

Broward SLI

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Destination Resort Gaming

In Senate Regulated Industries, a detailed workshop occurred primarily involving the economic development and revenue impact components of SB 710. The first presentation related to the potential impact of the legislation on the Indian Gaming Compact. If the bill was limited only to Miami-Dade and Broward, the determination of a violation of exclusivity and the impact to the Tribe's revenues would be considered and payments to the state *may be* reduced. The presentation went on to assert that if the legislation allowed for the siting of a Resort outside of those two counties, the violation of the Compact would be "automatic." The bill's sponsor, Sen. Bogdanoff, requested clarification of the Tribe's discretion to determine when, and how, exclusivity is violated under the existing language of the Compact and was told by the Department of Business and Professional Regulation (DBPR) that the Tribe has the "sole discretion" to determine not only what constitutes an expansion of gaming, but also whether a violation of exclusivity occurred. The DBPR suggested to the committee that it would be prudent, from a policy perspective, to review the definitions of racing, Jai Alai and other terms that may be open to interpretation.

A revenue estimate was then offered by Amy Baker, of EDR, carefully detailing and using a direct (not dynamic) assessment of SB 710. Of note, was Ms. Baker's discussion of how the passage of a Destination Gaming Resort Act could negatively affect the pari-mutuel industries' tax rate. Chapter 2005-362, F.S., provides for the regulation of slots and pari-mutuel facilities in Broward and Miami-Dade counties. Further, existing law sets forth a guaranteed minimum payment to the state of \$104.1M, as part of a statutory change two years ago, reducing the tax rate for pari-mutuels from 50% to 35%. It was Ms. Baker's position, based on the assumption that three Resorts would be sited with one outside of Miami-Dade and Broward, that by 2016, the negative fiscal impact on the pari-mutuels would likely trigger a backstop; again increasing the tax rate above the current 35% to assure the \$104.1 M state payment. The presentation carefully reviewed the potential positive and negative fiscal impacts to the state, based on assumptions related to sales taxes, gross receipts taxes, hotel occupancy rates, number of in-state versus out-of-state tourists, and amounts spent per person, etc. In the end, the presentation revealed that while a significant, positive economic effect could be expected by the time the Resorts were completed (at the latest, based on the current legislation, five years from the date the bill becomes law), 31% of expected direct revenues would be the result of "cannibalizing" existing gaming activities in the state.

Sen. Bogdanoff offered a glimpse into the amendments she expects to propose to her legislation in the coming weeks, to include:

- South Florida pari-mutuel tax rate "semi-parity" based on the amount of investment the pari-mutuel made.

- Increased application fee (from \$25 million to \$125 million).

However, several members of the committee seemed more resistant to the legislation, leading proponents and opponents of the legislation to view the passage of SB 710 as increasingly unlikely.

Department of Juvenile Justice

At two separate committees, Secretary Walters presented the Department's views of juvenile justice system reform and reported on successes in reforming the system in the wake of last year's legislation. In the Senate, Sec. Walters described the implementation of SB 2112, which allowed for counties/sheriffs to run their own detention facilities, and the impact this has had on the Department. Marion and Polk are currently operational and Seminole County is anticipated to be online on March 1. The Department suggested to the Criminal Justice Committee that a policy discussion was needed to address the existing funding structure, including a review of county cost-sharing. Specifically, the Secretary requested that the cost allocation be revisited, since most detention facilities serve multiple counties. "The day will come when the closing of a facility will no longer save money – just shift cost – because we won't have statewide coverage," said Sec. Walters, referring to impacts if additional counties choose to take over detention locally.

In the House, Sec. Walters presented an overview of her vision for the 2012-2013 Session and efforts to rewrite existing juvenile justice statutes, which have not been amended in over twenty years. The Department intends to establish a Workgroup in January, with three priorities: assuring continuity of services; protecting the future of youth (ensuring they have opportunities to be contributing members of society as adults, wherever feasible); and, expanding detention alternatives. The Workgroup will make recommendations to the Legislature in 2013, based on input from subcommittees, which will review diversion, court system process, and reentry. Unfortunately, the expected make-up of the larger workgroup failed to include counties. Broward and FAC expressed surprise and intend to pursue inclusion in the Workgroup when it is formed next month.

Financial Emergency Committee Bill

The House Economic Affairs Committee on Thursday approved a Proposed Committee Bill (PCB) EAC 12-01, relating to local government financial emergencies. The bill amends §218.39, F.S., to require that a local government's auditor notify each member of the entity's governing body when a fund balance deficit or net assets deficit exists for which sufficient funds to cover the deficit are not available. The bill also removes the existence of these deficits as a condition triggering financial emergency review pursuant to §218.503, F.S.

The bill requires that a local government who has notified the Governor that one or more of the statutory conditions triggering a financial emergency review has occurred or will occur, respond to the Governor's request for information within 45 days following the request. If the local government fails to respond to the information request, the Governor must notify the Legislative Auditing Committee, which may investigate the matter or subpoena the information. In resolving a local government's financial emergency, the bill authorizes the Governor to consult with other government entities for the consolidation of administrative direction and support services, including services for

- Economic and community development;

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- Building inspections;
- Parks and recreation;
- Facilities management;
- Engineering and construction;
- Insurance coverage;
- Risk management;
- Planning and zoning;
- Information systems;
- Fleet management; and
- Purchasing.

Any plan to remove the local government from financial emergency must include provisions implementing the consolidation, sourcing or discontinuance of administrative direction and support services.

The most controversial part of the bill, however, was the addition of a new subsection (6) to §218.503, F.S, which allows the Governor to remove members of a local government's governing body for malfeasance, misfeasance, and neglect of duty, if they fail to resolve the state of financial emergency. Proponents of this provision argued the Governor already has this authority under the State Constitution and the new language simply clarifies the authority in situations where local officials fail take action to resolve their local government's financial emergency. Opponents argued, however, the bill gives too much power to the Governor and allows the Governor to remove local elected officials from office even when they are making a good faith effort to resolve a financial emergency. The PCB was approved by a vote of 13 to 3 and will now be filed, receive a number, and be referred to other committees of reference.

Statewide Environmental Resource Permitting

PCB ANRS 12-02, by the Agriculture & Natural Resources Subcommittee, would require the Department of Environmental Protection (DEP), in coordination with the Water Management Districts (WMDs), to develop uniform statewide environmental resource permitting (ERP) rules by October 1, 2012. This proposal, which has been in the works for months and is a DEP legislative priority, could potentially preempt the County's authority, pursuant to its limited delegation of the ERP program, to impose stricter local permit conditions where necessary to protect water quality and comply with federal requirements. While Broward County is currently the only Florida County with this delegation, a number of other counties are in the process of receiving ERP delegation; additionally, HB 503, discussed below, would require all large counties to receive delegation by a certain date. Broward County is working to craft clarifying language in the bill that will ensure that local delegated programs maintain the flexibility to regulate wetlands and stormwater management systems where the statewide standards are not sufficiently protective. PCB ANRS 12-02 passed unanimously and was refiled as HB 7003.

Streamlined Permitting Bill

HB 503, by Rep. Patronis, was heard in the House Agriculture & Natural Resources Subcommittee on Tuesday. Similar to HB 991, which passed in the House last Session but ultimately died in Senate messages, the extensive bill would make changes to various existing permit requirements and regulations, including:

- Prohibiting local governments from conditioning approval for a development on an

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- applicant obtaining a permit or approval from any other governmental agency.
- Reducing the time period in which the DEP and WMDs have to approve certain permit applications from 90 to 60 days, and precluding the DEP and WMDs from delaying a permit decision because approval from other agencies is pending.
 - Providing for the DEP to obtain an expanded state programmatic general permit from the federal government for certain activities governed by the Clean Water Act and Rivers and Harbors Act.
 - Establishing a process and time frame for the DEP to review applications for certain permits under the Beach and Shore Preservation Act and allows applicants 90 days to respond to requests for additional information during the review process.
 - Expanding the use of internet based self-certifications for certain DEP and WMD issued exemptions and general permits.
 - Provides that a general permit for a surface water management system less than 10 acres may be authorized without agency action.
 - Exempting owners from the onsite sewage treatment and disposal system evaluation and assessment requirements, unless the governing body of the county has adopted a resolution to the contrary.
 - Requiring counties and municipalities with populations of more than 400,000 to apply for delegation of the ERP program by January 1, 2014; however, counties having delegation before that date, like Broward County, would not be required to reapply.

During public testimony, various groups voiced apprehension about certain sections of the bill as written; however, as he did last Session, Rep. Patronis expressed his willingness to continue to work with stakeholders to refine the bill. HB 503 passed by a 13 to 1 vote and has three remaining committees of reference; this bill is now in the House Rulemaking and Regulation Subcommittee.

Reclaimed Water Bills

HB 639 by Rep. Young passed in the Select Committee on Water Policy, its first committee of reference, on Wednesday. The bill reflects in part the work of the Reclaimed Water Working Group, which included the DEP, WMDs, Florida Association of Counties, individual utilities, and other stakeholders, and whose recommendations are generally supported by the County.

Currently, the state, and more specifically the DEP and WMDs, has regulatory authority over reclaimed water, as it is encompassed in the definition of “waters in the state.” HB 639 would amend the definition of “waters in the state” to exclude reclaimed water that has not yet been discharged back into state waterways; thus, utilities that generate reclaimed water from wastewater would have legal control over such water and its uses and would no longer be subject to regulation by the WMDs under the consumptive use permitting program. Reclaimed water would, however, continue to be a statutorily defined alternative water supply eligible for DEP and WMD funding. HB 639 would also prohibit the WMDs from requiring a consumptive use permit for reclaimed water use, unless the use would also include surface or groundwater withdrawals.

During public testimony and debate, speakers generally agreed on the conservation benefits of using reclaimed water, rather than potable water, for certain purposes, although some expressed concern about potential negative impacts of the commoditization of reclaimed water. For example, under the bill, reclaimed water could be sold for a particular use, such as in a utility’s cooling towers, which could theoretically offset the consumptive use of water that would otherwise be required for the cooling

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tower and reduce the impact on the area's aquifer; however, reclaimed water could also be sold and used outside of the particular region in which it was generated. To this end, HB 639 would require DEP to initiate rulemaking to revise the Water Resource Implementation Rule to include criteria for "impact offsets" and "substitution credits." Additionally, Rep. Young stated that she continue to work with interested parties to address these issues.

HB 639 passed by a vote of 14 to 1 and is now in the Agriculture & Natural Resources Subcommittee. The Senate companion, SB 1086 by Sen. Garcia, has not yet been referred to committees.

Electronic Filing of Construction Plans

SB 600, by Sen. Bennett, and HB 387, by Rep. Ahern were both heard in committees this week. Designed to increase efficiency and reduce costs associated with permit processing, the bills would authorize the electronic submission and signature of construction plans and related documents, upon approval by the local building code official. Broward County was recently awarded \$646,367 for a U.S. Department of Energy SunShot Initiative grant, or Broward SOLAR, through which the team will develop a standardized online process for contractors and property owners to submit applications for solar permits online, with the goal of expanding the program statewide in later phases of the grant. Thus, Broward County is working with the bill sponsors and other stakeholders to incorporate language that would allow owners to electronically sign, rather than have to personally appear at the local office, when the permits are otherwise being submitted electronically. Eliminating the personal appearance requirement will be a major contributing factor to the success of the County's SunShot Initiative program. Both bills passed unanimously this week in their respective committees. SB 600 is now in the Senate Regulated Industries Committee; HB 387 has already passed through all assigned committees of reference.

Governor's Office of Energy Meeting

On Wednesday, Intergovernmental Affairs staff met with Patrick Sheehan, Executive Director of the Office of Energy (OOE) within the Department of Agriculture and Consumer Services (DACS), to discuss various energy-related issues and priorities. Specifically, the County continues to engage the Office of Energy on the Qualified Energy Conservation Bond (QECB) program, which requires either Executive or Legislative authorization before the bonds can be used by large local governments for energy efficiency and conservation projects. While the OOE remains highly interested in the prospects of QECBs, reservations remain about the logistics of implementing and managing such a program; as few states have taken advantage of their QECB allocation to date, there is little opportunity for reference and comparison. Broward County and other interested parties will work to address the OOE's outstanding questions, such as how other states have successfully used QECBs to finance projects and whether they would increase local governments' existing debt burdens, with the goal of having the Governor formally accept the \$190 million QECB allocation that is available to Florida.

Staff also updated Mr. Sheehan on Broward County's successful SunShot Initiative grant application, Broward SOLAR. Mr. Sheehan expressed interest in the County's efforts to develop a streamlined online processing system for solar permit applications. As Broward SOLAR activities advance, staff will keep Mr. Sheehan updated as the OOE could serve as an important partner in later phases of the grant, when the goal will be expanding the streamlined solar permitting system statewide.

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911 Good Samaritan Law

On Wednesday, the House Health & Human Services Access Subcommittee heard HB 125, by Rep. Bernard. This legislation creates the 911 Good Samaritan Law, which would prevent a person seeking medical attention for a person experiencing a drug-related overdose from being charged, prosecuted or penalized under certain circumstances. The County supports the bill, which could have the effect of reducing the increasing number of drug overdose related deaths. After little debate, HB 125 passed unanimously and is now in the House Judiciary Committee. The Senate companion, SB 278 by Sen. Sachs, is currently in the Senate Criminal Justice Committee.

Florida Safe Harbor Act

The House Health & Human Services Access Subcommittee also considered HB 99 by Rep. Fresen, which would create the Florida Safe Harbor Act to protect and provide shelter for sexually exploited and abused children. This bill would enable first responders to take sexually exploited children to temporary safe houses, if available, that offer specific treatment services. This bill would also provide training for law enforcement officials likely to encounter sexually exploited children, which would afford them the ability to recognize when a child has been exposed to abuse and to make the determination to place them into safe houses. HB 99 passed unanimously and is now in the Civil Justice Committee; the Senate companion, SB 202 by Sen. Flores, is now in the Senate Budget Committee.

Internet Sales Tax

On Thursday, Sen. Bogdanoff, Chair of the Senate Budget Subcommittee on Finance and Tax, announced her intention to introduce a bill to implement a sales tax on Internet purchases before the start of the 2012 Legislative Session. The bill is supported by the Florida Chamber of Commerce (FCC), Associated Industries of Florida (AIF) and the Florida Retail Federation (FRF). Sen. Bogdanoff plans to make the Internet sales tax revenue neutral by either lowering property or sales taxes or creating four sales tax holiday weekends.

Currently, when a person buys an item online, where the retailer has no “brick-and-mortar” store located in the state, the sales tax is not collected; although, the law technically requires collection of the tax. According to a study conducted by the Alliance for Main Street Fairness (which is backed by the FCC, AIF and FRF), Florida will lose approximately \$455 million in sales tax collections due in 2012.

Homestead Exemption Limitation

In an effort to lower property taxes in the state, the Senate Judiciary Committee and Senator Simmons have introduced SJR 314, a Joint Resolution that proposes an amendment to the State Constitution to limit the annual assessment increases for non-homestead property. The amendment proposes that a homestead’s assessed value may not increase if the just value of the property is less than the just value of the property on the preceding January 1.

The proposed resolution would reduce the limitation on annual assessment increases applicable to non-homestead (commercial) property from 10% to 7%. In FY 2012, the current cap of 10% would reduce Broward County’s taxable value by \$1.5 billion resulting in an \$8.35 million decrease in the County-wide ad valorem taxes.

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According to Broward County’s Office of Management and Budget, if the amendment passes and goes into effect in FY 2013, the County’s taxes will be reduced by at least an additional \$2.4 million. Moreover, the proposed legislation would create an additional homestead exemption, equal to 30% of the property’s just value from \$75,000 to \$200,000 and 15% of the property’s value from \$200,000 to \$400,000. If the amendment passes and is approved by 60% of voters and goes into effect in FY 2013, the County’s taxable value this provision will reduced by an estimated \$5.0 billion and reduce County-wide ad valorem taxes by at least an additional \$27.9 million. The \$30 million figure does not include the additional material losses projected with the elimination of the “recapture” provision. The fiscal impact of the elimination of the “recapture” provision cannot be calculated at this time; however, it is estimated to be many millions. Even more seriously, the amendment would have a pronounced adverse impact to Broward County and its ability to provide services.

The charts below, provided by the Legislature’s Revenue Estimating Conference, represent a comparison of the new resolution as compared to last year’s resolution and the loss in local government taxes that would occur if Joint Resolution is approved by Florida’s voters:

SJR 314	FY 2013-2014	FY 2014-2015	FY 2015-2016
10%-7% Limitation	-\$44.5 million	-82.5 million	-118.0 million
Homestead Exemption	-\$565.1 million	-576 million	-579.6 million

HJR 381 (2011)	FY 2013-2014	FY 2014-2015	FY 2015-2016
10%-5% Limitation	-\$82.3 million	-162.2 million	-243 million
Homestead Exemption	-\$36 million	-55.3 million	-77.7 million

The resolution would be effective for FY 2013 if approved during the January 2012 primary election, or FY 2014 if approved during the November 2012 general election. SJR 314 was favorably approved by the Senate Judiciary Committee 5-1, the Senate Community Affairs Committee by a vote of 7-0 and is now pending in the Senate Budget Committee.

Texting While Driving

On Wednesday, the Senate Transportation Committee unanimously approved SB 416, the “Florida Ban on Texting While Driving Law,” by Sen. Detert. The bill is an effort to prohibit texting while driving and is modeled after a Sample Law promulgated by the United States Department of Transportation (USDOT) and is intended to decrease motor vehicle accidents and deaths and make Florida’s highways safer. The bill:

- Prohibits the operation of a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication.

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- Makes exceptions for emergency workers performing official duties, reporting emergencies or suspicious activities, and for receiving various types of navigation information, emergency traffic data, and radio broadcasts.
- Makes an exception for interpersonal communications that can be conducted without the need to manually type messages.
- Is enforceable as a secondary offense. A first violation is punishable as a nonmoving violation, with a fine of \$30 plus court costs which vary by county. A second violation committed within 5 years of the first is a moving violation punishable by a \$60 fine plus court costs.
- Adds 6 points to the offender's driver's license record for any violation of the ban which results in a crash.

Local governments may see additional revenues as a result of the penalties. According to Sen. Detert during testimony before the committee, Florida is one of only nine states that have not passed legislation limiting or banning texting while driving.

Low-Income Senior Citizen Homestead Assessment Limitation

On Monday, the House Finance and Tax Committee held a workshop to discuss HJR 55, a Joint Resolution that proposes an amendment to the state constitution to allow the Legislature to permit counties and municipalities to limit ad valorem tax assessments applicable to their respective levies to the previous year's assessed value for homestead property that is subject to the current local option low-income senior exemption. The limitation could apply if the market value of a homestead property is less than the market value of the property on the preceding January 1 or no more than 150 % of the average homestead market value in the county.

The general law implementing the constitutional provision:

- Must designate a state agency that will calculate the average just value of homestead property within each county and municipality. The designated agency will provide this information to property appraisers.
- Must require that counties and municipalities choosing to provide the assessment limitation do so by ordinance.

To be placed on the ballot, the joint resolution must be approved by three-fifths of the membership of each house.

Governor's Budget Recommendations

The Governor's budget recommendations were released Wednesday, offering a glimpse at what promises to be another year of contentious appropriations discussions. In Senate Budget on Thursday morning, Mr. Jerry McDaniels explained the gubernatorial philosophy behind many of the recommendations, including the controversial Medicaid hospital rate cuts, which are intended to be used to "plow \$1B into education." Other policy and fiscal visions for the 2012 Session were offered by the Governor's staff, as well. Of interest was the suggestion by Mr. McDaniels that an "accountability budget" model be adopted by several agencies and the court system, based on the Department of Revenue pilot. The model uses metrics to tie funding to the achievement of program plans, objectives and goals. The Governor believes this will increase transparency (the information will be posted to a website) and efficiency, by eliminating the need for "budget amendments and moving money from point A to point B."

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Libraries funding was maintained at current levels, and beach funding received a \$2M reduction (\$10M down from \$12M). The affordable housing trust fund is again substantially swept. In the policy arena, we can expect to see efforts, backed by Governor Scott, to take a referendum to the ballot eliminating most tangible personal property taxes. An Executive Order is anticipated, examining all special taxing districts across the state.

While the Governor's recommendations may illustrate funding areas likely to be vetoed or supported in the overall General Appropriations Act (GAA), Senate and House budget recommendations are generally quite divergent. Below is a chart detailing the state agencies' funding levels in the Governor's Proposed Budget:

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AGENCIES	Governor's Recommendations 2012-13		Current Year Budget 2011-12		Difference	
	Dollars	Positions	Dollars	Positions	Dollars	Positions
Administered Funds (Statewide)	\$117,596,922	0	\$87,160,084	0	(\$30,436,838)	0
Agency for Health Care Administration	\$20,547,064,951	1,655.00	\$22,309,722,072	1,655.00	(\$1,762,657,121)	0
Agency for Persons with Disabilities	\$990,312,481	2,890.50	\$1,009,531,084	2,975.00	(\$19,218,603)	-84.5
Agency for Workforce Innovation	\$0	0	\$421,575,159	0	(\$421,575,159)	0
Agriculture and Consumer Services	\$1,403,459,098	3,377.25	\$339,627,522	3,553.25	\$1,063,831,576	-176
Business and Professional Regulation	\$131,450,434	1,582.25	\$130,444,832	1,598.75	\$1,005,602	-16.5
Children and Family Services	\$2,900,641,518	11,842.50	\$2,831,025,709	12,282.75	\$69,615,809	-440.25
Citrus	\$60,884,032	54	\$66,229,622	60	(\$5,345,590)	-6
Community Affairs	\$0	0	\$123,635,946	0	(\$123,635,946)	0
Corrections	\$2,084,776,150	25,535.00	\$2,188,248,832	27,599.00	(\$103,472,682)	-2,064.00
Economic Opportunity	\$949,576,500	1,596.00	\$708,419,083	1,676.00	\$241,157,417	-80
Education	\$20,140,933,967	2,351.25	\$20,484,536,476	2,473.75	(\$343,602,509)	-122.5
Elder Affairs	\$752,049,277	450	\$754,907,967	450	(\$2,858,690)	0
Environmental Protection	\$1,313,686,038	3,364.00	\$1,460,214,322	3,450.00	(\$146,528,284)	-86
Executive Office of the Governor	\$220,042,000	441	\$412,929,223	436	(\$192,887,223)	5
Financial Services	\$281,936,827	2,555.50	\$295,983,112	2,706.50	(\$14,046,285)	-151
Fish and Wildlife Conservation Commission	\$279,494,721	1,899.50	\$280,392,585	1,947.00	(\$897,864)	-47.5
Health	\$2,781,605,670	16,734.13	\$2,852,265,548	17,107.50	(\$70,659,878)	-373.37
Highway Safety and Motor Vehicles	\$403,085,804	4,482.50	\$397,489,438	4,541.50	\$5,596,366	-59
Justice Administration	\$1,166,732,003	10,118.25	\$1,191,032,247	10,127.25	(\$24,300,244)	-9
Juvenile Justice	\$520,215,682	3,500.50	\$525,288,707	4,128.50	(\$5,073,025)	-628
Law Enforcement	\$232,291,027	1,679.00	\$238,932,783	1,682.00	(\$6,641,756)	-3
Legal Affairs	\$182,086,871	1,292.50	\$184,829,770	1,297.50	(\$2,742,899)	-5
Legislative Branch	\$185,290,485	0	\$185,251,084	0	\$39,401	0
Lottery	\$141,621,971	422	\$135,876,455	424	\$5,745,516	-2

Management Services	\$654,041,000	1,336.50	\$604,241,690	1,333.00	\$49,799,310	3.5
Military Affairs	\$63,293,966	393	\$77,519,403	373	(\$14,225,437)	20
Parole Commission	\$7,826,826	121	\$7,826,826	121	\$0	0
Public Service Commission	\$23,900,366	279	\$25,034,823	296	(\$1,134,457)	-17
Revenue	\$511,232,279	5,079.00	\$536,604,541	5,143.00	(\$25,372,262)	-64
State	\$78,605,206	403	\$80,480,591	416	(\$1,875,385)	-13
State Court System	\$434,062,619	4,322.50	\$436,907,598	4,322.50	(\$2,844,979)	0
Transportation	\$6,705,186,108	6,897.00	\$7,866,080,993	6,939.00	(\$1,160,894,885)	-42
Veterans' Affairs	\$83,429,928	1,120.50	\$87,490,614	1,122.00	(\$4,060,686)	-1.5
AGENCY TOTALS	\$66,435,572,811	117,774.13	\$69,368,173,579	122,236.75	(\$2,932,600,768)	-4,462.62