

# Broward SLI

State Legislative Information

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## Session Week 1

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## Seaport Security

SB 524, sponsored by Sen. Latvala, was passed unanimously by the Senate Military Affairs, Space, and Domestic Security Committee. The bill makes the following changes to the seaport security standards in Florida law:

- Deletes the statewide minimum security standards.
- Removes the authority for Florida Department of Law Enforcement (FDLE) to exempt all or part of a seaport from any requirements of s. 311.12, F.S., if FDLE determines the seaport is not vulnerable to criminal activity or terrorism.
- Deletes the requirement for FLDE to administer the Access Eligibility Reporting System.
- Prohibits a seaport from charging a fee for the administration or production of an access control credential that requires a fingerprint-based background check, in addition to the fee for the federal Transportation Worker Identification Credential (TWIC).
- Authorizes a seaport to issue its own seaport-specific access credential and to charge a fee that is no greater than the actual administrative costs for the production and issuance of the credential.
- Deletes the requirement for a TWIC holder to execute an affidavit when seeking authorization for unescorted access to secure and restricted areas of a seaport.
- Deletes the requirement for seaport employee applicants, current employees, and other authorized persons to submit to a fingerprint-based state criminal history check.

SB 524 specifically removes the duplicative and costly state security standard in favor of current federal regulations which should be less costly to Port Everglades. The bill, if passed and signed into law, would take effect on July 1, 2011.

## Crime Lab

Dr. Jim Ongley, Broward's Regional Crime Lab Manager, traveled to Tallahassee on Wednesday to propose strategies for more effectively achieving appropriate levels of funding for the five local crime labs. Presently, Florida law imposes fines on driving and/or boating under the influence, of which \$50 is remitted to the Operating Trust Fund. Drug offense fines, if imposed by judicial discretion, may contribute \$100 to the Operating Trust Fund (OTF). Unfortunately, Broward's lab is receiving approximately

\$107,000 every three months from the state OTF. When the Operating Trust Fund was established, Crime Labs were primarily responsible for blood and fingerprint analyses. Since then, crime Labs have begun extensive DNA testing, chemical analyses of narcotics, as well as conducting firearms investigations.

Broward's Crime Lab operates out of the courthouse, greatly increasing efficiency and allowing it to run with fewer staff than the labs to its north and south. Furthermore, the lab has been internationally accredited.

Dr. Ongley presented to the Broward Legislative Delegation. The Delegation asked various questions and generally supported legislative action to increase fines or make fines mandatory for certain offenses, in an effort to augment the current collections.

## **Misdemeanor Pretrial Substance Abuse**

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SB 104 by Sen. Ring was heard in Senate Criminal Justice on Wednesday. Under present law (sec. 984.16, F.S.), only persons who have been charged with a misdemeanor for possession of a controlled substance or drug paraphernalia and who have not previously been convicted of a felony nor been admitted to a pretrial program, are eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program. The bill permits persons previously enrolled in a misdemeanor pretrial substance abuse program to be eligible.

While the intent of the bill was applauded and met with little opposition in committee, the senate staff analysis acknowledges what Broward County staff previously identified as a potential challenge: "The bill as written could expand the number of potential participants in county-funded misdemeanor pretrial substance abuse education and treatment intervention programs. Although no potential fiscal impact has been brought to our attention, it is conceivable that the counties may decide to increase program capacity which would result in increased expenditures."

## **Florida Retirement System**

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SB 1130 by Senator Ring received a hearing Thursday in Senate Governmental Oversight and Accountability. Numerous amendments were filed, with seven being adopted. Several amendments were late-filed, including two dealing with the inclusion of overtime payments in the definition of base salary. One amendment by Sen. Fasano, would have required executive, cabinet, elected officials and judges to receive the same 1.6% benefit rate as other retirees from the system. After significant debate, the amendment failed. Sen. Ring introduced a successful amendment to allow university health benefit programs to exist if they do not exceed current rates. The effective date of the bill was adjusted to July 1, 2011, through Sen. Latvala's amendment, although continuing debate over effective dates coinciding with the tax year will continue. An 8-year vesting amendment was successfully included by Sen. Latvala, as well.

It is expected that the bill will continue to be heavily amended as it moves through the process, especially after budget allocations are released, which is anticipated to occur within the next ten days.

The employee contribution percentage and classifications of existing employees subject to defined contribution continue to be debated. At the committee hearing, there was

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disagreement over whether the legislature could require contribution based on salary range or whether it would have to be done by title or classification, because of collective bargaining agreements.

The bill, in its current form, makes changes to the existing retirement system, some of which are detailed below:

- Closes the defined benefit plan to members enrolled on or after July 1, 2011, and requires members enrolling on or after that date to enter the defined contribution plan.
- Changes vesting for members enrolled in the defined contribution plan on or after July 1, 2011.
- Changes the FRS from a noncontributory system to a contributory system and requires each active member of the FRS to contribute a percentage of gross salary to fund retirement benefits, effective July 1, 2011.
- Amends the definitions of “compensation” and “average final compensation” to exclude overtime and accumulated annual leave for all members, effective July 1, 2011.
- Creates an additional death benefit for members of the defined contribution plan who are killed in the line of duty.

The bill also:

- Establishes the required employer payroll contribution rates for each membership class and subclass of the FRS retirement plan for the fiscal year beginning July 1, 2011.
- Requires each active member of the Senior Management Service Optional Annuity Program, the State University System Optional Retirement Program, and the Community College Optional Retirement Program to contribute the same percentage of gross salary to fund retirement benefits as those contributed by FRS employees, effective July 1, 2011.

## TABOR

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CS/SJR 958, on second reading, was debated by the full Senate and rolled to third reading. 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. Currently, local governments are not included in the bill.

The Joint Resolution, to date, has no companion bill in the House, although the House Finance and Tax Committee is expected to produce a TABOR bill during this Session. Rep. Precourt, the Committee Chair, has previously said the House’s TABOR bill will include local governments. Broward County opposes any legislative or constitutional efforts to impose expenditure or revenue caps on local governments.

## House Medicaid Reform Bills

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On Monday, the House released its Medicaid Reform bills, PCB HHSC 11-01 and PCB HHSC 11-02. The House proposal is similar to last year’s reform effort, and differs from the Senate proposal in the following ways:

- The state is divided into seven regions, rather than nineteen, in which health plans would bid competitively to participate.

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- The bills will transition all populations into managed care over a five year period, including the developmentally disabled.
- The Medically Needy program is maintained.
- AHCA is required to contract with the Community Coordinated Transportation System for transportation services.
- There is no provision directing AHCA to withdraw from the federal Medicaid program in the event that CMS does not grant the necessary waivers.
- The bills do not require plans to meet medical loss ratios, and instead incorporates “achieved savings rebates.”

The bill is expected to be heard in committee within the next three weeks.

## **Emergency Management**

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On Thursday, the Senate Military Affairs, Space and Domestic Security Committee heard and favorably approved (5-0) a strike all amendment for CS/SB 450 sponsored by Sen. Bennett. The bill provides immunity from civil liability for providers of temporary housing and other aid to emergency first responders and their immediate family members following a declared emergency. The House companion bill, CS/HB 215, sponsored by Rep. Abruzzo, is scheduled to be heard by the House Community and Military Affairs Subcommittee. It was approved favorably by the House Civil Justice Subcommittee on 2/9/2011 by a vote of 13-0. If approved by the Community and Military Affairs Subcommittee, it will move to the House Judiciary Committee. The bill grants immunity from civil liability to specific entities that annually register with a county emergency management agency and therefore counties may incur minimal expenditures relating to such registration.

## **Local Business Taxes**

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CS/HB 311, sponsored by Rep. Roberson, was favorably approved (15-0) by the House Business and Consumer Affairs Subcommittee. The bill now moves to the House Finance and Tax Committee. The companion Senate bill, SB 582 will be heard on March 14 in Senate Community Affairs.

The bill:

- Creates an additional exemption from local business taxes for individuals who are employees of another person.
- Provides that an individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to pay a local business tax, obtain a local business tax receipt, or apply for an exemption from a local business tax.
- Specifies that an individual exempt under this section may not be required by any local governing authority to apply for an exemption from a local business tax, otherwise prove his or her exempt status, or pay any tax or fee related to a local business tax.
- Provides that an employee may not be held liable by any local governing authority for the failure of a principal or employer to pay a local business tax, obtain a local business tax receipt, or apply for an exemption from a local business tax.

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## Compensation of County Officials

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SB 870, sponsored by Sen. Storms, was favorably approved (9-0) by the Senate Community Affairs Committee on Monday. This bill allows certain county officials to reduce their salary on a voluntary basis. The county officers include each: member of a board of county commissioners, clerk of the circuit court, county comptroller, sheriff, supervisor of elections, property appraiser, and tax collector. The House companion bill, HB 19, was also favorably approved (14-0) by the House Government Operations Subcommittee. The bill would take effect on July 1, 2011.

## Fertilizer Regulation

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SB 606 by Sen. Evers was temporarily postponed in the Senate Agriculture Committee this week. The bill preempts most aspects of fertilizer regulation to the state by requiring statewide implementation of the DEP's Model Ordinance for Florida Friendly Fertilizer Use on Urban Landscapes and explicitly prohibits local governments from adopting fertilizer management practices that are more stringent than the Model Ordinance. Many local governments are concerned that without the ability to adopt stricter standards where necessary, they will not be able to comply with federal water standards. Sen. Evers has indicated his willingness to negotiate a compromise with opponents of the bill. SB 606 is now on the Agriculture Committee agenda for Monday, March 14. The House companion, HB 457, has been referred to the Community and Military Affairs Subcommittee.

## Controlled Substances

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The House Health and Human Services Committee passed PCB HHS 11-03 and PCB HHS 11-04 on Thursday, which would repeal the not-yet-implemented prescription drug monitoring program (PDMP) and instead aim to address the state's pill mill problem by preventing doctors from directly dispensing controlled substances to patients. This is a significant departure from the previous drug tracking database strategy, and critics of the bill maintained that the proposal does not go far enough in regulating narcotics dispensed at pharmacies. Chair Schenk acknowledged that this is only the first step, and that the unresolved issues will be addressed as the bills move through the committee process. PCB HHS 11-03 passed in the committee by a vote of 13 to 5; PCB HHS 11-04 passed, with one amendment, by a vote of 12 to 5.

## Florida Climate Protection Act

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SB 762 by Sen. Hays passed in the Senate Communications, Energy, and Public Utilities Committee this week. The bill would repeal the Florida Climate Protection Act (FCPA) from 2008, which authorizes the DEP to adopt rules to create a cap-and-trade program by setting a limit on greenhouse gas (GHG) emissions and then allowing companies to buy and sell emissions credits. Broward County opposes efforts to retract the policies set forth in the Act, which aim to help the state mitigate and adapt to the negative impacts of climate change. SB 762 is now in the Environmental Preservation and Conservation Committee. The House companion, HB 4117 by Rep. Plakon, is in the Agriculture and Natural Resources Subcommittee.

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## **Dangerous Dogs**

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SB 722, sponsored by Senators Rich and Bogdanoff, was favorably approved (4-0) by the Senate Agriculture Committee on Monday. The bill removes the statutory requirement that a dog be deemed a dangerous dog on the sole basis that it was used or trained for dog fighting. It now moves to the Senate Community Affairs Committee.

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