

Broward SLI

State Legislative Information

November 25, 2015

Interim Committee Week 5

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Eddy Labrador
Marty Cassini
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Daphnee Sainvil
Celeste LaPlante

Florida Association of Counties Legislative Conference

The Florida Association of Counties (FAC) held their annual Legislative Conference November 18-20, 2015, at Amelia Island in Nassau County. Vice Mayor Barbara Sharief, FAC President, Commissioners Beam Furr and Chip LaMarca, along with Intergovernmental Affairs staff were in attendance. This year's conference theme was "Diversity Brings Us Together" – focusing on how our counties' diversity strengthens and benefits advocacy efforts on behalf of counties statewide. The conference's primary goal is to finalize FAC's legislative program and identify the association's legislative priorities for the 2016 Session.

On Friday, November 20, 2015, the full FAC membership voted on the following priority issues for the 2016 Session, which are consistent with County's 2016 legislative program and fundamental principles:

Tax Reform

FAC supports tax reform measures that simplify administration and provide an economic boost to Florida's taxpayers while at the same time considering and minimizing the collective and cumulative negative impacts on local revenues, including state shared and local discretionary revenue sources critical to local governments in providing community services. Most important is the opposition to legislation that would eliminate existing recapture provisions for homestead and non-homestead property.

Economic Development

FAC supports measures that empower local governments and provides resources to work with community partners towards the creation of quality jobs, more vibrant Florida communities, and global competitiveness. Specifically, there is support for legislation that enhances state and local economic development partnerships, film/television entertainment production tax incentives, and the creation and funding of the Florida Enterprise Fund.

Utility Relocation

FAC opposes legislation that would require counties to pay for relocation of private utilities when the utilities are located within a county-owned right-of-way and must be moved to accommodate a county project.

Amendment 1/Beach Renourishment

FAC supports a balanced distribution of funds for land acquisition and for water quality and quantity projects throughout the state, with equitable allocation irrespective of a project's urban or rural nature, or its coastal or inland location.

FAC also supports the continuation of a statutory funding source for beach renourishment

projects with an increase over the current amount of \$30 million; and supporting the annual ranking of beach projects for state cost sharing – specifically, criteria recognizing a project’s economic benefits and cost-effectiveness, reduction in storm damage, and ability to leverage federal dollars.

Comprehensive Water Policy

FAC also supports for legislation that enhances regional and local financial capacity to address water supply development with allocation flexibility in all available funding sources. In addition, FAC supports the fundamental principles of Florida water law, funding of the Water Protection and Sustainability Program for the development of alternative water supplies, water quality improvement projects, and comprehensive water infrastructure needs, and *opposes* the creation of a water commission or “water czar”.

Behavioral Health

FAC supports increased funding for core mental health and substance abuse services, as well as diverting, medically assisting, or treating mentally ill persons outside the criminal justice system through alternative community programs. FAC also supports increased funding for crisis behavioral health beds statewide and increased access to acute care behavioral health services for individuals and families. Included within this legislative policy statement is FAC’s support for developing a dedicated funding source for homelessness programs, including programs targeting specific populations such as, veterans, children, and children aging out of the foster care system.

Governor Scott Unveils FY 2017 Budget

On Monday, November 23, 2015, Governor Scott released his proposed budget. The “Florida First Budget” is a \$79.3 billion spending plan, representing an increase of \$1.3 billion (5%) over the state’s current budget. The recommended budget includes over \$1.0 billion in tax cuts, including:

- Permanently eliminating income tax on manufacturing and retail businesses - \$770 million annually;
- Permanently eliminating the tax on manufacturing machinery and equipment - \$76.9 million annually;
- One percent (1%) tax cut on commercial leases - \$339 million over next two fiscal years;
- Extending the sales tax exemption on college textbooks for another year - \$46 million; and
- 10-day Back-to-School and 9-day Disaster Preparedness sales tax holidays - \$72.8 million in FY 2017.

Recognizing Texas as the leader in job creation, the Governor’s plan proposes a one-time, \$250 million “Florida Enterprise Fund,” to grow jobs through diversification of Florida’s economy and support for small business. In addition, the budget plan includes \$122.5 million for the state’s economic development public private partnerships - \$80 million for VISIT FLORIDA, \$17.5 million for Space Florida, and \$25 million for Enterprise Florida. The proposed budget also recommends funding other job-related training and export expansion programs, along with workforce investments including \$229.3 million for Florida 24 regional CareerSource Boards.

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The Governor recommends \$9.2 billion for the Department of Transportation's Work Program that, in part, includes the following investments:

- \$237.6 million for aviation programs;
- \$574 million for transit program improvements;
- \$153.9 million in seaport infrastructure improvements;
- \$159 million for safety initiatives; and
- \$3.3 billion to expand transportation system capacity, including 169 new lane miles.

The budget plan also proposes certain savings, efficiencies, and reduces the state's workforce by over 800 positions. Further, the plan increases education funding, including per-student funding in early learning programs and K-12. Addressing the environment, the Governor recommends \$50 million for water supply programs, \$151 million for Everglades Restoration, \$50 million to protect Florida's springs, \$63 million for targeted land acquisition, and \$25 million for beach renourishment projects. The plan also recommends spending \$1.5 billion in agriculture.

Among the Governor's health care recommendation, an additional \$19 million is proposed to enhance mental health and substance abuse services, and \$10 million to reinstate funding for the Adults with Disabilities program which will serve 12,000 disabled Floridians, yearly. The plan provides \$2 million to enroll 330 more persons in the Community Care for the Elderly Program, and includes \$1.7 million in new funding to add 150 individuals onto the Alzheimer's Disease Initiative Program.

The Governor's plan recommends \$8.9 million to maintain and repair juvenile facilities statewide, and funds at-risk youth and prevention programs to reduce juvenile crime. Lastly, the budget plan recommends \$131.4 million for affordable housing programs - \$97.4 for the State Apartment Incentive Loan (SAIL) program and \$34 million for the State Housing Initiatives Partnership (SHIP) Program.

Bills Aim to Divert Mental Health Issues from the Criminal Justice System

SB 604 by Sen. Diaz de la Portilla and HB 439 by Rep. McBurney – Mental Health Services in the Criminal Justice System, though not identical, expand the authority of courts to use treatment-based mental health and substance abuse treatment programs and specify minimum requirements of those programs. Some of the changes proposed are as follows:

- Expands the eligibility criteria for programs to enable the participation of children in delinquency court and veterans who were released under a general discharge;
- Allows courts to grant conditional release to some defendants to enable them to receive treatment to become competent for trial or who would otherwise be committed subsequent to being found not guilty by reason of insanity;
- Encourages counties to establish and fund treatment-based mental health court programs.
- Authorizes courts to admit defendants, on a voluntary basis, at both the pretrial intervention and post-adjudicatory level into the programs.

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- Encourages coordination among various state agencies, local government, and law enforcement agencies to facilitate these programs.

Subject to Legislative appropriation, each judicial circuit must establish at least one coordinator position for treatment-based mental health court programs. Each judicial circuit must annually report data on the program to the Office of the State Courts Administrator for purposes of program evaluation.

The bills also create the Forensic Hospital Diversion Pilot Program which diverts mentally incompetent incarcerated defendants into more therapeutic and community outpatient treatment settings. Broward County is included in the House version of the pilot program, but not in the Senate bill. However, staff is working with Senator Rene Garcia’s office to be included in SB 604 when next heard in the Senate Appropriations Subcommittee on Health and Human Services, which Sen. Garcia chairs.

Each bill unanimously passed in their respective first committee of reference. SB 604 is now in the Appropriations Subcommittee on Health and Human Services. HB 439 is scheduled to be heard on December 2, 2015 at 9:00 AM in the Children, Families & Seniors Subcommittee.

Tourist Development Council & Tax Proposals

On Thursday November 19, 2015, the House Finance and Tax discussed a concept plan relating to the tourist development tax and council. Specifically, the proposal would remove the authority of county governing boards to appoint tourism industry members, including owners or operators of motels, hotels, or other tourist-related accommodations, to its tourist development council. Instead, those members would be appointed by the Florida Restaurant and Lodging Association. The remaining members would be elected officials appointed by the county commission.

The Committee Chair’s plan, would redirect locally collected tourist development taxes (TDT) to fund regional tourism promotion, and specifically allocates funding as follows:

- Twenty (20) percent of monthly TDT must be remitted to the Department of Economic Opportunity (DEO) for deposit into the Tourist Development Trust Fund for use by Visit Florida.
- At least 40 percent must be used for authorized tourism promotion.
- Up to 10 percent may be used for law enforcement services needed as a consequence of tourism activities; however, within 30 days after the close of any fiscal year in which tourist development taxes are diverted for law enforcement use, the county must remit 50 percent of such revenues to DEO for Visit Florida’s use.
- The remaining revenues must be utilized for specified activities, including construction, renovation and repair of convention centers, professional sports stadiums; promotion of zoological parks, aquariums, museums, and other tourist facilities; beach facilities and nourishment projects; and to fund convention and tourist bureaus; etc.

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Prior to expending any remaining tax revenues (as noted in bullet four above), the proposal requires the county to conduct a return-on-investment analysis. The analysis must be performed by a CPA or individual holding a Ph.D. in Economics from a regionally accredited university. The proposal also allows “interested organizations” to sue counties to limit the use of collected tourist development taxes to authorized uses only and recover misspent TDT revenues. Prevailing organizations are allowed to recover treble (three times) attorney’s fees, and their court-related costs. As of now, there are no similar proposals being discussed in the Senate.

Immigration “Sanctuary” Bills Filed in Both Chambers

On Monday, November 16, 2015, Rep. Metz and Sen. Bean filed legislation (HB 675 and SB 872, respectively) relating to federal immigration enforcement. The bills would require state and local government agencies to comply with, and support enforcement of, federal immigration laws.

The bills prohibit local governments from adopting sanctuary policies. A sanctuary policy is defined as a “law, policy, practice, procedure, or custom adopted or permitted by a state entity ... law enforcement agency ... local government entity or local government official” contravening specified sections of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency or official relating to federal immigration enforcement, including cooperation with immigration detainers.”

Additionally, a state or local government entity, official, or law enforcement agency may not restrict another governmental entity or law enforcement agency from taking any of the following actions with respect to information regarding the immigration status of an individual:

- Sending information to, requesting, or receiving information from a federal immigration agency or official;
- Exchanging information with a federal immigration agency, or another state or local governmental entity, or law enforcement agency;
- Determining eligibility for a public benefit, service, or license;
- Verifying a claim of residence or domicile if a determination is required under federal or state law, ordinance or regulation of any local government entity, or under a judicial order issued pursuant to civil or criminal proceedings; and
- Confirming the identity of an individual who is detained by a law enforcement agency or official.

The bills also prohibit state and local government entities, and law enforcement agencies from limiting or restricting the enforcement of federal immigration law, including compliance with immigration detainers, providing immigration officials with access to inmates for an interview, initiating an immigration status investigation, or providing immigration officials with incarceration/release status of an inmate in custody of a state or local government entity, or law enforcement agency. The bills require state or local government officials to report probable violations of the bills’ provisions to the Attorney

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General or state attorney having jurisdiction over the local government entity. Officials failing to report such violations may be suspended or removed from office as provided in general law or the State Constitution.

The bills also contain enforcement and specified penalties for violations by state and local government entities and their officials. The Attorney General is empowered to bring injunctive actions in the circuit court to enjoin unlawful sanctuary policies. If an injunction is issued, the applicable state and local government entity, law enforcement agency, or elected or appointed official found to have adopted or implemented a prohibited sanctuary policy must be ordered to pay a civil penalty ranging from \$1,000 to \$5,000 per day the policy or practice was in place before the injunction was granted. Civil penalties must be paid to the state’s Chief Financial Officer. Courts may award the prevailing party in such action its reasonable attorney’s fees and court costs.

In addition to enforcement by the Attorney General, the bills authorize the filing of a private cause of action against the state or a local government entity, or its officials, who have adopted or implemented a sanctuary policy or practice. A person injured, or the representative of a person killed, because of a tortious act or omission of an individual unlawfully present in the United States, due to sanctuary policy violation may recover all damages allowed by law. The bills waive sovereign immunity and provide a right to a trial by jury in all such cases. Lastly, the bills require the Attorney General to prescribe an online complaint form to permit residents to submit complaints of violations; however, the Attorney General may accept anonymous complaints and complaints in the non-prescribed format.

Although Broward County has not adopted any sanctuary-related ordinances, resolutions, administrative policies, procedures, practices or customs, the Center for Immigration Studies (CIS) has on its website, <http://cis.org/Sanctuary-Cities-Map>, identified Broward County as a “sanctuary county” because of a policy adopted by the Broward Sheriff’s Office (BSO) that it will not honor an Immigration and Customs Enforcement (ICE) detainer without an order of removal or an administrative arrest order. While there is no clear definition of the term “sanctuary county”, CIS refers to a sanctuary city as a place where local law enforcement officers aren’t required to alert federal authorities to residents who may be in the country illegally.

HB 675 has been referred to three House committees. SB 872, while filed, has not been referred to any committees at this time. Staff continues to review the bills for negative impacts to county operations.

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Bill Encourages Adult Civil Citation

SB 618 by Sen. Evers – Prearrest Diversion Programs, encourages local communities to implement prearrest diversion programs or “civil citations” affording certain adults, who fulfill specified intervention and community service obligations, the opportunity to avoid an arrest record. At an officer’s discretion, a civil citation may be issued to certain adults who have committed misdemeanor offenses – only if the adult admits he or she has

committed the offense or has not been previously arrested for an offense as an adult. It is important to note, a civil citation cannot be issued if the misdemeanor offense involved a victim, and the victim objects to the issuance of the civil citation.

Crimes such as disorderly conduct, nondomestic assault, open house parties, petit theft, possession of alcohol by a person younger than 21 years of age, possession of 20 grams or less of cannabis, selling or providing alcohol to a minor and trespass in a structure, qualify for a prearrest diversion program. The bill is similar to existing civil citations for juveniles as the adult must successfully complete a rehabilitation program. If the program is not completed, the adult may be criminally charged for the original offense. Upon successful completion of the diversion program, the arrest record will not be associated with the offense.

SB 618 was heard on November 17, 2015 and unanimously passed in Senate Criminal Justice Committee. The bill next goes to the Senate Community Affairs Committee.

Gun Measures Hit Target, But One Shot Down

HB 41 by Rep. Combee and Rep. Rouson; SB 130 by Sen. Richter – Discharge of Firearms on Residential Property

Both bills unanimously cleared their respective committees on Thursday, November 19, 2015. Intending to limit “backyard ranges,” the bills prohibit shooting firearms outdoors in an area that is primarily residential in nature and has at least one or more dwelling units per acre. The bills are now on the Calendar and ready for floor consideration in each respective chamber.

HB 169 by Rep. Baxley and SB 344 by Sen. Bradley - Relating to Use or Threatened Use of Defensive Force

On November 17, 2015, in a rare defeat, the National Rifle Association saw its major session priority take a hit in the House Criminal Justice Subcommittee. HB 169 would shift the burden of proof from the defendant to prosecutors in criminal “Stand Your Ground” cases. However, the bill wouldn’t change the burden of proof in civil litigation. The committee vote was 6-6, effectively killing the bill – very likely rendering dead for the 2016 Regular Session.

Meanwhile, the Senate companion bill, SB 344 by Sen. Bradley, passed the Senate Criminal and Civil Justice Appropriations Subcommittee on a 5-1 vote. The bill has been scheduled for consideration in its final committee, the Senate Rules Committee, on December 3, 2015.

HB 163 by Rep. Gaetz – Weapons and Firearms

HB 163 by Rep. Gaetz would allow the open carry of firearms by persons who are licensed to carry concealed firearms. Under current law, individuals may not openly carry firearms and certain weapons. Specifically, the bill would allow individuals, for the purpose of self-defense, who have a concealed weapons permit, to openly carry a firearm, self-defense chemical spray, or a nonlethal stun gun or dart-firing stun gun, or other nonlethal electric weapon designed for defensive purposes.

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The bill narrowly passed the House Justice Appropriations Subcommittee by a vote of 7-6. Prior to passage, the bill went through heavy discussion, debate, and amendments which Rep. Gaetz and Rep. Rodriguez filed before the committee, that were eventually adopted. It now heads to the House Judiciary Committee, while its Senate companion, SB 300 by Sen. Gaetz remains unheard in the Senate Judiciary Committee.

Bills Repeal the Prohibition Against Cohabitation

SB 498 by Sen. Sobel and HB 4003 by Rehiwinkel Vasilinda – Repeal of a Prohibition on Cohabitation, were heard on November 17, 2015 in their respective committees. The bills repeal a portion of Section 798.02, Florida Statutes, which makes it a second degree misdemeanor for any man and woman, not being married to each other, to lewdly and lasciviously associate and cohabit together.

Presently, Florida is one of three states which makes the cohabitation of an unmarried man and woman a criminal offense. The U.S. Supreme Court has found similar laws to violate the Due Process Clause of the Fourteenth Amendment. Both SB 498 and HB 4003 are expected to be heard on December 1, 2015, in their respective Judiciary Committees.

A Glimpse Forward

November 30 – December 4, 2015 - 6th and Final Committee Week in Tallahassee
January 12, 2016 – 2016 Regular Session convenes



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