March 6, 2015

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Civil Citation Bill moves in House, Stalls in Senate

On March 4th, HB 99 – Juvenile Civil Citations, by Rep. Clarke-Reed, passed the Criminal Justice Subcommittee 10-3. The bill mandates use of civil citations for first time offenders who admit to committing a misdemeanor. The bill was amended to allow police officers to issue simple warnings, inform the juvenile’s parent or guardian and or require the juvenile to participate in a diversion program to avoid a citation. The bill was also amended to allow use of civil citations for second or subsequent violations, but reserves an officer’s right to arrest the juvenile in exceptional situations. In those situations the officer must produce written documentation as to why an arrest was warranted to protect public safety. With the support of Committee Chair Rep. Trujillo, the bill passed the committee with the sponsor making assurances to work with stakeholders to perfect the bill moving forward.

SB 378 – Juvenile Justice, by Sen. Garcia, was temporarily postponed by the chair of Senate Committee on Criminal Justice. The Committee Chair, Sen. Evers, expressed reservations about an amendment that would replace the mandatory civil citation issuance requirement with permissive language.

Miami-Dade’s Transgender Protection Ordinance at Risk of Preemption

HB 583 – Single-Sex Public Facilities, by Rep. Artiles, would make entering a single-sex facility designated for persons of the opposite sex a misdemeanor. The bill also creates a civil cause of action against individuals who enter a single-sex facility and against entities that do not take steps to prevent individuals of one sex from entering a facility designated for the other sex. The bill permits a person who has completed a gender change to lawfully use a single-sex facility designated for a sex other than their birth or biological sex, if that person has a valid state driver license or US Passport reflecting the change.

The bill was strongly opposed by members of transgender community and human rights advocates during the Civil Justice Subcommittee hearing. A few bill supporters spoke and raised safety issues as their central concerns. Despite garnering negative national attention, the measure passed 9-4 down party lines.

The Senate companion, SB 1464 – Public Facilities creates a civil action against an individual who willfully enters a facility which provides an expectation of privacy to engage in harassing behavior. However, the bill does not discuss gender identity definitions and has not been scheduled for a hearing.
Bill Seeks to Eliminate KidCare Five Year Wait Period

SB 294 – Florida KidCare Program by Sen. Garcia, provides that children of legal residing immigrants would be immediately eligible for KidCare. KidCare is a state subsidized health insurance program for children. The bill seeks to eliminate the current program requirement that legal immigrants wait five years before they can qualify. While the Senate committee voted in unanimous support, the bill has not been heard in a House committee. HB 829 by Rep. LaRosa, is the companion and has three committee stops before reaching the House floor.

Sales Tax on Commercial Leases to get a 1% Cut

On March 4th, the Senate Community Affairs Committee passed SB 140 – Tax On Sales, Use, and Other Transactions, by Sen. Hukill. The bill lowers the amount of sales tax levied on commercial leases from 6% to 5% state wide. The bill was supported by the Realtors Association and other business backed groups. Although the measure passed unanimously, the impacts of the revenue reduction will place it in competition with other interests, including the Governor’s tax cut proposals. The bill’s companion measure HB 101 has not yet been heard by the House Finance and Tax Committee.

Local Preference Ordinance Bills Move through Committees

Both SB 778 – Local Government Construction Preferences, by Sen. Hays, and HB 113 – Local Government Construction Preferences, by Rep. Perry, prohibit a local government preference ordinance when bidding on contracts, where at least 20% of funds are provided by the state. Both bills were amended in their respective committees to raise the threshold to 50% of state funds. Despite the changes, the Florida Association of Counties (FAC) and the Florida League of Cities (FLC) opposed both bills. Both FAC and the FLC explained that local preference ordinances differ statewide; some preferences are used as tie-breakers and others for revised bids. The House bill received a close passing vote of 6-5, while the Senate bill passed 5-2.

Bill Establishes Baker Act Review Workgroup

SB 514 – Relating to Baker Act, by Sen. Abruzzo, creates a 20 person workgroup of stakeholders to study the effectiveness of the involuntary commitment law. Stakeholders eligible to participate include, but are not limited to, prosecutors, public defenders, physicians, and representatives from the Department of Children and Families, the Florida Sheriff’s Association, and the Florida Hospital Association. The bill passed the Senate Children, Families, and Elder Affairs Committee by a vote of 6-0.

Several Mental Health Bills Filed

SB 1338 – Relating to Behavioral Health Services, by Sen. Detert, creates a task force within the Department of Children and Families (DCF) to suggest new behavioral health approaches. The bill also allows counties to fund treatment-based mental health courts and requires DCF to designate qualifying organizations as behavioral health centers.
Also filed by Sen. Detert, SB 1452 – Mental Health Services in the Criminal Justice System, allows for the creation of treatment-based mental health court programs and authorizes the release of offenders to outpatient care. In addition, the bill creates the Forensic Hospital Diversion Pilot Program, located in Hillsborough, Escambia, and Miami-Dade counties, which would shift mentally ill inmates from jail to community-based alternative programs.

HB 1005 – Behavioral Health Services, by Rep. Peters, would expand the Crisis Intervention Team Program to train law enforcement to recognize behavioral patterns that may be caused by a mental health issue as opposed to a criminal offense.

SB 1340 creates the Substance Abuse Assistance Pilot Program within the Department of Children and Families (DCF). The bill requires DCF to determine the number of participants subject to available funding, develop safe and cost efficient treatment alternatives, contract with specified entities to serve as program managers in selected regions and provide an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives by October 1, of each year.

The legislation also creates a process for an adult with capacity to execute a mental health or substance abuse treatment advance directive to guide their treatment should they become incapacitated. The bill provides for the revocation or expiration of the advance directive and the terms for revoking the advance directive. Specifically, for participants in the pilot program, the bill allows an individual to create a self-binding arrangement which specifies the conditions the individual may be admitted for inpatient mental health or substance abuse treatment for up to 14 days. Additionally, the bill prohibits the criminal prosecution of a health care facility, provider or surrogate who acts in accordance with a mental health or substance abuse treatment advance directive.

The current path for mental health related bills is unclear but some stakeholders are reporting a growing legislative interest in the passage of a single comprehensive mental health package.

**Senate examines a new Health Exchange**

The Senate Health Policy Committee will consider a committee bill, SB 7044 – Health Insurance Affordability Exchange, next Tuesday March 10th. The bill creates a marketplace, known as the Florida Health Insurance Affordability Exchange Program (FHIX), to help residents enroll in private health insurance coverage. The bill is seen as an attempt to draw down federal money as new enrollees are meeting requirements of the Affordable Care Act. The bill also requires new enrollees to prove employment, on-the-job training or placement activities, or pursue educational opportunities for at least 30 hours a week or 20 hours a week if the enrollee has a child under the age of 18. It is unclear if the federal government will allow such restrictions.

**Water Policy Bill Passes House**

HB 7003 – Water Resources, by Rep. Caldwell, passed the House 106 - 9. The bill has been identified as a main priority of House Speaker Steve Crisafulli. The bill makes numerous changes to Florida’s water policies after a number of concerns were voiced over the Central Florida Water Initiative and impacts from Lake Okeechobee discharges. Some
Major Gambling Rewrite Proposed in House

A new House measure by Rep. Young would completely alter gambling policy in Florida and prohibit future expansion of gaming without 60% voter approval. Opponents of the bill call it the biggest expansion in the history of the state while proponents see it as gaming contraction. HB 1233 – Gaming, HB 1235 – Public Records, HB 1237 – Trust Fund, and HB 1239 – Voter Control of Gambling Expansion in Florida would set up a completely new framework for how gaming is regulated and where it would be allowed.

More specifically, HB 1239 creates a new Gaming Control Commission, allows for two destination resorts in Miami-Dade and Broward counties, decouples greyhound racing from pari-mutuel permits, applies a point system to South Florida permit-holders to expand by purchasing permits in the northern parts of the state, adds clarification that amusement games are not considered gaming, and imposes a moratorium on new gambling permits. The bill also gives the Seminole Tribe the right to offer more types of games such as roulette and craps.

Transportation Technology Bill Advances

CS/SB 1186 – Transportation by Sen. Brandes, addresses the use of innovative transportation technologies, calls for studies and pilot programs to expedite integration of these technologies, directs the Department of Transportation to develop pedestrian and bicycle facilities, and makes a number of revisions relating to various transportation issues. In relevant part:

- Section 14 of the bill authorizes a public transit provider to enter into an agreement with a transportation network company under which the company provides public transit service. The bill defines “transportation network company” to mean an entity that uses a digital or software application to connect passengers to services provided by TNC drivers. A public transit provider who contracts with a TNC may use drivers from companies such as Uber, Lyft, and SideCar, to provide public transit, including paratransit services, in addition to other demand-responsive operations.

- Section 30 requires the Commission for the Transportation Disadvantaged and the Center for Urban Transportation Research to cooperatively develop and implement a pilot program, and provide a report to House and Senate Appropriations Committees, assessing the potential for increasing accessibility and cost effectiveness of providing transportation to certain transportation disadvantaged individuals through use of TNCs. Subject to legislative appropriation, the Commission may spend up to $750,000 for the pilot program.

CS/SB 1186 passed the Transportation Committee unanimously on Thursday, March 5, 2015. The bill next moves to the Senate Regulated Industries Committee. At the moment, there is no House companion bill filed.
Transportation Network Insurance Legislation Filed

SB 1298, by Sen. Simmons, relates to insurance for short-term rental and transportation network companies. The bill establishes insurance requirements for short-term rental and transportation network companies (TNCs) and their participating drivers during certain timeframes when services are provided. The bill prohibits the personal insurance policy of a participating lessor of a short-term rental property from providing certain insurance coverage (e.g., primary or excess coverage; coverage for claims resulting from the rental agreement) during certain timeframes except in specified circumstances. Likewise, a participating TNC driver’s personal motor vehicle insurance policy is prohibited from providing coverage to the driver, vehicle owner, or a third party during on-call periods or ride-acceptance periods (as defined in the bill), or provide a duty to defend or indemnify a driver's activities in connection with a TNC, unless the insurance policy expressly provides for such coverage, with or without payment of an additional premium.

SB 1298 has not yet been scheduled for a hearing in its first committee – Senate Banking and Insurance Committee.

HB 757, by Rep. Hager, relates to transportation network company insurance. The bill establishes motor vehicle insurance requirements for transportation network companies and participating drivers. The bill requires TNCs and insurers to cooperate regarding claims coverage investigations. A participating driver must carry proof of TNC insurance coverage at all times.

HB 757 has not yet been scheduled for a hearing in its first committee – House Insurance and banking Subcommittee.

FDOT Transportation Bill Moves in the House

The House Transportation and Ports Subcommittee heard and approved Proposed Committee Bill TPS-01, relating to the Florida Department of Transportation. The PCB has now been filed and designated HB 7039. As passed, the bills makes changes to several DOT programs and laws affecting the state's transportation system, including:

- Increasing the annual funding made available to the Florida Seaport Transportation and Economic Development Program from the State Transportation Trust Fund from $15 million to $25 million. This was a priority for the Governor, FDOT, and Florida's Ports. County Commissioners, staff, and Port Everglades Action Team members that attended the County/PEAT Fly-in in early February specifically advocated for this funding increase to construct port-related infrastructure projects.
- Revising statutory provisions to assist in the enforcement and general understanding of bicycle and pedestrian safety.
- Streamlining and revising the current state process for managing airspace, land use and zoning at or near airports. The bill updates airport zoning requirements and the siting and permitting of structures within airport hazard areas consistent with federal law. The proposed changes relate to recommendations made by a workgroup established by FDOT in 2012 to address the state's airport zoning process.
- Prohibiting the ability of a county or municipality to charge a developer or landowner a fee for removing vegetation within the right-of-way limits of a road improvement where the developer or landowner completed or contributed funding required by the local government's transportation concurrency requirements. This provision does not prohibit a county or municipality from
requiring a developer or landowner to obtain a tree removal permit or submit a tree removal plan or prohibit the enforcement of landscaping requirements. The term "fee" does not include the costs associated with applying for a tree removal permit or preparing a tree removal plan. The bill expressly allows municipalities to opt out of this provision, but not counties.

Lastly, the bill requires the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits of the state's investment in FDOT's adopted work program for FY 2016 and the next four fiscal years thereafter. EDR's evaluation must, at a minimum, determine the return on investment for the following areas: 1) Roads and Bridges; 2) Rail; 3) Public Transit; 4) Aviation; and 5) Seaports.

The bill next goes to the House Transportation and Economic Development Appropriations Subcommittee for consideration.