

# PBC Legislative Update

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## State Issues – Legislative Session– Week 8

### County Priority Issue Updates

#### Budget Issues

*By: The Wren Group and County Staff*

#### Appropriations SB 2900 / HB 5001

All of the appropriations conference sub-committees completed their deliberations this week, with a series of issues being bumped to Sen. Carlton and Rep. Sansom. The best information currently available suggests that the budget will be distributed to the members on Monday April 28<sup>th</sup>. Of the main issues being tracked by staff relating to natural resources management the chambers reached consensus on the following:

- \$300 million for the Florida Forever Program
- **No funding** for Everglades Restoration which includes Lake Okeechobee, Caloosahatchee and St. Lucie River and Estuaries
- \$60 million for Water Projects (as of yet unspecified)
- \$7.7 million for development of Alternative Water Supplies
- \$18 million for TMDL's (SB 444)
- \$18.936 million for Statewide Beach Projects
- \$38.4 million for Exotic Plant Control

To recap, Palm Beach County priority water projects are funded by the Senate as follows:

<u>Water Projects</u>	<u>Amount</u>
Lake Region Water Treatment Plant	\$ 400,000
Loxahatchee River Preservation	\$1,300,000
Lake Worth Lagoon Restoration	\$ 0
Chain of Lakes	\$ 200,000

#### Taxation and Budget Reform Commission

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

The Taxation and Budget Reform Commission concluded their work this Friday and have approved the following Constitutional Amendments to appear on the ballot this November.

- An amendment allowing the use of state money to pay for scholarship vouchers that students could use to pay for private school, and requiring school districts to spend 65 cents of every education dollar in the classroom, thus capping administrative expenditures at 35 cents for every dollar. The voucher proposal would overturn a Supreme Court ruling that struck down former Governor Jeb Bush's school-voucher program as unconstitutional.
- An amendment that would allow the state to distribute tax dollars to religious groups.
- An amendment to tax waterfront properties based on how the property is actually used, rather than on the best use of the land, such as the

potential for highly profitable condominiums. The change would save marinas and other working waterfront properties about \$70 million next year and \$306 million by 2012.

- An amendment to cut property taxes by 25% (by elimination the Required Local Effort) in exchange for increasing the state sales tax from 6 cents to 7 cents. Under this proposal, schools would receive their funding from a combination of sales tax and other state taxes rather than property tax.

Stay tuned for programs that will be conducted by Legislative Affairs staff this Fall around the County to discuss these and other amendments that will be on the November ballot.

### **Fiscally Constrained Counties**

*By: County Staff*

**SB 1588** passed the Florida Senate last week and the Florida House this week. This bill included language that would provide funding for the fiscally constrained counties in order to hold them harmless from the diminished revenues to those counties caused by reductions from the passage of Amendment 1 on property tax reform. The House and Senate were continuing to reconcile the differences in their budget since fiscally constrained counties currently are budgeted for \$5 million in the Senate budget and \$26 million has been recommended by the House. It is currently anticipated these funds will be derived from nonrecurring general revenue dollars. As of the most recent budget offer between the House and Senate, it appears that the small counties will most likely receive approximately \$5 million in revenue this year.

### **Property Tax Legislation**

*By: Pittman Law Group*

**SB 1588 by Haridopolos** (HB 7131 laid on table) passed on 3rd reading Wednesday in the House, and is going back to the Senate for final approval. The legislation does the following:

- Rollback: Ties the max millage rate to what would have been charged the prior year adjusted for the CHANGE (not growth) in per capita income
- To exceed the rollback in 2009-2010:
  - to go to 110% of cap, need 2/3 of THE MEMBERSHIP of the governing body must approve it.
  - For more than 110%, need 3/4 of THE MEMBERSHIP of the governing body must approve it.
- Fiscally constrained counties: the legislature will appropriate funds beginning in '08-'09 to offset reductions in ad valorem taxes in fiscally constrained counties.

### **State and Local Government Revenue Limitations**

*By: County Staff*

**HB 7125** by the Government Efficiency and Accountability Council passed the House of representatives this week by a vote of 79-38. The bill proposes an amendment to the State Constitution to revise state revenue limitations by providing that state revenue growth is limited to changes in population and inflation, plus one percent. It also changes the types of revenues that are subject to the limitation, and provides revenue limitation for counties, municipalities, school districts, and special districts to be implemented by the Legislature. The bill still has language that removes unfunded mandates from being considered under the revenue cap. The bill has been sent to the Senate in messages but has no Senate companion.

### **Traffic Safety Photo Enforcement**

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

Because **SB 816 by Bennett and HB 351 by Reagan** were not heard in their remaining committees of reference, the only way to move this legislation without withdrawing it from the committees was to amend portions on the bill to another piece of legislation. Last week **Senator Margolis** placed language in the Senate red light bill into **SB 1978 by Senator Baker** relating to transportation.

Representative Reagan filed an amendment on Friday that also includes the Senate language into **HB1992** relating to Highway Safety and Motor Vehicles by Senator Baker, which was substituted for HB 1329 by Representative Glorioso.

The amendment allows DOT to administer and use cameras for red light enforcement. It allows local governments to pass ordinances setting up the programs in their jurisdictions and provides for a \$60 fine for such a violation to be distributed in a similar manner as local tickets for fines are distributed. This issue remains very much in play going into the last week of session.

### **Autism**

*By: County Staff*

**SB 2654 by Senator Geller** relating to autism passed an emotional third reading in the Senate and is now in House Messages. The bill was named the "Steven A. Geller Act" in an amendment filed by Senator Webster. The bill requires health insurance plans to provide coverage for screening, diagnosis, intervention, and treatment of autism spectrum disorder in children diagnosed as having autism spectrum disorder at 8 years of age or younger, and prohibits an insurer from denying or refusing coverage to renew or reissue or terminate coverage based on a diagnosis of autism spectrum disorder. The bill also provides coverage for behavioral therapy up to \$36,000 per year. Companion HB 1291 by Representative Porth has two more of three committees of reference although the bill has over 80 co-sponsors in the House.

The Select Committee on Autism & Development Disorders met on April 21<sup>st</sup> and presented their proposal called "The Window of Opportunity Act". The proposal includes insurance coverage for all children with autism and other developmental disabilities. Provisions included are: removing the cap on Kid Care, enhancing benefits through Medicaid, expansion of eligibility for the McKay Scholarship, creation of the Voluntary Pre-Kindergarten Education Program, increasing early diagnosis through "Early Steps" and requiring continuing education related to developmental disabilities for licensed health professionals.

### **SFRTA**

*By: County Staff*

**HB 1245 by Representative Galvano** passed out of the House this week and is now in Senate messages. HB 1245 provides that 80% of the rental car surcharge revenues collected in a county within specified regional transportation authorities (RTAs) shall be deposited into the accounts of the South Florida Regional Transportation Authority, the Northwest Florida Transportation Authority and the Tampa Bay Area Regional Transportation Authority. Currently the revenues are deposited in the State Transportation Trust Fund to fund transportation projects in the district of collection. Similar Bill **1512 by Senator Geller**, provides for the same stipulations as HB 1245 although only specific to the South Florida Regional Transportation Authority. It has not yet been heard in any of the five committees of reference.

An amendment including the House language was filed by Representative Glorioso to SB1992 relating to highway safety and motor vehicles by Senator Baker. The bill was temporarily postponed and the bill is currently listed in the House's unfinished business.

SB1978 also by Senator Baker relating to Department of Transportation has been placed on second reading in the Senate. The bill includes language filed by Senator Webster this week that allows counties to levy a discretionary local surcharge if approved by referendum that would place an additional \$2 per day surcharge on car rentals originating from an international airport for the first 30 days of rental. The proceeds are to be transferred to the Local Option Fuel Tax Trust Fund and be distributed monthly by FDOT to be used solely for costs associated with the construction, reconstruction, operation, maintenance and repair of facilities under a commuter rail service program provided by the state or other governmental agency.

#### **Florida Forever**

*By: The Wren Group and County Staff*

This week the Senate considered **SB 542** on the Senate Floor (refer to last week's report for details), and adopted a number of amendments, including amendments to include "working waterfront" provisions in the bill and appropriating \$7.5 million per year to preserve and protect waterfront property and public access. The bill also names the gopher tortoise the official state tortoise, and deletes some language formerly in the bill prescribing certain policies regarding land management. The Senate passed the bill as amended out of the Senate and it is in Senate messages in the House.

In the House, the House Policy and Budget Council adopted a strike-everything amendment to **HB 7141**. Both bills extend the program another 10 years, through 2010, provide additional emphasis on management of lands owned for conservation; mandate additional reporting and data collection about where those lands are and their uses, and provide increased emphasis on using state lands to relocate gopher tortoises from private lands to enhance and preserve viable populations of the species. It also now appears that the Florida Communities Trust program will remain with the Department of Community Affairs – legislators had considered moving that program to the Department of Environmental Protection, but have now relented. It seems that the Senate bill will be the one that passes both chambers.

#### **Enterprise Zone Boundaries**

*By: County Staff and Pittman Law Group*

**HB 7111** by the Economic and Infrastructure Council relating to Economic Development contains the language requested by the County to expand Enterprise Zones three additional miles in rural areas of critical economic concern. The bill was placed on the House's Special Order Calendar this week but was temporarily postponed on Second Reading. The language has also been included in an amendment filed by **Representative Weatherford to SB 2778 by Senator Fasano**. The bill is in House Messages and has been referred to the calendar. The language states that the "governing body of a jurisdiction that contains a designated enterprise zone that includes a state-designated rural area of critical economic concern may apply to OTTED to expand the boundaries of the enterprise zone by not more than 3 square miles.

#### **Scanner Law**

*By: County Staff, Pittman Group, Corcoran and The Moya Group*

**HB 151 by Representative Reed / SB 522 by Senator Hill** relating to radio equipment using law enforcement agencies and amended with the County's language allowing employees of a local or state government agency to carry radios with access to law enforcement signals inside a non-emergency vehicle is now ordered enrolled after passing third reading and awaiting the Governor's signature.

## **Mining**

*By: County Staff, Ericks Consulting, and The Wren Group*

Although both Senate mining bills were voted down by the Senate Environmental Preservation and Conservation Committee last week, there have still been amendments filed on the floor of the House related to very limited mining restrictions in Southwest Florida. We continue to watch for amendments in the Senate. Additional mining language is contained in **House Bill 1399**. (See Transportation Package summary for details.)

## **Ag Enclave Bill**

*By: County Staff*

**HB 1173**, was amended on the floor of the House to reflect changes to the Senate bill that were offered last week in committee. Those two amendments would extend the amount of time the local governments and property owner would have to negotiate after a transmittal to DCA had been received back before going to a Bert Harris proceeding to an additional 90 days. In addition, one other amendment was adopted that addresses how a land owner would have to respond to any objections or concerns from the land planning agency. The House bill is currently pending third reading in the House of Representatives.

**SB 2246 by Sen. Baker** is now on second reading in the Senate.

## **Clerk's Bill**

*By: County Staff, Moya Group, and Pittman Law Group*

## **HB 399/ SB 640- Financial Management by Local Governments**

**SB 640 by Senator Oelrich** which still has one more Senate committee referral-Judiciary - has received a tremendous amount of attention since several Counties still have serious concerns with the legislation and are working to draft amendments to the bill that would clarify language regarding the role of the Clerk in local government accounting procedures. Palm Beach County had language that was amended into the bill several weeks ago that addressed some of our early concerns.

**HB 399 by Representative Grant** has been placed on the Calendar for second reading. Representative Grant stated on the record at its last committee stop that this bill does not allow the clerk to conduct post audits. However, several floor amendments filed to the bill would run contrary to that statement. We will continue to monitor the bill if it is heard on the floor next week.

## **Local Government Transparency**

*By: Pittman Law Group, Ericks Consulting, and County Staff*

## **Local Government Transparency/Contract Info: SB 392 by Sen. Storms, HB 181 by Rep. Harrell**

On Tuesday, **HB 181** was heard in Government Efficiency and Accountability. This bill was the companion to Sen. Storms Transparency bill which passed favorably through 4 committees then passed on the floor of the Senate. Rep. Harrell filed an amendment to conform it to the Senate bill, but Rep. Gibbons filed an amendment to her amendment. The amendment to the amendment would increase the threshold for having to post the contract online from those above \$5,000 to above \$25,000. He said that there are far too many insignificant local government contracts below the \$5,000 range and that increasing the limit would greatly decrease the burden on local governments. Rep. Harrell, as the sponsor, considered this an unfriendly amendment since, because the Senate bill passed with the \$5,000 language, changing her bill would effectively kill it since the two bills would no longer match. However, despite the wishes of the sponsor, the amendment passed. Next, Rep. Thompson took this chance to pose a late-filed, handwritten amendment which would require that, in addition to the name, amount and purpose of the contract, local governments would have to post whether the contract was awarded to a minority owned company or not. The amendment was taken up and passed.

Rep. Robaina was concerned that his committee, Urban & Local Affairs had not yet heard this bill. He was concerned about the bills impact on local governments and wanted to hear what the League of Cities thought. The League said that although they favor transparency, they opposed the bill. They said other States that impose this sort of requirement do it on a State-wide basis to work out any procedural issues before asking the Counties and Cities and special districts to implement it on their own.

After this chain of events, Rep. Jordan recommended that the sponsor temporarily postpone the bill, rather than allow a vote on the language. Rep. Harrell did so.

**Transparency in Local Government/Spending:**  
**HB 7123 (formerly GEAC24)**

The day before the Government Efficiency & Accountability Council meeting, Rep. Harrell filed an amendment to HB 7123. This is the bill which would require Cities, Counties and special districts to adopt a uniform financial plan, limit their unreserved, undesignated fund balance to 20%, and submit a 4-page written budget message to be posted online. Rep. Harrell's amendment would insert the additional language of HB 181, requiring contract posting online, into HB 7123. The amendment was not allowed for consideration pending a point of order. It is currently filed as amendment #420845 to HB 7123. The bill is still temporarily postponed on 3<sup>rd</sup> reading.

**Equine Activities**

*By: County Staff*

**HB 305 by Representative Vana and SB 964 by Senator Aronberg** designates the "Nicole Hornstein Act", which provides that a person under the age of 16 must wear a helmet if they are riding a horse on public lands. The House bill was placed on the special order calendar on April 25 and read a second time. The Senate bill was placed on the Judiciary calendar on April 21<sup>st</sup> but was not considered.

**Scripps Research Institute**

*By: County Staff*

**SB 2778 by Senator Fasano** requires the Scripps Florida Funding Corporation, along with the Office of Tourism, Trade, and Economic Development and Enterprise Florida, Inc., to review the performance and progress of grant recipients of the Innovation Incentive Program, and requires the Legislative Budget Commission to review and approve an innovation incentive award before the Executive Office of the Governor releases the funds.

While this bill passed the Senate last week, it does not have a specific identical House bill. It does, however, contain portions of several bills that are currently pending in that Chamber. There is a significant 111-page strike all amendment filed in the House to this bill that includes these Scripps provisions and many other economic development issues including the county language regarding enterprise zones in rural areas of economic concerns.

**Moving Bill (Local Government Preemption)**

*By: County Staff*

No action was taken this week on **SB 530 by Senator Saunders** that preempts local government ordinances related to household moving services by eliminating county authority to impose local ordinances regulating moving companies.

Identical **HB 611 by Representative Nehr** has not yet been heard in any of its' three committees of reference.

### **Fertilizer Preemption**

*By: County Staff and The Wren Group*

**SB 2352 / 1267** – These bills appear to have died. The Senate bill was temporarily passed in Senate Community Affairs; and therefore, remains stuck in that committee. The House bill remains in the Policy and Budget Council.

### **DOT Com Issue**

*By: County Staff*

**PCB GEAC 08-20** relating to general tax administration includes a provision that grants a tax exemption to online travel companies. Because of instances where online travel companies are collecting taxes only on the actual hotel room instead of the total amount of consideration paid by the guest occupying the room, several counties filed lawsuits to collect these taxes due. Proponents and opponents argue on the interpretation of the current law. The Florida Department of Revenue states that the bill's language clarifies existing statute language on what is taxable while counties argue that it is a substantive change in law. Representative Robiana offered amendments to support the county's position and stating that this would result in an approximate \$22 million loss in revenue. The amendments were ultimately withdrawn with Representative Robiana stating he wants clarification on the interpretation of what is currently taxable. The bill passed out of committee with Representative Gibbons as the only dissenting vote on the committee. This week, GEAC 08-20 was amended into **HB 7147**. The online travel company tax exemption language was filed as an amendment to HB 671 which was on second reading in the House this week but the amendment language was withdrawn.

### **Agriculture Bill/ Wetland preemption/ Stormwater preemption**

*By: County Staff*

**SB 1376 by Dean** passed out of General Government Appropriations this week. The bill prohibits a county government from imposing a tax, assessment or fee for stormwater management on agricultural land if the agricultural operation has an agricultural discharge permit or implements best-management practices adopted by the state.

The House companion **HB 761 by Pickens** contains the same language as the Senate bill but also includes language allow for expansion of open burning of materials relating to the growing of agricultural crops. It passed on second reading of the House this week.

### **School Board Sign Issue**

*By: County Staff*

In discussions between the County, School Board, and the League of Cities, language was agreed upon that would create a 3 year pilot program that would allow schools to continue displaying advertisements on their facilities. The language would specifically preempt to the School Board the authority to regulate these signs in unincorporated areas. In doing so, it would suggest that where possible, the School Board should adhere to stands as defined in the existing local county ordinance. The language is only specific to the unincorporated county and will not effect any municipalities. The language is now contained in **HB 1399**.

### **Transportation Package**

*By: Pittman Law Group*

**SB 1978 by Baker** has passed favorably through all three committees, returned to TED Approps Thursday, passed 4-1 and is now on second reading on the floor of the Senate. **HB 1399 by Aubuchon** has already passed second reading in the House and is now awaiting final passage.

BOTH bills include the following:

- Transportation concurrency: must set a concurrency backlog schedule providing for the elimination of all transportation concurrency backlogs within 10 years
- asphalt: a county may not own or operate an asphalt plant as of 4.15.08
- Bids: the dept may offer a stipend to unsuccessful firms who make construction/maintenance proposals
- Tolls: all new tolls built with electronic toll collection (Sunpass) must be interoperable with the dept.'s electronic toll collection
- Projects w/ counties: the dept. can enter into agreements with Counties with fewer than 150,000 population for a high priority project not included in the adopted work plan. The total amount of these project agreements may not exceed \$200million
- Work plan: when the department proposes an amendment to the work plan that would delete or defer a construction phase, they have to notify all the effected counties and allow for a comment period
- CSX: in acquiring the rail corridor from CSX and leasing it back to them, the dept. agrees to indemnify CSX against any damage caused by their agents regardless of negligence or misconduct subject to a \$200 million cap
- Language:

"Assume the obligation by contract to forever ... indemnify and hold harmless the freight rail operator, or its successors, ..., and that freight rail operator's officers, agents, and employees, from and against any liability, ...including, but not limited to, commuter rail passengers, rail corridor invitees, and trespassers in the rail corridor, regardless of whether the loss, damage, destruction, injury, or death giving rise to any such liability, cost, or expense is caused in whole or in part and to whatever nature or degree by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of such freight rail operator, its successors, or its officers, agents, and employees, or any other person or persons whomsoever"

The HOUSE bill also includes:

- Developments of Regional Impact: facilities deemed port-related industrial or commercial projects located within 3 miles of a port which rely on use of the port are not developments of regional impact where they are consistent with comprehensive master plans
- SARA: Strategic Aggregate Resource Assessment; the department will work with local govt's. in the preparation of the SARA to identify and map areas where construction aggregate materials deposits are located within the State and consider any permitting and federal issues. \$700,000 appropriated for 08-09 only and requires a non-state match.

### **TOPS**

*By: Foley and Lardner*

Foley and Lardner assisted Palm Beach County on lobbying the Florida Department of Transportation in support of the "TOPS" public transportation funding on behalf of County Engineering. The County has through June 30 to begin the expenditure of funds for their remaining TOPS funding project.

### **Growth Management**

*By: Wren Group and Pittman Law Group*

**In the House, HB 7129** was amended by the adoption of another lengthy "strike everything" amendment, and several shorter amendments were adopted as well. The 168 page House bill was heard on second reading Friday in the House. **In the Senate, SB 474** was taken up by the Senate Transportation Committee. There also was a lengthy "strike-everything" amendment adopted to the Senate bill, and several other short amendments to the now 136 page Senate bill. While the bills have moved closer one another in a number of material

respects, there are still major differences between the two bills, and it is unclear how, or whether, those differences will be resolved during the final week of the session. Both bills ease restrictions on urban development, and both bills seek to address issues with transportation concurrency, backlogs, and proportionate share evaluation and assessment – a major issue this year has been how to calculate transportation concurrency impacts, and assess fees for those impacts for new developments. It is likely that there will be a requirement to study and propose implementation of a mobility fee as one mechanism to help address that issue on an interim basis and in future legislation. Provisions regarding affordable housing, an “urban placemaking initiative” and rural economic development are included in both bills. One new point of contention in the recent revision of the House bill is its prohibition of referenda regarding local comprehensive plan or map amendments.

**BOTH bills:**

- Limits comprehensive plan amendments to only once a year; provides that amendments in certain areas can be done twice a year.
- Trans concurrency: Designates certain urban areas identified for urban infill in the comprehensive plan as transportation concurrency exception areas
- Provides that a developer may not be required to pay proportionate share mitigation that is more extensive because it is located on a backlogged transportation facility.
- Requires a plan or amendment that will be considered by a local government to be filed with the local government and made available to the public at least 5 business days before the hearing

**SENATE bill:**

- Membership of local planning agency: Prohibits members of the governing body of a local government from also serving on a local planning agency except in a municipality with a population of 5,000 or fewer
- Requires local governments to amend their comprehensive plans by July 1, 2009, to provide a 15-percent density bonus if land is donated for the development of affordable housing and for residential or mixed-use development located within 2 miles of an existing employment center or an employment center that has received site plan approval.

**Medical Assistance Eligibility of Inmates**

*By: Ericks Consulting*

**HB 525** relating to Medical Assistance Eligibility of Inmates remains on Second reading in the House. It's Senate Companion, SB 1456, passed second reading on the floor of the Senate and it should be sent over in Messages to the House sometime early next week where it would be eligible to be heard by the full House.

**Transportation Disadvantaged**

*By: County Staff*

This week an amendment was adopted to the Senate transportation package that would add an additional \$1.50 per vehicle registration thus doubling the fee that pays for transportation disadvantaged trips. If passed this will raise an additional \$20 million for funding this program.

**Palm Beach County**

**Board of County**

**Commissioners**

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Chairperson

Jeff Koons, Vice Chair

Karen T. Marcus

Robert Kanjian

Mary McCarty

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**Value Adjustment Boards**

*By: County Staff, Foley & Lardner*

HB 909 by Representative Nehr relating to Ad Valorem Taxes includes language that changes the composition of the value adjustment board and requires all members to be private citizens who are not members of the governing body of the county or the school board, and precludes county attorneys from serving as counsel to the board. The bill also requires the Department of Revenue to develop a uniform policies and procedures manual that does not currently exist and training for special magistrates at least once each state fiscal year in at least five locations throughout the state. The effective date was July 1, 2008 but at the request of the County, Representative Nehr moved the date to September 2008 to give the Department and governmental entities sufficient time to enact these changes. An amendment adopted by Representative Attkisson also requires the Board of County Commissioners to agenda the concerns of the taxpayer or property appraiser if they are not resolved by the value adjustment board no later than 30 days after the filing of the form and record with the governing body of the County and to issue written findings on the complaint. This amendment was adopted on second reading in the House and poses a concern to the county as it would significantly involve the Board of County Commissioners in this process and extend the BCC meetings significantly.

**PBC TV Channel 20 Programming Notice**

Beginning Monday, April 28th, Channel 20 will provide live coverage of the final week of the 2008 Florida Legislative Session. Our Legislative Session live coverage originating from Tallahassee will begin immediately after the BCC Transmittal Public Hearing adjourns on Monday and will continue until the session goes into recess for the evening.

Each day next week we will broadcast live satellite coverage of the session via the Florida Channel until both the House and Senate Chambers recess for the evening. On Thursday, May 1st our Legislative Session coverage will resume immediately after the 9:00 a.m. Zoning Commission meeting adjourns.

