

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years 2008 2009 2010 2011

Capital Expenditures
Operating Costs

External Revenues
Program Income (County)
In-Kind Match (County)
NET FISCAL IMPACT

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included In Current Budget? Yes ___ No ___

Budget Account No.: Fund ___ Agency ___ Org. ___ Object ___
Reporting Category

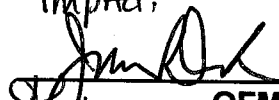
B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review:


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

No fiscal impact of the report. New legislation being reported does have fiscal impact.



OFMB CN 5/29/09
5/29/09



Contract Dev. and Control
6. Jones 5/29/09

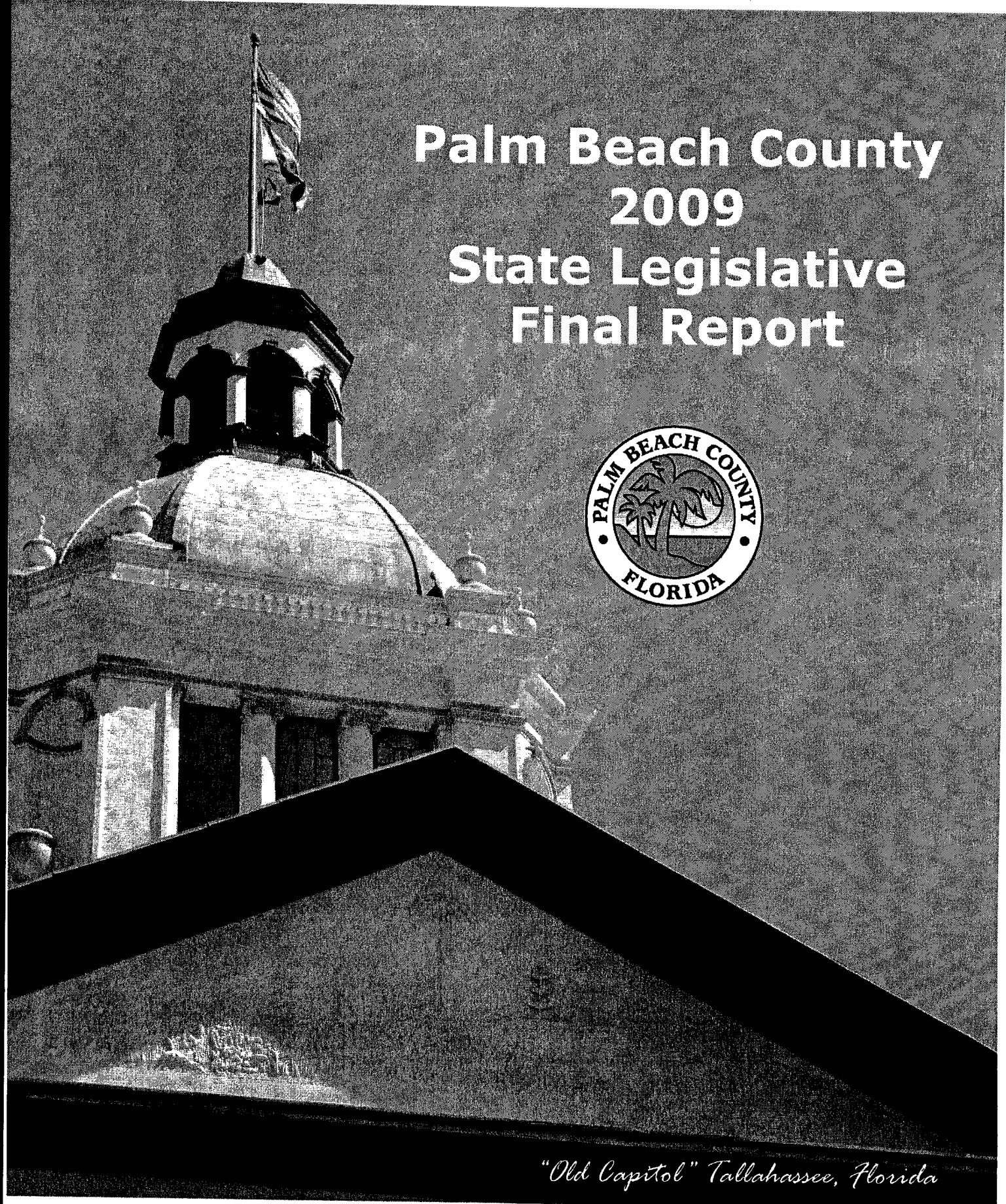
B. Legal Sufficiency:



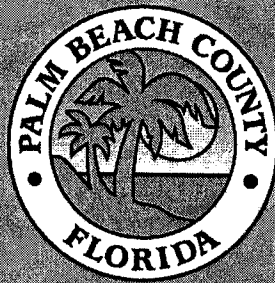
Assistant County Attorney

C. Other Department Review:

Department Director



**Palm Beach County
2009
State Legislative
Final Report**



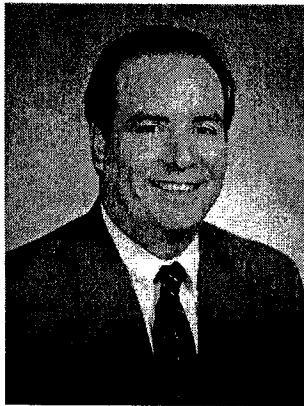
"Old Capitol" Tallahassee, Florida

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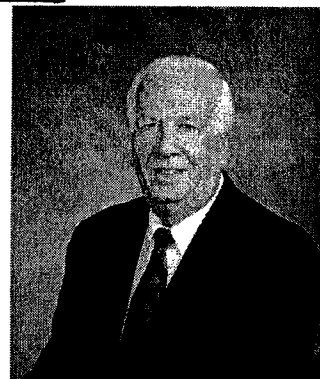
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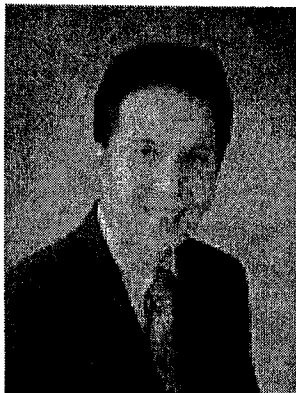
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Section

1

APPROPRIATION PRIORITIES

Appropriations

Education

Health Care

Environment

Transportation

Economic Development

New State Revenues

New State Fees

Appropriation Issues That Passed

Appropriations

By: The Wren Group and County Staff

Conference meetings ended on the budget on Monday, May 4th and the final bill was placed on the desk Tuesday and voted out Friday, May 8th. Palm Beach County was extremely active in lobbying for the inclusion of funding for specific programs in the budget. Below are some of the highlights of this year's \$66.5 billion spending bill and how it affects Palm Beach County:

Education

Statewide Funding

K-12 per-student's funded to \$6873 an increase of \$28 over the 08-09 FY
Increased State Universities funding by authorizing up to 15% tuition hike

Palm Beach County Schools K-12

K-12 State RLE and Categorical Funding 1,200,837,456

Florida Atlantic University

| | |
|------------------------------------|-------------|
| FAU Education & General Activities | 148,688,850 |
| FAU Lottery Funds | 14,001,547 |
| FAU Student Financial Assistance | 964,108 |

| | |
|--|-----------|
| FAU PECO - Util/Infras/Capital Renew/Roofs | 2,429,132 |
| FAU PECO - FAU/UF Joint Use Facility - Davie | 1,452,239 |
| FAU PECO - General Classroom/Engineering Building | 2,315,443 |
| FAU PECO - General Classroom Facility-Phase I | 942,661 |
| FAU PECO - FAU/SCRIPPS Joint Use Facility- Jupiter | 2,000,000 |

Florida Atlantic University Autism Program 593,176

Palm Beach Community College

| | |
|----------------------|------------|
| PBCC - Baccalaureate | 42,680 |
| PBCC Lottery Funds | 5,897,712 |
| PBCC Program Funds | 45,968,439 |

| | |
|---|-----------|
| PBCC PECO - Gen ren/rem, Infrastructure & Site Improvements | 1,634,162 |
| PBCC PECO - Rem/ren Clsrms/Labs-110,111,205&230-Lk Worth | 750,000 |
| PBCC PECO - Public Safety Training Center, LW | 1,500,000 |

Workforce Education

| | |
|---|------------|
| Public Schools Workforce Education Perf. Based Incentives | 201,315 |
| Public Schools Workforce Education Program Funds | 15,610,924 |

Health Care

Fully funded the MEDS-AD and Medically Needy Programs
Maintained current funding for KidCare
Increased coverage to include Mental Health and Dental

Housing-Statewide

| | |
|---|------------|
| SHIP funding and Homebuyer Assistance | 30,000,000 |
| Low Income Home Energy Assistance Program | 65,500,000 |

Environmental Protection-Statewide

| | |
|------------------------------------|------------|
| Beach Restoration | 15,000,000 |
| Underground Petroleum Tank Cleanup | 90,000,000 |
| Everglades Restoration | 50,000,000 |

| | |
|---|------------|
| Invasive Plant Control | 26,290,000 |
| Boating Improvement Grants | 4,500,000 |
| <u>Economic Development</u> | |
| Film Incentives | 10,800,000 |
| Cultural Grants | 2,500,000 |
| Historic Preservation Grants | 550,000 |
| <u>Transportation</u> | |
| <u>Aviation</u> | |
| PB International Airport Extend Runway 9R-27L | 3,275,000 |
| <u>Bridges</u> | |
| Bridge Replacement at NW 45th St (MP 103.3) | 3,700,000 |
| SR-5/US-1 Bridge#930004/Parker BR Bascule Bridge/CM @ Risk | 6,853,298 |
| SR-5/US-1 Bridge#930087/930117 & 930075/930116 | 16,913,249 |
| SR-5/US-1 Bridge#930087/930117 & 930075/930116 | 1,733,000 |
| <u>Intermodal Access</u> | |
| SFRTA STP Funds from MPO for Extension to Jupiter | 1,500,000 |
| <u>Other Arterials</u> | |
| SR-704/Okee. Blvd from W of Clearlake Bridge to Aus. Ave/Tamarind | 2,400,000 |
| SR-708/Blue Heron Blvd @ Congress Ave Phase II | 4,968,000 |
| SR-A1A from Blue Heron Blvd/US-1 to S. of Burnt Bridge | 9,320,592 |
| Lyons Road from SR-804/Boynton Beach Blvd to SR-806/Atlantic Ave | 7,295,000 |
| <u>Resurfacing</u> | |
| SR-786/PGA Blvd from SR-710 to W of Ryder Cup Blvd | 1,971,499 |
| SR-25/US-27 from M.P. 16.050 to M.P. 25.997(SR-80) | 13,455,918 |
| SR-808/Glades Road from Boca Rio Road-W of Renaissance Way | 6,718,815 |
| SR-5/US-1/Federal Hwy from C-16 Canal to Hypoluxo Road | 2,851,853 |
| SR-805 from S. of SR-700/80 to Belvedere Road | 1,630,410 |
| SR-729/St Market Road from SR-15/US-441 to US-441 | 1,660,143 |
| SR-5/US-1 from S of SR-794/Yamato Road to S. of C-15 Canal | 3,207,233 |
| SR-706/Indiantown Rd from Chasewood Plaza-SR-811/Dixie Hwy | 4,388,660 |
| SR-809/Military Trail from Oxford Street to SR-704/Okee. Blvd | 3,932,425 |
| SR-710 from Martin County Line to SR-706/Indiantown Road | 1,642,524 |
| <u>Right-Of-Way Land</u> | |
| SR-710/Beeline Hwy from W of Aust. Ave to Old Dixie Hwy | 12,738,463 |
| SR-710/Beeline Hwy from W. of Cong. Ave to W. of Aust. Ave | 5,100,000 |
| <u>Toll Operations</u> | |
| Toll Data Center Infrastructure Equipment | 20,000,000 |
| <u>Traffic Eng & Operations</u> | |
| Palm Beach ITS Facility-Operations | 2,417,000 |
| <u>Transit</u> | |
| Palm Beach County TD Commission Trip and Equipment Grant | 1,954,344 |
| Palm Beach County Block Grant Operating Assistance | 4,265,294 |
| <u>Courts</u> | |
| Maintained current court funding through new or increased court fees creates \$227 million for the Courts Revenue TF | |
| The fees include an additional \$15 fee for County Court facilities | |
| Provided \$21.5 million to the courts, the state attorneys and the public defenders to enhance drug courts from federal stimulus funding in order to divert defendants from state prison. | |

| | |
|----------------------------------|-----------|
| <u>Vocational Rehabilitation</u> | |
| Adults with Disabilities Funds | 1,186,525 |
| <u>Public Broadcasting</u> | |
| WXEL-TV, Palm Beach | 434,837 |
| WXEL-FM,,Palm Beach | 87,287 |

New State Revenues

By: County Staff

The 2009-10 budget imposes over \$1 billion in new fees including over \$800 million in transportation related fees and \$227 million in court fees. These fees include fee hikes for automobile registration tags, drivers licenses, fishing licenses and civil lawsuit filings.

State Cigarette taxes will go up by \$1 per pack. This is estimated to raises close to \$1 billion per year to fund a variety of health care needs.

New State Fees

By: County Staff

Listed below are some of the fee increases that will be implemented:

Transportation Related

- Increases the fee for a copy of a crash report from \$2 to \$10
- Increases the fee for an original or duplicate certificate of title from \$24 to \$70
- Provides for a \$20 fee for each subsequent examination of a rebuilt vehicle cert. of title
- Increases the fee for expedited service title service from \$7 to \$10
- Increases the service charge for handling a registration from \$2.50 to \$5
- Increases service charge for the issuance of a validation sticker from \$1 to \$3
- Increases the original license plate fee from \$12 to \$28
- Increases the original license plate annual advanced replacement fee from \$2 to \$2.80
- Increases the retro-reflection fee for validation stickers from \$0.50 to \$1.50
- Increases the initial application fee for registration of a vehicle from \$100 to \$225
- Increases commercial motor vehicles surcharge on 10,000 pound vehicles from \$5 to \$10
- Increases the processing fee charged for a sample license plate from \$10 to \$28
- Increases the processing fee charged for a specialty license plate from \$2 to \$5
- Increases reexamination fee of a driver's license knowledge test from \$5 to \$10
- Expands and increases the driver's license services for which a tax collector may charge a service fee from \$5.25 to \$6.25
- Increases the fee for driver history records from \$2.10 to \$8 for a 3 year history
- Increases the driver's license delinquent renewal fee from \$1 to \$15
- Increases the fee for an original, renewal or replacement ID card from \$10 to \$25

Increases fees associated with licensing of drivers:

- Commercial Driver's License original or renewal- increased from \$67 to \$75
- Original Class E or Motorcycle use only - increased from \$27 to \$48
- Renewal Class E or Motorcycle use only- increased from \$20 to \$48
- Replacement License - increased from \$10 to \$25
- Increases Service fee from \$35 to \$45 after suspension & from \$60 to \$75 after revocation

Court Related

- Renames Probate Service Charge to filing fees and raised them by \$115
- Increases circuit civil filing fee from \$295 to \$395
- Creates graduate fees for mortgage foreclosure cases: \$395 where amount is \$50,000 or less; \$1900 where amount of controversy is \$250,000 or greater
- Increases filing fee for cross claim, counter petitions, or counter claims from \$295 to \$395

Section

2

LEGISLATIVE PRIORITIES

Legislative Priorities that Passed

Glades Regional Inland Port
Qualified Target Industry Businesses
Unfunded Mandates/Medicaid Cost Shifts
Article V
Interest Earned on County Funds
General Permit for Restoration Activities
Charter County Transit System Surtax
Prescription Drug Monitoring
Public Records
Transportation Disadvantaged
Trauma Care
Homeless Assistance Grants
Library

Bills Supported by Palm Beach County That Did Not Pass

Regional Transportation Funding
Traffic Safety Photo Enforcement

Bills Opposed by Palm Beach County That Passed

Impact Fees
Growth Management
Property Tax Reform
Property Tax Assessment Challenges

Bills Opposed by Palm Beach County That Did Not Pass

Solid Waste Disposal Fee
Juvenile Justice Legislation

Legislative Priorities That Passed

ECONOMIC DEVELOPMENT

Glades Region Inland Port

In the 09 Appropriations bill, \$1,000,000 was provided for the costs associated with the implementation of a South Florida Intermodal Logistics Center that will serve South West, South Central, and South East Florida. The funds may be spent but is not limited to the following issues: market feasibility, freight movement studies, site selection, site planning, and environmental impact studies. The Department of Transportation shall implement this appropriation in consultation with Enterprise Florida and the Executive Office of the Governor's Office of Tourism, Trade, and Economic Development.

Qualified Target Industry Businesses

HB 7031 by Representative Carroll provides many changes to economic development programs including amending statutes related to Qualified Target Industries that require that wages for expansion projects are based solely on new jobs being created, rather than an average of all jobs (current & new). OTTED and EFI are seeing indications that the dramatic downturn in the economy has caused many Qualified Target Industry recipients to temporarily halt or cut back on their expansion plans. As a result they have been unable to meet the employment levels to which they had previously agreed. The bill provides OTTED the ability to approve applications for the Economic-Stimulus Exemption for tax refund claims scheduled to be submitted after January 1, 2009, but before July 1, 2011 to ensure that businesses are not penalized for the impacts of wide spread economic conditions beyond their control, and ensure that they have an incentive to continue to grow in Florida after the downturn has passed. A business must still meet job creation requirements in the future before receiving tax refunds.

BUDGET & TAXATION POLICY

Unfunded Mandates/Medicaid Cost Shifts

Primarily through the infusion of federal stimulus funding, the state was able to hold harmless local governments from increasing local contributions to the State Medicaid program. This provision was part of requirement of accepting federal stimulus funding.

Article V

Twenty-five individual counties filed a complaint in July 2008 challenging the constitutionality of 2007 legislation that seeks to counties to fund certain elements to the newly created offices of regional conflict counsels including space, security and technical assistance. The motion for summary judgment filed by FACA participating counties was argued in Leon County Circuit Court on December 12, 2008. The judge took the matter under advisement, and on December 18, rendered an order granting the counties' motion. The court ruled in favor of the counties on two counts: 1) The court ruled that the portion of the legislation creating the regional conflict counsel that attempts to shift the funding requirements for the regional counsel offices from the state to

the counties is unconstitutional and not binding on the counties because it violates Article V, section 14 of the Florida Constitution (relates to state court funding) and because the legislature, in attempting to expand the definition of "public defender" has violated Article V, section 18 of the Florida Constitution (constitutional definition of public defender) and 2). The court ruled that the funding shift for regional conflict counsel is not binding, under Article VII, section 18 (the unfunded mandate provision) on the counties because the legislature failed to find that the law fulfills an important state interest before attempting the cost shift.

The State filed an appeal to the Supreme Court of Florida on January 5, 2009, appealing the District Court's decision of December 18 and is still pending. The pending cases prevented any changes to the program during the session.

Additionally, Counties were able to secure an increase in the \$15 fee for County Court facilities during the 2009 Session.

Interest Earned on County Funds

Language was included in SB 1718 clarifying that interest earned on county funds invested by the Clerk of Courts shall be deemed income of the county and may only be expended as approved by the Board of County Commissioners. In a recent court ruling, it was interpreted that this funding should be deemed as income of the Clerks of Court. Had that ruling remained in effect, it potentially would call into question the status of approximately \$1.5 billion in statewide interest earned on county funds.

ENVIRONMENTAL/NATURAL RESOURCES

Growth Management

By: FAC, Wren Group, and County Staff

One of the provisions of this bill that was removed by the Senate was language that would have created a TCEA in an agricultural enclave that was located in the Limited Urban Service Area of the County.

We appreciate **Senator Jeff Atwater and his staff** for their assistance in working with the County on provisions in this bill.

Beach & Inlet Management Projects

This year \$15,000,000 was allocated for beach projects on the 2009-2010 Priority Projects list. The top three projects on the department's Inlet Management List shall be funded accordingly. Appropriated funds shall also be used for post-construction monitoring. To the extent state matching funds for monitoring requirements are not available, such unrealized state dollars may be considered as a local government cost credit toward future beach management projects or activities. The remaining dollars shall be used to fund projects on the department's Alternate Projects List for Fiscal Year 2009-2010. The following Beach Monitoring funds will be allocated: N. Boca (\$95,000), Delray (\$18,960), Ocean Ridge (\$34,500), Jupiter/Carlin (\$32,660), Juno (\$125,000), Central Boca (\$12,477), Midtown Reach 3 & 4 (\$11,397).

General Permit for Restoration Activities

HB 73 by Representative Schenck requires the Department of Environmental Protection (DEP) and the water management districts to adopt programs that create a 45-day expedited process for wetland resource and environmental resource permits associated with businesses identified by

municipalities or counties as target industry businesses. Projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund are exempt.

The bill requires a mandatory pre-application review process to reduce permitting conflicts by providing guidance regarding permits needed, site planning and development, site limitations, facility design, and steps the applicant may take to ensure expeditious permit application review. Permit applications for projects in a charter county with a population of 1.2 million or more which has entered into a delegation agreement with the DEP or water management district are eligible for expedited permitting only upon designation by resolution of the charter county's governing board. Effective Date: July 1, 2009

Invasive Plant Species

While no additional legislation was passed to expand local government's ability to regulate invasive plant species, \$26,290,647 was allocated towards invasive plant control. This program was affected, as most programs were due to revenue shortfalls. Historic funding for this program was \$38,000,000.

TRANSPORTATION & INFRASTRUCTURE

Charter County Transit System Surtax

By: Wren Group

HB 1205 by Representative Braynon extends the Charter County Transit System Surtax eligibility to 13 additional charter counties including Palm Beach to levy a maximum one percent sales surtax subject to a referendum. Permitted uses of the revenues include financing the development, construction and operation of fixed guideway rapid transit systems, bus systems, roads and bridges. The charter county may deposit the surtax revenues into a trust fund, remit the revenues to an expressway or transportation authority, or apply them directly to permitted uses. The proceeds also may be distributed by interlocal agreement to municipalities or an expressway or transportation authority.

PUBLIC SAFETY

Prescription Drug Monitoring

By: County Staff

SB 462 by Senator Fasano unanimously passed the Florida Senate and passed the House of Representatives **103-10**. The bill requires the Department of Health (DOH), by December 1, 2010, to design and establish a comprehensive electronic system to monitor the prescribing and dispensing of certain controlled substances. The bill requires prescribers and dispensers of certain controlled substances to report specified information to the DOH for inclusion in the system. The Office of Drug Control, in coordination with the DOH, is authorized to establish a direct support organization to provide assistance, funding, and promotional support for activities authorized for the prescription drug validation program. The bill creates a 10-member Program Implementation and Oversight Task Force within the Executive Office of the Governor to monitor the implementation and safeguarding of the electronic system established for the prescription drug validation program. The County thanks **Representative Kelly Skidmore** for her work on this important piece of legislation.

Fire Rescue One Cent Surtax

By: County Staff

SB 1000 by Senator Fasano passed the Legislature and will permit County Commissions to place a referendum on the ballot that would allow for the levy of up to a one cent sales tax to fund fire rescue services. If passed, the measure would require that the legislature cut ad valorem taxes by the corresponding amount projected to be raised by the sales tax revenue.

Public Records

By: County Staff and Corcoran & Johnston

HB 7019 by Government Affairs Policy Committee relating to removing a scheduled sunset exemption from public records requirements for information that would identify or locate a child who participates in a government-sponsored recreation program or parent or guardian of the child unanimously passed both the House and Senate. The County initiated the original passage of this legislation five years ago with the **assistance of then- State Representative, now County Commissioner Shelley Vana and Senator Dave Aronberg.**

HEALTH CARE

Transportation Disadvantaged Programs

Transportation Disadvantaged

The following amounts were transferred to these programs from the Transportation Disadvantaged Trust Fund:

| | |
|---|------------|
| Transportation Disadvantaged..... | 40,395,709 |
| Grants & Aids Medicaid Transp. Disadvantaged..... | 65,969,126 |

Palm Beach County was held harmless and will receive the same allocation as last year.

Trauma Care

By: County Staff and Akerman Senterfit

HB 481 by Representative Kreegel - Currently, a \$65 fine is assessed for violations of certain traffic infractions. The funds generated from these fines are deposited into the Administrative Trust Fund administered by the Department of Health. This trust fund provides funding for verified trauma centers in Florida.

The bill increases fines for failure to stop for a school bus, reckless driving and racing on highways by \$65. The \$65 is deposited into the Administrative Trust Fund.

The bill provides that the funds collected from the \$65 fine created by the bill be distributed as follows:

- 30% to Level II trauma centers operated by a public hospital governed by an elected board of directors;
- 35% to verified trauma centers based on trauma caseload volume from the most recent calendar year available; and
- 35% to verified trauma centers based on severity of trauma patients for the most recent calendar year available.

The effective date of this bill is October 1, 2009.

LOCAL GOV'T/ADMIN

Homeless Assistance Grants

By: County Staff

HB 639 by Representative Pafford and Identical SB 726 by Senator Smith which was filed on behalf of Palm Beach County authorizes agencies that provide local homeless assistance continuum of care to use homeless housing assistance grants to acquire existing buildings not currently used for homeless housing. This bill was amended into SB 360 and passed out of both Chambers. The bill now awaits signature of the Governor.

EDUCATION

Library Funding

By: County Staff & Corcoran & Johnston

Our lobbying team worked during the legislative budget conference to help secure \$21.3 million statewide for local library grants (\$1.3 million for Palm Beach County and area municipalities) and \$1.2 million statewide for library co-ops. At the start of the Budget Chairs conference meetings, local library grants were funding at \$0.

Legislative Priorities That Did Not Pass

Regional Transportation Funding

By: County Staff

Legislation relating to commuter rail service in Central Florida would have provided additional direction for the development of the Florida Department of Transportation's rail system program. The bill would have provided DOT with the authority to contractually indemnify from liability any freight rail operator, or its successors, from whom DOT acquires a real property interest in the rail corridor.

In addition the legislation would have allowed a \$2.00 rental car surcharge for five years to be implemented by a super majority vote of the three (3) county commissions in South Florida and then to be placed on the 2014 general election ballot to be reconfirmed by referendum.

Unfortunately, this legislation failed in the Senate by a vote of 16-23. Palm Beach County thanks those members of the Palm Beach County Legislative Delegation who supported this measure: **President Atwater and Senators Bullard, Pruitt, and Smith.**

Traffic Safety Photo Enforcement

By: County Staff & Corcoran & Johnston

SB 2004 by Senator Altman and Representative Reagan's HB 439 would have created the "Mark Wandall Traffic Safety Act." The bill would have preempted the regulation and use of all traffic camera enforcement systems to the state and establish requirements for the use of traffic infraction detectors by counties and municipalities. The bill authorizes counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinances. The penalty for failing to stop at a steady red light, as determined through the use of a traffic infraction detector, is a fine of \$150. The bill describes requirements that must be met when issuing a ticket through documentation by the traffic infraction detector and the challenge procedure to be followed if someone other than the vehicle owner was driving the vehicle at the time of the alleged violation. In addition, the bill provides a "grandfather clause" (until September 30, 2010) for those counties and municipalities currently engaged in the use of traffic detectors.

In the final days of the House and Senate floor hearings, it became obvious that the main differences in the House and Senate versions of the bill would not be resolved. The Senate version provided that a lesser portion of the fine to go to the County or Municipality that administered the program and also did not allow cameras to be installed on state roads. The House and Senate refused to concur with conforming amendments from either side leading to the bill dying in messages.

Legislation Opposed by the County That Did Pass

Impact Fees

By County Staff and Pittman Law Group

SB 580/HB 227 by Senator Haridopolos and Representative Aubuchon relating to impact fees requires that the government prove certain elements by a preponderance of the evidence in an action involving the challenge of an impact fee and prohibits a court from using a deferential standard. The House bill passed in the Senate by a vote of 26-11, one vote shy of the required 2/3 vote needed; however, the bill was still sent to the Governor and approved.

While the House passed an earlier version of the bill with an amendment that states that "...a county, municipality, or special district may not increase any impact fees or impose any new impact fees," that language was ultimately not adopted in the final bill.

This bill changes the burden of proof when considering challenges to impact fee ordinances. Under current law, the courts will uphold an ordinance adopted by a local government against a person challenging the adoption of the ordinance if there is any "fairly debatable" cause for upholding the ordinance – a difficult standard to overcome.

This bill requires that, should any person challenge an impact fee, the government entity that enacted the ordinance must show by "a preponderance of the evidence" that the imposition or amount of the fee meets the requirements of legal precedent or law. This bill also provides that the court may not use a deferential standard of review.

The full Senate amended the bill to remove the House prohibition on increasing impact fees except when pledged to the retirement of debt.

Growth Management

By: FAC, Wren Group, and County Staff

Summary of CS/CS SB 360 - Senate Growth Management Bill

Urban Areas Defined

- Creates a definition in Ch. 163 for "Dense Urban Land Area."
- As defined, a Dense Urban Land Area means a local government having an average of at least 1,000 people per-square mile of land area, or a county, including all cities located therein, which has a population of at least 1 million, according to the latest census and latest population estimates from the Office of Economic and Demographic Research.
- The following 8 counties meet this definition:
 - Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach based on total pop. threshold), Pinellas, Seminole
- A city having an average of at least 1,000 people per square mile and a total population of 5,000. This includes approximately 190 cities affecting another 24 counties statewide.

Urban Service Area

- Renames and expands the definition of "Existing Urban Service Area" to include areas designated in the comprehensive plan as of July 1, 2009 for urban development, where public facilities are in place or are committed in the first 3 years of the capital improvement schedule.

Concurrency (TCEAS)

- Creates transportation concurrency exception areas (TCEAs) in the following areas:
 - Cities that qualify as dense urban land areas;
 - Urban service areas that been adopted into the comprehensive plan and are within counties that qualify as dense urban land areas.
 - Counties, including cities therein, that have a population of at least 900,000, that qualify as a dense urban land area but do not have an urban service area designated in the comprehensive plan¹
- Requires dense urban land area communities to adopt transportation mobility strategies within designated exception areas within 2 years. If such strategies are not adopted within this time period, DCA may submit a finding to the Administration Commission, which may impose sanctions.
- Exempts counties that have a population of at least 1.5 million and implement a transportation concurrency-related assessment to support alternative modes of transportation.
- TCEAs are not created for a county that has exempted more than 40% of its urban service area from transportation concurrency for purposes of infill.

Dense Urban Land Area – Local Opt-In

- Counties and cities that do not qualify as dense urban land areas may designate in the comprehensive plan the following areas as TCEAs:
 - Urban Infill Development
 - Urban Infill and Redevelopment
 - Urban Service Areas
- The DRI process in these locally designated areas does not apply.

Developments of Regional Impact

- Eliminates the DRI program in Dense Urban Land Areas
- Retains requirement that development orders from DRI-size projects (even though exempt under proposal) be reviewed by state land planning agency.

School Concurrency

- Eliminates the penalty (i.e., FLUM amendments that increase density) for failing to adopt a public school facilities element and entering into an interlocal agreement.
- However, DCA is required to submit a finding to the Administration Commission if it finds insufficient cause by the local government for not adopting a school facilities element into its plan
- Requires school districts to include relocatable facilities (a.k.a. portables) in its level-of-service (LOS) calculations if such facilities are used in the student station inventory.

Financial Feasibility

- Extends compliance deadline December 2011 (applies to all counties).

Alternative State Review Process

- Extends the Alternative State Review Process to any local government that wants to adopt and Urban Service Area.

Permit Extensions

- Extends any local government development order or building permit issued between September 1, 2008 through January 1, 2012 for an additional 2 years

Zoning / Land Use Approvals

- Requires zoning changes to be made simultaneously with any plan amendments if requested by the applicant. Zoning changes take effect upon the comprehensive plan amendment becoming effective.

Security Standards Prohibited

- Prohibits local governments from adopting or maintaining in effect any ordinance or rule that establishes standards for security cameras that require a business to expend funds to enhance the services provided by local government.

Affordable Housing

- Requires counties to include within their land development regulations language ensuring that the densities of RV parks be maintained when such properties propose a use change.
- Allows SHIP funds to be used for manufactured housing constructed after 1994.

Local Government Infrastructure Surtax

- Expands the term "infrastructure" under s. 212.055 to include any land acquisition expenditure for a residential housing project where at least 30 percent of the units are affordable to individual/families whose income does not exceed 120 percent of the area medium income.

One of the provisions of this bill that was removed by the Senate was language that would have created a TCEA in an agricultural enclave that was located in the Limited Urban Service Area of the County.

We appreciate **Senator Jeff Atwater and his staff** for their assistance in working with the County on provisions in this bill.

Property Tax Assessment Challenges

By: County Staff

HB 521 by Representative Lopez-Cantera revises the basis for providing presumption of correctness to the assessment of property value by placing on the property appraiser the burden of proof that the assessment was arrived at by complying with Florida Statutes. If the property appraiser meets this burden then the assessment is presumed correct.

Legislation Opposed by the County That Did Not Pass

Solid Waste Disposal Fee

By: County Staff

HB 5121 by the Natural Resources and Appropriations Council passed out of its' only committee of reference but ultimately was not included in a host of increased fees used to balance the state's budget. This bill contained a solid waste disposal fee of \$1.25/ton of solid waste that is accepted by landfills. Since local governments own most landfills, the passage of this fee would have created a one-of-a-kind situation: the state taxing local governments for providing an essential service that they are required to provide under Florida law. This would have caused higher trash fees, and taxpayers most likely would have to bear the burden of this new fee. This item became part of the legislative budget conference discussions but ultimately was not included in the budget.

Juvenile Justice Legislation

By: County Staff

HB 0173 by Representative Adams proposed numerous changes to state policy concerning the use and length of detention for juveniles. It covered all phases of the process, from custody and initial intake to adjudication, and to disposition through post commitment placement. The bill authorized conditions of pre-adjudicatory release for certain children; permitted a child to be taken into custody for violations of pre-adjudicatory release conditions; provided that detention care under specified provision does not require risk assessment; provided for certain kinds of care prior to hearing in certain circumstances; specified that court has power to determine appropriate dispositions; requires that reasons for disposition be stated; permitted child to be detained in facility other than consequence unit for certain violations if one is unavailable; permits each county to create juvenile crime prevention fund & provides for additional court cost and provided that no juvenile shall be assessed additional court cost if juvenile & juvenile's parents or other legal guardian are indigent. Most youth are not placed on detention care prior to adjudication, but are released to a parent or guardian. The state and the counties, other than the fiscally constrained counties in certain circumstances, jointly fund detention care. In this bill, "detention care" has been defined as limited to "secure detention." Specifically, counties are required to pay for predisposition secure detention costs. The state pays for post disposition secure detention costs. The bill passed all House Committees but was TP'd on second reading. The Senate companion was killed in the Senate Criminal Justice Committee. We would like to **thank Senators Deutch, King, Siplin, and Wilson** who were the four votes in committee that prevented this significant local cost shift from occurring.

Section

3

Other Bills of Interest

- Courts and Clerks
- Environment
- Ethics & Elections
- Gaming
- Government Accountability
- Health Care
- Insurance
- Local Government Finance
- Personnel
- Planning and Zoning
- Public Records Exemptions
- Public Safety
- Telecommunications
- Transportation

Other Legislation That Passed

COURTS AND CLERKS

CS/SB 1718 - State Courts System by Senator Crist

This budget conforming bill changes laws related to the state courts system to:

- Provides that assistant regional counsels may be employed on a part-time basis, repealing a 2010 automatic repeal of the authorization;
- Redirects the portion of certain public defender fees from general revenue to the Indigent Criminal Defense Trust Fund;
- Increases filing fees for probate cases and circuit civil cases other than family law cases;
- Decreases filing fees for eviction cases;
- Transfers new fees into the State Courts Revenue Trust Fund;
- Specifies that interest income accruing on county funds held by the clerk of the court are payable to the county;
- Specifies that the counterclaim filing fee also applies to counter petitions;
- Waives civil court filing fees for indigent persons;
- Imposes a fee on persons who elect traffic school but do not timely complete the school;
- Provides that a traffic infraction fee created in 2008 also applies to tag violations and automobile insurance violations;
- Corrects a judgment recording provision in CS/SB 412 relating to service of process;
- Requires the Clerks of Court Operations Corporation to transfer remaining funds at the end of the state fiscal year to the General Revenue Fund;
- Requires the clerks of court to implement electronic filing by October 1, 2009;
- Creates a pilot program for electronic filing in a district court of appeal;
- Creates a conditional cap on the total budgets of the clerks of court for FY 2009-2010; and
- Revises a provision of CS/CS/SB 2108 relating to a moratorium of information technology expenditures by the Clerks of the Court.

The effective date of this bill is June 1, 2009 except as otherwise provided.

CS/CS/SB 2108 by Senator Pruitt revises the method for setting the budgets of the clerks of court. Under the bill, the court related revenue collected by the clerk is remitted to the state to the Clerks of Court Trust Fund within the Justice Administrative Commission. The Clerks of Court Operations Corporation would be administratively housed in the Justice Administrative Commission and funding for the corporation and the clerks will be appropriated to this entity in the General Appropriations Act. Specifically:

- The clerks' budgets will no longer be based on the projected revenue increase for each clerk and set by the Clerks of Court Operations Corporation;
- The Corporation must prepare a Legislative Budget Request for submission to the Legislature;
- Each clerk must prepare a budget request for the last quarter of the county fiscal year and the first three quarters of the next county fiscal year and must submit

the proposed budget to the Corporation who is required to review each proposal, adjust the request as necessary, and make recommendations to the Legislature and Supreme Court by December 1 of each year;

- The clerks' budget requests shall include a projection of the amount of court related fees, service charges and other court-related clerk fees, which will be collected during the proposed budget period;
- If the Corporation determines that the proposed budget is greater than the projected revenues, then the clerk must increase all fees, services charges, and other court-related clerk fees to the maximum amount specified by law or the amount necessary to resolve the deficit, whichever is less;
- The budget proposal must include the number of personnel for each clerk and the proposed budget for each of the four core missions – case processing, financial processing, jury management, and information and reporting;
- Under each of the core services, the clerks will propose specific services (developed by the Corporation in consultation with the Supreme Court, CFO, and House and Senate appropriations committees) along with a proposed unit cost; and
- The Legislature will accept, reject, or modify the proposed unit costs and appropriate the clerks' statewide total budget each year. If the unit costs are not specified in the GAA, then the unit costs proposed by the Corporation shall govern.

The bill makes other changes such as: requiring clerks to use collection agents for uncollected amounts due after 90 days; requiring the clerks to maintain office hours with the consent of the chief judge; requiring the clerks to submit expenditure data to comply with the Transparency in Government Spending requirements of SB 1796; providing that the Technology Review Workgroup develop a plan and options for implementing the integrated computer system and limiting the clerk of the court information technology purchases during the period of the study; allowing clerks to retain 10 percent of all fine revenues collected for their operations; and transferring the Clerks of Court Trust Fund from the Department of Revenue to the Justice Administrative Commission. The effective date of this bill is upon becoming law.

ENVIRONMENT

Public Construction Projects

By: Wren Group and County Staff

SB 616 by Senator Haridopolos revises statutory requirements concerning competitively bidding public construction projects. The bill specifically:

- Defines the term "maintenance" for the purpose of this bill.
- Provides an exception to the diminished funding source exemption, where it does not apply if the governmental entity materially contributed to the delay.
- Deletes the public interest exception provision to require that the local government first receive bids to comply with certain provisions, including that the local government can only do the work itself if all of the bids are at least 10 percent greater than the local government's estimated costs, it holds a noticed public meeting, and its decision to do the work itself is supported by factual findings that the government can do it cheaper than the lowest bid.
- Provides for exemptions for local governments operating a public use airport, certain ports, a public transit system, or a mass transit system.
- Provides that a local preference may only be given to bidders in the event of a tie bid.

Palm Beach County coordinated efforts with the Florida Association of Counties and League of Cities to work with the bill sponsor's regarding the bill's effects on local governments. Most specifically, we developed language regarding the effective date of the law and modifying the maintenance and repair language.

Real Property Used for Conservation Purposes

HB 7157 by Finance & Tax implements newly-created Section 3(f) of Article VII of the State Constitution (Taxation and Budget Reform Commission, 2008), which provides that:

There shall be granted an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation protections, as defined by general law.

The bill provides a complete exemption from ad valorem taxes to land that is dedicated in perpetuity for conservation purposes and that is used exclusively for conservation purposes. A conservation purpose includes retention of the substantial natural value of land, including woodlands, wetlands, water courses, ponds, streams, natural open spaces; and habitat for fish, plants, or wildlife; or for water quality enhancement or water recharge. The bill also provides an exemption equal to 50% of the land's assessed value to land that is dedicated in perpetuity for conservation purposes which is used for "allowed commercial uses." If less than 40 acres, the newly created Acquisition and Restoration Council must make eligibility determinations giving consideration to the following: natural sinkholes; a natural spring serving a water recharge or production function; a unique geological feature; habitat for endangered or threatened species; nursery habitat for marine and estuarine species; protection or restoration of vulnerable coastal areas; natural shoreline habitat; or the retention of natural open space in otherwise densely built-up areas.

Buildings, structures, and other improvements on land receiving the exemption and land area immediately surrounding the buildings, structures, and improvements must be assessed separately unless auxiliary to the use of the land for conservation purposes. Water management districts with jurisdiction have a third-party right of enforcement for any easement that is not enforceable by a federal or state agency, county, or municipality.

The legal title holder to entitled land must before March 1 of each year, file an application for assessment under this section with the county property appraiser. The failure to file an application constitutes a waiver of assessment for that year, although the owner may subsequently petition the value adjustment board requesting that the assessment be granted. The landowner must also notify the property appraiser promptly if the land becomes ineligible for this assessment. If the property owner fails to notify the property appraiser and it is determined that for any year within the preceding 10 years the land was not eligible for assessment, the owner is subject to taxes avoided as a result of such failure plus 15 percent interest per year, plus a penalty of 50 percent of the taxes avoided.

A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement of an annual application after an initial application is made and the exemption granted. In such case, if the property owner fails to notify the property appraiser that the land is no longer eligible, the owner is subject to taxes avoided as a result of such failure plus 18 percent interest per year, plus a penalty of 100 percent of the taxes avoided.

Beginning in the 2010-2011 fiscal year, the Legislature shall appropriate moneys to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties as a result of implementing this constitutional amendment. On or before November 15 of each

year, each fiscally constrained county may apply to the Department of Revenue to participate in the distribution of the appropriation.

Effective Date: Upon becoming a law, and shall apply to property tax assessments made on or after January 1, 2010.

Disposition of Tax Revenues

CS/SB 1750 by Senator Baker redistributes to the General Revenue Fund all of the revenues collected from the excise tax on documents that are currently distributed to the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection and the Marine Resources Conservation Trust Fund within the Fish and Wildlife Conservation Commission. The bill redirects \$6,300,000 to the General Revenue Fund from the Land Acquisition Trust Fund within the Department of Environmental Protection.

The bill prioritizes the payment of debt service on the Preservation 2000 Bonds, Florida Forever Bonds, and the Everglades Restoration Bonds authorized before January 1, 2010, by making all documentary stamp revenues available to pay debt service in the event of a shortfall.

This bill provides for the financing of the petroleum tank cleanup program. The Inland Protection Financing Corporation is authorized to issue bonds in an amount not to exceed \$104,000,000 with a term of not over 15 years, which should provide \$90,000,000 in spendable proceeds for fiscal year 2009-10 with a limit on annual debt service of \$10,400,000.

The bill terminates the Lake Okeechobee Preservation Trust Fund within the Department of Environmental Protection and also deletes cross-references regarding the trust fund.

This bill has a positive recurring fiscal impact on the General Revenue Fund of \$44,490,000 in fiscal year 2009-10, \$47,180,000 in fiscal year 2010-11, and \$57,350,000 in fiscal year 2011-12.

The effective date of this bill is July 1, 2009.

ETHICS AND ELECTIONS

Campaign Financing/Local Gov. Expenditures

SB 216 by Senator Justice prohibits a local government or person acting on its behalf from spending, and prohibits any person or group from accepting, public money for a political advertisement or electioneering communication in connection with an issue, referendum, or amendment, including any state question, that the public will vote on at an election.

The bill exempts electioneering communications that are limited to factual information. It further clarifies that a local government elected official is not prohibited from expressing an opinion on any issue at any time as long as it does not violate the aforementioned prohibition. The effective date of this bill is July 1, 2009.

Elections

By: County Staff

HJR 81 by Representative Hays related to the Repeal of Public Campaign Financing Requirement passed that will put on the 2010 ballot a proposed state constitutional amendment that would repeal public financing of statewide election campaigns for governor and the three Florida Cabinet positions.

Local Government/Code of Ethics

SB 252 by Senator Constantine creates a new provision in the Code of Ethics for Public Officers and Employees (part III, ch. 112, F.S.) to provide that officers, directors and employees of a business entity serving as the chief administrative officer or employee of a political subdivision will be treated as public officers or employees for purposes of:

- standards of conduct;
- limited financial disclosure;
- gift receipt and reporting requirements; and
- solicitation and disclosure of honoraria.

The bill provides that the Governor may discipline these individuals, and creates penalties for violations to include one or more of the following: public censure and reprimand; a civil penalty of up to \$1,000; or restitution of pecuniary benefits paid to the political subdivision or the state's General Revenue Fund. The effective date of this bill is July 1, 2009.

GAMING

CS/CS/SB 788 by Senator Jones as amended by the Conference Report of the Appropriations Conference on Gaming, provides for the following related in to the Gaming Compact:

- Grants the Governor the authority to execute an Indian gaming compact on behalf of the State with the Seminole Indian Tribe of Florida (Tribe) for the purpose of authorizing Class III gaming on the Tribe's lands;
- Provides that revenue sharing payments from the Tribe must be deposited into Educational Enhancement Trust Fund;
- Authorizes the Governor to negotiate agreements with the Indian Tribes for all taxes, including sales taxes;
- Provides legislative intent to review the compact within 5 years in order to consider the authorization of additional Class III games; and

A model Indian gaming compact authorized by this bill must:

- Have a 15 year term;
- Permit the Tribe to offer no limit poker and slot machines at seven specified tribal casinos;
- Permit the Tribe to conduct banked card games, including blackjack, chemin de fer, and baccarat, only at tribal casinos in Broward County and Hillsborough County;
- Require a guaranteed minimum payment of \$150 million;
- Require the Tribe to make revenue sharing payments to the state based on the following annual amounts:
 - 12 percent of net win up to \$2.5 billion;
 - 15 percent of net win between \$2.5 billion and \$3 billion;
 - 20 percent of net win between \$3 billion and \$4 billion;
 - 22.5 percent of net win between \$4 billion and 4.5 billion; and
 - 25 percent of any net win above \$4.5 billion.

The sections of the bill relating to Pari-Mutuel Wagering:

- o Authorize a jai alai permit to convert to a greyhound permit if certain requirements are satisfied;
- o Provide for a reduction of the tax rate on slot machine revenue from 50% to 35% with a guarantee of tax revenue to be that which was collected in 2008-2009;
- o Provide for a gradual reduction of the slot machine annual license fee from \$3 million to \$2 million;
- o Authorize Class III slot machines in a county that has had a referendum approving slots or has a referendum approving slots that was approved by law or the Constitution provided that such facility has conducted 2 years of racing and complies with other requirements for slot licensure;
- o Provide that an initial cardroom license shall not be issued unless the permit holder has a facility and has begun racing;
- o Allow for the conduct of no limit poker in cardrooms; and
- o Extend the hours of cardroom operation from 12 hours per day to 18 hours per day Monday through Friday and 24 hours per day Saturday and Sunday.

The effective date of the pari-mutuel provisions is contingent upon Legislative ratification of a compact by the Legislature and the approval or deemed approval of the compact by the Secretary of the Department of the Interior. If these contingencies are met, the effective date is the date the compact is published in the Federal Register.

GOVERNMENT ACCOUNTABILITY

Governmental Financial Information

SB 1796 by Senator Alexander requires the Executive Office of the Governor, in consultation with the House and Senate appropriations committees, to establish a single website directly accessible by the public through the official Internet portal of the state. The website must provide access to information for each state agency and each branch of state government, including:

- Disbursement data by object code associated with each expenditure for each appropriation in the General Appropriations Act (GAA). Expenditure data must include the name of the payee, the date of the expenditure, the amount of the expenditure, the statewide document number and the associated object code;
- Appropriations from the GAA and any adjustments, including vetoes, approved supplemental appropriations included in legislation, budget amendments and other approved actions pursuant to chapter 216, F.S., and any other adjustments authorized by law;
- The status of spending authority for each appropriation in the approved operating budget, including released, unreleased, reserved and disbursed balances; and
- Position and rate information for positions provided in the GAA.

The Joint Legislative Auditing Committee (JLAC) is responsible for overseeing and managing the website.

The JLAC is directed to recommend access to additional information to include, but not be limited to, non-operating budget authority, trust fund balances, the general revenue fund balance, fixed capital outlay data, and a 10-year history of appropriations by agency. By March 1, 2010, the JLAC shall develop a schedule for adding other information to the website. The schedule to provide access to information for all other governmental entities must be submitted to the President of the Senate and the Speaker of the House of Representatives. The information may include:

- Disbursements by each governmental entity from funds established within the treasury of that governmental entity;
- Revenues received by each governmental entity, including, but not limited to, receipts or deposits by the governmental entity into funds established within its treasury;
- Bonded indebtedness information, including, but not limited to, the total amount of obligation stated in terms of principal and interest, including an itemization of each obligation, the term of each obligation, the source of funding for repayment of each obligation, the amounts of principal and interest previously paid to reduce each obligation, the balance remaining of each obligation, any refinancing of any obligation and the cited statutory authority to issue such bonds; and
- Links to available governmental entity websites.

The initial start-up costs for the first phase of this project are \$513,000 with annual maintenance costs of \$73,000. The effective date of this bill is upon becoming law.

HEALTH CARE

Surcharge on Tobacco Products

CS/CS/SB 1840 by Senator Deutch creates the "Protecting Florida's Health Act." The bill levies an additional \$1 per pack surcharge on the sale, receipt, purchase, possession, consumption, handling, distribution, and use of cigarettes in this State. The bill also levies an additional surcharge of 60% on the wholesale price of all other tobacco products, excluding cigars.

The revenue from the surcharge will be deposited into the Health Care Trust Fund within the Agency for Health Care Administration (ACHA). All of the surcharge proceeds will be used to fund Medicaid, except for 5% that is earmarked for research on tobacco and cancer-related illnesses.

The effective date of this bill is July 1, 2009.

AG Holley

Section 14 of the Appropriations Implementing bill requires the Department of Health to issue an RFP for the financing, designing and construction of a Tuberculosis hospital and authorizes tax exempt certificates of participation to finance the project and a lease-purchase agreement. This new language will potentially create a new RFP process that will require a non-developer to bid on the renovation or new construction of the AG Holley hospital in Lantana. The new bid shall not include redevelopment of the current AG Holley site.

Agency for Persons with Disabilities

CS/SB 1660 by Senator Peadar amends several provisions contained in chapter 393, Florida Statutes, relating to client services and trust accounts in developmental disabilities centers for clients served by the Agency for Persons with Disabilities:

Sections 393.0661(4) and (5), F.S., removes a provision that would have been effective July 1, 2009, reducing the geographic differential for residential habilitation services for Miami-Dade, Broward, Palm Beach, and Monroe counties.

Medicaid Low-Income Pool

CS/HB 285 by Representative Patronis establishes criteria for the legislative appointments to the LIP Council. The bill prohibits lobbyists from sitting on the LIP Council, except for those employed full time by a public entity. Florida Medicaid law establishes the Low Income Pool (LIP) Council for the purpose of making recommendations to AHCA and the Legislature regarding the financing and distribution of LIP and disproportionate share (DSH) funds. The bill alters the membership of the LIP Council by adding two members appointed by the Speaker of the House of Representatives, two members appointed by the Senate President, one representative of federally qualified health centers, one representative of the Department of Health, and one representative of the Agency for Health Care Administration to serve as a nonvoting chair. This increases the membership from 17 to 24.

The bill has no fiscal impact on state or local government and is effective July 1, 2009.

County Health Departments

The Conference Committee Amendment for **CS/SB 1662**, relating to the Department of Health, provides for the following:

- Amends s. 154.02, F.S., to include the provisions related to expenditures of County Health Department Trust funds repealed in s. 216.2625 and removes the requirement to increase the emergency reserve of the County Health Department Trust Fund by the increase in the Consumer Price Index;
- Repeals s. 216.2625, F.S., related to expenditures of County Health Department Trust funds and the exemption for appropriation of positions;
- Amends s. 381.0202, F.S., to require the Department of Health to establish and maintain laboratories for microbiological and chemical analysis;
- Amends s. 381.0203, F.S., to require the Department of Health to establish and maintain a pharmacy services program; and
- Amends s. 382.003, F.S., to require the Department of Health to establish an Office of Vital Statistics.

INSURANCE

Property Insurance

By: County Staff

HB 1495 by Representative Nelson will increase property insurance premiums by up to an average of 10 percent for property owners who are insured by Citizens Property Insurance Corp., the state run insurance provider for Florida and the largest provider of homeowner coverage. This legislation seeks to strengthen the state's ability to pay hurricane claims.

LOCAL GOVERNMENT FINANCE

Property Appraisers

CS/CS/HB 179 by Representative Nelson makes changes to three areas dealing with the administration of property taxes. First, the bill allows property appraisers, at their discretion and where geographically suitable, to use image technology in lieu of a physical inspection. The Department of Revenue is directed to establish standards for the use of image technology.

Second, the bill provides for the filing of a late application for a property tax exemption with the property appraiser prior to filing an application with the Value Adjustment Board (VAB). If the property appraiser denies the exemption, the applicant may file a petition with the VAB.

Third, the bill revises the factors the property appraiser may consider in determining the intent of a person claiming a homestead exemption to establish a permanent residence in Florida and adds additional factors.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2009.

Veterans

HB 509 by Representative Zapata removes the requirement that an honorably discharged, 100 percent permanently and totally disabled veteran must be confined to a wheelchair before being eligible for waiver of county or municipal license or permit fees for improvements that would make the residence safe for the veteran. Subject to the Governor's veto powers, the effective date of this bill is July 1, 2009.

Ad Valorem Assessments

CS/CS/HB 521 by Representative Lopez-Cantera revises the burden of proof in challenges to the value used for ad valorem tax assessments. The bill provides that, in an administrative or judicial action in which an ad valorem assessment is challenged, the property appraiser's assessment is presumed correct if the appraiser shows by a preponderance of the evidence that the assessment was arrived at by complying with s. 193.011, F.S., any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate.

The taxpayer may overcome the presumption upon a showing, by a preponderance of the evidence, that the assessed value does not represent the just value, does not represent the classified use value or fractional value of the property, or is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the property appraiser to comparable property within the same county. If the taxpayer overcomes the presumption of correctness, the value adjustment board or court must establish the assessment if there is enough evidence to do so. If not, the issue is remanded to the property appraiser with instructions of how to change the assessment. A challenge to the revised assessment is handled by the same procedures.

A taxpayer is not required to overcome a presumption of correctness in a challenge to the classification or exemption status of a property. The party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.

The bill expresses the Legislature's intent that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment. The bill reaffirms that the Legislature expressly rejected the "every-reasonable-hypothesis" standard in 1997 by creating a lower burden of proof and expresses the Legislature's intent to reject any cases published since 1997 citing the "every-reasonable-hypothesis" as interpretive of legislative intent.

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law and shall first apply to assessments in 2009.

Property Tax Limit/Additional Homestead Exemption

CS/SJR 532 by Senator Lynn and Representative Domino proposes to amend two sections of Article VII of the Florida Constitution. First, this joint resolution proposes an amendment to Article VII, section 4 to reduce the limitation on assessment increases applicable to certain non-homestead real property from 10 percent to 5 percent. Second, this joint resolution proposes an amendment to Article VII, section 6 to provide a new, additional homestead exemption to the person or persons who:

- establish the right to receive the primary homestead exemption in Florida within one year after purchasing the homestead property; and
- have not owned a principal residence during the eight-year period before the purchase.

For married persons, neither the purchaser nor his or her spouse may have owned a principal residence during the preceding eight years. The joint resolution provides that only one additional exemption may apply to a single homestead property. Further, the additional homestead exemption:

- is provided in an amount equal to 25 percent of the homestead property's just value on January 1 of the year the primary homestead exemption is established;
- must not exceed \$100,000, and will be reduced in each succeeding year for five years by the greater of 20 percent of the initial additional exemption or the amount by which the homestead's assessed value is lower than just value because of the Save Our Homes benefit;
- is available for properties purchased after January 1, 2010; and
- does not apply after the fifth year following the grant of the initial additional exemption.

The proposed amendment will be submitted to the electors at the general election in November 2010 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose.

If approved by 60 percent of the voters at the 2010 general election, this joint resolution provides that the proposed amendment will take effect on January 1, 2011, and first apply to assessments in 2011.

Homestead Ad Valorem Tax Credit for Deployed Military Personnel

CS/HJR 833 by Representative Horner proposes an amendment to Article VII, section 3 of the Florida Constitution to provide an additional ad valorem tax exemption on homestead property for each person who:

- is a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard;
- receives a homestead exemption provided in Article VII, section 6 of the Florida Constitution; and
- was deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature.

The proposed amendment will be submitted to the electors at the general election in November 2010 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010

general election, this joint resolution provides that the proposed amendment will take effect on January 1, 2011, and first apply to assessments in 2011.

Notice of Proposed Property Taxes

HB 701 by Representative Hudson revises the Truth in Millage (TRIM) notice to include certain millage rate information by adding two additional columns with the following:

- "Last Year's Adjusted Tax Rate (Millage);" and
- "Tax Rate This Year IF PROPOSED Budget Is Adopted (Millage)."

This bill makes several clarifying changes to s. 200.069, F.S., recommended by the Department of Revenue in its report titled, "*The Effect of Recent Changes in Law on The Notice of Proposed Property Taxes*," which was published on January 30, 2009. The effective date of this bill is January 1, 2010.

Special Districts/Contractual Services

CS/CS/SB 712 by Senator Pruitt creates s. 189.4221, F.S., which authorizes special districts to purchase commodities or contractual services from purchasing agreements of other special districts, municipalities, or counties. The purchasing agreement must have been competitively procured in compliance with general law and must meet the procurement requirements of the purchasing special district. Landscape architectural services, surveying and mapping services, and architectural and engineering services, which are governed by s. 287.055, F.S., are not included within this authority.

The bill also clarifies that the boundaries of a special district, for purposes of distribution of tax receipts for a firefighters' pension fund, shall continue to include any area annexed by a municipality. The annexed area will remain within the boundaries of the district until the completion of the 4-year period specified in s. 171.093(4), F.S., during any mutually agreed upon extension, or while a district is providing services pursuant to an interlocal agreement.

The effective date of this bill is July 1, 2009.

First Responder Services

CS/SB 2282 by Senator Bennett prohibits counties and cities from imposing a fee or seeking reimbursement for costs incurred for services provided by first responders in response to a motor vehicle accident, excluding costs of materials to contain or clean up certain hazardous materials and costs for transportation and treatment provided by ambulance services allowed under current law.

This bill defines "first responder" as a law enforcement officer, firefighter, emergency medical technician, or paramedic, and includes volunteers serving in these capacities as well. The effective date of this bill is July 1, 2009.

Taxation of Documents

CS/CS/CS/SB 2430 by Senators Lawson and Gelber closes a documentary stamp tax loophole applied in the conveyance of property from a grantor to its wholly owned grantee. The bill closes the loophole created by the decision rendered in *Crescent Miami Center, LLC v. Florida Department of Revenue*, by imposing the documentary stamp tax on certain transfers of ownership interests in artificial entities. The bill provides that the tax applies to situations where the owner of real property transfers the property to a wholly-owned artificial entity (business) and subsequently an ownership interest in the artificial entity is transferred for consideration within one year of the initial transfer of the

property to the artificial entity. This technique has allowed large properties to be sold by transferring it as an asset to a business and avoided the payment of doc stamp fees.

PERSONNEL

Retirement Benefits

By: County Staff

CS/CS/HB 479 By Representative Schenck revises reemployment and renewed membership provisions of the Florida Retirement System (FRS) Act. The revisions affect all current FRS members and retirees, including those elected or appointed to an elective public office, in accordance with the two effective dates in the bill.

The bill extends from one month to six months the exclusionary period immediately after retirement in which a retiree may not be reemployed with any FRS employer. Additionally, the reemployment limitation period, during which a retiree may not both collect retirement benefits and a salary from an FRS employer, is changed from months two through 12 immediately after retirement to months seven through 12. The bill also removes all exceptions to reemployment limitations that currently exist for schools, community colleges, universities, paramedics and firefighters. Additionally, it eliminates renewed membership in the FRS; however, it grandfathers in those members who are deemed renewed members before the effective date of the bill.

The bill has a delayed effective date of July 1, 2010, for certain reemployment restrictions.

PLANNING AND ZONING

Rural Agricultural Industrial Centers

HB 7053 by the Agriculture Committee creates an alternate comprehensive plan amendment process for certain rural agricultural industry centers that may lead to greater economic development opportunities in the communities where they are located. The term "rural agricultural industrial center" is defined as a developed parcel of land in an unincorporated area with an operating agricultural industrial facility that:

- Employs at least 200 full-time employees;
- Is used for processing and preparing for transport farm products or biomass material that could be used for the production of fuel, renewable energy, bioenergy, or alternative fuel;
- May include contiguous land not used for the cultivation of crops but on which activities are conducted that are essential to the operation of the facility; and
- Is located in or within 10 miles of a Rural Area of Critical Economic State Concern (RACEC).

The bill establishes procedures for a landowner to apply for an amendment to the local comprehensive plan to expand the uses or facilities of an agricultural industrial center, and requires the local government to amend its comprehensive plan within 6 months if the application meets the statutory requirements. There is a rebuttable presumption that such an amendment does not promote urban sprawl. The bill does not apply in rural areas with an optional sector plan or in a rural land stewardship area, or to plan amendments

associated with an inland port terminal or affiliated port development. The bill also makes it clear that it does not extend any benefits of a designation as a Rural Area of Critical Economic Concern to any lands that are not so designated. Effective Date: July 1, 2009

PUBLIC RECORD EXEMPTIONS

Business Information

HB 7013 by the Governmental Affairs Policy Committee reenacts the public record exemption, which will repeal on October 2, 2009, if this bill does not become law. It also reorganizes the section, makes clarifying changes, and removes superfluous language. Current law provides a public record exemption for business information submitted by a business owner to a governmental condemning authority as part of an offer to settle business damages. The owner must request in writing that the information be held exempt.

Building Plans and Blueprints

HB 7017 by Governmental Affairs removes scheduled repeal under Open Government Sunset Review Act of exemption from public records requirements for building plans, blueprints, schematic drawings, and diagrams held by agencies which depict internal layout or structural elements of certain facilities, complexes, and developments. It also reorganizes the exemption and makes editorial changes.

Current law provides a public record exemption for building plans, blueprints, schematic drawings, and diagrams depicting the internal layout or structural elements of an attractions and recreation facility, an entertainment or resort complex, an industrial complex, a retail and service development, an office development, or a hotel or motel development.

Archival Materials

HB 7025 OGSR/Archival Materials by Government Affairs reenacts the public record exemption for local government archival material, which will repeal on October 2, 2009, if this bill does not become law. It also co-locates the public record exemption for materials held by the Florida State Archives with the public record exemption for local governments. 59 The bill creates a definition for "nonpublic manuscript or other archival material," reorganizes the exemption, makes editorial changes, and makes conforming changes. Current law provides a public record exemption for a manuscript or other archival material donated to and held by an official archive of a city or county contingent upon special terms and conditions that limit the right to inspect or copy such manuscript or other material.

Scripps Florida Funding Corporation

CS/HB 7043 - In a 2003 special session, the Legislature created the Scripps Florida Funding Corporation (corporation), a nine member, not-for-profit board that is responsible for: monitoring its 20-year agreement with The Scripps Research Institute (Scripps) for the establishment of a state-of-the-art biomedical research facility in Florida; and disbursing state funds on a schedule that coincides with the Florida facility meeting job-creation targets and other specified performance requirements. The Legislature also created public record and public meeting exemptions for the corporation and the Office of Tourism, Trade, and Economic Development (OTTED).

Essentially, proprietary confidential business information is confidential and exempt from public records requirements. In addition, meetings wherein such information is discussed are exempt from open meetings requirements.

The bill amends the definition of "grantee" to include a provision in current law that declares that Scripps and Scripps Florida are not subject to the public records and open meetings requirements.

The bill narrows the public record and public meeting exemptions by removing OTTED because the same information is protected by a duplicative exemption for economic incentive programs. In addition, OTTED has indicated it does not hold closed meetings pursuant to this public meeting exemption. The bill, however, maintains the public record and public meeting exemptions for the corporation. The bill makes conforming changes, removes superfluous language, and reorganizes the section. Finally, it extends the repeal date from October 2, 2009, to October 2, 2014.

PUBLIC SAFETY

Anchoring and Mooring

CS/CS/HB 1423 By Representative Troutman amends numerous statutes relating to various programs under the Florida Fish and Wildlife Conservation Commission's (FWC/Commission) authority. The bill revises the procedures by which local governments adopt certain ordinances for boating restricted and slow speed boating areas. FWCC is directed to establish a pilot program in 5 areas around the state to explore regulatory options regarding the anchoring and mooring of non-live-aboard vessels outside of the marked boundaries of a mooring field. The bill includes a provision that preempts a portion of our local ordinance relative to regulating non-live-aboard vessels outside of mooring fields. The legislation:

- Creates a noncriminal infraction for damaging seagrasses and increases fines for repeat offenders;
- Provides a Type II transfer of the Bureau of Invasive Plant Management from the Department of Environmental Protection (DEP) to the FWC, transfers the Invasive Plant Trust Fund from the DEP to the FWC;
- Revises statutes governing FWC and local government designation of boating restricted areas;
- Revises statutes governing local regulations and limitations relating to boating activities;
- Increases fees for waterfowl, wild turkey, snook, spiny lobster, special use, and management area permits; and
- Directs FWC to implement a pilot project in five locations for regulating the anchoring or mooring of live-aboard vessels outside the marked boundaries of public mooring fields.
- Revises the definition of "live-aboard vessel" to include "Any vessel used solely as a residence and not for navigation."
- Requires vessels anchored or moored in state waters to be currently registered.

The bill creates the Florida Coral Reef Protection Act. The act states legislative intent that it is in the best interest of the State to protect coral reefs and require monetary restitution for damage caused to coral reefs from vessel impacts such as groundings and improper anchoring. The act pertains to Martin, Broward, Palm Beach, Miami-Dade, and Monroe Counties.

The bill requires safe, timely removal of a vessel from grounding or anchoring on reefs and restoration of injured coral reef habitat by the responsible party. It provides for civil penalties for groundings and anchoring on coral reefs.

The effective date of this bill is July 1, 2009, except as otherwise provided.

Equine Activities

CS/HB 169 by Representative Abruzzo gives the act the popular name "Nicole's Law" and requires equine riders under the age of 16 to wear a helmet when riding on a public roadway or right-of-way; public equestrian trail, recreational trail, park or preserve; public school site; or any other publicly owned or controlled property.

The effective date of this bill is October 1, 2009.

Seat Belt Law

By: County Staff

SB 344 by Senator Rich passed after many years of heated discussion. The bill will allow law enforcement officers to issue tickets for motorists who fail to fasten their seat belts. This new law will make not wearing a seat belt a primary offense instead of only allowing a ticket to be issued if a motorist was stopped for another violation.

TELECOMMUNICATIONS

CS/CS/SB 2626 by Senator Haridopolos cited as the "Consumer Choice and Protection Act," provides a means for the expansion of broadband Internet service in Florida through use of federal stimulus funds. It also makes several changes to the existing regulatory framework for local telephone service, or "local exchange service."

Expansion of Broadband Internet Service

The bill provides the Department of Management Services (DMS) the authority to work collaboratively with Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations for mapping and deployment of broadband Internet services in the state. The American Recovery and Reinvestment Act of 2009 provides \$7.2 billion for broadband mapping and deployment. The bill allows DMS to draw down these federal funds to help establish universal broadband in the state.

The bill requires funds received by DMS for this purpose to be focused on expanding broadband in rural, unserved, and underserved communities through grant programs. The department is charged with conducting a needs assessment of broadband and developing maps that identify unserved areas, underserved areas, and broadband transmission speeds in the state.

Priority for grants will be provided to projects that:

- Provide access to broadband education, awareness, training, access, equipment, and support to libraries, schools, colleges and universities, health care providers, and community organizations.
- Encourage investments in primarily unserved areas to provide consumers a choice of broadband service.
- Work toward establishing affordable and sustainable broadband service in the state.
- Facilitate the development of applications, programs, and services, including telework, telemedicine, and e-learning that increase the usage and demand for broadband services.

Regulation of Basic and Nonbasic Local Exchange Services

The bill amends the definition of "basic local telecommunications service" ("basic service") by removing "flat-rate single line business" customers from the definition and limiting the definition to residential "single-line" service. The bill amends the definition of nonbasic service to include basic service provided in combination with a nonbasic or unregulated service. Thus, residential service defined as basic service prior to the effective date of the act is redefined as nonbasic service when provided with an additional calling feature (e.g., caller ID, call waiting, voice mail), an additional unregulated service (e.g., broadband or video service), or an additional line.

The effective date of this bill is July 1, 2009.

TRANSPORTATION

Airport Legislation

By: County Staff and Senate Staff

HB 1065 by Representative Plakon exempts airport authorities and other entities from penalties, restrictions, or sanctions with respect to authorized action taken to protect human life or aircraft from wildlife hazards including exemption from prosecution if they accidentally kill endangered or threatened species.

Delivery Vehicles

CS/CS/HB 405 by Representative Nelson provides that employees of certain delivery companies are authorized to deliver packages using golf carts and other low-speed vehicles, from October 15 through December 31 of each year. Low-speed vehicles and utility vehicles are expressly authorized for use in all "residential areas," a term defined by the bill, on roads with a speed limit of 35 MPH. Golf carts are expressly permitted on roads with a speed limit of up to 30 MPH; and are also permitted on roads with a speed limit of 30 to 35 MPH, when the local jurisdiction has not expressly restricted them.

These vehicles must be marked with the delivery company's name, and are authorized to pull trailers. The vehicles must meet minimum safety requirements, and have head lamps and tail-lamps when used after dark.

Use of these vehicles is limited to "seasonal delivery personnel," a term defined by the bill to include employees of delivery companies having at least 10,000 employees in Florida. The effective date of this bill is July 1, 2009.

Department of Transportation

HB 1021 by Representative Aubuchon is an omnibus bill that addresses a variety of transportation financing, planning, and administrative issues. Among its key provisions, this bill:

Planning

Revises requirements for comprehensive plans to provide for airports, land adjacent to airports, and certain interlocal agreements relating to local government comprehensive plans to better integrate airport planning and adjacent land uses through the local planning process.

Provides legislative findings relative to transportation concurrency backlogs and authorizes transportation concurrency backlog authorities to issue bonds. The 25 percent tax increment financing rate for ad valorem tax proceeds may be exceeded through an

interlocal agreement of all affected taxing authorities. Provides that facilities determined by the Department of Community Affairs and the applicable general purpose local government to be port-related industrial or commercial projects are not considered to be a development of regional impact provided that the facilities are located within 3 miles of a port and rely upon the utilization of port and intermodal transportation facilities or are in a port master plan area.

Defines "backlog" as it relates to transportation concurrency to mean a facility on which the adopted level-of-service standard is exceeded by the existing trips plus background trips. The bill also establishes that "background trips" are trips from sources other than the development project under review.

Contract Administration

Increases the maximum amount of project agreements within the Local Government Reimbursement Program that may be advanced from outside the adopted work program from \$100 million to \$250 million. The bill also creates a new reimbursement program for counties with a population of 150,000 or less. The program authorizes DOT to enter into agreements with governmental entities to advance a maximum of \$200 million in projects or project phases from outside the five-year adopted work program. Projects included in these agreements must also be included in the governmental entity's comprehensive plan. This new program authorizes DOT to enter into long-term repayment agreements with these counties for up to 30 years.

Utilities

Requires DOT or a local governmental entity to pay the cost of relocation of a utility interfering with public road or publicly owned rail corridor improvements if the utility facility serves the DOT or governmental entity exclusively; and requires DOT to pay costs associated with certain underground utility relocations.

Outdoor Advertising

Revises provisions relating to a municipality's or county's ability to permit and regulate wall murals as 'customary use' under federal law. The bill allows a determination of customary use, whereby the determination is in lieu of the controls in the agreement between DOT and the United States Department of Transportation.

Expressway and Transportation Authorities

Requires the members of each statutorily-created expressway authority, transportation authority, bridge authority, and toll authority to comply with constitutional financial disclosure requirements.

Miscellaneous

Directs DOT to complete a study of transportation alternatives for the travel corridor parallel to Interstate 95 which takes into account the transportation, emergency management, homeland security, and economic development needs of the state.

Revises the notification process used by DOT when amending the work program. Under the revisions, DOT must notify each affected municipality, metropolitan planning organization, and county when deleting or deferring capacity-enhancing projects. DOT must include comments received from affected bodies in its preparation of work program amendments.