



Broward SLI

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Firearms Legislation Implementation

On October 1, 2011, HB 45 went into effect, severely limiting local governments' ability to regulate the carrying of firearms onto county properties. The bill, which preempted regulatory powers to the state in all but the narrowest of circumstances, has left local governments wondering how to protect residents who seek services in county-owned buildings, as well as employees and elected officials. On October 4th, Commissioner Ritter brought forth an item on the Commission agenda to exempt Broward County from the general law, through a local bill (special act). The Broward County Board of County Commissioners supported the motion, with one dissenting vote, and the Broward Delegation attorney has begun drafting the bill. Rep. Waldman and Delegation Chair Jenne have indicated their willingness to co-sponsor the Local Bill exempting Broward.

In addition, Palm Beach County is crafting a general bill to exempt specific areas and types of local government buildings from the law's applicability.

Online Travel Companies

On Tuesday the Orange County Board of County Commissioners postponed a vote to approve a settlement with an online travel company until October 18th. The decision was made because the Board did not have any information regarding the terms of the settlement. Due to a confidentiality agreement, Comptroller Martha Haynie was unable to discuss the details of the settlement. Online Travel Companies continue to assert the payment of the Tourist Development Tax (TDT) on the wholesale price for rooms they sell if sufficient, and do not have to remit TDT on the difference between the wholesale price and retail price which is charged to the consumer.

Destination Resorts - Gaming

Rep. Fresen and Broward Sen. Bogdanoff are preparing to introduce a destination resorts casino bill intended to allow companies to bid on a casino license, if they can demonstrate \$2 billion in capital investment and are willing to pay a \$50 million licensing fee.

Details of the yet-to-be-filed bill are beginning to emerge and may include:

- Allowing three permits for casinos in Broward and Miami-Dade counties.
- Creating a regulatory gaming commission.
- Eliminating Internet cafes that offer sweepstakes.

Fresen said the bill will be limited only to Miami-Dade and Broward and will likely

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Gretchen Harkins
Eddy Labrador
Christopher Brown
Susan Harbin
Daphnee Sainvil, Intern

become the vehicle for any gaming-related legislation in the 2012 Legislative Session.

The bill jeopardizes the Florida Seminole Compact approved in the 2010 Legislative Session. The Seminole's have stated that they are willing to upgrade some of their casinos to a destination-resort model, if the state agrees to a long-term extension of the Compact. The Compact guarantees the Seminoles exclusive rights to some games in exchange for annual payments to the state.

The Seminole Casino in Coconut Creek is moving ahead with a \$150 million expansion that the Tribe says will create approximately 800 permanent full time jobs in Broward County. The expansion, expected to be completed in January 2012, includes three new restaurants and will more than double the facility's existing 39,000-square-foot casino floor.

Other stakeholders include Las Vegas Sands and the Genting Group, which has announced plans to build a \$3.8 billion casino and hotel complex in downtown Miami and intends to build lavish, tourist-focused casinos that pump new dollars into the economy and create jobs.

Meanwhile, the 1st District Court of Appeal on Thursday said state lawmakers control the decisions about new venues. The three judge panel unanimously ruled that Florida has the authority to expand gambling beyond the seven venues originally approved by Broward and Miami-Dade voters following the 2004 voter-approved change to the constitution.

"(The constitution) provides no indication that Florida voters intended to forever prohibit the Legislature from exercising its authority to expand slot machine gaming beyond those facilities in Miami-Dade and Broward Counties meeting the specified criteria," Judge Marguerite Davis wrote. "Nor is there any indication that Florida voters intended to grant the seven entities who met the criteria a constitutionally-protected monopoly over slot machine gaming in the state."

This ruling, according to Rep. Fresen, creates one less obstacle for passage of a Destination Resorts bill this Session.

Department of Economic Opportunity

The Senate Committee on Commerce and Tourism heard testimony on Tuesday from Doug Darling, the Executive Director of the Department of Economic Opportunity (DEO). Mr. Darling released the DEOs legislatively mandated "business plan" and presented an overview which included discussion of the state's incentive contracts over the past ten years. The newly created department combined the state's economic development, community planning and unemployment programs.

Some lawmakers are attempting to investigate why nearly one-third of the state's incentive contracts with private companies over the last decade haven't been fulfilled. The DEOs business plan noted that of the 729 tax-incentive contracts Florida has signed with businesses over the last decade, just 71 percent produced as promised. Sens. Dockery and Lynn want to know more details about how millions of dollars in taxpayer funded incentives may have been paid out to companies that didn't meet their contractual obligations to create jobs and are demanding to have a better accounting of how the money was spent. Last Session lawmakers appropriated less than one-third of the \$300 million the Governor requested for tax-incentives for businesses.

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However, the Governor is planning to request additional funding to increase the public tax dollars available to award to companies, as well as increase the appropriations for incentives for companies to expand or re-locate to Florida.

Unemployment Rates:

- Broward County - 9.5%
- State of Florida - 10.7%
- United States of America - 9.1%

Statewide Task Force on Prescription Drug Abuse & Newborns

SB 402 and HB 227, by Sen. Negron and Rep. Stargel, would create the Statewide Task Force on Prescription Drug Abuse and Newborns within the Department of Legal Affairs. At a Wednesday press conference, the two bill sponsors were joined by Attorney General Bondi and others to announce the proposed legislation. In response to the rising trend of babies being born with neonatal withdrawal syndrome (i.e. addicted to prescription narcotics), the ten-member Task Force would research the syndrome, evaluate treatment and prevention strategies, and provide recommendations to the Legislature. If the proposed legislation passes, the Task Force will first convene in May 2012 and meet at least four times per year thereafter, and be required to submit its policy recommendations to the Legislature by January 15, 2013. The bills have not yet been referred to committees.

Clean Indoor Air Act

HB 143, by Rep. Passidomo, would authorize counties and municipalities to restrict smoking in public places. Currently, state law expressly preempts regulation of smoking to the state and supersedes any related local government ordinances, except that school districts are permitted to regulate smoking on their property. HB 143 would amend this law to also exempt both counties and municipalities from the preemption, allowing them to further restrict smoking on public property and public beaches within their jurisdictional boundaries. Broward County supports removal of this preemption in furtherance of cleaner indoor air on public properties. HB 177 has been referred to three committees and is now in the House Community and Military Affairs Subcommittee; the bill does not yet have a Senate companion.

Tax Simplification Study

Sen. Lynn has filed SB 430, relating to the Streamlined Sales and Use Tax Agreement. The bill makes changes to various tax statutes to bring Florida's tax laws more in line with the Agreement's requirements. In addition, Section 27 of the bill creates a joint select committee to study alternatives for the modernization, simplification, and streamlining of the various taxes in Florida, including, but not limited to, further simplification of the communications services tax. The joint committee will also study how sales and use tax exemptions may be used to encourage economic development and how Florida's corporate income tax may be revised to ensure fairness to all businesses.

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Inmate Reentry Bills

HB 177 and SB 448, by Rep. Porth and Sen. Bogdanoff, would direct the Department of Corrections (DOC) to establish and administer a reentry program for nonviolent offenders. Designed to divert these offenders from periods of long incarceration, the program would combine reduced incarceration periods with substance abuse treatment and other rehabilitative programming with the ultimate goal of producing a deterrent effect equivalent to that produced by lengthy incarceration alone. In addition to substance abuse treatment, the rehabilitative programming would include both educational and vocational training.

To qualify for participation in a reentry program, a nonviolent offender would be required to have completed at least half of his or her original sentence and also be identified as needing substance abuse treatment. The DOC would also consider an offender's complete criminal history and other factors when screening for program admission. Upon admission to a reentry program, an offender would undergo assessments to determine substance abuse treatment and educational needs and individuals without high school diplomas would be enrolled in adult education programs. The DOC would be required to report annually to the Legislature on program status, including making any legislative recommendations to improve the program, and would be permitted to contract with outside agencies and corporations for provision of any or all of the services. HB 177 has been referred to four committees and is now in the House Criminal Justice Committee. SB 448 has not yet received committee references.

Insignificant Fiscal Impact Legislation

Article VII, §18 of the Florida Constitution restricts the state's ability to impose unfunded mandates on cities and counties. Generally, the Legislature must comply with the specific conditions in this section or meet one or more of the exemptions provided before imposing any general law mandate that:

- Requires cities and counties to expend money;
- Reduces the authority of cities and counties to raise revenues; or
- Reduces cities and counties' share of state taxes.

Section 18(d) exempts laws that have an insignificant fiscal impact from the mandatory requirements; however, the section does not define the term nor is the term currently defined in statute. The House of Representatives and Senate have adopted joint guidelines implementing Section 18 and its exemptions. In describing the "insignificant fiscal impact" exemption, the joint guidelines define "insignificant" as meaning "an amount not greater than the average statewide population for the applicable fiscal year times ten cents." When determining if a bill will have an insignificant fiscal impact, the average fiscal impact must account for any offsetting long-term effects of the proposed bill.

On Tuesday, the Senate Community Affairs Committee considered for filing, SB 7002, a proposed committee bill. The bill defines the term "insignificant fiscal impact" similar to the joint guidelines. Specifically, an "insignificant fiscal impact" means an amount equal to or less than 10 cents multiplied by the Florida Demographic Estimating Conference's April 1st Florida resident population estimate. Additionally, in determining whether the fiscal impact of a law is insignificant, the average annual revenues or savings generated by the law must be considered. The Committee

approved filing the bill, which has been designated as SB 444 for the 2012 Regular Session.

Juvenile Justice Reform

Workgroup: County members of the Juvenile Justice Workgroup, led by the Florida Association of Counties, discussed recommendations via teleconference on September 30th. Commissioner Wexler has actively participated in the Workgroup over the last five months and offered several recommendations for systemic reform. The final, formal meeting of the entire Workgroup, convened through an act of legislation during the previous Session, will meet at DJJ headquarters in Tallahassee on October 14th. Recommendations presented to Secretary Walters will be considered as part of the 2012 Legislative Session and are expected to have substantial positive fiscal impact on counties that participate in state-run juvenile detention through formulaic cost-sharing.

Proposed Legislation for 2012: During this past Committee Week, the Senate's Education and Criminal Justice Committees heard testimony about juvenile justice education and reforms being sought to the system. Senator Wise, with the support of various groups like the ACLU, NAACP and TaxWatch, are looking at ways to prevent fewer youth from ever reaching juvenile justice facilities, where statistics show they are more likely to become repeat offenders. Reducing the number of juveniles detained could save as much as \$49 million, annually, with a proportion of that savings being realized by counties who participate in the cost-share. Broward County has been actively involved in the Juvenile Detention Alternatives Initiative, and is working with the state and other interested counties to identify a risk assessment instrument for juveniles that is appropriately validated.

Interestingly, Sen. Wise is also considering reforms of the educational programs delivered to youth who do find themselves incarcerated. By implementing accountability measures currently used in K-12 public schools to juvenile justice facilities (i.e., tying funding to learning gains and completion of workforce training programs, and yanking funding if students don't show improvement), many feel that youth may have better outcomes upon completion of their sentences. The NAACP asserts that once students leave a DJJ facility, they are more likely to commit a crime and never finish school, and less likely to obtain a job or go to college than other students.

Many youth entering the juvenile justice system are referred there as a result of public schools' "zero tolerance" laws. Referrals from the school systems disproportionately impact black youth, who accounted for 47 percent of all referrals to DJJ facilities in the 2009-10 school year, according to a report put out by the ACLU, NAACP and Advancement Project. The report also urges a continued emphasis on civil citations over arrests. These citations usually involve community service instead of time at a juvenile justice facility and can result in substance abuse treatment or mental health counseling. A law passed this year mandated that all Florida communities offer civil citations. Broward is presently in the process of implementing its juvenile civil citation program -- another opportunity to divert non-violent youth away from the detention system.

Groups like the NAACP are encouraging additional laws, like the 2009 law that backed off zero-tolerance by narrowly defining what behavior can permit a school to report a student to the police. The NAACP would also like to see more accountability measures applied to districts that refer students to DJJ facilities in violation of the law and make

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funding for school-based police officers contingent on the reduction of arrests. Even though weakened zero-tolerance laws are in effect, many schools are still reporting students to law enforcement for misdemeanor crimes such as disorderly conduct. A bill offering additional reforms to the current system, including educational provisions, is expected in early November.

Health and Human Services Budget Discussions

Both House and Senate Committees considered Health and Human Services related budget issues this week. Specifically, the House Health Care Appropriations Subcommittee heard FY 2012-12 proposed Schedule VIII-B Budget Reduction from several agencies, including the Department of Elder Affairs (DEA), the Agency for Persons with Disabilities (APD), the Agency for Health Care Administration (AHCA), and the Department of Health (DOH). The DOE's proposed cuts would reduce the agency's budget, 95.6 percent of which goes toward actual home and community services for the elderly, by nearly \$32 million. To reach the target reduction, the DOE would cap participation in several programs, Community Care for the Elderly, the Aged and Disabled Adult Medicaid Waiver, Home Care for the Elderly, and the Nursing Home Diversion Waiver. However, the total reductions would affect approximately 5,480 frail elders by reducing their home services, diverting many into nursing homes and increasing total nursing home costs by \$169.9 million, including \$74.3 million in general revenue funds.

APD presented a total reduction target of \$47.3 million, which would be reached through a 10 percent reduction in administrative costs and reduced services for individuals served by APD programs. The largest single reduction would be to the Home and Community-Based Services Waiver, impacting the 29,641 individuals currently receiving waiver services. The APD Director recommended achieving this reduction through implementation of the i-budget, through which the department allocates a fixed amount of money. The APD is currently working to finalize i-budget formulas and logistics. The Senate Budget Subcommittee on Health and Human Services Appropriations also heard a presentation from APD Director Hansen, who updated the committee on the agency's cost containment initiatives that are expected to reduce the budget by \$21 million; however, the APD would still face a \$55.3 million dollar budget hole. Committee members weighed in, with Chair Negrón suggesting that they take money from other programs, such as adult mental health and substance abuse, and transfer them to fund programs for individuals with developmental disabilities. Sen. Gaetz proposed the idea of a means test for individuals receiving APD services, accounting for supplemental family or community support.

AHCA's budget reduction proposal would reduce or eliminate several Medicaid related waiver services, including limiting the Medically Needy program to physician-only services for non-pregnant adults and eliminating the MEDS-AD Waiver. However, Committee Chair Hudson called both of these proposals "non-starters" and advised that AHCA look elsewhere for reductions.