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## Committee Week 6

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## Pension Reform

Pension reform bills, SB 1128 and SB 1130, continued to be workshopped on Tuesday and Thursday of this week. A strike-all amendment of SB 1130, which more specifically identified compensation and average final compensation, was considered on Thursday. Of more interest than the strike-all was the discussion of amendments by Senators Latvala and Fasano. Sen. Latvala has consistently voiced his position that the employee contribution rate should be identified in the committee bill instead of being determined through the budget appropriations process.

Sen. Latvala's amendments included:

- A 2% contribution rate for members of the regular class.
- A 4% contribution rate for the senior management and elected officials class.
- The requirement that employee contributions be used only to fund the unfunded liability.
- Compulsory membership in the defined contribution plan for employees employed on or after July 1, 2011 that earn more than \$75,000.
- The extension of the vesting period in the contribution plan from 6 years to 8 years with a gradual vesting scale.
- Changing the effective date of the bill to July 1 rather than June 30.

The amendments offered by Sen. Fasano prohibited the re-enrollment of FRS retirees and reduced the accrual rate of 3% for elected officials to 1.6% like the regular class accrual rate. No votes were taken on either bill or amendments. No House bills regarding pension reform have been filed.

## TABOR

The Taxpayer Bill of Rights (TABOR), sponsored by Sen. Bogdanoff, is a proposed constitutional amendment that would restrict the state's ability to raise revenue; local governments are not currently included in the bill. In its final two Senate committee stops, CS/SJR 958 was favorably approved by both the Senate Budget Committee (14-6) and the Senate Rules Committee (8-3) on Wednesday and Thursday respectively.

The joint resolution, if passed by the Legislature by a two-thirds majority in the Senate and House, must be approved by a vote of at least 60 percent of the electorate in a general election. It would replace the personal income cap with a new limit based on a

five-year population growth average and increases in the Consumer Price Index. The Joint Resolution now moves to the full Senate for a final vote; however, to date, no companion bill has been filed in the House.

Sen. Bogdanoff addressed a major issue surrounding the bill regarding adding bonded revenue to the state's revenue caps, presently exempt from the current constitutional revenue cap. Sen. Bogdanoff testified that the impact on Florida's credit rating would be "negligible" and "probably not be affected." Some stakeholders believe that adding bonds to the cap could severely affect Florida's ability to borrow money when needed and could make it more expensive to borrow because of the new restrictions on what it can spend, including to pay back debt.

If necessary, the state has two options to increase the state revenue cap:

- The Legislature, by a two-thirds vote of the membership of each house, may increase the revenue limitation for any fiscal year.
- The Legislature, by a three-fifths vote of the membership of each house, may increase the allowable state revenue for any one fiscal year.

Broward County opposes any legislative or constitutional efforts to impose expenditure or revenue caps on local governments.

## Online Travel Companies

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SB 376 by Sen. Gaetz was heard Monday, after being temporarily postponed from a previous committee week. Substantial negotiations among stakeholders occurred (including counties, online travel companies (OTCs), hoteliers and tax collectors) last week, resulting in no substantive amendments or alterations to the bill when it was considered in Community Affairs. Sen. Bennett, chairman of the committee, permitted substantial public testimony and consideration of the bill, which lasted more than an hour. The merchant model utilized by the OTCs was carefully explained and described from the perspectives of both sides of the issue. Opponents of the bill included large hotel chains, the Space Coast chamber of commerce, counties, and tax collectors. Proponents varied from Disney to the Florida Chamber. Clearly, members of the committee were concerned about many aspects of the testimony, including the potential negative fiscal impact to the state. While the bill passed by a 5-2 vote, two members of the committee were not present (Sens. Ring and Dockery) and one senator who voted in favor of the bill indicated she would be unlikely to support the bill on the senate floor. On Friday, SB 376 was discussed in the Revenue Estimating Conference, where it was concluded that the fiscal impact to counties would be negative indeterminate; however, the long term tax base loss would be \$28 million and would increase in future years.

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## Economic Development – Property Taxes

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CS/HB 506, sponsored by Sen. Bogdanoff, passed by the Senate Community Affairs Committee by a unanimous vote on Monday. The committee substitute redefines the terms "new business" and "expansion of existing business" for the purposes of the ad valorem tax exemption for economic development in the Florida Constitution. The bill:

- Allows the Board of County Commissioners of a charter county to hold a referendum to grant such exemption upon receiving a petition signed by the requisite number of electors prescribed in the county charter.

- Revises the current ballot language required in a referendum that determines whether an entity may grant an economic development exemption.
- Provides economic criteria that the Board must consider in approving or denying the exemption.
- Grants counties with discretion to determine which new jobs should be incentivized by granting an economic development exemption.

The bill has two more committee references, Senate Commerce and Tourism and Budget. The House companion bill, HB 287 by Rep. Eisnaugle, is pending before the House Economic Development and Tourism Subcommittee.

## **Open Carry Bill Postponed**

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The Senate Criminal Justice Committee deferred hearing legislation that would allow a concealed weapons license holder to carry his or her weapon or firearm openly. The Committee's Chair, Sen. Greg Evers, temporarily postponed a hearing on his bill, SB 234, because of insufficient support from committee members. In addition to allowing the open carry of lethal weapons and firearms, the bill also allows licensees to carry a weapon or firearm into career centers, colleges and universities and nonpublic elementary and secondary school facilities. Under current law, a concealed weapons license holder cannot take a concealed weapon or firearm into such facilities.

SB 234 also authorizes the Department of Agriculture and Consumer Services to take fingerprints from a license applicant, thus providing persons applying for a concealed weapons license an additional place to have their fingerprints taken. The bill amends §790.06(12), Florida Statutes, to clarify that a concealed weapons licensee is not prohibited from carrying or storing a firearm in a vehicle for lawful purposes. A person who knowingly and willfully carries a weapon or firearm into a prohibited place, or who knowingly and willfully prohibits a licensee from carrying or storing a firearm in his or her vehicle for a lawful purpose commits a second degree misdemeanor.

The Committee is expected to take up the bill after the start of the Regular Session on March 8, 2011.

## **House Select Committee on Water Policy Adopts Water Report**

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The House Select Committee on Water Policy took public testimony and discussed water supply and water quality issues in its last meeting before the beginning of the Regular Session. Speakers testified on a variety of water resource issues including water supply, water quality, water resource management, and funding issues. A major topic mentioned throughout the meeting concerned Governor Scott's proposed 25% cut to water management districts' budgets. Speakers and Committee members acknowledged that water management districts are in no position to take such a massive cut when they are currently struggling to perform some of their basic functions, such as flood control. Speakers also addressed the continuing controversy over the EPA's adoption of numeric nutrient criteria for Florida's lakes, rivers and streams, and the impact those rules will have on Florida's economy. Several members noted the diametrically opposed positions of business and industry groups and those

expressed by environmental groups such Sierra Club and Earth Justice, and questioned whether any reasonable solution could be found.

The Committee adopted a report that will be sent to Speaker Cannon outlining the Committee's recommended activities for the remainder of 2011. Some of the activities the Committee will undertake include:

- Evaluating Florida's policies and regulations which affect the protection and allocation of scarce water resources and what, if any changes are needed.
- Evaluating how alternative water supplies and water storage capabilities are developed and funded.
- Evaluating water conservation as a demand management tool for public water supply utilities to ensure the sustainability of Florida's water resources, and evaluate financial options to incentivize water utilities to implement water conservation programs.
- Evaluating the implementation and effectiveness of current programs designed to protect the state's natural systems and the social and economic consequences of such programs.
- Evaluating the interrelationship between growth management and water supply and whether changes are needed to promote adequate and sustainable water supplies for growing population areas.
- Evaluating whether the current roles of the Florida Department of Environmental Protection, water management districts, regional water supply authorities and local water utilities should be modified to address inefficiencies and duplicative regulations, including examining whether the allocation of water supply planning and permitting responsibilities are appropriate and effective.
- Evaluating the manner in which water management district governing board members are chosen and if changes in that selection process are necessary.

## Arrestee Medical Expenses

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SB 490 and HB 257 were both heard in their first committees of reference this week. The bills, substantially altered from previous sessions, now focus on "in-custody" detainees, in addition to pretrial detainees. Under the bills, responsibility for payment of medical treatment primarily rests with the recipient, which is a departure from the current statute. Much of the language submitted by Broward County over summer negotiations with the bills' drafters was inserted, including a clarification in statute of what constitutes a good faith effort by the treatment provider and/or hospital to obtain payment from a patient. Counties' general funds remain responsible as payors of last resort. Absent a written, third-party agreement to the contrary, the reimbursement rate cannot exceed 110% Medicare or 125% of Medicare if the third-party had a negative operating margin in the previous year. Broward and others remain opposed to the reimbursement rates set in the legislation, since under current agreements, many counties pay at 110% of Medicaid or lower. Miami-Dade analyzed the legislation in 2010 and determined the fiscal impact to be an increase of 54% over current reimbursement. The Hospital Association spoke against the bill in Community Affairs and expressed concerns with: (1) definitions used in the bill; (2) security accompaniment of detainees to in-patient treatment, and; (3) payment uncertainties. Both bills passed unanimously out of committee.

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## Elderly Inmates

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Senator Chris Smith has filed SB 144, Elderly Inmates, which creates the Elderly Rehabilitated Inmate Supervision Program and authorizes the Parole Commission to approve the early release of certain elderly inmates. Inmates must be at least 50 years old, demonstrate that they have been rehabilitated while incarcerated for at least 25 years, as well as meet certain other criteria. Staff analysis indicates that in applying the bill criteria to current inmates, 91 inmates would meet the requirements within the next 5 years. SB 144 has no House companion and was temporarily postponed in the Senate Criminal Justice Committee this week.

## Health Care Constitutional Amendment

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CS/SB 2 on Health Care Services, which is sponsored by Sen. Haridopolos and the Budget Committee and has twenty-seven co-sponsors including Broward Sen. Bogdanoff, was heard this week in its last Senate committee stop. It is now on the Senate calendar and ready for floor action. The bill proposes a new addition to the Florida Constitution to "preserve the freedom of Florida residents to provide for their own health care" by prohibiting the requirement of any person, employer, or health care provider to participate in a government mandated health insurance program, authorizing a person or employer to pay directly for health care services, and authorizing a health care provider to accept direct payment for services.

A similar joint resolution was passed last year but was eventually rejected by the Florida Supreme Court for misleading ballot language. Florida is among the states involved in lawsuits to invalidate the Patient Protection and Affordable Care Act enacted on March 21, 2010. The House companion bill has not yet been heard in committee.

## Growth Management Workshop

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On Wednesday, the House Community and Military Affairs Subcommittee held a two-hour workshop and panel presentation on growth management reform and recommended direction for legislation. The workshop was divided into three distinct discussion components: (1) process for comprehensive plan review; (2) transportation concurrency, and; (3) school concurrency. After a synopsis of the four current comp plan review processes available under Florida law, staff recommended expanding the Alternative State Review Process Pilot Program, currently used by Broward, statewide. Panelists consisted of representatives from the League of Cities and Association of Counties, both of which expressed support for the idea, but cautioned that smaller local governments may lack sufficient resources to implement such a recommendation. Staff also recommended removing the two-amendment per year limitation on comp plans, citing the proliferation of exceptions. An extensive discussion of what constitutes appropriate state and regional review occurred, including the appropriate legal standard for review. Local governments made the case that the "fairly debatable" review standard was appropriate, since acceptance or rejection of a comp plan amendment would be a legislative decision. Rep. Dorworth asked what other states use Florida's existing growth management processes and approaches, to which panel members replied that Florida was relatively unique, perhaps most closely resembling Oregon. In the end, the committee requested input from all interested

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parties on exactly what "state interests" should be reviewed by the state, assuming the substantial dismantling of the Department of Community Affairs to be inevitable.

With respect to transportation concurrency, committee staff recommended complete elimination of the requirement. A substantial discussion of fees associated with transportation concurrency (TC) requirements occurred, including the necessity of funding the Strategic Intermodal System (SIS). FAC suggested that any discussion of TC needs to differentiate the policy issues from funding needs, and requested that the committee ensure that any reform does not preempt local governments. Committee members seemed supportive of allowing counties to enact their own concurrency management ordinances.

## Fertilizer Regulation Bills

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The House Agriculture and Natural Resources Subcommittee heard HB 457, which would establish a uniform standard for fertilizer regulation through statewide implementation of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes, and grant the Department of Agriculture and Consumer Services exclusive authority to regulate the sale, composition, formulation, packaging, use, application, and distribution of fertilizer in the state. Sponsored by Rep. Ingram, the bill would explicitly strip local government authority to exceed state standards in local ordinances and void all existing county and municipal fertilizer regulations.

While Broward County generally supports many aspects of the Model Ordinance, the County is opposed to any provisions that preempt its ability to implement more stringent local standards. Currently the County has no local fertilizer regulations in place; however, in light of concerns about nutrient contamination in the Everglades and in the County's 1800 miles of canals, Broward does not want to lose power to enforce stricter regulations where necessary to meet water quality standards.

An amendment to the bill, which was adopted unanimously during the meeting, would grant counties and municipalities regulatory enforcement powers within their respective jurisdictions. Incorporation of this provision generally improves the bill from its original form, as it returns some control to local governments. However, many questions remain about how to adequately ensure compliance with the regulations.

HB 457 passed in the committee with a vote of 10-3; the bill's remaining stops are in the Community and Military Affairs, Rulemaking and Regulation, and State Affairs committees. The identical bill, SB 606, has not yet been heard in any Senate committees, but has been referred to the Agriculture, Community Affairs, and Budget committees.

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## Community Based Juvenile Justice

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HB 333 and SB 554, sponsored by Rep. Corcoran and Sen. Fasano, respectively, would create Regional Coordinating Agencies (RCAs), defined as either non-profit or county agencies with which the Department of Juvenile Justice would contract for the provision of juvenile justice services within a community, which must consist of at least one entire county. Under the bill, the RCAs would provide prevention, assessment, diversion, detention, and probation residential services, all of which are currently provided by the DJJ, and the DJJ would transfer all administrative and operational

funding to the RCAs. The oversight and quality assurance functions would remain with the DJJ. The Department will transfer all administrative and operational funding to the Regional Agency.

The bills require the initial establishment of three pilot programs, to be located in the 2<sup>nd</sup>, 6<sup>th</sup>, and 11<sup>th</sup> Judicial Circuits, none of which include Broward County. Before the County can be supportive of the legislation, some concerns should be addressed, including whether creation of a RCA would necessitate transfer of all DJJ assets to that RCA and whether the RCA would be responsible for locating and acquiring facilities not currently located in the pilot circuit. There are also questions about how non-profit RCAs would operate and specifically, how they would interact with counties regarding detention cost-sharing.

HB 333 passed with a vote of 12-2 in the Criminal Justice Subcommittee. SB 554 has not yet been heard in any Senate committees.

## **Commissioner Meetings**

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Commissioner Wexler traveled to Tallahassee, Thursday, to attend meetings with the Agency for Healthcare Administration and to meet with Department of Juvenile Justice Secretary Walters. Both meetings were exceedingly productive and furthered Broward County's interests.

Susan Myers, Human Services Department Director and Alisa Tanghap, Assistant to the Director, were also in Tallahassee for agency and member meetings, Thursday.

## **State Legislative Program Workshop**

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The Broward County Board of County Commissioners and the Broward League of Cities held its annual State Legislative Program Workshop on Tuesday, February 22. The Executive Board of the Broward League of Cities and the Board discussed mutual state and federal priority issues to direct staff to communicate with Members of the Florida Legislature and the U.S. Congress.

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