are fighting this legislation arguing that online travel companies are improperly keeping money that should be passed along in taxes.

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## Economic Development

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On Wednesday, the state's new Department of Economic Opportunity (DEO) unveiled the Governor's Job Creation and Economic Growth Agenda. The agenda outlined the following steps:

- Streamlining business permitting and eliminating burdensome rules and regulations - creating a "one-stop" business registration portal.
- Increasing the corporate income tax exemption from \$25,000 to \$50,000.
- Reducing the Tangible Personal Property (TPP) tax requirements for half of all Florida businesses.
- Reviewing Florida 1,600 special taxing districts and auditing how they are spending taxpayers' money - looking at compensation packages, mission, etc.
- Supporting Florida's manufacturing sector, especially those developing machinery and equipment.
- Reforming the unemployment compensation system to create a "Reemployment System."
- Restoring accountability and credibility to Florida's Workforce Boards by reviewing the performance outcomes of the 24 boards and through legislation to "surgically" address "deficiencies" in the Boards.
- Prioritizing vital transportation projects to facilitate economic development opportunities.
- Offering market stability to Florida businesses in order to create a balanced budget with no new taxes and create a more business-friendly climate.

Broward Delegation Chair, Rep. Jenne, asked if there is any requirement that the additional tax credit for businesses be used specifically for job creation. The answer was no; the Governor's philosophy perceives businesses' money as belonging to the corporation and if a business wants to grow by purchasing equipment, rather than hiring employees, that would be acceptable. Additionally, Rep. Nehr asked how Special Districts are supposed to justify their existence, asking: "Aren't many of the 1,600 Special Districts, taxing districts. . . and do they have to justify their existences, as well?" The answer: look for the DEO and Legislature to coordinate a study and possible investigation.

State economists plan to meet again in January to revise their revenue projections for FY 2012-13. Florida's unemployment rate for September was 10.6%, a 0.1% drop from August.

## Traffic Control Signals

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On Wednesday, the House Transportation and Highway Safety Subcommittee discussed and favorably approved HB 33, by Rep. Ahern, pertaining to Traffic Control Signals. The bill would set a uniform standard for timing of traffic lights statewide, creating a standard time for yellow (amber) signal display. Currently, Florida adopts the federal standard for traffic lights and this bill proposes to set a uniform timer for all lights within the state – regardless of city limits.

Not everyone is on board with uniformity in the state. The City of Orlando opposes the legislation because it already exceeds the federal standard set forth for regulating amber lights. The City believes that changing the standards will confuse drivers, leading to a possible spike in auto accidents.

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There was also discussion as to how this legislation would impact red light camera intersections. The red light cameras ticket drivers after the amber light has timed out and the concern is that municipalities will make the amber light shorter in time in order to increase the revenue produced by the red light cameras. The legislation indicates that if the traffic control signal does not meet the requirements, that citation will be dismissed. Most notable was the schedule for compliance; Rep. Ahern amended the bill to extend compliance to December 2014, as the bill would come into effect July 2012. According to the analysis prepared by Committee staff, the fiscal impact to local governments is estimated to be \$300,000.

## **Library Funding**

On Thursday, the Senate Budget Subcommittee on Transportation, Tourism and Economic Development Appropriations met and heard a presentation by the Department of State (DOS) of its legislative budget request. The Department requested \$21.3 million (level funding – non-recurring General Revenue) for State Aid to Libraries. According to the DOS, the program is intended to ensure that all Florida residents have access to free public library service. The program also encourages increased local support for public library service. Florida's public libraries return \$8.32 for every \$1 invested.

## **Crisis Stabilization and Forensic Commitment Funding**

The Senate Children, Family and Elder Affairs Committee heard interim reports and agency presentations related to budget recommendations. A variety of issues including Crisis Stabilization Units (CSU), Psychotropic Medication, and Department of Children and Families (DCF) programs were discussed.

The Senate Interim Report on CSU identified that Florida has 1100 total CSU beds, within 65 facilities. 690 of those beds are purchased by DCF, based on availability, not utilization. Basically, DCF ensures 690 beds are available at all times, regardless of occupancy rates. Adult utilization varies widely across the state, and averages 90%, while child/adolescent usage hovers below 40%. As a result of these findings, several recommendations were offered for consideration: (1) substantially decrease number of youth CSU beds; (2) reallocate adult CSU beds based on geographic utilization trends; and (3) monitor the impact of DCF Managing Entity contracting for community mental health treatment (which includes CSU beds) and ensure data is provided to DCF not just the Agency for Healthcare Administration (AHCA), as is currently required by law.

Forensic Commitment related specifically to persons ordered to residential facilities by the court, and encapsulates the following populations: those incompetent to proceed and those not convicted by reason of insanity. In Florida, 1429 clients met the criteria for forensic commitment last year; with some residing in secure areas and others placed in "step-down" treatment (less secure). Community-based treatment appears to offer an efficacious, far less costly alternative to medical facility treatment options. The Interim Study found that the recidivism rate for persons being forensically committed, when placed in community treatment, was less than 8%. As a result of that finding, it was recommended that the legislature consider moving nonviolent offenders to community treatment alternatives.

## **Inmate Reentry**

On Tuesday, HB 177, introduced by Rep. Porth and Sen. Bogdanoff, received its first

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hearing in the House Criminal Justice Subcommittee. It would direct the Department of Corrections (DOC) to establish and administer a prisoner reentry program for nonviolent offenders serving lengthy sentences. The program would combine reduced incarceration periods with substance abuse treatment and other rehabilitative programming, with the ultimate goal of producing a deterrent effect equivalent to that produced by lengthy incarceration alone.

Opposing this legislation, The Sheriff's Association testified and argued that the term "nonviolent" was not appropriately narrowly defined; that the DOC was unable to shoulder the additional workload anticipated by the bill; and that truncating prisoner sentences at 50-60% and returning them to the community for treatment was not a proven approach. The Vice Chair asked the bill's sponsor to consider amending the bill to limit its scope to a pilot program. Another committee member requested that offenders with cocaine possession or trafficking convictions not be considered eligible for the program.

Although several members were hesitant to support the legislation as proposed, they decided to work with Rep. Porth to address concerns by modifying the bill and it was favorably approved by a vote of 12-3.

## **Juvenile Justice Programs**

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In the Senate Criminal Justice Committee, the Department delivered a presentation about the educational, vocational and rehabilitative achievements of youth ordered to their care. Last year, 3,078 youth were placed in DJJ-run residential facilities, and of those, less than 4% received any vocational training. Only 29 sites offer any type of certification training (none in our region). Even more troubling was the data related to academic achievement-- since DJJ is required to offer access to virtual educational opportunities. Less than 25% of youth exiting the system are: (1) re-enrolling in school; (2) gainfully employed, upon reaching age of majority; and (3) receiving a living wage, if employed.

In the House Justice Appropriations Subcommittee, the Department's presentation focused on the juvenile diversion and intervention programs. It was noted that the most effective programs involved meaningful assessment and targeting juvenile needs. This is especially helpful when the juvenile is considered a "crossover" – in one area and crossed over into another. For example: a foster child in the system acts out in school and is arrested – they are now in the Department of Children and Families (DCF) as well as the Department of Juvenile Justice (DJJ) system. Recently, DCF and DJJ signed an agreement to work together and share information to universally monitor juveniles.

Finally, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a Juvenile Justice fact sheet focused on the mission and objectives of the National Center for Youth in Custody (NC4YC). The Center has three main focus areas: (1) help improve the conditions of custody and confinement of youth; (2) support and enhance participation with the Juvenile Justice Delinquency Prevention Act; and (3) work to strengthen family and community engagement. Although the juvenile crime rate has significantly decreased, there are still substantial improvements that need to be made within juvenile facilities. The creation of the NC4YC was to emphasize the rehabilitative goals of the juvenile system with the following objectives:

- Deliver strategic, targeted, and measurable training and technical assistance directly to facilities.

- Identify and promote effective approaches to working with youth in custody.
- Expand the knowledge base, research and best practices in detaining and confining youth.
- Create a resource community for juvenile justice practitioners, youth in custody, and families.

## Expanded Landowner Liability Protections for Outdoor Recreation

A proposed committee bill to expand liability protection for landowners that make their property available for recreational uses sparked questions from Senators during Wednesday's Environmental Preservation and Conservation (EPC) Committee meeting. The bill, which is part of the Florida Fish and Wildlife Conservation Commission's legislative package for the 2012 Session, is intended to offer an incentive for landowners to enter into agreements with the state to provide additional recreational opportunities for state residents and visitors.

Currently, when a landowner provides the public with a public park or other land for outdoor recreational activities, §375.251, F.S., removes the owner's duty of care to keep such areas safe for entry or use by third persons, or to warn such persons of hazardous conditions, structures or activities occurring on the property. To secure these protections, however, the landowner may not charge for entry into, or the use of, the park area or land and cannot conduct any commercial or other activity on the property from which profit is derived. Similarly, a landowner that leases land or a water area to the state for outdoor recreational purposes owes neither a duty of reasonable care to keep the property safe for persons entering or using the property, or to warn of hazardous conditions. A landowner complying with these conditions cannot be held liable for injuries to persons or property caused by the acts or omissions of third parties. However, the statute does not relieve a landowner's liability for deliberate, willful, or malicious injury to persons or property.

However, according to the bill's supporters, current law does not provide landowners with sufficient protections to encourage allowing greater use of their properties for outdoor recreational activities. In particular, the liability protections in §375.251, F.S., do not apply when a landowner only allows certain individuals or groups of individuals to use the park or land. The statute requires that entrance or use be afforded to the general public. For example, if a landowner provides the Birdwatcher's Society use of her land to engage in outdoor bird watching activities and excludes the general public from having similar access, the landowner may be liable for any injuries suffered by the members of the Society using the property. Additionally, with respect to agreements with the state, liability protections apply only if the landowner has entered into a "lease" agreement. Consequently, contractual arrangements lacking the degree of legal control or complexity associated with a lease, such as easements, services contracts, or use or management agreements, do not trigger the liability limitation benefits of the statute, according to the bill's supporters.

SPB 7006 addresses these two situations by according a private landowner liability protection when:

- The owner makes available to *any person* an area primarily for hunting, fishing, or wildlife viewing, provides notice of the applicable liability limits to the person or persons using the property, and does not charge a fee for entry or use of the property nor derive any revenue from property's use; or
- The owner enters into a *written agreement* [rather than a lease] with the state to

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provide an area for outdoor recreational purposes. The landowner's liability protection will extend to all persons entering the area including invitees, licensees and trespassers.

The term "area" is defined to include land, water and park areas. The definition of "outdoor recreational purposes" is amended to include wildlife viewing as one of several activities [e.g., hunting, fishing, swimming, boating, hiking, and camping] for which the property is provided. Although the bill was approved for filing as a committee bill, several senators expressed concern with certain areas of the bill, including: (1) the notice a landowner must provide; (2) remedies for injured parties; and (3) the liability of persons using the property. Once filed, the bill will be referred to the EPC Committee for consideration including possible amendments to the bill.

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