

PBC Legislative Update

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State Issues – Legislative Session – Week 2

County Priority Issue Updates

Juvenile Justice Legislation

By: County Staff and FAC Staff

This week **HB 273 by Rep. Adams** was debated in the Policy and Budget Council this week. The legislation proposes changes to law that are contrary to Blueprint Commission recommendations.

Essentially, the bill includes proposed changes that can be broken down into three major areas. First, the filed legislation proposes numerous changes to the use and length of detention for juveniles. Secondly, it allows the courts to hold the parents of juveniles, not just the juveniles alone, to certain jurisdiction for the purpose collecting payment of all court fees and costs prior to the age of 18. It also authorizes the court to hold juveniles beyond the age of 18 for any outstanding debt a juvenile may have after they turn 18. The bill also allows counties to access a court cost of up to \$50 for all juvenile proceedings and this fee would go to a newly created Juvenile Crime Prevention Fund and would be geared at prevention. Thirdly, it increases the judiciary role in residential placement decisions. These changes concerns county interests because they most directly affect county government and the level of safety provided in our communities.

Thank you to Representatives **Vana, Taylor** and **Bogdanoff** for raising issues concerning the effects of detaining juveniles for an extended period of time and Representative **Hasner** for taking the lead in temporarily postponing the bill for clarification on these important issues. Hopefully, this legislation can be amended to include alternative means of detention and programs for substance and mental health issues for juveniles rather than just keeping them locked in county jails.

Property Taxes

By: The Wren Group and County Staff

HB 0877 Working Waterfront Real Property by Needelman This bill which passed out of House Economic Development this week provides an alternative method for counties and local governments to provide incentives for the maintenance and preservation of working waterfront real property. It allows an owner of working waterfront real property to convey all rights to develop the property to the local government where the property is located for a period of seven years. In turn, the county or municipality with taxing jurisdiction over the real property is authorized to accept such conveyance of development rights and requires the appropriate tax appraiser to recognize the parcel as a working waterfront real property and consider the nature and duration of the conveyance when determining the fair market value of the property. The effect is intended to guarantee the maintenance of the parcel as a working waterfront real property in exchange for a reduction in the taxable value of the parcel. Also provides for renewal of the conveyance upon expiration of the seven year period; provides for termination prior to the expiration of the seven year period; prohibits a county or municipality from conveying development right or using development right in manner inconsistent with definition of working waterfront real property; defines "working waterfront real property;" requires a county government to include

relevant provisions for working waterfront real property in their comprehensive plan; and requires certain reporting requirements by property appraisers.

Budget Issues

By: Pittman Law Group, The Wren Group and County Staff

Budget '07-'08

On Wednesday, the Governor was presented with the appropriations act and implementing bill, HB 7009 and SB 2502. On Friday, he signed both bills into law which reduced current year allocations by \$512 million.

Budget '08-'09

The House Economic Expansion & Infrastructure Committee (EEIC) met Thursday to discuss the 08-09 budget reductions. Chair Cannon began with a few statistics to express to the committee members just how far back they would have to cut. His major points were:

- Chair Sansom predicted that just the base budget plus the "must fund" items would produce a \$3.7 Billion shortfall
- He also expects the allocations for 08-09 to come in sometime next week and as of that time he expected there to be less than enough money to cover just the base budget alone
- Chair Cannon said the EEIC would need \$375 million in allocations to continue their base functions- a highly unlikely amount. The \$375 million does not even include funding for economic development, or Department of State grants for historical and cultural programs and libraries.

It was further stated that in light of that dire forecast, the EEIC should be prepared to be a "donor council", meaning funding for education, healthcare and public safety would be prioritized over economic expansion or infrastructure.

Appropriation Committees have asked agencies to propose 10% reductions. IN the area of Transportation, some of the items discussed were:

- Merge the DOT's Motor carrier enforcement (enforcing things like truck weights) with the Highway Patrol
- Stop issuing driver licenses where they and local Tax Collectors both have authority to do so
- Modify the Road Ranger program; stop offering free gas and batteries to cars that break down on the roadside. Only offer towing to the nearest service station.
- Eliminate all unnecessary Boards, Councils or Committees
- Eliminate the unfunded vacancies within the Department
- Have employees do more telecommuting and less travel
- Monitor the expense ratios per quarter; ensure agencies aren't spending all their money in the 4th quarter to inflate their base need for the next year
- Pay for fewer employee cell phones

Taxation and Budget Reform Commission

By: County Staff, the Moya Group, and Foley and Lardner

Two resolutions passed subcommittees of the Taxation and Budget Reform Commission last week. The First resolution which passed successfully out of the subcommittee tightens language in the Constitution that addresses unfunded mandates. The second amendment would limit all government revenue including the state, local governments and school boards. The version that narrowly passed out of committee this week, would limit annual revenue increases to inflation, population growth and an additional 1 percent adjustment using 2007-08 as a base year. Governments would be able to increase the cap for up to 10 years with a three-fourths vote. Some types of user fees, including those charged for water, electricity and natural gas, would be exempted.

The TABOR proposal will now go to the full committee; however, the unfunded mandate resolution must still go before another subcommittee before reaching the full committee. It has been discussed that there may be no additional subcommittee hearings scheduled.

The Moya Group met with the Staff Director for the Taxation & Budget Reform Commission (TBRC) and confirmed that there is no mechanism in their process for withdrawing a proposal from one of the subcommittees. The only way to have an "unfunded mandate" removed would be to have an additional subcommittee meeting, which would only occur at the pleasure of the TBRC Chairman. Both the Moya Group and Foley and Lardner have contacted the TBRC Chairman regarding this issue.

Traffic Safety Photo Enforcement

By: County Staff, Moya Group, Akerman Senterfit, Corcoran, and Pittman Law Group

On Tuesday, the Senate Transportation Committee heard Senate Bill 816 on Traffic Safety Photo Enforcement. Senator Baker, Chair of the Transportation Committee offered a strike all amendment that was adopted to the bill.

SB 816 passed favorably as a Committee Substitute (CS), 6 Yeas and 2 Nays. Much of the language in the amendment was a product of the major concerns expressed to The Moya Group by several members of the committee who have traditionally not supported this type of legislation. The provisions in the strike all amendment addresses some of the following:

- Mandates flat fee arrangements with contractors
 - *No per citation fee for contractors*
- Preempts all photo traffic enforcement to the state— regulates the fee for citations
 - *Due to "preemption" language the county may be prohibited from producing its own local citation on photo enforcement.*
- Intersections with traffic cameras must be properly engineered according to DOT specifications.
- Specifies that counties or municipalities can record a maximum of 10 seconds of streaming video of only the back of a vehicle
- If there is a 10% increase in accidents at an intersection where photo traffic enforcement cameras are being used, they must be removed
- Municipalities that entered into contracts prior to March 1, 2008 will have until 2013 to get in compliance with the new proposed law. The citations provisions will take effect immediately

Senator Villalobos and Senator Bullard opposed the bill. Pittman Law Group spoke with Senators Bullard and Villalobos' offices and ascertained that they supported Sen. Bennett's bill but had concerns about the strike all amendment proposed by Sen. Baker.

The House Infrastructure Committee unanimously passed HB351 out of its first committee of reference during committee meetings in February. In meetings last week with Speaker Rubio, he indicated his support for this legislation.

Autism

By: Akerman Senterfit

SB 2654 is up in Senate Banking and insurance next Tuesday. We will be meeting with Committee members on this bill. We face a challenge in the House since Health Council Chairman Bean views this legislation as a mandate. We will continue to work with him on hearing the legislation in his Council.

Agriculture Enclave

By: County Attorney Staff

Below is our section by section analysis of SB 2246 related to Agriculture Enclaves.

Section 1

163.3162(5) The ag enclave law allows a property owner to apply for land uses consistent with the densities and intensities that surround the parcel. This proposed change provides direction for how to measure the surrounding uses, using average intensities that surround the parcel and says you use distance equal to the longest dimension of the parcel.

This section of the bill also imposes the potential for damages pursuant to the 70.001 (Burt Harris Private Property Rights Protection Act) "if local government imposed conditions prevent the owner from achieving consistent densities and intensities of use pursuant to this subsection. The imposition of such conditions is presumed to impose an inordinate burden."

This provision attempts to take away the ability of the county to impose conditions on the Callery-Grove development, by imposing the specter of damages pursuant to Bert Harris if the conditions limit development.

163.3162.(5)(c) This portion of the bill creates a Bert Harris claim for failing to enact an ag enclave amendment. It gives Callery-Grove the right to respond to the state after the state land planning agency issues its ORC report (review comments and recommendations). If the DCA offers no objections or if Callery responds to the objections, the County would have to approve the amendment or be subject to a Bert Harris claim "on the basis that the denial or failure to approve the amendment constitutes an inordinate burden." This makes an ag enclave an "existing use" pursuant to the Bert Harris Act and would take away the discretion of the BCC to not approve the ag enclave without risking damages pursuant to the Bert Harris law.

Section 2

163.3245 The bill adds a provision to 163.3245 that makes it clear that a development application that has been submitted prior to the effective date of a sector plan cannot be made to comply with the subsequently adopted sector plan without the written consent of the applicant. As the County has abandoned the sector plan process and as the subsection would only apply regarding applications pending on December 31, 2007, this provision does not effect any pending applications in Palm Beach County.

Conclusion: The bill by strengthening the protection provided to a property owner by the Ag Enclave law, interferes with the legislative authority of the Board of County Commissioners and would be an erosion of local land use and zoning authority.

Florida Forever

By: Pittman Law Group

ENRC 9 The successor to the Florida Forever program was work-shopped Wednesday in Conservation & State Lands. The focus of the successor program will be centralized land management, accountability of natural and financial resources, public access to land and water, and public-private partnerships. Chair Kendrick discussed the committee's plan in modifying the program to suit the state of affairs in Florida right now, namely the budget crunch. He said that although Florida Forever is a very popular program with most everyone, spending too much money to conserve land during a period when all other agencies are being asked to cut back would be unwise. He stated the importance of being creative in their changes to the program to best utilize a small amount of funds. Rep. Weatherford also stated his desire to take advantage of other ways to conserve land besides an outright purchase. He and Chair Kendrick both recommended the use of density credits as an alternative.

There were several public comments on the topic, including the Coalition for Responsible Growth, the Florida Wildlife Association, the Nature Conservancy, the Water Management district and AIF. All the speakers very much supported the responsible use of State funds to conserve more of the natural Florida.

Gun Bill

by: Travis Sowards, Palm Beach County Intern

Before a packed house in the Environment & Natural Resources Council, the Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008 was passed with an 11-6 vote. Sponsored by Representative Greg Evers of District 1, the bill requires employers to allow legal firearms on company property as long as the gun owner has a concealed weapon permit and the firearm is kept out of view in a locked vehicle. The debate pitted the rights of property owners versus the rights of gun owners. In the final vote two Republicans crossed otherwise party lines and voted against it and one Democrat voted for it.

Planning/Zoning/Building issues

By: Pittman Law Group

SB 1466- Aronberg, HB 407- Chestnut After conferring with the County, SB 1466 imposing civil penalties for performing unlicensed contracting work, is being supported and not amended to require criminal penalties. Pittman Law Group and Gene McGee spoke to the bill sponsor, Sen. Aronberg as well as members of Regulated Industries to find support for the bill. In consultation with our lobby team, Senator Aronberg felt it would be prudent to temporarily postpone the bill in order to provide more time to work with Senate Committee members and Industry Representatives to gain support for it. We have been in contact with the Homebuilders and Construction Coalition, who are the major opposition to the bill, to discuss potential changes.

The identical bill by Rep. Chestnut had not yet been put on the agenda. On Tuesday, Pittman Law Group and County Staff met with Rep. Lopez-Cantera, Chair of Business Regulation, the first committee of reference, to discuss his reservations. While he was against imposing harsher penalties for these kinds of infractions, he was willing to continue meeting with us to further discuss it. He agreed to reconsider supporting a hearing on the bill after we meet with the industry and discuss making changes to the bill.

Medical Assistance Eligibility of Inmates – HB 525

by: Akerman Senterfit, Corcoran and County Staff

This legislation is the state portion of one of our federal priorities that will allow Medicaid benefits for inmates to be suspended rather than terminated upon entering a detention facility. The fiscal note on this legislation was successfully reduced from \$1.3 million to \$300,000. Our lobby team from Akerman met with Representative Patronis, Representative Sands, Representative Weatherford and Representative R. Garcia regarding HB525. On March 11th the bill was up in Health Innovation and unanimously passed. Now the next stop for HB525 is the Healthcare Council.

Trauma Care

By: Akerman Senterfit

SB 658 by Bennett and HB 1177 by Bean on Road Rage and aggressive driving, dedicates the additional funding raised from these types of infractions to go towards trauma centers. We will be meeting with the Secretary of AHCA next week to discuss some potential options for trauma funding.

Transportation Disadvantaged

by: Transportation Disadvantaged Staff and Ericks Consultants

SB 788 was heard in the second committee reference, Community Affairs, this week and was passed unanimously. The next committee reference is the Transportation and Economic Development Appropriations committee. This bill ensures the coordinated planning of transportation disadvantaged services by all human service agencies; strengthen the alternative provider procedure process for purchasing agencies to ensure all agencies follow the exact same process; require all agencies to identify dollars spent on non-emergency transportation

services to transportation disadvantaged clients; and require all agencies to pay the approved transportation rates. Its Senate Companion, HB 1175 was referred to an additional committee yesterday, Health Innovation, which is a sub-committee of the Healthcare Council (the bill is also referred to this Council), and the last reference is the Policy and Budget Council. We are waiting for the bill to be placed on the agenda for the first committee, but anticipate that it will be soon.

This week a Medicaid Impact Conference meeting was held. The information presented by AHCA was proposed. The members went through a list of 54 items that they wanted to know the impact of reducing or increasing from the Medicaid budget. Item #6 Non-Emergency Transportation - Reduce contract by 1% = \$731,017, proposed start date 7/1/08. Again, this information was just proposed and has not been confirmed as a reduction. In addition, the 1% reduction that was presented was based on a \$73 million dollar contract, which is not what the Commission contracted to provide NET services for last FY.

Enterprise Zone Boundaries

By: Pittman Law Group

SB 1572- Lynn, HB 511- Chestnut Representative Chestnut received the County's amendatory language and confirmed this week that he will take it as a friendly amendment. We are in contact with his office to have the amendment filed before its first committee stop. It has not been placed on the agenda yet, but the first committee will be Economic Development.

SB 1572 has been referred to committees but has not yet been put on the agenda. We are working to assist the Senator in getting her bill on the agenda in Commerce.

Charter County Transit System Surtax

By: Ericks Consultants

HB 747 Charter County Transit System Surtax by Ross passed unanimously out of House Urban and Local Affairs. Current law authorizes charter counties which adopted a charter prior to January 1, 1984, and each county having a consolidated government, to levy the charter county transit system surtax upon approval by majority of the electorate. HB 747 would allow all charter counties to implement the surtax following a referendum. The bill also changes the designation of the surtax from transit to transportation and authorizes funds to be used for transit.

Reclaimed Water Development

By: Wren Group

SB 2764 by Dockery provides for the local government establishment of Mandatory Reclaimed Water Use Zones. It promotes the availability of reclaimed water to consumptive use permit applicants and requires a water management district to require the use of reclaimed water under certain circumstances. It provides that the use of reclaimed water is economically feasible if provided for a charge less than or equal to the charge for potable water provided by a water utility located in the permit applicant's service area.

This week, Palm Beach County staff met with Senator Dockery and staff from the Governor's Office of Policy and Budget (OPB). Senator Dockery expressed her desire to continue supporting the County's efforts advancing the use of reclaimed water. The Governor's staff, in consultation with DEP and the Water Management Districts, concurred with the intent of the legislation but expressed concern regarding the ability of all interested parties to successfully address all of the issues raised by the proposed bill in the next 50 days. OPB expressed their intent to promote the creation of a workgroup that would meet between the end of the current session and next January to address these issues, but could not commit to having the administration be the catalyst of such a gathering. At the suggestion of Senator Dockery, we intend to propose a legislatively-directed task force (currently being drafted) and to amend it onto various vehicles. In the

absence of this language being adopted, we will continue to promote our bill.

Expedited Permitting Process for Economic

By: Wren Group

HB 147 by Schenck requires DEP & water management districts to adopt programs that create a 45-day expedited permitting process for certain economic development projects, requires municipalities & counties to identify certain businesses by commission resolution, and provides a timeframe for permit application approval or denial.

This week a committee substitute was adopted by the Policy and Budget Council and the bill moves next to the House Calendar.

Beach Management

By: Wren Group

HB 1427 by Mayfield and SB 1672 by Jones provide legislative intent to direct and commit the state's beach management efforts to address beach erosion caused by Florida's inlets, and declares that it is in the public interest to replicate the natural flow of sand at inlets. It directs that all beach quality sand associated with inlet construction and maintenance dredging, including that at federal inlets, be placed on adjacent beaches, and that DEP maintain current estimates of the natural net annual transport volume of sand at all inlets and ensure that these volumes are placed on adjacent eroding beaches. It removes the current statutory exemption for the state's 12 deepwater ports; while recognizing that deepwater ports may require relief from fully satisfying this volume requirement, it encourages these ports to make all reasonable efforts to place beach-quality sand on adjacent eroding beaches. Provides for undertaking studies and assessments for determining the cost-sharing responsibilities among entities associated with the extent of erosion caused by inlets. Directs DEP to protect the state's investment in beach nourishment projects within an inlet's zone of influence by taking all reasonable action to reinstate the natural flow of sand in disputes between beneficiaries of the inlet, local governments, or adjacent inlet property owners, regarding how much sand should be by-passed.

This week both bills passed unanimously out of their respective committees with two amendments; one technical and one ensuring that the bill complies with the Florida Building Code.

Growth management/Transportation Concurrency Issues

By: County Staff

A presentation was provided by the University of Florida regarding transportation concurrency in Florida in the House Committee on Infrastructure this week. The presentation reviewed the evolution of transportation concurrency in Florida including the inconsistency of the interpretation of level of service throughout Florida. DCA Secretary Tom Pelham addressed the issues of proportionate share and mobility fees. Thank you to Representative **Bucher** who raised concerns regarding the current proportionate share ordinance required to be adopted by counties. Secretary Pelham suggested that rather than working on improvements to the ordinance to focus on moving towards a formula utilizing mobility fees. Representative Bucher responded with concerns over the developers having the ability to "pay and go."

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Airport Issues

By: County Staff, Foley and Lardner

SB 2232 by Senator Fasano regarding the protection of minors online requires that entities that provide consumers with public access to the internet make available a product that enables the subscriber to regulate a minor's use of the services to access the internet. This causes concerns whether this would apply to the service provider or to the establishment, for example the airport, which provides these services. The airport currently does not manage the free wi-fi at PBIA. Any public records request would have to go through the ISS Department which does not keep records of this activity. We are seeking clarification and have possible suggested language that would preclude any entity that provides Internet access to the general public free of charge.

Dart Firing Stun Gun

By: County Staff

SB 654 by Senator Crist relating to offenses against officer was heard in Senate Criminal Justice this week along with the amendment sponsored by Senator Aronberg for Palm Beach County regarding immunity from civil liability for police officers when using less lethal munition to include dart firing stun guns. House companion bill (HB61) sponsor Representative Scionti raised concerns over the germanity of the amendment prior to the Senate hearing to county staff. Senator Aronberg withdrew the amendment until these issues could be addressed.

Affordable Housing

By: Ericks Consultants

SB 482 by Senator Garcia expressing legislative intent to revise the laws relating to affordable housing was work shopped in the Senate Committee on Community Affairs this week. Some revisions in the bill include the definition of eligible housing to include manufactured housing, allowing the Florida Housing Finance Corporation to withhold up to \$5 million in funds distributed from the Local Government Housing Trust Fund to provide additional funding to counties and cities in a state of emergency, and allowing the Florida Housing Finance Corporation to withhold up to \$5 million in funds distributed from the Local Government Housing Trust Fund to provide additional funding to counties and cities to purchase properties subject to State Housing Initiatives Partnership (SHIP) Program. The bill is scheduled to be heard in Community Affairs on 3/19.

Palm Beach County Intern Week

We would like to thank Travis Sowards, a senior at the University of Florida who spent his Spring Break interning with Palm Beach County this week at the Capitol. Travis is an Economics major with a minor in Agriculture who we know will have a successful career in politics after he graduates next year.