

# Broward SLI

State Legislative Information

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## Session Week 3

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## Broward Days and FAC Legislative Day

Broward County Commissioners Ritter, LaMarca, Lieberman, and Mayor Gunzburger traveled to Tallahassee to participate in a variety of Broward and/or county-related advocacy efforts. As President of the Florida Association of Counties (FAC), Commissioner Lieberman presided over educational and advocacy activities on Tuesday afternoon and Wednesday, culminating in an event at which Governor Scott spoke to the many county elected officials and staff in attendance. Commissioner Lieberman met Thursday with delegation members to thank Sen. Bogdanoff for championing our Crime Lab funding again this year, offering to assist with our TRIM notice priority, and to discuss Online Travel Companies legislation which will be heard next in her committee. Mayor Gunzburger provided opening remarks to the Broward Days luncheon on Wednesday, before meeting with several Broward Delegation members that afternoon to discuss county priorities. In addition, Mayor Gunzburger met with key committee members and leadership outside of the Broward Delegation to discuss Collective Bargaining and Regional Planning Council legislation. Commissioner LaMarca met with a wide variety of house and senate members, as well as cabinet and executive leaders, to discuss Broward County priorities, especially with respect to prescription drug monitoring bills and substantive legislation with fiscal impacts. In addition, Commissioner LaMarca spoke in committee, supporting an amendment to SB 466 (TDT/Dolphin's Stadium bill), carving out Broward. Commissioner Ritter testified in the Senate Criminal Justice committee, articulating Broward's opposition to SB 372, relating to pretrial. Even though the bill had been TPd, the committee's Chair, Sen. Evers, asked that two sheriffs and Commissioner Ritter, all of whom had traveled significant distances, offer testimony on the bill. Commissioner Ritter also had a number of member meetings to discuss health and human services cuts, library funding, and pretrial.

## Firearms Penalty Legislation Moves Ahead

The Senate Community Affairs committee and the House Community and Military Affairs subcommittee considered and passed legislation, placing a penalty on local governments and individual commissioners of their governing bodies who enact ordinances, rules and regulations, relating to firearms. Sen. Negron and Rep. Gaetz, sponsors of SB 402 and HB 45, respectively, argue that this legislation is needed to address ongoing violations of existing state preemption laws by local governments and their officials. The bills were amended in committee to remove the criminal penalties originally existing in the bills and to reduce the civil fine that can be assessed by a court

from \$5 million to \$5,000-100,000. These fines may be levied against the “elected or appointed local government official or officials or administrative agency head [who] shall be personally liable for the payment of all fines, costs and fees assessed by the court for the noncriminal violation.” The bills expand the state’s firearms preemption to cover storage of firearms and makes clear that all administrative regulations or rules adopted by local or state government agencies, are also preempted. Both bills provide as follows:

- Expressly deter and prevent the violation of the state’s preemption law.
- Require the state attorney to investigate all knowing and willful violations of the statute and subjects the state attorney to penalty of being “held accountable under the appropriate Florida rules of professional conduct” for failing to investigate.
- A finding of a knowing or willful violation of any provision in the bill “shall be cause for immediate termination of employment or contract, or removal from office by the Governor.”
- Authorizes the filing of a civil action by affected gun owners or associations, such as the National Rifle Association (the major proponent of this legislation), against the local government, individual officials and employees of the local government involved in the enactment or enforcement of any such law violating the state’s firearms preemption. The prevailing plaintiff is entitled to recover attorney’s fees, liquidated damages equal to three times the award of attorney’s fees, and litigation costs in the trial and appellate courts. Interest on the sums awarded “shall accrue at 15% annually from the date on which suit was filed.”

Both bills now move to the Judiciary Committees in their respective chambers.

## **Dolphins Stadium Bill Gets Amended**

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SB 466, originally filed by Sen. Negrón, now being sponsored by newly-elected, Sen. Braynon, was amended through a strike-all, to completely remove the authorization for Broward County to vote to approve the use of Broward County’s tourist development taxes for improvements to the Dolphin’s Sun Life Stadium. In addition, language which would have allowed Broward County to use the additional 1-cent levy directed to professional sports facilities for construction, rehabilitation and renovation of facilities contiguous to an existing convention center (e.g., a convention center hotel), was also removed.

The bill will be heard next in the Senate Community Affairs Committee.

## **TABOR (Smart Cap)**

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The House Finance and Tax Committee held a workshop Thursday on legislation regarding state and local government revenue limitations, the House version of TABOR. The Senate passed its version of TABOR, CS/SB958, last week (27-13) but did not include a local government revenue cap. It is appearing more likely that the House bill will include a local government revenue limitation. Staff is closely monitoring this legislation and its development. Broward County opposes any legislative or constitutional efforts to impose expenditure or revenue caps on local governments.

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## Property Tax Cap

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CS/HB 1163, sponsored by Rep. Dorworth, was favorably approved by the House Finance and Tax Committee on Thursday by a vote of 8-3. The bill implements the provisions of HJR 381, a proposed constitutional amendment which makes changes relating to ad valorem taxation, and specifically:

- Reduces the annual growth in assessment limitation on certain non-homestead property from 10% to 3%.
- Creates a new statutory section that sets forth the requirements contained in CS/HJR 381 that allow individuals who are entitled to a homestead exemption and have not received a homestead exemption in the previous three years to receive an additional homestead exemption equal to 50% of the just value of the homestead property. The additional exemption will apply to all property taxes other than school district taxes. The amount of the exemption cannot exceed \$200,000.
- Provides for an application process for the exemption and sets forth requirements that must be met in order to retain the exemption upon addition of another person to the title of an affected property.

The bill will apply either to the 2012 or 2013 tax rolls, depending on when the Legislature places the constitutional amendment before voters for approval (i.e. the 2012 presidential preference primary or the 2012 general election).

The Revenue Estimating Conference (REC) has estimated that the provisions of the constitutional amendment, as implemented by this bill beginning in 2012, will have a negative revenue impact on non-school property taxes of \$231.6 million in FY 2012-13, growing to \$1,271.9 million by FY 2015-16, assuming current millage rates. The bill now moves to the Community and Military Affairs Subcommittee.

## House Medicaid Reform Package

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The House Medicaid Reform bills, HB 7107 and HB 7109, were heard in the House Appropriations Committee this week. The proposal would shift nearly all Medicaid recipients into managed care over several years, with full implementation by 2016. Just hours before the committee convened, strike-all amendments were submitted by the bills' primary sponsor, Rep. Schenck; both were adopted by the committee. As amended, HB 7107 increases the percentage of low income pool (LIP) funding that would go to statutory teaching, rural, and children's hospitals from fifteen percent to thirty-five percent, and reduces the percentage available for general acute care hospitals from fifty percent to thirty percent. The amended bill also creates eight regions in which managed care plans will compete to provide services; the previous bill created seven regions. HB 7109 was amended to include a \$300,000 limit on noneconomic damages in personal injury and wrongful death claims resulting from cases of medical malpractice and negligence. Additionally, no single practitioner would be responsible for more than \$200,000 in noneconomic damages.

HB 7107 passed by a vote of 12 to 8, and HB 7109 passed by a vote of 15 to 8. Both bills have been placed on the Special Order Calendar for March 29.

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## Pension Reform

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CS/HB 1405, sponsored by Rep. Workman, was favorably approved by the House State Affairs Committee on Thursday by a vote of 13-6. This bill was amended to:

- Require state employees to pay 3 percent (down from 5 percent) of their salaries toward their retirement funds.
- Require newly hired employees to enter 401 (k)-type retirement plans instead of the traditional Florida Retirement System pension plan that guarantees specific payouts despite market fluctuations.

The Senate version (CS/SB 1130) currently has a sliding scale that requires no contributions from employees making \$40,000 or less and 2 to 4 percent contributions for rank and file employees making more than \$40,000 and senior management employees making more than \$75,000. The bill now moves to the House Appropriations Committee.

## Destination Resorts

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The Senate Commerce Committee temporarily postponed (TP'd) the following three Destination Gaming bills, all sponsored by Sen. Jones, on Tuesday.

- SB 1708, which creates the Destination Resort Commission within the Department of Revenue.
- SB 1710, which creates the Destination Resort Trust Fund within the Department of Revenue and provides for the purpose of the trust fund.
- SB 1712, which creates a public-records exemption for the Florida Destination Resort Commission.

There are substantial differences between the Senate destination-resort bills and the House measures, including HB 1415, which was workshopped by the House Business and Consumer Affairs Subcommittee.

## Economic Development

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HB 1301, sponsored by Rep. Nelson, was favorably approved by the House Economic Development and Tourism Subcommittee by a vote of 13-1. The bill:

- Creates a new business loan guarantee program to provide an incentive to Florida-based mezzanine funds, types of debt-equity capital funds, to make investments in businesses, that otherwise may represent a level of risk the fund is unwilling to take, which may have the effect of encouraging private sector economic activity.
- Repeals an inactive microenterprise program section of law.

The source of funding for the loan guarantees comes solely from the repayments made to the state from the Economic Gardening Loan Pilot Program that otherwise would have been returned to General Revenue. The identical Senate bill, SB 1863, is sponsored by Sen. Bennett.

The following Committee bills were heard by the House Economic Development and

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Tourism Subcommittee:

- EDT3, the Florida-Caribbean Basin Trade Initiative (passed 11-2).
- EDT4, the Florida Trade Data Center (passed 12-0).
- EDT5, Microenterprises (passed 12-0).
- EDT 7, Inner City Redevelopment Review Panel (passed 12-0).

The bill analysis is pending on these bills and staff will continue to closely monitor these Committee bills.

## Union Dues

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The House, on third reading, passed CS/HB 1021 (73-40), a measure that would bar the state, counties, cities, and special districts from providing public employees with a payroll deduction for union dues. The bill also prohibits any payroll deductions for political activities, including contributions to candidates or political parties. In addition, unless an employee has executed a written authorization, a labor union may not use any dues, uniform assessments, fines, penalties, or general assessments paid by the employee for political activities.

The Senate counterpart, CS/SB 830, sponsored by Sen. Thrasher, has so far moved through the Senate Community Affairs Committee on a 5-4 vote and is pending in the Budget Committee.

## HB 991 – Environmental Permitting

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A second strike-all amendment to HB 991, the expansive permitting bill, was offered by the bill sponsor, Rep. Patronis, and adopted by the Rulemaking and Regulation Subcommittee. The amendment addresses some, but not nearly all, of the bill's problematic issues.

The strike-all amendment makes the following changes/additions:

- Imposes stricter standards on qualifying for the Incentive Based Permitting program.
- Removes the word “knowingly” from the section outlining revocation of permits, giving the DEP broader discretion to revoke a permit in cases of violation and hopefully reducing the number of expedited or incentive-based permits granted to repeat violators. In the original bill and last week's amendment, the DEP could only revoke upon the finding that the permit holder had “knowingly” submitted false or inaccurate information or violated conditions related to the permit, a difficult standard to meet.
- Adds a section designed to streamline the permitting process for periodic beach renourishment maintenance projects.
- Continues to limit the permitting agency to two requests for additional information (RAI); however, the agency and applicant can mutually agree on an alternative time frame, and the applicant can waive the two-RAI limit in writing. This is similar to the existing permitting process for Developments of Regional Impact (DRI).

Despite the changes from last week's version, there are significant concerns remaining about the impacts that HB 991 could have on local governments, including Broward

County. While he ensured the committee that there would be no more strike-all amendments to the bill, Rep. Patronis expressed his willingness to continue to work with concerned parties, stating that he would be open to inserting “comfort language” to alleviate stakeholders’ outstanding issues. HB 991 passed unanimously, and has three remaining committee stops; the bill is now in the Economic Affairs Committee. The Senate companion, SB 1404, has been referred to four committees but is yet to be heard.

## **HB 457 – Fertilizer Regulation**

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HB 457 by Rep. Ingram, which would prohibit counties from adopting fertilizer standards that are more stringent than the statewide model ordinance and preempt regulation of the sale, composition, formulation, packaging, use, application, and distribution of fertilizer to the state, narrowly passed in the Community and Military Affairs Subcommittee by a vote of 8 to 7.

A strike-all amendment was offered and adopted that allows the Department of Environmental Protection (DEP) and Water Management Districts (WMD), in addition to the Department of Agricultural and Consumer Services (DACS), to restrict fertilizer use and enforce water quality standards; the original bill afforded DACS this exclusive authority. However, this concession does not address the bill’s most problematic aspects regarding local governments, who bear the burden of compliance under the federal Clean Water Act and therefore need to be able to adopt stricter standards when necessary to meet federal water quality standards. The Subcommittee’s Minority Ranking Member, Rep. Berman, also voiced concerns that this bill would become an unfunded mandate in the event that local governments are forced to take costly measures to clean up nutrient-polluted waterways, a burden that would ultimately be passed on to taxpayers; this concern is in line with the general consensus that it is much more costly to clean up polluted waterways than it is to prevent them from becoming polluted in the first place. Another strong argument raised against the bill is the potential stifling of economic development, as legally, development permits cannot be issued where bodies of water have exceeded their established nutrient levels.

HB 457 has two remaining committee stops, and is now in the Rulemaking and Regulation Subcommittee. The Senate companion, SB 606 by Sen. Evers, is in the Community Affairs Committee.

## **Initial Budget Allocations**

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The House and Senate have released their initial budget allocations, which differ significantly in terms of how each intends to address the nearly \$4 billion state budget deficit. Specifically, the House budget targets pension reform as a means of filling the gap, largely by requiring all FRS workers to contribute three percent of their incomes towards retirement; conversely, the Senate proposal would completely exempt workers earning less than \$40,000 from being required to make contributions. The Senate, on the other hand, is seemingly using Medicaid reform and overall reduced spending on health and human services as its primary vehicles for achieving cost savings; in fact, the Senate budget allocations for health and human services programs is approximately \$700 million less than the House allocations to those areas. The Senate has also eliminated state aid for libraries, while the House proposal cuts library

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funding by \$12 million, leaving approximately \$9 million.

## **Override of HB 7103**

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On Thursday, the House voted to override former Governor Crist's veto last Session of HB 7103, which prohibits counties from regulating agricultural operations that are already regulated by the state. However, the bill does not affect the existing exemption in law that allows Broward County to enact ordinances, regulations, or other measures necessary to protect the Everglades. The bill also preserves regulations and ordinances related to wetlands, springs protections, and stormwater that were adopted prior to July 1, 2003.

## **Bills of Interest up Next Week**

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- Pretrial, SB 372, after being TPd this week, is scheduled for a hearing in the Senate Criminal Justice committee Monday, March 28<sup>th</sup> at 3PM.
- Ocean Outfall, HB 613, is up Monday, March 28<sup>th</sup> in House Agriculture and Natural Resources
- Seaport Security, HB 283, will be considered in the House Justice Appropriations subcommittee, Monday, March 28<sup>th</sup> at 12:00PM.
- Slated for hearing in Senate Community Affairs, Monday, several bills of interest to the county will be heard: SB 884, related to Taxi Operators; SB 1122 related to Growth Management, and; SB 592 offering a veteran's property tax discount.
- In Senate Children, Family and Elder Affairs, SB 404 revising legislative intent involving criminally-involved youth transitioning to adulthood, will be heard.
- On Monday at 4:00PM, the House will release its General Appropriations bill.
- At 6:00PM Monday, the Senate will release its Full Appropriations package.
- On Tuesday, the Senate will be in session from 10AM to noon and will be considering the reinstatement of the 2009 growth management bill, SB 360, which has been separated in to three components, as well as impact fee bill, SB 410.
- Senate Destination Resort gaming legislation, SB 1708, which was TPd by the sponsor Sen. Jones, after the pari-mutuel industry was successful in amending another one of Sen. Jones's bills, has been calendared for Tuesday in Commerce and Tourism.
- The Senate Transportation committee on Tuesday will consider the Senate Transportation package, SB 1180, along with SB 768, related to the Seaport Infrastructure, by Sen. Ring.
- On Wednesday, Sen. Negron's Health and Human Services package, SB 1972, will be considered in Senate Health Regulation at 8:00AM

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