



Broward SLI

State Legislative Information

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Governor Signs House & Senate Leadership Bills into Law

On Thursday, January 21st, Governor Rick Scott signed three bills into law that were the central priorities of Senate President Andy Gardiner and House Speaker Steve Crisafulli during the 2015 Session – educational and employment opportunities for disabled individuals for Senate President Gardiner, and water policy for Speaker Crisafulli. Both Gardiner and Crisafulli had previously agreed to pass the three bills during the first week of the 2016 Session.

SB 672, Educational Options by Sen. Gaetz, now Chapter 2016-2, Laws of Florida, modifies educational choice program provisions affected by the 2015-2016 General Appropriations Act and Implementing Bill in four policy areas. The act, establishes mechanisms for the approval of unique postsecondary education programs tailored to the needs of students with intellectual disabilities and the statewide coordination of information about programs for students with disabilities. Specifically, the bill includes two key components:

- A process through which postsecondary institutions in Florida can voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- A Florida Center for Students with Unique Abilities (statewide coordinating center) for statewide coordination of information regarding programs and services for students with disabilities and their parents.

The act provides a minimum \$10 per student incentive payment to school districts and charter schools that implement districtwide or schoolwide, standard student attire policies applicable to students in kindergarten through grade 8. The policy must allow for reasonable accommodations based on a student’s religion, disability, or medical condition. The act also amends a number of provisions of the Florida Personal Learning Scholarship Account (PLSA) program. The provisions increase student access, tighten accountability, and streamline administration. The act takes effect on July 1, 2016.

HB 7003, relating to Individuals with Disabilities, now Chapter 2016-3, Laws of Florida, addresses the employment and economic independence of individuals with disabilities. Specifically, the act:

- Modifies the definition of “developmental disability” to include Down syndrome;
- Modifies the state’s equal employment policy to provide enhanced executive agency employment opportunities for individuals who have a disability;
- Creates the Employment First Act, which requires certain state agencies and organizations to develop an interagency cooperative agreement to ensure a long-term commitment to improving employment outcomes for individuals who have a disability;
- Creates the Financial Literacy Program for Individuals with Developmental Disabilities (Literacy Program) within the Department of Financial Services (DFS) to promote

economic independence and successful employment of individuals with developmental disabilities by providing information and outreach to individuals and employers; and

- Creates the Florida Unique Abilities Partner Program (Partner Program) to recognize business entities that demonstrate commitment, through employment or support, to the independence of individuals who have a disability.

The water policy bill, SB 552 by Sen. Dean, now Chapter 2016-1, Laws of Florida, implements policies to protect and restore Florida's water and natural resources with a focus on meeting present and future water quality and supply needs. One key aspect of the new act is its creation of a pilot program for alternative water supply development in several restricted allocation areas, including the Lower East Coast water supply planning region that includes Broward County.

The act contains legislative findings supporting the development of alternative water supplies and, in particular, the designation of one pilot project in each allocation restricted area that provides water supply and environmental benefits. Additionally, consideration must be given to projects that reduce damaging discharges to tide or that are part of a recovery or prevention strategy for minimum flows and levels.

The act allows the SFWMD, SWFWMD, and the SJRWMD, at their sole discretion, to each designate and implement an existing alternative water supply project that is identified in each water management district's (WMD) regional water supply plan. The WMD may amend its regional water supply plan to add a new alternative water supply project as its one pilot project.

The WMDs must designate a pilot project by July 1, 2017. A WMD may designate an alternative water supply project located in another WMD, if the project is located in a restricted allocation area designated by the other WMD and a substantial quantity of water provided by the alternative water supply project will be used within the boundaries of the water management district that designated the alternative water supply project.

A WMD may not develop or implement a pilot project on privately owned land without the voluntary consent of the landowner, as evidenced by deed, easement, license, contract, or other written legal instrument executed by the landowner after July 1, 2016. Also, a WMDs may not engage in local water supply distribution or sell water to the pilot project participants.

The WMDs may join with other entities, and contract with any of those entities to finance or otherwise implement acquisitions, construction, and operation and maintenance, if the contracts are consistent with the public interest and based upon independent cost estimates, including comparisons with other alternative water supply projects. The contracts may provide for contributions to be made by each party to the contract for the division and apportionment of resulting costs.

The act allows a WMD to provide up to 50 percent funding assistance for a pilot project. If the SFWMD, SWFWMD, or the SJRWMD elect to implement a pilot project, the WMD must submit a report to the Governor and Legislature by July 1, 2020, on the effectiveness of its pilot project. The report must include:

- A description of the alternative water supply project selected as a pilot project, including the quantity of water the project has produced or is expected to produce and the consumptive users who are expected to use the water produced by the pilot project to meet their existing and future reasonable-beneficial uses;
- Progress made in developing and implementing the pilot project in comparison to development and implementation of other alternative water supply projects in the

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restricted allocation area;

- The capital and operating costs to be expended by the WMD in implementing the pilot project in comparison to other alternative water supply projects being developed and implemented in the restricted allocation area;
- The source of funds to be used by the WMD in developing and implementing the pilot project;
- The benefits to the WMD's water resources and natural systems from implementation of the pilot project; and
- A recommendation as to whether the traditional role of WMDs regarding the development and implementation of alternative water supply projects should be revised and, if so, identification of the statutory changes necessary to expand the scope of the pilot program.

Chapter 2016-01 takes effect on July 1, 2016.

Transportation Department Bills Move in House & Senate

HB 7027, by Rep. Rooney and SB 756, Sen. Brandes – relating to Department of Transportation unanimously passed their respective House and Senate Appropriations subcommittees this past week. Among their many provisions, the similar bills:

- Increase from \$15 million to \$25 million the minimum annual funding for the Florida Seaport Transportation and Economic Development (FSTED) program.
- Authorize Florida Department of Transportation to assume certain review responsibilities under the National Environmental Policy Act (NEPA) with respect to highway projects.
- Substantially revises chapter 333, F.S., relating to airport zoning regulations.

HB 7027 is now in the House Economic Affairs Committee and SB 756 next goes to the Senate Appropriations Committee.

Community Investment Program Bills Filed

HB 33 by Rep. Rodgers and SB 240 by Sen. Soto would establish a community investment program within the Department Of Economic Opportunity aimed at securing private sector investments to reduce poverty in economically disadvantaged communities. The bills also establish a seven-member council comprised of state officials to govern the program and an advisory committee of Senate and House members to advise the council. Neither bill has been heard to date.

Gaming Compact Discussed

On January 20th, the Senate Regulated Industries Committee held a workshop and heard presentations on the new gaming compact between the state and the Seminole Tribe of Florida (STOF). Jeff Woodburn, the Governor's gaming policy director, gave a presentation regarding the various elements of the proposed compact and fielded many questions from committee members.

The committee members' questions focused on certain points. One area involved the adding of video race terminals and slot machines at one pari-mutuel in Miami-Dade County and Palm Beach County. Several Senators questioned the reasoning behind this decision. Members quizzed Woodburn about the decision to exclude other communities around the state, especially those communities, like Gadsden County, whose residents approved a referendum to

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allow slot machines, but were not included in the proposed compact. Woodburn was grilled on this extensively. Several Miami-Dade County legislators commented they had not been consulted regarding the decision to allow an additional permit in Miami-Dade.

Jim Allen, CEO of Seminole Gaming, also presented on behalf of the STOF spoke at length about the STOF's perspective of the negotiated compact. The committee ran out of time before hearing from Amy Baker, the state's economist. Sen. Bradley, the Committee's Chair, agreed to meet in the upcoming week to hear Baker's presentation and from others wishing to present on the gaming compact. The Senate Regulated Industries Committee will meet again, Wednesday, January 27th, from 9:00 am to 11:00 am.

Public Corruption Bill Ready for House Floor

After being approved unanimously in its only committee of reference, the House Rules Committee, HB 7071, relating to public corruption, is headed to the House floor for consideration. It will be heard during week 3.

In 2010, upon the petition of then Governor Charlie Crist, the Nineteenth Statewide Grand Jury (Grand Jury) was impaneled to examine criminal activity of public officials who abused their office and whether prosecutors have sufficient resources to combat corruption. The Grand Jury identified deficiencies in current laws and made detailed recommendations to improve anti-corruption initiatives. Among its recommendations, the Grand Jury recommended expanding the definition of "public servant" to capture private and semi-private entities and actors not presently covered under Chapter 838, F.S. The Grand Jury also recommended removing the requirement of "corrupt intent" from offenses in that chapter and replacing it with "knowingly or intentionally."

HB 7071 is in response to the Grand Jury's report. HB 7071 expands the applicability of offenses in Chapter 838, F.S., to officers and employees of a public entity created or authorized by law. In addition, the bill makes public contractors eligible for prosecution of official misconduct. HB 7071 defines public contractors as any person, or any officer or employee of a person, who has entered into a contract with a governmental entity. Additionally, the scope of bid tampering is widened to include public servants and public contractors who have contracted with a governmental entity to assist in a competitive procurement.

In addition, HB 7071 bill revises the level of intent for offenses under Chapter 838, F.S., from "corruptly" or "with corrupt intent" to "knowingly and intentionally." Thus, a prosecutor will no longer have to show a defendant acted dishonestly for a wrongful purpose by accepting a bribe, but rather show the defendant knowingly and intentionally accepted the bribe. Furthermore, the bill provides that public servants and public contractors may be reimbursed in the same manner as provided by common law for any attorney's fees incurred defending public corruption charges.

SB 582 by Sen. Gaetz, a similar public corruption bill, which failed on a 1-4 vote in the Senate Governmental Oversight and Accountability Committee in week one, was postponed and left pending, rose from the ashes in week 2. The Committee considered and passed two amendments by Sen. Latvala which added public contractors only to bid tampering and official misconduct offenses. The amendments narrowed the scope of the bill which passed out on a 4-0 vote. SB 582 is now in the Senate Criminal Justice Committee.

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Federal Immigration Policy Update

On January 21st, the House Judiciary Committee passed, on an 11-4 party-line vote, an amended version of HB 675 by Rep. Metz – relating to Federal Immigration Enforcement. In particular, the Committee adopted four amendments that included the following changes:

- Revised the definition of “immigration detainer” to specify what is a facially sufficient detainer;
- Revised the definition of “sanctuary policy” to include limiting or preventing compliance with a request from a federal immigration agency to notify the agency before the release of an inmate in the state’s or a local governmental entity’s or law enforcement agency’s custody;
- Provides that the state attorney for the county in which a state entity is headquartered, or a local governmental entity or law enforcement agency is located, has primary responsibility for investigating violations of the act, and requires the results of any investigation must be provided to the Attorney General in a timely manner;
- Provides that Chapter 908, F.S., as created by the bill, does not create a private cause of action against a state or local governmental entity or law enforcement agency that complies with the act;
- Require any sanctuary policy in effect be repealed within 90 days of the effective date of the Act.

The bill has been placed on the House Special Order calendar for January 26th. Meanwhile, its Senate companion, SB 872 by Sen. Bean, has yet to be heard in its first committee.

Fracking Bill Moves to House Floor

On Thursday, January 21st, HB 191 by Rep. Rodrigues - Regulation of Oil and Gas Resources – passed the House State affairs Committee along a party-line vote of 12-6. The bill was amended to include the changes made to its Senate companion, SB 318, last week:

- Evaluation of prior bad acts by permit applicant or its affiliated entities.
- Studies of groundwater contamination before and after drilling.
- Prohibiting permits from being issued until after DEP has completed its study of high-pressure well stimulation, adopted rules based the study’s findings, and the rules have been presented and ratified by the Legislature.
- Requiring permit applicants to provide notice to the jurisdiction – municipality or county – where the well will be located, prior to submitting its application to DEP. A copy of the notice must be included with the permit application.

The bill is scheduled for consideration by the full House on January 26th. As well, SB 318 is on the General Government Appropriations Subcommittee agenda for January 25th.

House Constitutional Officers Bill Passes Last Committee

On Thursday, January 21st, HJR 165, by Rep. Artiles passed the House Local & Federal Affairs Committee on a 16- despite concerns voiced by several counties. The bill has been placed on the House Calendar, on 2nd Reading.

CS/HJR 165 proposes to amend the State Constitution by removing the authority to alter the manner of selecting certain constitutional county officers and limiting the ability to abolish a county office and transfer all duties prescribed by general law to another office, either by charter counties or by special law approved by the county electors. As a result, the offices of sheriff, property appraiser, supervisor of elections, tax collector, and clerk of the circuit court

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would be filled only by vote of the county electors and for terms of four years.

One or more of these county offices could be abolished and its duties transferred to another office only by special law (as opposed to an amendment to a county's home rule charter) approved by the county voters. In addition, as proposed in the joint resolution, the clerk of the circuit court would be the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds unless otherwise provided by special law approved by the county voters.

Now that the bill has passed all its committees and awaits scheduling for consideration on the House floor, the bill sponsor, Rep. Artiles, has scheduled a stakeholder meeting for Tuesday, January 26th to discuss issues raised by various counties and House members with the measure. The Senate companion bill, SJR 648, has not moved after being temporarily postponed in week one.

Disposable Plastic Bag Bill Moves Forward

On Wednesday, January 20th, SB 306 by Sen. Bullard, passed the Environmental Preservation and Conservation Committee. The bill authorizes a municipality with a population of fewer than 100,000 people to establish a pilot program to regulate or ban disposable plastic bags. The municipality must qualify as a "coastal community" which is defined as a "municipality that abuts or borders the Gulf of Mexico, the Atlantic Ocean, or a bay".

A municipality that establishes a pilot program must enact an ordinance for the regulation or ban of disposable bags, which cannot take effect earlier than January 1, 2017 and must expire no later than June 30, 2019. Additionally, a municipality establishing a pilot program must collect data concerning the impact of its regulation or ban, and submit a report on the impact of such regulation or ban to the municipality's governing body at a public hearing. A copy of the report must also be provided to the Department of Environmental Protection.

The House companion, HB 143 by Rep. Richardson, has not been heard in its first committee of reference. SB 306 is now in the Senate Community Affairs Committee.

Millage Rate Bill Passes First Committee

HB 1015, by Rep. Nuñez – relating to the determination of maximum millage rates, unanimously passed the House Finance & Tax Committee on January 21st. The bill changes the formula for calculating the simple majority vote maximum millage rate. Instead of using a rolled back rate assuming the previous year's maximum rate was levied, the formula would use a rolled back rate using the prior year's actual tax levy. This formula change reduces the simple majority maximum tax rate for most counties, cities, and special districts.

In addition, the new methodology may result in the loss of all the maximum millage "capacity" a county built up from making difficult financial decisions during the economic downturn between FY07 and FY12. While supposedly aimed at local governments which continued to raise ad valorem taxes, even during the great recession, the bill is punitive to those local governments that were, and continue to be, fiscally responsible during and after difficult economic times.

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