



BOARD OF COUNTY  
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# ***2011 STATE LEGISLATIVE FINAL REPORT***



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# 2011 STATE LEGISLATIVE FINAL REPORT

The Office of Intergovernmental Affairs and Professional Standards is pleased to present the Broward County 2011 State Legislative Final Report. The report represents the advocacy results of our County Commissioners, County staff and the County's governmental relations team who spent many hours in Tallahassee lobbying critical priorities and other issues important to our county government.

**Section I** summarizes the Commission's Legislative Priorities and the result of associated legislation.

**Section II** summarizes the Commission's Appropriations Issues and provides an overview of the state's major funding decisions as enacted in the General Appropriations Act for FY 2011-2012.

**Section III** summarizes the bills of interest that passed the Legislature during the 2011 Session.

**Section IV** summarizes the bills of interest that failed to pass the Legislature in 2011.

**Section V** summarizes local bills that passed and failed during the 2011 Session.

For the online version of this report, we have provided a link to each chapter law number designated by the Secretary of State. In addition, we have provided a link to access the Governor's veto messages associated with reported appropriations and bills.

The Office of Intergovernmental Affairs and Professional Standards hopes this 2011 State Legislative Final Report will be a helpful source of information. Additional legislative summaries are available at the following websites:

- [Florida Association of Counties](#)
- [Florida League of Cities](#)
- [Florida Senate](#)
- [Florida House of Representatives](#)

Respectfully,

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# **SECTION I: Commission Legislative Priorities**

## **Beach Renourishment**

**Board Position Statement:** *Support the protection and retention of the dedicated use of documentary stamp revenues for beach erosion programs throughout the state of Florida.*

The final budget, approved by the Governor, includes \$16,251,074 for statewide beach management projects. The dedicated documentary stamp revenue for beach projects was maintained. Additionally, spending authority for \$100 million from BP for use on restoration projects to address injuries to natural resources caused by the Deepwater Horizon oil spill was reflected in the budget. Given that the Governor allocated no funds for beach projects in his proposed budget, beach management projects fared quite well during the otherwise challenging Session.

## **Collective Bargaining/County Constitutional Officers**

**Board Position Statement:** *Amend state law to authorize the constitutional officers to each be the “legislative body” for resolving collective bargaining impasses involving their respective employees.*

For purposes of resolving collective bargaining impasse disputes, SB 1098/HB 1031 specified that the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court were each deemed to be the “legislative body” for their respective employees. Each constitutional officer, rather than the county commission, would be authorized to provide the final resolution regarding collective bargaining impasses involving its employees. SB 1098 passed the Senate Community Affairs Committee 6-3, but died in the Senate Judiciary Committee; HB 1031 died in the House Government Operations Subcommittee without obtaining a hearing.

## **Economic Development/International Trade**

**Board Position Statement:** *Support policies that enhance economic development by utilizing various tools and incentives to induce business expansion, targeted industry retention, new capital investment and job creation. Support the County’s evolution into a global center for trade and investment through legislation that promotes and enhances the growth of foreign direct investment, domestic and international trade, and travel and tourism.*

SB 2156 and HB 7205 create the Department of Economic Opportunity (DEO) and the State Economic Enhancement and Development (SEED) Trust Fund, respectively, beginning the process as to how these will be implemented. SB 2156 transfers the functions, duties, and programs to the DEO from the Agency for Workforce Innovation, the Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development. Further, SB 2156 consolidates and modifies some functions, duties and programs of several public-private economic development partnerships within the new department, including Enterprise Florida, the Florida Sports Foundation, the Florida Tourism Industry Marketing Corporation (Visit Florida), the Black Business Investment Board, and Space Florida.

The DEO will be responsible for coordinating the efficient delivery of services and programs related to economic development, workforce development, growth management, housing, community development and unemployment compensation. The department will also be responsible for creating a single, statewide strategic plan to address the promotion of business formation, expansion, recruitment and retention, in order to create better jobs with higher wages for all regions of the state. The DEO will also have responsibility over a streamlined process for granting state incentives for economic development projects.

HB 7205 redirects a total of \$75 million from documentary stamp tax revenues currently dedicated to the state affordable housing trust fund, and \$50 million from documentary stamp tax revenues currently dedicated to the State Transportation Trust Fund (STTF) into the SEED Trust Fund created in HB 7205. The revenues from the STTF are anticipated to reach \$75 million over the next three years. The SEED Trust Fund will serve as a depository of authorized documentary stamp tax proceeds, local matching funds, interest earnings and revenue from other trust funds. The SEED Trust Fund is intended to allow the governor and lawmakers to make strategic investments in a variety of areas that include affordable housing, transportation facilities, economic development, workforce training, and tourism promotion and marketing.

In the past, infrastructure and economic development programs have been funded from general revenue and various trust funds through the state's General Appropriations Act. The SEED fund creates a direct revenue source that can be readily available and used to respond to economic opportunities arising throughout the fiscal year. The SEED Trust Fund will enable Florida to be proactive and better positioned to capitalize on opportunities that will benefit the state from an economic development perspective.

As created in HB 7205, monies deposited into the SEED Trust Fund must be used to fund the following infrastructure and job creation opportunities:

- Transportation facilities that meet a strategic and essential state interest with respect to the economic development of the state.

- Affordable housing programs and projects in accordance with Chapter 420, F.S.
- Economic development incentives for job creation and capital investment.
- Workforce training associated with locating a new business or expanding an existing business.
- Tourism promotion and marketing services, functions, and programs.

The trust fund will automatically terminate on July 1, 2015, unless reenacted by the Legislature.

The following economic development incentive programs designed to recruit industry to Florida, or to persuade existing businesses to expand their operations within the state, remain:

- **Qualified Target Industry Tax Refund Program (QTI)** – The QTI is a tax refund program providing refunds of seven state taxes and the local ad valorem tax for businesses that is intended to create higher-paying, higher-skilled jobs for Floridians. There are eight categories of target industry sectors.
  - The QTI program is one of the most popular of the state’s incentives. According to Enterprise Florida’s 2010 incentives report, of the 110 businesses that applied for the incentive last fiscal year, 78 were approved by Office of Transportation Trade and Economic Development (OTTED) and 63 have entered into agreements with OTTED. There are 69 active QTI projects. According to the incentives report, the owners of these projects have invested \$778 million in Florida, and created 7,427 jobs paying an annual average wage of \$46,345. The average statewide private-sector annual wage in 2010 was \$39,621, according to data compiled by the Florida Agency for Workforce Innovation.
- **Quick Action Closing Fund (QAC)** – The Quick Action Closing Fund offers grants to target industries whose projects are anticipated to achieve a \$5 to \$1 payback ratio; it is used to “close the deal” with a prospective new or expanding business. The QAC project approval process is as follows:
  - For projects under \$2 million, the Governor may approve (no additional approval is required).
  - For projects between \$2-5 million, the Governor must provide a written description and evaluation of the project to the Chair and Vice-Chair of the Legislative Budget Commission ten (10) days prior to final project approval.
  - For projects over \$5 million the Legislative Budget Commission must approve the project before any funds are released.
- **Economic Development Transportation Fund (Road Fund)** –The Road Fund incentive is intended to be used to assist local governments in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company.
- **Qualified Defense Contractors Tax Refund Program** –This tax refund program

is the only state incentive that gives tax refunds to retain employees, although new employees also make a military or space contractor eligible for the program. Only a handful of companies access the program funds, so it shares an annual appropriation with QTI.

- **Capital Investment Tax Credit** – This tax credit is intended to provide eligible corporations with an annual credit on their corporate income tax liability over a 20-year period. The credit is based on a company’s capital investment and is taken against the income arising from the project. In general, a corporation must make a substantial investment in land, facilities, and equipment to qualify for the program.
- **Florida Enterprise Zone Program** – This program provides 11 different tax credits and tax exemptions for businesses (and non-business property owners, where applicable) and is intended to create jobs and make investments in economically distressed or poverty-stricken areas designated by the Legislature as enterprise zones. Presently, the Office of Tourism, Transportation and Economic Development (OTTED) oversees the program by approving the required documents after legislative creation of a zone, and by approving boundary changes. Businesses may receive corporate tax credits, or sales and use tax credits, refunds, or exemptions, based on the criteria established in statute for the 11 different incentives available for enterprise zones. There are 59 enterprise zones in Florida, each of which is managed by a local coordinating board selected by the applicable county or city commission.
- **Rural and Urban Job Tax Credits** – The Rural and Urban Job tax credits are awarded based on the industry sector and the number of new employees the business project commits to hiring. The tax credits are administered through the Department of Revenue.
- **Brownfield Redevelopment Bonus** – This bonus program is intended to provide tax refunds for businesses that locate or expand in “brownfield” areas, which typically were the sites of industrial activity that led to groundwater and soil contamination having since been cleaned up so that it is safe again for commercial activity. The bonus is up to \$2,500 per new job created. An eligible business may be in a target industry sector and receive the QTI tax refunds, too; if not a targeted industry, the business must make at least a \$500,000 investment if the site does not require cleanup or a \$2 million investment if cleanup is necessary, and hire at least 10 new employees.
- **Economic Gardening Business Loan Pilot Program** – This program is intended to provide low-interest, short-term loans to eligible businesses for working-capital expenses, employee training, and salaries of new employees. It is administered by the Black Business Investment Fund.
- **Economic Gardening Technical Assistance Pilot Program** – This program, also called GrowFL, provides qualified companies with training and outreach for their infrastructure, networking, and mentoring needs. To participate in GrowFL or the Business Loan program, a company must be a for-profit, privately held, investment-grade business that employs at least 10 people but not more than 50; that generates

between \$1 million and \$25 million in annual revenue; and qualifies for QTI. \$2 million appropriated in 2011; **Vetoed by Governor.**

- **High Impact Performance Incentive Grants** – This incentive grant program is intended for businesses representing the following industry sectors – clean energy, life sciences, financial services, corporate headquarters, transportation equipment manufacturing, and semiconductor manufacturing. Eligible businesses must make a capital investment of at least \$50 million and create at least 50 new jobs; however, the thresholds for businesses engaged in research and development are half those amounts.

The chart below illustrates some of the funds available for economic development activities and incentives in the current fiscal year and funds appropriated for the upcoming year.

| <b>Department of Economic Opportunity<sup>1</sup></b>                  | <b>FY 2011 Totals</b>     | <b>FY 2012 Appropriations</b> |
|--|---------------------------|-------------------------------|
| Enterprise Florida   | \$11,100,000              | \$11,100,000                  |
| Economic Development Tools   | \$16,567,473              | \$21,250,000                  |
| Quick Action Closing Fund  | \$16,000,000              | \$42,000,000                  |
| Innovation Incentive Fund  | \$75,000,000 <sup>2</sup> | \$15,000,000                  |
| Institute for the Commercialization of Public Research                 | \$3,000,000               | \$10,000,000                  |
| Research & Development Tax Credits                                     | \$0                       | \$9,000,000 <sup>3</sup>      |
| Military Base Protection   |                           |                               |
| *Military Base Protection  | \$150,000                 | \$150,000                     |
| * Defense Reinvestment   | \$850,000                 | \$850,000                     |
| Space, Defense, and Rural Infrastructure                               | \$6,100,000               | \$3,162,489                   |
| Brownfield Redevelopment Bonus Refunds                                 | \$2,480,000               | \$1,250,000                   |
| Quick Response Training  | \$3,300,000               | \$6,000,000                   |
| Economic Gardening Technical Assistance<br><b>(Vetoed by Governor)</b> | \$1,000,000               | \$2,000,000                   |
| Road Fund <i>(amounts after earmarked projects)</i>                    | \$3,700,000               | \$10,000,000                  |

<sup>1</sup>Combined from different government agencies (e.g., OTTED, Enterprise Florida, Visit Florida, Space Florida, etc.).

<sup>2</sup>\$50 million was earmarked for the development of a genetics and personalized medicine research institute.

<sup>3</sup>As authorized in CS/HB 143 to be granted to businesses in any calendar year.

State incentive funds appropriated by the Legislature are characteristically granted on a competitive basis to companies that plan to relocate or expand in Florida--making decisions about location, first, and requesting incentives from local governments to “close the deal.” The incentives are not awards that are typically made available directly to local

governments for their use in business attraction. In some cases, the state requires the local government where a project will be located to match the state's incentive investment. Incentives are all performance-based, requiring relocating or expanding companies to create an agreed-upon number of jobs, hire from the local community, make some level of capital investment, and pay taxes as required by the state and local government.

**[SB 2156: Approved by Governor. Chapter No. 2011-142; Effective date: July 1, 2011.](#)**

**[HB 7205: Approved by Governor. Chapter No. 2011-138; Effective date: July 1, 2011.](#)**

### **Targeted Economic Development – Qualified Target Industry Tax Refund**

CS/CS/HB 879 modifies two state economic development incentives and extends eligibility for 11 different state incentives to eligible businesses in the two pilot Energy Economic Zones. Specifically, the bill:

- Gives businesses participating in the Capital Investment Tax Credit program, pursuant to §220.191, F.S., an additional 10 years to claim their unused tax credits against their corporate tax liabilities.
- Renames one of the criteria for determining a “target industry business” for clarity purposes in the Qualified Target Industry (QTI) tax refund program, and specifies that special consideration should be given to applicant businesses that enhance trade opportunities and global logistics – which is one of the new additions to the 2011 Target Industry Sector List compiled by Enterprise Florida, Inc.
- Adds input from municipal governing bodies to recommend to the state on which private sector wage calculation should be used as the baseline for calculating the QTI business's required 115-percent annual average wage for the business' new employees.
- Augments the existing Energy Economic Zone (EEZ) Pilot Program language to:
  - Make all the sales and corporate tax incentives and benefits provided to businesses within Chapter 290, F.S., enterprise zones pursuant to state law also will be available to businesses within EEZs, effective July 1, 2012. The two pilot EEZs are in Sarasota County and the City of Miami Beach;
  - Extend eligibility to EEZ businesses to receive higher tax refund subsidies, as do businesses in enterprise zones, and waives the minimum wage requirement of at least 115 percent of the average area private sector wage for EEZ businesses;
  - Specify that EEZ projects will have priority consideration for economic development transportation funding, pursuant to §288.063, F.S.;
  - Make EEZ projects eligible for Quick Response Training and Incumbent Worker Training incentive funds;
  - Cap the total amount of incentives at \$300,000 annually in each EEZ;
  - Specify that the EEZ ordinances to be approved by the two local governing boards will include business criteria and other information; and
  - Exempts a development in an EEZ from the DRI requirements of §380.06, F.S.

**[Approved by Governor. Chapter No. 2011-223; Effective date: July 1, 2011.](#)**

## **Free Trade Agreements**

HB 189 was a memorial that was intended to urge the United States Congress to support the approval of free trade agreements between the United States and Colombia, Panama and South Korea. Broward County strongly supported this memorial. **Died in Senate messages.**

## **Florida-Caribbean Basin Trade Initiative**

In 2000, the Legislature created the Florida-Caribbean Basin Trade Initiative as part of the Seaport Employment Training Grant Program (STEP). STEP was required to establish and administer the Florida-Caribbean Basin Trade Initiative for the purpose of assisting small and medium-sized businesses to become involved in international activities and helping them to identify markets with product demand, identify strategic alliances in those markets, and obtain the financing to effectuate trade opportunities in the Caribbean Basin. Funding was appropriated for that year only and the program has been inactive since that time. CS/CS/SB 1346 repeals the section of law that created the Florida-Caribbean Basin Trade Initiative.

**[Approved by Governor. Chapter No. 2011-213; Effective date: July 1, 2011.](#)**

## **Growth Management/Regional Planning Councils**

**Board Position Statement:** *Support the existence of a state land planning agency to deal with planning issues of statewide concern and to ensure consistency throughout the state. Should the Legislature eliminate the state's current land planning agency, support delegating review authority over issues of regional significance to regional planning councils.*

Growth management reform was a major topic of debate during the 2011 Session, with more than twenty related bills filed. The most sweeping changes to current growth management law came in HB 7207, which re-designates the "Local Government Comprehensive Planning & Land Development Regulation Act" as the "Community Planning Act" and significantly reduces the state's role in growth management. Specifically, HB 7207 does the following:

- Makes concurrency for parks and recreation, schools, and transportation facilities optional for local governments.
- Applies and revises the expedited comprehensive plan amendment process statewide.
- Deletes the requirement that comprehensive plans be financially feasible.
- Deletes the twice a year limitation on comprehensive plan amendments and revises the small scale amendment process.
- Specifies that population projections should be a floor for requisite development except for areas of critical state concern.
- Abolishes 9J-5 (DCA's growth management regulations) and incorporates certain provisions into the bill.

- Removes many of the state specifications and requirements for optional elements in the comprehensive plan, but allows local governments to continue including optional elements.
- Expands and revises the optional sector plan process.
- Revises the rural land stewardship program.
- Restricts the state’s ability to interpret joint planning agreements.
- Clarifies and broadens the window for permit extensions.
- Creates a 4-year development of regional impact permit extension.
- Removes industrial areas, hotels/motels, and theaters from the list of developments of regional impact.
- Creates an exemption from the Development of Regional Impact (DRI) process for mining projects and allows those mines to enter into agreements with the Department of Transportation.
- Adds a new 2-year permit extension, but caps the maximum extension at 4 years.
- Prohibits local governments from having referenda for local comprehensive plan amendments.
- Encourages planning innovation technical assistance.
- Sunsets the Century Commission in two years.
- Allows a certain plan amendment to be readopted by a local government without being resubmitted to the state land planning agency.
- Clarifies when a local government can reject a proposed change to a development of regional impact.
- Encourages adaptation strategies: Broward County was successful in securing amendatory language on HB 7207 that allows a local government to voluntarily designate as “adaptation action areas”, in the coastal management element of the local government’s comprehensive plan, areas that are particularly vulnerable to the impacts of sea level rise. The “adaptation action area” designation will be used as a means of prioritizing funding for infrastructure needs and adaptation planning.
- Requires the Department of Transportation (DOT) to study the proportionate share calculation.
- Allows Department of Community Affairs (DCA) to have procedural issues on their website.

**Approved by Governor. Chapter No. 2011-139; Effective date: June 2, 2011.**

SB 1910 would have repealed provisions relating to the Florida Regional Planning Council Act, largely eliminating the role of regional planning councils in the state. As a supporter of the South Florida Regional Planning Council, the Board strongly opposed this bill.

**Withdrawn from Consideration.**

The regional planning councils received \$2.5 million in SB 2000, the general appropriations bill; however, this line item was [vetoed by the Governor on May 26, 2011](#).

## **Juvenile Justice**

**Board Position Statement:** *Oppose efforts to shift additional Department of Juvenile Justice costs to counties and oppose having counties compensate the state for any unfunded juvenile justice mandates. Support legislation that provides for a county's input into the development and approval of the annual operating budget of the secure detention facility located within its geographic boundaries. Support legislation that improves the accountability of educational systems within juvenile detention facilities.*

The primary fiscal concern for Broward County continues to be inequitable billing practices (originating after passage of Article V) related to housing juveniles in preadjudicatory secure detention. Counties are billed by the Department of Juvenile Justice (DJJ) based on juveniles' counties of residence and number of days held prior to "disposition." The Florida Association of Counties (FAC) has long been a proponent of clearly defining "pre" and "post-disposition" in statute, and in this legislative session, meetings and working groups were convened by the newly-appointed DJJ Secretary Walters to investigate ways to address long-standing billing inequities.

The Department effectuated a reduction to the overall cost-share between the state and non fiscally-constrained counties (General Appropriations Act (GAA), lines 1068 through 1077A) by closing facilities and reducing staffing. Counties are expected to see a significant (approximately 25 percent) reduction in their 2012 preadjudicatory secure detention billing over FY 2011 levels.

From a public policy standpoint, Broward County consistently advocates for appropriate juvenile detention alternatives. As a pilot for the Annie E. Casey Foundation's Juvenile Detention Alternative Initiative (JDAI), Broward County supported inclusion of the following proviso language: "From the funds in Specific Appropriations 1068 through 1077A, the department may contract for services consistent with the department's Juvenile Detention Alternative Initiative (JDAI) and the Annie E. Casey Foundation to divert youth from secure detention to alternative community based services. These services should be designed using in-home and community advocacy to reduce the need for more expensive restrictive placements, build community capacity to reduce recidivism, create supported work opportunities for youth, and improve community safety."

Finally, the Department placed in proviso the creation of a Workgroup to make recommendations for additional policy and cost-saving measures. The Workgroup was

charged with the following responsibilities: “The Florida Association of Counties and the Department of Juvenile Justice shall provide joint recommendations to fund alternatives for locally funded and operated juvenile detention [emphasis added] to the Executive Office of the Governor, the President of the Florida Senate and the Speaker of the Florida House of Representatives no later than November 1, 2011.” Meetings have already occurred and Broward County Commissioner Lois Wexler, was selected by FAC to act as a representative of the Workgroup. Recommendations have actually been requested on or before August 1, 2011, to accommodate the commencement of an earlier-than-typical legislative committee week season, resulting from redistricting.

Other financial concerns were generated by the passage of legislation permitting counties to withdraw from participation in the secure detention cost-share billing pool (to a great extent), should they qualify to run their own detention facilities. Counties remaining in the system expressed concerns that their proportion of the overall costs associated with housing juveniles would increase as fewer local governments remained in the pool. SB 2112, a conforming bill, and proviso in the GAA, offered relief to counties which feared their proportional cost-shares would increase as other local governments withdraw from the system. In pertinent part, the legislature expressed its intent that: “The amount from the Shared County/State Juvenile Detention Trust Fund available to the department shall be reduced by the actual reduction in cost associated with providing detention to those juveniles prior to adjudication from a county that opts to provide detention to juveniles prior to adjudication. The remaining counties that continue to place juveniles in the Department of Juvenile Justice’s detention centers shall have their billings decreased by the actual reductions in cost, with an exception of fiscally constrained counties.” [Approved by Governor. Chapter No. 2011-53; Effective Date: July 1, 2011.](#)

SB 154, relating to Juvenile Justice Education Programs, would have required that the Department of Education (DOE) submit, to the Legislature, an annual report that includes student learning gains and student progression in Juvenile Justice Education programs and details the methodology that the department uses to ensure that the student performance data is complete and reliable. Unfortunately, this bill was never heard in committee. **Died in Committee.**

## **Medicaid Reform**

**Board Position Statement:** *Oppose extending and/or expanding Medicaid Reform and support the creation of a medical program that ensures equitable access to services, provides improved prescription services, and includes flexibility for participants based on their medical and financial needs.*

Medicaid Reform was one of the most highly debated topics this Session, with the House

and Senate ultimately reaching a compromise on CS/HB 7107 and CS/HB 7109. The massive Medicaid overhaul legislation, which aims to shift nearly all Medicaid beneficiaries into managed care over the next five years, includes the following provisions:

- Federal Waiver: Seeks to expand the current Medicaid waiver, which must be modified (budget bills include funding to hire experienced consultants, successful in obtaining Section 1115 waivers with the Center for Medicaid and Medicare Services (CMS)).
- Opt Out: Allows opt-out of Medicaid in favor of employer-sponsored coverage or other coverage and the use of the Medicaid subsidy to help pay premiums. It also directs the Agency for Health Care Administration (AHCA) to seek federal authority to require people with access to employer-sponsored coverage to use the Medicaid subsidy to pay the employee's portion of the premium, up to amount that would have been spent on capitation, instead of enrolling in Medicaid-proper.
- Requirement to Pay Premiums: Directs AHCA to seek federal approval to require Medicaid recipients enrolled in managed care plans to pay the Medicaid program a share of the premium in the amount of \$10 per month.
- Contracting Impasse: Classifies certain providers as "essential Medicaid providers" and requires Managed Care Organizations (MCOs) to contract with them for at least 1 year; sets rates.
- Regions: Creates an 11 region model (down from the 19 originally proposed); identical to current AHCA regions.
- Exclusions from Managed Care: Women would be eligible only for family planning and breast and cervical cancer services; non-citizens will be eligible for Emergency Medicaid for Aliens; children will be able to receive services in a prescribed pediatric extended care center.
- Voluntary participation in an MCO: Residents of a Department of Juvenile Justice (DJJ) residential commitment facilities; persons eligible for refugee services; residents of a developmental disability center; Medicaid recipients enrolled in a home and community-based waiver or who are on the waiting list.
- Capitation: Requires HMOs to be paid via risk-adjusted capitation; allows Provider Service Networks (PSNs) to be paid fee for service (FFS) for two years after becoming operational.
- MCOs Fiscal Performance: Mandates 5-year contracts with guaranteed savings of 5 percent in the first year; penalties and costs for early exit (including if a plan leaves a region before the end of the contract term, the agency will terminate all contracts with that plan in other regions and adds a 180-day notice requirement).
- Medically Needy: Require Medically Needy participants to enroll in managed care.
- Transportation Disadvantaged: Requires MCOs to provide non-emergency transportation services. MCOs will be responsible for providing that service and may contract with the Commission for Transportation Disadvantaged (CTD) or other types of transportation providers.
- Payments to Physicians: Plans are expected to coordinate care, manage chronic

disease, and prevent the need for more costly services. Physician payment rates should equal or exceed Medicare rates for similar services. AHCA may impose fines or other sanctions on any plan that fails to meet this performance standard after two years of continuous operation.

- Oversight: Auditing of MCOs will be done by AHCA; AHCA will contract with independent certified public accountants (CPAs) to audit the financial statements of plans and determine the achieved cost savings audit; the plans bear the cost of their own audits; plans will be submitted annually; independent financial audits to the agency will be required on or before June 1 for the preceding year, with annual statements prepared in accordance with statutory accounting principles on or before March 1.
- Limits on Liability: Places limitations on non-economic damages for practitioners and hospitals when providing services to Medicaid recipients, not to exceed \$300,000 per claimant; a practitioner providing medical services and care to a Medicaid recipient is not liable for more than \$200,000 in non-economic damages.
- Procurement/Enrollment:
  - Procurement of Long Term Care Plans must be completed by July 2012.
  - Procurement of Managed Medical Assistance Plans must be completed by January 2013.
  - Enrollment in Long Term Care Plans begins in October 2013.
  - Enrollment in Managed Medical Assistance Plans begins October 2014.
  - Procurement of Long Term Care Plans for the Developmentally Disabled begins in January 2015
  - Enrollment in Long Term Care Plans for the Developmentally Disabled must be completed by October 2016.

The Senate version originally contained a provision that would require Florida to pull out of the Medicaid program altogether in the event that CMS refused to grant the necessary waiver; however, this was dropped in the compromise. Nevertheless, the program still requires federal approval from CMS before implementation can begin. The current waiver that authorizes the pilot program expires this year. AHCA must submit its request by August 1 of this year, at the latest, and the proposal may require modification before CMS gives final approval. CMS has stated that any proposal must be able to demonstrate that Medicaid recipients will receive access to quality care and has also expressed concern over the fact that the proposal does not use a medical loss ratio, which would require plans to spend a set percentage of profits on patients.

**[HB 7107: Approved by Governor. Chapter No. 2011-134; Effective Date: July 1, 2011.](#)**  
**[HB 7109: Approved by Governor. Chapter No. 2011-135; Effective Date: July 1, 2011.](#)**  
except as otherwise provided.

CS/SB 2144, the Medicaid conforming bill:

- Modifies the nursing home staffing requirements to allow for a combined direct care staffing requirement of 3.6 hours per resident per day (down from current 3.9) and modifies the formula for calculating the direct care subcomponent of the nursing home reimbursement.
- Modifies the requirements for AHCA to deny licensure and renewal requests.
- Repeals the sunset of the Medically Needy for adults and the Medicaid Aged and Disabled (MEDS-AD) waiver, which would have otherwise ended on June 30, 2011.
- Eliminates a requirement for a hospitalist program in nonteaching hospitals.
- Modifies the formula used for calculating reimbursements to providers of prescribed drugs.
- Repeals the sunset date for the freeze on Medicaid institutional unit cost; and deletes obsolete workgroups and reporting requirements.
- Provides for the allowed aggregated amount of assessments for all nursing home facilities to increase to conform to federal regulations and revises the criteria for exempting qualified public, nonstate-owned or operated nursing home facilities from quality assessments.
- Repeals the sunset of the quality assessment on privately operated intermediate care facilities for the developmentally disabled.
- Revises the years of audited data used in determining Medicaid and charity care days for hospitals in the Disproportionate Share Hospital (DSH) Program; and changes the distribution criteria for Medicaid DSH payments to implement funding decisions for the DSH program.
- Eliminates the requirement to implement a wireless handheld clinical pharmacology drug information database for practitioners; and allows electronic access to certain pharmacology drug information.
- Eliminates certain specific components of the prescription drug management system program.
- Authorizes the agency, in conjunction with the specialty behavioral health plan, to develop clinically effective, evidence-based alternatives as downward substitution for the statewide inpatient psychiatric program and similar residential care and institutional services.
- Authorizes the use of a managing entity in the Medipass program in certain counties to implement program initiatives to improve care coordination, patient outcomes, and reduce costs.
- Assigns Medicaid program recipients diagnosed with HIV/AIDS residing in Broward, Miami-Dade, or Palm Beach counties to an HIV/AIDS specialty plan.

**Approved by Governor. Chapter No. 2011-61; Effective Date: July 1, 2011.**

## **Online Travel Companies**

**Board Position Statement:** *Amend existing transient rental tax law, and local tourist development tax law to confirm that online travel companies utilizing a “merchant” or similar business model must collect and remit all state transient rental and local tourist development taxes when receiving from a customer the consideration for the lease or rental of a hotel room or other transient accommodation.*

SB 376 and CS/CS/HB 493 were awaiting hearing on the special order calendar on the very last day of session.

During the 2011 Session, a collaborative of interested stakeholders began formally meeting and developing strategies to oppose this legislation. During the committee process, there were debates over the “transparency” of the break-out of taxes and fees on consumers’ bills when using an intermediary (OTC). A variety of opponents, e.g., Convention and Visitor’s Bureaus, national hotel chains, and Broward County, all testified about industry inequities that would be sanctioned by passage of this legislation. To address these concerns, House bill sponsors ultimately amended their version of the legislation to permit additional transactional transparency.

As amended, the bills: (1) clarified that service fees for facilitating the booking of reservations for customers at transient accommodations would not be taxable; (2) allowed for compensation to be paid by the Department of Revenue to a county government for information leading to the punishment of, or collection of, transient rental sales tax from noncompliant taxpayers; and (3) required the disclosure of all amounts charged, or expected to be charged, as taxes on the final receipt, invoice, or other documentation provided to the customer by the person facilitating the booking of the reservation.

The legislation provided that the bill would not apply retroactively to lawsuits that existed as of July 1, 2011 and related to taxes imposed under current law. .

The Revenue Estimating Conference (REC) asserted that the revenue impacts, should the bill become law, would be “negative indeterminate” for General Revenue and state trust fund revenue. The REC also estimated the recurring annual impact on local government revenues at \$28.7 million for FY 2011-12. Broward County has carefully assessed its fiscal impacts retrospectively and prospectively. The Online Travels Companies with which Broward is engaged in litigation are assessed to owe \$7.7 million in taxes owed from past transactions, with projected (based on current market share of OTCs versus more traditional booking methods) annual lost revenues of approximately \$1.2 million. It is anticipated that this legislation will be refiled again in the FY 2012 Session. As has been

the case in preceding sessions, the bill successfully passed off the House floor but was stalled in the Senate, only to be pulled out of two Senate committees of reference (Budget and Rules), and placed on special order on the Thursday of the last week; however, the bill was never brought up. **Died on Calendar.**

### **Taxpayer Bill of Rights (TABOR)**

**Board Position Statement:** *Oppose any legislative or constitutional efforts to impose expenditure or revenue caps on local governments. Oppose any efforts that further erode the capability of local governments to fulfill their financial obligations or provide necessary services to their residents. Oppose reductions or exemptions to current state tax revenue sources, unless replacement funding sources or reductions in mandates are included.*

CS/SJR 958 was approved by three-fifths of the membership of the House and Senate on May 4, 2011. Intended to restrict the ability of state government to raise taxes, licenses, fees, fines or charges for services and limits the use of revenues received in excess of the constitutional limitation, the joint resolution:

- Replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation.
- Requires excess revenues to be deposited into the Budget Stabilization Fund, used to support public education, or returned to the taxpayers.
- Adds fines and revenues used to pay debt service on bonds issued after July 1, 2012 to the state revenues subject to the limitation.
- Authorizes the Legislature to increase the revenue limitation by a supermajority vote.
- Authorizes the Legislature to place a proposed increase before the voters, requiring approval by 60 percent of the voters.

The proposed amendment will be submitted to the electors at the 2012 general election or at an earlier election specifically authorized by law. If approved by 60 percent of electors, the joint resolution will take effect upon approval, with the new state revenue limitation first applying to state fiscal year 2014-15. Broward County, in association with other stakeholders at the state and local level, was successful in limiting this joint resolution to state revenues and therefore preserving the ability of local government to raise revenue beyond the current limits.

**Approved by Legislature; to be placed on ballot in next general election.**

### **Truth-In-Millage (Trim) Notices**

**Board Position Statement:** *Amend state law to allow counties to notice taxpayers of the portion/percentage of property taxes attributed to the Constitutional Officers.*

In attempt to amend Florida Statute to authorize the constitutional officers to each be the “legislative body” for resolving collective bargaining impasses involving their respective employees, language was added to SB 2042 by Broward Sen. Bogdanoff. The amendment would have allowed the County to send out a notice delineating how ad valorem taxes are apportioned to the Property Appraiser, Sheriff, Supervisor of Elections and Clerk of the Court. SB 2042 dealt with broad tax administration policy and was sponsored Sen. Bogdanoff, who worked with us to craft suitable language and made it a part of a comprehensive committee substitute. However, although the bill was placed on the agenda for a hearing, it was held up in the committee process and did not move out of the Finance and Tax Committee. **Died in Committee.**

## **SECTION II: Appropriations Issues**

### **Adult Mental Health and Substance Abuse Funding**

While drastic cuts to these programs were originally proposed in the Senate budget, funding for adult mental health and substance abuse programs was ultimately spared. Anticipating severe cuts, Broward County advocated for increased general revenue allocations to the Health and Human Services committee. As the chambers developed their individual budgets, Broward County worked to persuade committee members to accept the House budget position, which proposed only minor reductions. Funding for behavioral health was a contentious issue which moved to the budget conference process and was bumped to Chairs. Finally, a deal was reached to transfer dollars from non-recurring general revenue to achieve nearly level-funding in adult direct and community mental health and substance abuse programs.

### **Aviation Grant Program**

Aviation development grants are funded at \$187,442,157 at line 1918B of SB 2000, the general appropriations bill. Broward County will receive a percentage of this total to fund various projects, including \$28,025,000 for FLL Runway 9R/271 and \$2,569,375 for North Perry Taxiway A.

### **Child Protection Teams (CPT)/Sexual Assault Treatment Center**

Child Protective Teams were moved from the Department of Children and Families (DCF) into the Department of Health (DOH), but received level funding. Specifically, the Broward County Sheriff received \$12,565,620 to conduct child protective investigations. The Florida Council Against Sexual Violence (FCASV) received \$266,633 from the Federal Grants Trust Funds Violence Against Women Act STOP Formula Grant for training and technical assistance to certified rape crisis programs and allied professions; a victory for the Sexual Assault Treatment Center (SATC), Broward County's only certified rape crisis program and accredited children's advocacy center. Earlier in Session, the SATC faced cuts of up to \$400,000, which would have required the center to eliminate several full time staff positions, significantly compromising the SATC's ability to deliver critical crisis intervention and treatment services.

### **Community Care for the Elderly**

The community care for the elderly program was fully funded at the FY2011 level of \$53,044,966. The Senate proposed cutting this program by approximately \$3 million; however, they ultimately accepted the House position, saving services and jobs in Broward County.

## **Crime Lab Funding**

SB 2118, a criminal justice budget conforming bill, included provisions that would have increased state funding of local crime laboratories. More specifically, the bill:

- Directed revenue to local crime labs by redesignating the discretionary \$100 assessment in §938.25, F.S., which courts may impose on defendants convicted of a controlled substance violation, as a mandatory court assessment.
- Expanded the assessment to cover all criminal convictions where the services of criminal analysis laboratory are used in connection with the investigation or prosecution of the crime.
- Limited judicial discretion to waive court costs in cases where a local crime lab has been utilized and the person has been found guilty of the crime.
- Made conforming changes to other relevant criminal laboratory statutes.

On May 26, 2011, the Governor vetoed SB 2118 because the bill contained provisions that transferred contracting and oversight over private prisons from the Department of Management Services to the Department of Corrections. **Vetoed by Governor.**

## **Homelessness**

Homeless Housing Assistance Grants (HHAG) received \$12 million in line 354A of SB 2000, the general appropriations bill; however, in proviso language that was slipped in during the waning days of Session, these funds were directed to a single entity, the National Veterans' Homeless Support Group. The Governor vetoed this line item on May 26, 2011. **Vetoed by Governor.**

Homeless Assistance Challenge Grants received \$2,031,354 in line 344 of SB 2000.

## **Library Grants**

Libraries received a total of \$24,092,039. This figure includes \$21.3 million in grants and aid to local governments; a \$100,000 increase over the previous year. The Senate and House had initially agreed to a \$10 million cut in budget conference; however, the issue was re-opened during the bump to Chairs and then leadership, where total funding was restored, with an additional \$42,066 over FY 2010 levels.

## **State Housing Initiative Partnership (SHIP) Program/Affordable Housing**

### **SHIP**

The SHIP program received \$5 million in funding; this program was not funded during the previous fiscal year. Additional requirements were created that must be met in order to receive the \$5 million.

## **Affordable Housing**

HB 639 will remove the statutory limitation on documentary stamp tax revenues that go into the State and Local Government Housing Trust Funds and prohibit the use of affordable housing funds for new construction activities until July 1, 2012. The ultimate goal of this provision is to move existing houses off of the market before new developments are built. The bill also provides targeted assistance for persons with special needs.

As written, HB 639 allows the Florida Housing and Finance Corporation (FHFC) to receive federal funds for which no corresponding program has been created in statute, and empowers local housing authorities to invest surplus funds. The bill provides preference for general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing and deletes current preference language.

**Approved by Governor; Chapter No. 2011-189. Effective date: July 1, 2011.**

SB 2154, the conforming bill relating to Affordable Housing, is expected to divert documentary tax dollars from state and local funds to general revenue. The bill could prove to be very harmful to local government. Despite the lobby team's efforts to oppose the bill, the legislation passed as a conforming bill, and includes the following provisions:

- Eliminates the distribution of documentary stamp tax revenues into the State Housing Trust Fund and the Local Government Housing Trust Fund.
- Requires certain Florida Housing Finance Corporation (FHFC) funds to be accounted for by the Corporation and deposited into the State Housing Trust Fund in which the expenditure of such funds will be appropriated by the Legislature.
- Requires FHFC program loan repayments, proceeds and interest to revert to the General Revenue Fund.
- Provides FHFC budget amendment requests.
- Shall be subject to approval by the Legislative Budget Commission.
- Provides for the deposit of certain moneys into the Local Government Housing Trust Fund and for certain investment interests within the fund to be credited to General Revenue.
- Replaces all references to the Department of Community Affairs with Jobs Florida and all references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

**Approved by Governor; Chapter No. 2011-65. Effective date: July 1, 2011.**

## **Title V Air Quality Program**

Broward County has been the recipient of a Title V permitting delegation contract, approved by the Legislature and funded by fees collected by the Florida Department of Environmental Protection (DEP), since 1995. Pursuant to this contract, the County acts on behalf of DEP to process state air permits for major air pollution sources, to perform compliance verification (inspections, evaluate reports, observe testing) and to enter information in the state database. By taking full delegation of most air pollution permitting in Broward

County, the County has been able to drop its local fees, saving industries significant time and money by streamlining their permitting processes.

The Senate budget originally eliminated funding for this program; however, the Senate ultimately acquiesced to the House position to fully fund the program at the FY2011 level of \$2.237 million, to be allocated among the seven participating local governments, including Broward County.

**General Appropriations Act Overview**

| <b>Health &amp; Human Services</b>                  |                              |                     |                     |
|---|------------------------------|---------------------|---------------------|
| <b>Agency for Health Care Administration (AHCA)</b> |                              |                     |                     |
| <b><u>Medicaid Services to Individuals</u></b>      |                              |                     | Difference          |
| <b>Community Mental Health</b>                      |                              |                     |                     |
|   | FY 08-09 Appropriated        | \$38,228,354        |                     |
|   | FY 09-10 Appropriated        | \$42,623,055        |                     |
|   | FY 10-11 Appropriated        | \$60,150,023        |                     |
|   | FY 11-12 Senate proposed     | \$67,702,630        | \$7,552,607         |
|   | FY 11-12 House proposed      | \$72,674,442        | \$12,524,419        |
|   | <b>FY 11-12 Appropriated</b> | <b>\$72,674,442</b> | <b>\$12,524,419</b> |
| <b>Home Health Services</b>                         |                              |                     |                     |
|   | FY 08-09 Appropriated        | \$186,256,396       |                     |
|   | FY 09-10 Appropriated        | \$187,771,566       |                     |
|   | FY 10-11 Appropriated        | \$159,932,827       |                     |
|   | FY 11-12 Senate proposed     | \$167,317,795       | \$7,384,968         |

|   |                              |                        |                     |
|---|------------------------------|------------------------|---------------------|
|   | FY 11-12 House proposed      | \$171,267,718          | \$11,334,891        |
|   | <b>FY 11-12 Appropriated</b> | <b>\$171,267,718</b>   | <b>\$11,334,891</b> |
| <b>Medicaid Long Term Care</b>  |                              |                        |                     |
| Home and Community Based Services   |                              |                        |                     |
|   | FY 08-09 Appropriated        | \$916,955,588          |                     |
|   | FY 09-10 Appropriated        | \$1,007,403,452        |                     |
|   | FY 10-11 Appropriated        | \$1,000,476,643        |                     |
|   | FY 11-12 Senate proposed     | \$941,210,763          | (\$59,265,880)      |
|   | FY 11-12 House proposed      | \$1,041,614,335        | \$41,137,692        |
|   | <b>FY 11-12 Appropriated</b> | <b>\$1,024,717,619</b> | <b>\$24,240,976</b> |
| <b>Agency for Persons with Disabilities (APD)</b>   |                              |                        |                     |
| <b><u>Home and Community Based Service Waiver and Community Supported Living Waiver</u></b> |                              |                        |                     |
|   | FY 08-09 Appropriated        | \$833,529,770          |                     |
|   | FY 09-10 Appropriated        | \$849,699,685          |                     |
|   | FY 10-11 Appropriated        | \$805,826,618          |                     |
|   | FY 11-12 Senate proposed     | \$715,515,534          | (\$90,311,084)      |
|   | FY 11-12 House proposed      | \$873,071,111          | \$67,244,493        |
|   | <b>FY 11-12 Appropriated</b> | <b>\$810,437,372</b>   | <b>\$4,610,754</b>  |

|  |                              |                     |                      |
|--|------------------------------|---------------------|----------------------|
| <b>Department of Children and Families (DCF)</b>               |                              |                     |                      |
| <b><u>Grants to Sheriffs for Protective Investigations</u></b> |                              |                     |                      |
|  | FY 08-09 Appropriated        | \$47,491,157        |                      |
|  | FY 09-10 Appropriated        | \$47,491,154        |                      |
|  | FY 10-11 Appropriated        | \$47,491,154        |                      |
|  | FY 11-12 Senate proposed     | \$45,985,592        | (\$1,505,562)        |
|  | FY 11-12 House proposed      | \$47,678,397        | \$187,243            |
|  | <b>FY 11-12 Appropriated</b> | <b>\$45,985,592</b> | <b>(\$1,505,562)</b> |
| <b><u>Mental Health Services</u></b>                           |                              |                     |                      |
| <b>Mental Health and Substantive Abuse Local Match</b>         |                              |                     |                      |
|  | FY 08-09 Appropriated        | \$3,000,000         |                      |
|  | FY 09-10 Appropriated        | \$3,000,000         |                      |
|  | FY 10-11 Appropriated        | \$3,000,000         |                      |
|  | FY 11-12 Senate proposed     | Not funded          | (\$3,000,000)        |
|  | FY 11-12 House proposed      | Not funded          | (\$3,000,000)        |
|  | <b>FY 11-12 Appropriated</b> | <b>\$3,000,000</b>  |                      |
| <b>Children's Mental Health Services</b>                       |                              |                     |                      |
|  | FY 08-09 Appropriated        | \$43,485,013        |                      |

|   |                              |                      |                      |
|---|------------------------------|----------------------|----------------------|
|   | FY 09-10 Appropriated        | \$44,698,361         |                      |
|   | FY 10-11 Appropriated        | \$47,315,346         |                      |
|   | FY 11-12 Senate proposed     | \$73,227,299         | \$25,911,953         |
|   | FY 11-12 House proposed      | \$46,771,349         | (\$543,997)          |
|   | <b>FY 11-12 Appropriated</b> | <b>\$47,011,346</b>  | <b>(\$304,000)</b>   |
| <b>Adult Community Mental Health Services</b>               |                              |                      |                      |
|   | FY 08-09 Appropriated        | \$220,048,691        |                      |
|   | FY 09-10 Appropriated        | \$228,626,118        |                      |
|   | FY 10-11 Appropriated        | \$224,062,552        |                      |
|   | FY 11-12 Senate proposed     | \$51,949,627         | (\$172,112,925)      |
|   | FY 11-12 House proposed      | \$218,746,022        | (\$5,316,530)        |
|   | <b>FY 11-12 Appropriated</b> | <b>\$218,846,645</b> | <b>(\$5,215,907)</b> |
| <b><u>Substance Abuse Services</u></b>                      |                              |                      |                      |
| <b>Grants and Aids - Community Substance Abuse Services</b> |                              |                      |                      |
|   | FY 08-09 Appropriated        | \$125,045,955        |                      |
|   | FY 09-10 Appropriated        | \$127,438,989        |                      |
|   | FY 10-11 Appropriated        | \$129,488,989        |                      |
|   | FY 11-12 Senate proposed     | \$90,095,948         | (\$37,343,041)       |
|   | FY 11-12 House proposed      | \$123,518,882        | (\$5,970,107)        |

|  |                                  |                      |                      |
|--|----------------------------------|----------------------|----------------------|
|  | <b>FY 11-12<br/>Appropriated</b> | <b>\$123,518,882</b> | <b>(\$5,970,107)</b> |
| <b><u>Economic Self Sufficiency</u></b>      |                                  |                      |                      |
| <b>Homeless Prevention Program Housing</b>   |                                  |                      |                      |
|  | FY 08-09 Appropriated            | \$5,000,000          |                      |
|  | FY 09-10 Appropriated            | \$5,000,000          |                      |
|  | FY 10-11 Appropriated            | \$8,602,844          |                      |
|  | FY 11-12 Senate<br>proposed      | \$8,602,844          |                      |
|  | FY 11-12 House<br>proposed       | \$8,602,844          |                      |
| <b>vetoed</b>                                | <b>FY 11-12<br/>Appropriated</b> | <b>\$12,000,000</b>  | <b>\$3,397,156</b>   |
| <b>Elder Affairs</b>                         |                                  |                      |                      |
| <b><u>Community Care for the Elderly</u></b> |                                  |                      |                      |
|  | FY 08-09 Appropriated            | \$54,553,804         |                      |
|  | FY 09-10 Appropriated            | \$53,144,996         |                      |
|  | FY 10-11 Appropriated            | \$53,044,996         |                      |
|  | FY 11-12 Senate<br>proposed      | \$50,526,091         | <b>(\$2,518,905)</b> |
|  | FY 11-12 House<br>proposed       | \$53,044,996         |                      |
|  | <b>FY 11-12<br/>Appropriated</b> | <b>\$53,044,996</b>  |                      |

|   |                              |                      |               |
|---|------------------------------|----------------------|---------------|
| <b><u>Community Based Service Waiver</u></b>          |                              |                      |               |
|   | FY 08-09 Appropriated        | \$85,485,333         |               |
|   | FY 09-10 Appropriated        | \$103,844,950        |               |
|   | FY 10-11 Appropriated        | \$114,765,311        |               |
|   | FY 11-12 Senate proposed     | \$126,177,318        | \$11,412,007  |
|   | FY 11-12 House proposed      | \$114,765,311        |               |
|   | <b>FY 11-12 Appropriated</b> | <b>\$120,471,314</b> | \$5,706,003   |
| <b>General Government</b>                             |                              |                      |               |
| <b>Department of Community Affairs</b>                |                              |                      |               |
| <b><u>Housing Finance Corporation (HFC)</u></b>       |                              |                      |               |
| <b>Affordable Housing Programs</b>                    |                              |                      |               |
|   | FY 08-09 Appropriated        | \$128,000,000        |               |
|   | FY 09-10 Appropriated        | Not Funded           |               |
|   | FY 10-11 Appropriated        | \$37,500,000         |               |
|   | FY 11-12 Senate proposed     | \$32,500,000         | (\$5,000,000) |
|   | FY 11-12 House proposed      |                      |               |
|   | <b>FY 11-12 Appropriated</b> |                      |               |
| <b>State Housing Initiative Partnership (Program)</b> |                              |                      |               |
|   | FY 08-09 Appropriated        | \$166,183,500        |               |

|  |                              |                   |                    |
|--|------------------------------|-------------------|--------------------|
|  | FY 09-10 Appropriated        | \$30,110,000      |                    |
|  | FY 10-11 Appropriated        |                   |                    |
|  | FY 11-12 Senate proposed     | \$5,000,000       | \$5,000,000        |
|  | FY 11-12 House proposed      |                   |                    |
|  | <b>FY 11-12 Appropriated</b> |                   |                    |
| <b>Department of Environmental Protection</b>                |                              |                   |                    |
| <b>Special Category – Florida Forever Bonds – New Series</b> |                              |                   |                    |
|  | FY 08-09 Appropriated        | \$7,974,167       |                    |
|  | FY 09-10 Appropriated        | Not Funded        |                    |
|  | FY 10-11 Appropriated        | \$19,340,350      |                    |
|  | FY 11-12 Senate proposed     | Not Funded        |                    |
|  | FY 11-12 House proposed      | Not Funded        |                    |
|  | <b>FY 11-12 Appropriated</b> | <b>Not Funded</b> |                    |
| <b>Fixed Capital Outlay – Beach Projects - Statewide</b>     |                              |                   |                    |
|  | FY 08-09 Appropriated        | \$21,935,696      |                    |
|  | FY 09-10 Appropriated        | \$15,000,000      |                    |
|  | FY 10-11 Appropriated        | \$15,536,535      | Revert Immediately |
|  | FY 11-12 Senate proposed     | \$16,251,402      | \$714,867          |
|  | FY 11-12 House proposed      |                   | \$15,536,550       |

|   |                                  |                      |                      |
|---|----------------------------------|----------------------|----------------------|
|   | <b>FY 11-12<br/>Appropriated</b> | <b>\$7,999,701</b>   | <b>(\$7,536,834)</b> |
| <b>Fixed Capital Outlay – Wastewater Treatment Construction</b> |                                  |                      |                      |
|   | FY 08-09 Appropriated            | \$117,770,000        |                      |
|   | FY 09-10 Appropriated            | \$163,386,374        |                      |
|   | FY 10-11 Appropriated            | \$171,580,534        |                      |
|   | FY 11-12 Senate<br>proposed      | \$164,346,724        | (\$7,233,810)        |
|   | FY 11-12 House<br>proposed       | \$164,346,724        | (\$7,233,810)        |
|   | <b>FY 11-12<br/>Appropriated</b> | <b>\$164,346,724</b> | <b>(\$7,233,810)</b> |
|   |                                  |                      |                      |
| <b>Transportation &amp; Economic Development</b>                |                                  |                      |                      |
| <b>Department of Transportation</b>                             |                                  |                      |                      |
| <b><u>Aviation Development Grants</u></b>                       |                                  |                      |                      |
|   | FY 08-09 Appropriated            | \$216,016,689        |                      |
|   | FY 09-10 Appropriated            | \$40,732,567         |                      |
|   | FY 10-11 Appropriated            | \$129,921,080        |                      |
|   | FY 11-12 Senate<br>proposed      | \$187,442,157        | \$57,521,077         |
|   | FY 11-12 House<br>proposed       | \$134,752,273        | \$4,831,193          |
|   | <b>FY 11-12<br/>Appropriated</b> | <b>\$187,442,157</b> | <b>\$57,521,077</b>  |
| <b><u>Public Transit Development Grants</u></b>                 |                                  |                      |                      |
|   | FY 08-09 Appropriated            | \$296,668,405        |                      |

|  |                              |                      |                      |
|--|------------------------------|----------------------|----------------------|
|  | FY 09-10 Appropriated        | \$432,462,409        |                      |
|  | FY 10-11 Appropriated        | \$200,923,034        |                      |
|  | FY 11-12 Senate proposed     | \$223,970,480        | \$23,047,446         |
|  | FY 11-12 House proposed      | \$155,584,581        | (\$45,338,453)       |
|  | <b>FY 11-12 Appropriated</b> | <b>\$343,572,957</b> | <b>\$142,649,923</b> |
| <b><u>Seaport - Economic Development</u></b> |                              |                      |                      |
|  | FY 08-09 Appropriated        | \$15,000,000         |                      |
|  | FY 09-10 Appropriated        | \$15,000,000         |                      |
|  | FY 10-11 Appropriated        | \$15,000,000         |                      |
|  | FY 11-12 Senate proposed     | \$15,000,000         |                      |
|  | FY 11-12 House proposed      | \$15,000,000         |                      |
|  | <b>FY 11-12 Appropriated</b> | <b>\$15,000,000</b>  |                      |
| <b><u>Seaport - Access Program</u></b>       |                              |                      |                      |
|  | FY 08-09 Appropriated        | \$10,000,000         |                      |
|  | FY 09-10 Appropriated        | \$10,000,000         |                      |
|  | FY 10-11 Appropriated        | \$10,000,000         |                      |
|  | FY 11-12 Senate proposed     | \$10,000,000         |                      |
|  | FY 11-12 House proposed      | \$10,000,000         |                      |
|  | <b>FY 11-12 Appropriated</b> | <b>\$10,000,000</b>  |                      |

| <b>Seaport - Grants</b>                                |                              |                      |                     |
|--|------------------------------|----------------------|---------------------|
|  | FY 08-09 Appropriated        | \$31,877,045         |                     |
|  | FY 09-10 Appropriated        | \$21,916,910         |                     |
|  | FY 10-11 Appropriated        | \$25,640,022         |                     |
|  | FY 11-12 Senate proposed     | \$117,751,305        | \$92,111,283        |
|  | FY 11-12 House proposed      | \$62,592,666         | \$36,952,644        |
|  | <b>FY 11-12 Appropriated</b> | <b>\$117,751,305</b> | <b>\$92,111,283</b> |
| <b>Broward County Transportation Projects</b>          |                              |                      |                     |
| Andrews Ave Ext from NW 18th to Copans Rd              |                              |                      | \$42,257,973        |
| Andrew Ave Ext from Pompano Park                       |                              |                      | \$2,506,736         |
| ATMS installation in Central Broward County            |                              |                      | \$9,408,539         |
| ITS Facility-Operations                                |                              |                      | \$2,950,000         |
| TD Commission Trip and Equipment Grant                 |                              |                      | \$3,258,764         |
| Block Grant Operating                                  |                              |                      | \$8,314,697         |
| JPA Signal Maintenance & OPS on SHS                    |                              |                      | \$1,300,000         |
| Transit System Planning                                |                              |                      | \$1,500,000         |
| UPWP FY 2010-11 FY 2011-12                             |                              |                      | \$1,576,699         |
| I-95 Express Bus Purchase & Station Improvement        |                              |                      | \$1,500,000         |
| College Ave-Phase 2 From Nova Drive to SR84            |                              |                      | \$1,160,000         |
| Ft. Lauderdale-Hollywood International Runway 9R/27I   |                              |                      | \$28,025,000        |
| Ft. Lauderdale Exec. Airport/Construction Customs Bldg |                              |                      | \$2,744,000         |
| I-595/SR 862 from E of I-75 to w of I-95               |                              |                      | \$3,050,000         |
| I-595/Sr 862 P3 from E of I-75 to w. of I-95           |                              |                      | \$1,020,000         |
| I-595/SR 862/P3 BCT Purchase Buses and Operations      |                              |                      | \$2,100,000         |
| I-595/SR 862/P3 Ceil from I-75 to w. I-95              |                              |                      | \$6,025,000         |

|   |              |
|---|--------------|
| I-75/SR 2 Quads @ Griffin Road/SW/NW Quad Interchange         | \$3,657,214  |
| I-95 Express/Phase 1 Bus Operations & Maintenance             | \$1,220,530  |
| I-95/Sr 9/Bridge #8604229,0430 & 0431                         | \$17,192,441 |
| I-95/Sr 9/Bridge #8604229,0430 & 0431                         | \$3,401,669  |
| ITS Equipment Replacement Consultant/Grant                    | \$4,805,000  |
| North Perry Airport construct Taxiway A                       | \$2,569,375  |
| Pine Island road from SR 862/I-595 to Broward Blvd            | \$1,605,828  |
| Port Everglades Cruise Terminals Expansions & Improvement     | \$2,687,500  |
| Port Everglades McIntosh Rd Realignment                       | \$2,300,683  |
| Port Everglades on -port rail and ICTF                        | \$6,048,000  |
| Port Everglades Spangler Blvd By pass Road to Us 1/sr 5       | \$10,950,000 |
| Reliever Road/A1A from A1A Hillsboro Blvd to A1A/NE 2 St      | \$1,399,921  |
| Replace Overhead Sign on Sawrass Expway                       | \$1,405,059  |
| Resurface TPK from Atlantic to Sawgrass Expway (SR 869)       | \$1,469,788  |
| Resurface TPK from Atlantic to Sawgrass Expway (SR 869)       | \$8,705,021  |
| SFRC R/R Bridge over S Fork New river Replace Existing Bridge | \$1,450,000  |
| SR 25/Us 27 from SR 820 Pines Blvd to Griffin Rd              | \$3,141,162  |
| SR 7/US 441 from N Hallandale Bch to N of Fillmore St         | \$4,600,000  |
| SR 7/US 441 from N Hallandale Bch to N of Fillmore St         | \$20,000,000 |
| SR 7/US 441 from N of Fillmore to S of Stirling               | \$85,150,978 |
| SR 7/US 441 from N of Fillmore to S of Stirling               | \$8,543,294  |
| SR 816 Oakland Park Blvd from Sawgrass Expressway to SR A1A   | \$2,380,000  |
| SR 84 from MP 16.080 to SW 26th Terrace                       | \$1,872,838  |
| SR 842 Broward Blvd from Pine Island Rd to SR 5/US 1          | \$1,005,000  |
| SR 869 SW 10th St. from SR 845 Powerline Rd to E Newport      | \$1,653,904  |
| SR 870 Commercial BI from SR 817 Univ. Dr to W of NW 64th     | \$1,326,082  |
| SR 9/I-95 from SR 824 Pembroke Rd to SR 820 Hollywood Blvd    | \$2,025,000  |
| SR 9/I-95 from SR 824 Pembroke Rd to SR 820/Hollywood Blvd    | \$2,685,800  |
| SR A1A/17 St Csway Bridge Repair #860622 &860623 Over ICWW    | \$3,222,128  |

|  |                              |                     |                      |
|--|------------------------------|---------------------|----------------------|
| SR A1A/N. Ocean Drive from SR 816 Oakland Pk Bl to Flamingo Dr |                              | \$1,932,687         |                      |
| Sunrise Ramp Improvement Broward County                        |                              | \$1,266,231         |                      |
| Toll Operations  |                              |                     | \$12,382,244         |
| <b>Total Transportation Projects</b>                           |                              |                     | <b>\$342,752,785</b> |
| <b><u>Administered Funds</u></b>                               |                              |                     |                      |
| <b>Strengthening Domestic Security</b>                         |                              |                     |                      |
|  | FY 08-09 Appropriated        | \$186,739,442       |                      |
|  | FY 09-10 Appropriated        | \$127,578,415       |                      |
|  | FY 10-11 Appropriated        | \$48,486,622        |                      |
|  | FY 11-12 Senate proposed     | \$94,303,313        | \$45,816,691         |
|  | FY 11-12 House proposed      | \$94,303,313        | \$45,816,691         |
|  | <b>FY 11-12 Appropriated</b> | <b>\$94,303,313</b> | <b>\$45,816,691</b>  |
| <b>Governor - Office of and Economic Development</b>           |                              |                     |                      |
| <b><u>Economic Development Tools</u></b>                       |                              |                     |                      |
|  | FY 08-09 Appropriated        | \$21,637,500        |                      |
|  | FY 09-10 Appropriated        | \$21,637,500        |                      |
|  | FY 10-11 Appropriated        | \$16,567,473        |                      |
|  | FY 11-12 Senate proposed     | \$23,520,518        | \$6,953,045          |
|  | FY 11-12 House proposed      | \$18,342,473        | \$1,775,000          |
|  | <b>FY 11-12 Appropriated</b> | <b>\$21,750,000</b> | <b>(\$1,770,518)</b> |

| <b><u>Quick Action Closing Fund</u></b>     |                              |                     |                     |
|---|------------------------------|---------------------|---------------------|
|   | FY 08-09 Appropriated        | \$26,460,000        |                     |
|   | FY 09-10 Appropriated        | \$13,460,830        |                     |
|   | FY 10-11 Appropriated        | \$1,000,000         |                     |
|   | FY 11-12 Senate proposed     | \$45,859,702        | \$44,859,702        |
|   | FY 11-12 House proposed      | \$14,700,000        | \$13,700,000        |
|   | <b>FY 11-12 Appropriated</b> |                     |                     |
| <b><u>Economic Development Projects</u></b> |                              |                     |                     |
|   | FY 08-09 Appropriated        | \$2,090,000         |                     |
|   | FY 09-10 Appropriated        | \$650,000           |                     |
|   | FY 10-11 Appropriated        | \$1,625,000         |                     |
|   | FY 11-12 Senate proposed     | Not Funded          | Not Funded          |
|   | FY 11-12 House proposed      | Not Funded          | Not Funded          |
|   | <b>FY 11-12 Appropriated</b> | <b>\$13,650,000</b> | <b>\$12,025,000</b> |
| <b><u>Florida Commission on Tourism</u></b> |                              |                     |                     |
|   | FY 08-09 Appropriated        | \$35,549,209        |                     |
|   | FY 09-10 Appropriated        | \$25,000,000        |                     |
|   | FY 10-11 Appropriated        | \$26,647,961        |                     |
|   | FY 11-12 Senate proposed     | \$35,299,209        | \$8,651,248         |

|  |                              |                     |                    |
|--|------------------------------|---------------------|--------------------|
|  | FY 11-12 House proposed      | \$21,299,209        | (\$5,348,752)      |
|  | <b>FY 11-12 Appropriated</b> | <b>\$34,899,209</b> | <b>\$8,251,246</b> |
| <b>Secretary of State</b>                                |                              |                     |                    |
| <b><u>Historical Resources Preservation</u></b>          |                              |                     |                    |
| <b>Grants and Aids - Historic Museum Grants</b>          |                              |                     |                    |
|  | FY 08-09 Appropriated        | \$500,000           |                    |
|  | FY 09-10 Appropriated        | Not Funded          |                    |
|  | FY 10-11 Governor            | \$368,250           |                    |
|  | FY 10-11 House               | \$768,250           |                    |
|  | FY 11-12 Senate proposed     | \$618,250           | (\$150,000)        |
|  | FY 11-12 House proposed      | \$618,250           | (\$150,000)        |
|  | <b>FY 11-12 Appropriated</b> | <b>\$1,218,250</b>  | <b>\$450,000</b>   |
| <b><u>Library, Archives and Information Services</u></b> |                              |                     |                    |
| <b>Grants In Aid - Library Grants</b>                    |                              |                     |                    |
|  | FY 08-09 Appropriated        | \$29,473,839        |                    |
|  | FY 09-10 Appropriated        | \$24,396,017        |                    |
|  | FY 10-11 Appropriated        | \$24,046,017        |                    |
|  | FY 11-12 Senate proposed     | \$2,792,039         | (\$21,253,978)     |
|  | FY 11-12 House proposed      | \$20,546,017        | (\$3,500,000)      |

|   |                                  |                     |                    |
|---|----------------------------------|---------------------|--------------------|
|   | <b>FY 11-12<br/>Appropriated</b> | <b>\$24,092,039</b> | <b>\$46,022</b>    |
| <b>Grants in Aids - Library Resources</b>                 |                                  |                     |                    |
|   | FY 08-09 Appropriated            | \$3,597,746         |                    |
|   | FY 09-10 Appropriated            | \$3,575,559         |                    |
|   | FY 10-11 Appropriated            | \$3,782,333         |                    |
|   | FY 11-12 Senate<br>proposed      | \$3,652,333         | (\$130,000)        |
|   | FY 11-12 House<br>proposed       | \$3,652,333         | (\$120,000)        |
|   | <b>FY 11-12<br/>Appropriated</b> | <b>\$3,662,333</b>  | <b>(\$130,000)</b> |
| <b><u>Cultural Support and Development<br/>Grants</u></b> |                                  |                     |                    |
| <b>Aid to Local Government - Arts in<br/>Education</b>    |                                  |                     |                    |
|   | FY 08-09 Appropriated            | \$435,931           |                    |
|   | FY 09-10 Appropriated            | Not Funded          |                    |
|   | FY 10-11 Appropriated            | \$297,200           |                    |
|   | FY 11-12 Senate<br>proposed      | \$297,200           |                    |
|   | FY 11-12 House<br>proposed       | \$297,200           |                    |
|   | <b>FY 11-12<br/>Appropriated</b> | <b>\$297,200</b>    |                    |

## **SECTION III: Bills/Issues of Interest that Passed**

### **Additional Homestead Exemption**

CS/CS/CS/CS/CS/HJR 381 would amend the State Constitution to:

- Authorized the Legislature to prohibit increases in the assessed value of homestead property if the just value of the property decreases.
- Reduce the limitation on annual assessment increases applicable to certain non-homestead property from 10 percent to 5 percent.
- Provide an additional homestead exemption equal to 50 percent of the just value of the homestead property not to exceed the median just value of all homestead property within the county. The additional exemption applies for a period of five years or until the property is sold and shall be reduced by 20 percent of the initial exemption on January 1 of each succeeding year until it is no longer available in the sixth and subsequent years.

The fiscal impact to Florida counties is estimated to be \$1.4 billion (2013-2017) combined with a loss in growth revenue. The non-homestead assessment cap will expire in 2023, subject to a vote of electors in the 2022 general election. If the joint resolution is approved by 60 percent of Florida voters at the next general election, the bill will take effect on January 1, 2013, and the additional homestead exemption shall be available to properties purchased on or after January 1, 2012.

**Approved by Legislature; to be placed on ballot in next general election.**

### **Animal Cruelty**

SB 344, sponsored by Broward Senator and Democratic Leader Rich, was favorably approved by the legislature to prohibit knowingly engaging in sexual conduct or contact with an animal. The bill makes it a first-degree misdemeanor, which could result in one year or less in a county correctional facility. The bill also prohibits, with the same penalty, knowingly:

- Aiding or abetting another in committing the conduct or contact.
- Permitting the acts to be conducted on one's premises.
- Organizing, promoting, participating as an observer in, or performing services to facilitate the acts for commercial or recreational purposes.

Under the bill, accepted animal husbandry practices, conformation judging practices, and accepted veterinary medical practices are exempted from prosecution.

**Approved by Governor. Chapter No. 2011-42; Effective date: October 1, 2011.**

### **Bert Harris Property Rights Act**

As passed, CS/CS/HB 701 makes the following changes to the Bert J. Harris, Jr., Property Rights Protection Act:

- Provides that a temporary impact on development, which is in effect for longer than

one year may, depending on the circumstances, constitute an “inordinate burden.”

- Separates the definition of “existing use” into two separate parts.
- Allows factual circumstances leading to the time elapsed between enactment of a law or regulation and its first application to private property to be considered when determining whether reasonable, investment-backed expectations are inordinately burdened.
- Modifies the required time period for notice to a governmental entity before an action may be filed under the act. A property owner seeking compensation must present, at least 150 days (rather than the present requirement of 180 days) prior to filing an action under the act, a written claim to the head of the governmental entity and a bona fide, valid appraisal that demonstrates the loss in fair market value to the real property.
- Adds “payment of compensation” to the list of remedies that may be offered by a governmental entity in a written settlement offer.
- Changes the term “ripeness decision” to “statement of allowable uses” and modifies provisions to specifically provide that the governmental entity’s failure to issue the statement of allowable uses during the applicable notice period is deemed a denial for purposes of allowing the property owner to file an action in circuit court under the act.
- Specifies that a law or regulation is “first applied” to the property upon enactment, if the impact of the law or regulation on the property is clear and unequivocal in its terms, and required notice is provided by mail to the affected property owner or registered agent. Any other law or regulation is first applied to the property when there is a formal denial of a written request for development or variance.
- Waives the state’s sovereign immunity, for itself, its agencies, and political subdivisions including counties and municipalities, for causes of action brought under the act.

**Approved by Governor. Chapter 2011-191; Effective date: July 1, 2011.**

### **Building Code Legislation**

CS/HB 849, relating to building construction and inspections, addresses numerous provisions of the state’s building code. Through the efforts of Broward and Miami-Dade Counties, the bill was amended to ensure the High Velocity Hurricane Zone design requirements applicable to structures in both counties did not expire and would be carried forward to new editions of the Florida Building Code. As passed, some of the bill’s changes include:

- Exempting rules that adopt federal standards, and updating and/or modifying to the Florida Building Code or Florida Fire Prevention Code, from legislative ratification requirements.
- Prohibiting the Florida Building Commission from adopting rules that limit any exceptions or exemptions relating to coastal construction control and erosion projection requirements.
- Redefining the terms “sustainable building rating” and “national model green building code” to include the International Green Construction Code.

- Revising provisions of the Florida Americans with Disabilities Implementation Act to incorporate the 2010 Americans with Disabilities Act Standards for Accessible Design into state law and conforms Florida’s law to such standards.
- Requiring justification for a proposed amendment or modification to a foundation code and specifies that the amendment or modification is effective only until the Florida Building Commission adopts a new code edition every three years; except that amendments or modifications relating to wind-resistance design requirements for buildings and structures within the high-velocity hurricane zone of Broward and Miami-Dade Counties do not expire and must be carried forward to the next edition of the code.

**Approved by Governor. Chapter 2011-222; Effective date: July 1, 2011.**

### **Communications Services Tax**

CS/CS/CS/HB 887 clarifies rules for rounding when communications companies remit state and local communications services tax to require that each provider of communications services compute the tax due on the sale using a rounding algorithm that carries to the third decimal place and rounds up to a whole cent whenever the third decimal place is greater than four. A provider may calculate the tax on individual taxable items on an invoice or on all taxable items on the invoice; however, the total tax amount must be at least the amount that would have been obtained if the rounding algorithm had been applied to the aggregate tax amount computed on all taxable items on the invoice. The local and state tax must be calculated separately.

The bill is intended to be remedial in nature and to apply retroactively. It does not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before July 1, 2011. However, the proposed fiscal impact to the state is \$2 million and efforts to amend the bill to reduce the local communications services tax rates to 4 percent were defeated and would have resulted in a net loss of 20 percent in local revenues.

**Approved by Governor. Chapter No. 2011-120; Effective date: July 1, 2011.**

### **Concealed Firearms**

CS/CS/SB 234 makes changes to state law relating to the carrying of concealed firearms, and the purchase, trade and transfer of rifles and shotguns. The bill amends §790.053, F.S., to make clear it is not a violation of law for a person licensed to carry a concealed firearm to briefly and openly display the firearm in sight of another person. If the firearm is displayed in an angry or threatening manner, not necessary for self-defense, such display would constitute a second-degree misdemeanor. The bill allows the Florida Department of Agriculture and Consumer Services’ Licensing Division to administer the fingerprinting of individuals applying for a concealed weapons license.

The bill amends §790.06(12)(a), F.S., to clarify the locations into which a concealed weapons permit holder may not openly carry a handgun or concealed weapon. The

bill clarifies that a person licensed to carry a concealed weapon is not prohibited from carrying or storing a firearm in a vehicle for lawful purposes. Moreover, the bill makes clear that the provisions of §790.06(12) do not affect §790.257(7), F.S., which prohibits the carrying of firearms into specific places, including:

- School-sponsored events and school property.
- Correctional institutions.
- Nuclear-powered facilities.
- Owned or leased public or private property where national defense, aerospace or homeland security activities are conducted.
- Owned or leased public or private property where business activities involving the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or involving business activities permitted under federal law for importing, manufacturing or dealing with explosive materials.
- A motor vehicle owned or leased by a public or private employer.
- Any other owned or leased public or private property in which possession of a firearm is prohibited pursuant to federal law, contract with a federal government entity, or state general law.

The bill amends §790.065, F.S., to clarify that Florida residents may purchase, trade, or transfer a rifle or shotgun with a licensed importer, manufacturer, or dealer of another state. Previously, under §790.28, F.S., which is repealed in the bill, Floridians could only purchase rifles or shotguns in states contiguous to Florida.

**[Approved by Governor. Chapter No. 2011-145; Effective date: June 17, 2011.](#)**

### **Condominium, Cooperative and Homeowners' Associations**

In an attempt to clarify existing law relating to Condominium, Cooperative and Homeowners' Association, CS/CS/CS/HB 1195:

- Clarifies existing law relating to the installation of manual fire alarm systems for condominiums, cooperatives, or multifamily residential buildings that are less than four stories.
- Revises laws related to condominium, homeowner, and cooperative associations (community associations).
- Amends provisions that are applicable to each type of community association.

The bill makes the following changes for all community associations:

- Provides for the suspension of use rights and election rights of unit or parcel owners who are more than 90 days delinquent in the payment of a monetary obligation and for failure to comply with the association's governing documents.
- Provides for the suspension of use rights and election rights of unit or parcel owners who are more than 90 days delinquent in the payment of a monetary obligation.
- Specifies the statutory form for the written notice that the association must provide to the tenant if the association demands that the tenant make rental payments to the community association rather than to the unit or parcel owner.

For condominium and homeowners' associations, the bill provides that an association that acquires title to a unit through the foreclosure of its lien for assessment is not liable for any unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the acquisition of title in favor of any other condominium association or homeowners' association which holds superior lien interest on the unit or parcel.

Regarding condominium associations, the bill:

- Includes unit owner facsimile numbers as a record to be maintained by the association.
- Permits condominium unit owners to consent to the disclosure of protected information, e.g., name and telephone numbers for a membership directory.
- Permits unit owners to have access to written employment agreements or budgetary or financial records that indicate the compensation paid to an association employee.
- Permits condominium associations to hold closed meetings to discuss personnel matters.
- Authorizes condominium association boards to install impact glass or other code-compliant windows.
- Provides that the newly elected or appointed board members may, in lieu of the written certification, submit a certificate of having satisfactorily completed an educational curriculum on condominium law within one year before or 90 days after the date of election or appointment.
- Requires a vote of, or written consent by, a majority of the total voting interests of an association in order to enter into agreements and to acquire leaseholds, memberships and other possessory or use interests in lands or facilities.
- Provides for the partial termination of a condominium property.
- Provides for the termination of a condominium property by a unit owner upon filing a petition seeking equitable relief in instances in which the condominium includes units and timeshare estates where improvements have been totally destroyed or demolished.
- Revises provisions related to bulk assignees and bulk buyers.

Regarding homeowners' associations, the bill:

- Clarifies the definition of "declaration of covenants."
- Permits parcel owners to consent to the disclosure of protected information, e.g., names and telephone numbers for a membership directory.
- Permits unit owners to have access to written employment agreements or budgetary or financial records that indicate the compensation paid to an association employee.
- Provides limitations on who may serve on the board of directors of a homeowners' association.
- Authorizes and provides procedures for homeowners' associations to contract for communications, information, or Internet services on a bulk rate basis.

**[Approved by Governor. Chapter No. 2011-196. Effective date: July 1, 2011.](#)**

## **Consumer Protection**

In an attempt to address unfair and deceptive practices with respect to internet sales practices, the Legislature passed CS/SB 1884, which is intended to:

- Prohibit a post-transaction third-party seller from charging a consumer for a good or service sold over the Internet unless specific disclosures are made and the seller receives the informed consent of the consumer.
- Require a post-transaction third-party seller to provide a simple mechanism for a consumer to cancel a purchase of a good or service and stop any recurring charges.
- Prohibit an initial merchant from disclosing a consumer's "...credit card, debit card, bank account, or other account number or other billing information to a post-transaction third-party seller for use in an internet-based sale of any good or service from that post-transaction third-party seller."

This bill is nearly identical to a recent federal law, enacted to counter "negative option marketing," which refers to a category of commercial transactions in which sellers interpret a customer's failure to take an affirmative action, either to reject an offer or cancel an agreement, as assent to be charged for goods or services. By including these same protections in state law, Florida will now have jurisdiction to enforce the consumer protections provided in the act.

**[Approved by Governor. Chapter No. 2011-156; Effective date: October 1, 2011.](#)**

## **County Officials' Compensation**

HB 19 authorizes certain county officials to reduce their statutory salaries on a voluntary basis. The bill's provisions apply to boards of county commissioners, and county constitutional officers such as the sheriff, property appraiser, supervisor of elections, and clerk of the circuit court.

**[Approved by Governor. Chapter No. 2011-158; Effective Date: July 1, 2011.](#)**

## **Developmentally Disabled – Employer Liability**

CS/SB 926 creates §768.0895, F.S., to limit the liability of employers who hire persons with developmental disabilities as defined in §393.063, F.S. Specifically, the bill provides that an employer is not liable for the negligent or intentional acts or omissions of a developmentally disabled employee, if:

- The employee receives or has received supported employment services through a supported employment service provider defined in §393.063, F.S.; and
- The employer does not have actual notice of the employee's action that created the unsafe workplace conditions.

In addition, a support employment service provider that has provided support employment services to the employee is also not liable for the employee's actions that occur within the scope of the disabled employee's employment.

**[Approved by Governor. Chapter No. 2011-231; Effective date: July 1, 2011,](#)** but applies only to causes of action occurring on or after this date.

## **Drug Screening of Beneficiaries of Temporary Assistance to Needy Families**

CS/CS/CS/CS/HB 353 requires the Department of Children and Families (DCF) to perform drug screenings on all Temporary Assistance to Needy Families (TANF) applicants as a condition of eligibility; specifically, the bill provides the following:

- DCF shall require a drug test consistent with state law.
- All applicants for TANF shall be drug screened as a condition of eligibility to receive cash assistance benefits.
- Applicants who test positive for controlled substances will be disqualified from receiving temporary cash assistance for 1 year, unless the individual chooses to seek substance abuse treatment. If the individual chooses to seek treatment, he or she can reapply for TANF funds within a 6-month time frame. This is a one-time option.
- DCF must inform applicants who test positive of the ability to apply again one year from the date of the positive test, or within 6 months upon completion of a substance abuse program. Applicants who test positive again will be ineligible to receive TANF benefits for 3 years from the date of the second positive test.
- If a parent tests positive for controlled substances, DCF may designate a “protective payee” to receive the cash assistance benefits on behalf of a dependent child. Alternatively, the parent may choose an immediate family member to receive benefits on behalf of the child or DCF may approve another individual to receive the benefits; a person so designated by the parent or approved by DCF also must undergo drug testing.
- The cost of drug testing will be borne by the individual applicant.
- DCF will be required to provide any individual who tests positive for controlled substances with information concerning drug abuse and treatment programs in the area in which he or she resides. The bill specifies that neither DCF nor the state is responsible for providing or paying for substance abuse treatment as part of screening under this section.
- DCF is authorized to adopt rules as necessary to implement the law.

**Approved by Governor. Chapter No. 2011-81; Effective Date: July 1, 2011.**

## **Economic Development – Ad Valorem Tax Exemptions**

The Florida Constitution permits counties and municipalities to grant economic development ad valorem tax exemptions to new businesses and expansions of existing businesses as defined by general law. Currently, the economic development exemption may only be granted through a county or municipal ordinance that is previously approved by the electors of the participating county or municipality.

CS/CS/HB 287:

- Provides increased flexibility for counties and municipalities and may promote job creation by revising the definitions of “new business” and “expansion of an existing business” to include qualifying organizations and by requiring eligible businesses and organizations to pay a wage above the average wage of the locality.

- Expands eligibility for the economic development exemption to include target industry businesses and allows the board of county commissioners of a charter county to hold a referendum to grant such exemption upon receiving a petition signed by the requisite number of electors prescribed in the county charter, including charters that require the signatures of less than 10 percent of the electors.
- Modifies the current ballot language required in a referendum that determines whether an entity may grant an economic development exemption to address whether the new or existing business is expected to create new, full-time jobs in a county or municipality and additional criteria is provided for counties and municipalities to consider when reviewing applications for such exemption.
- Allows local governments to enter into a written agreement with an applicant applying for an economic development exemption which may include performance criteria consistent with applicable laws and must require the applicant to report the actual number of new, full-time jobs created and their actual average wage.

The provisions in this bill apply only to exemptions from ad valorem taxation granted pursuant to referenda held on or after July 1, 2011.

**[Approved by Governor. Chapter No. 2011-182; Effective date: July 1, 2011.](#)**

## **Elections**

CS/CS/HB 1355 makes significant changes to the Florida Elections Code. The bill provides as follows:

- Requires third-party voter registration organizations to deliver voter applications to supervisors of elections within 48 hours after an applicant completes the application. Failure to do so subjects the organization to fines.
- Increases the time from 6 months to 365 days that a person running for office in one political party must not have been a member of a different political party.
- Prohibits a person from changing their address at a polling place and voting a regular ballot, if the former address was outside the county; but the elector may still vote a provisional ballot.
- Prescribes that each joint resolution proposing a constitutional amendment contain one or more ballot statements; requires that challenges to a ballot statement be brought within 30 days after the joint resolution is filed with the Secretary of State, which must assert all grounds for challenge or be waived; and allows the Attorney General to submit an alternate ballot statement in the event the Court finds that all the statements provided in the joint resolution are defective.
- Requires that by December 31, 2013, all voting systems must permit the placement on the ballot of a constitutional amendment or a revision containing stricken and underlined text.
- Eliminates the need for a voting system audit if a manual recount is undertaken.
- Reduces the time for early voting from 14 to 8 days of no less than 6 to 12 hours per day. The supervisor of elections may provide early voting and determine the number of early voting hours in elections that are not held in conjunction with state and federal elections.

- Increases the time to canvass absentee ballots from the 6th day to the 15th day before an election.
- Specifies the time period when the canvassing board must report early voting and all tabulated absentee results to the Department of State, and when updates of election results must be provided to the department.
- Limits a court's evidentiary review in election contests involving a canvassing board's decision of the legality of an absentee ballot, based on a comparison of the signature on a voter's certificate and the voter's signature in the registration record, to the signatures without consideration of any other evidence.
- Establishes requirements for the registration of minor political parties.
- Establishes a Presidential Preference Primary Date Selection Committee, who must select a date for Florida's presidential preference primary and which may be no earlier than the first Tuesday in January or the first Tuesday in March.

**Approved by Governor. Chapter 2011-40; Effective date: May 19, 2011,**  
except as otherwise provided in the bill.

### **Electronic Filing and Receipt of Court Documents**

CS/CS/SB 170 creates a new section of law requiring each state attorney and public defender to electronically file court documents with the clerk of the court and to also receive court documents from the clerk. Court documents are defined to include pleadings, motions, briefs and their attachments, orders, judgments, opinions, decrees and transcripts. The bill requires that, in developing the capability and implementing the process for the electronic filing and receipt, each state attorney and public defender of the same circuit consult with each other, along with the clerk of the court, the Florida Technology Commission and the authority which governs the statewide portal for electronic filing and receipt of court documents.

The bill requires the Florida Prosecuting Attorneys Association and the Florida Public Defender Association to file a report with the presiding officer of the Legislature by March 1, 2012, describing the progress made to use the Florida Courts E-Portal or other clerks' offices portals for electronic filing and receipt of court documents. Lastly, the bill requires parties represented by attorneys in matters before the Division of Administrative Hearings and matters before Office of Judges of Compensation Claims to file documents electronically.

**Approved by Governor. Chapter No. 2011-208; Effective date: July 1, 2011.**

### **Emergency Management**

CS/CS/SB 450 creates the "Post Disaster Relief Assistance Act." The bill: Provides that any person who gratuitously and in good faith provides temporary housing, food, water, or electricity to emergency first responders or the immediate family members of emergency first responders may not be held liable for any civil damages unless the person acts in a manner that demonstrates a reckless disregard for the consequences of another person.

- Defines “immediate family member” as a parent, spouse, child, or sibling.
- Defines “reckless disregard” as “conduct that a reasonable person knew or should have known at the time such services were provided would be likely to result in injury so as to affect the life or health of another, taking into account the extent or serious nature of the prevailing circumstances.”
- Provides that a person may register with a county emergency management agency as a temporary provider of housing, food, water, and electricity, if the county provides for such registration. If a person who provides the services registers with a county emergency management agency, he or she is presumed to have acted in good faith in providing such services.

The immunity from civil liability applies in emergency situations that are related to and arise out of a public health emergency or state of emergency, pursuant to state law. The immunity provided to persons under this bill does not apply to damages as a result of any act or omission:

- Occurring more than six months after the declaration of an emergency, unless the declared emergency is extended, in which case the immunity continues to apply for the duration of the extension.
- Unrelated to the original declared emergency or any extension thereof.

**Approved by Governor. Chapter No. 2011-43. Effective date: July 1, 2011.**

### **Ex-Offender Licensing and Employment**

CS/SB 146 creates the “Jim King Keep Florida Working Act,” which addresses restrictions on employment and licensing of ex-offenders in Florida. The bill establishes legislative intent regarding the identification of appropriate restrictions on the employment of, and the issuance of occupational licenses to, ex-offenders. Each state agency is required implement restrictions that will protect the general public. Agencies must also submit a report to the Governor and presiding officers of the Legislature by December 31, 2011, and every four years thereafter. The report must include:

- A list of all statutes and rules that disqualify persons convicted of a crime from employment or licensure.
- A determination that the statutes or rules are readily available to prospective employers and licensees.
- An identification and evaluation of alternatives to the disqualifying statutes or rules which protect the health, safety, and welfare of the general public without impeding the employment of ex-offenders.

Effective January 1, 2012, and except for applications to carry a concealed weapon or firearm, a state agency may not deny an application for a license, permit, certificate or employment based solely on an applicant’s lack of civil rights.

**Approved by Governor. Chapter No. 2011-207; Effective date: June 21, 2011,**  
except as otherwise provided.

## **Firearm Regulation Preemption**

As passed by the Legislature, CS/CS/CS/HB 45 does the following:

- Includes the storage of firearms within the state's regulatory preemption and further preempts local and state administrative regulations and rules relating to the field of firearms and ammunition.
- Establishes penalties for state and local officials that enact or enforce local ordinances, administrative rules or regulations in violation of the state's firearms preemption.
- Authorizes the courts to enjoin such ordinances, rules or regulations, and to assess a civil fine of up to \$5,000 against the elected or appointed state or local official who violated the preemption law.
- Prohibits the use of public funds to defend or reimburse any person found to have knowingly and willfully violated the firearm's preemption law, and provides that such violation is cause for termination of employment or contract, or removal from office.
- Authorizes persons affected by the unlawful firearms ordinance, rule or regulation to file a civil action, and allows such persons to recover actual damages not exceeding \$100,000 and reasonable attorney's fees and costs.
- Exempts certain specified ordinances, rules, and regulations.

**[Approved by Governor. Chapter 2011-109; Effective date: October 1, 2011.](#)**

## **Growth Management – Reenactment of SB 360**

Early in Session, the Legislature passed legislation to reenact portions of CS/CS/SB 360, originally enacted in 2009. These three bills – HB 7001, HB 93, and HB 7003 – reenacted the sections of SB 360 relating to growth management and comprehensive planning, security cameras, and affordable housing, respectively.

In response to litigation, the Legislature also passed SB 410 relating to impact fees. This bill reenacts §163.31801, F.S., which establishes law that provides that the government has the burden of proving by a preponderance of the evidence that an impact fee meets the standards set out in statutory or decisional law. The statute also prohibits the courts from using a more deferential standard. To remove any doubt regarding whether this section is an unconstitutional mandate, the Legislature made a finding that the act fulfills an important state interest and each chamber approved the bill by the constitutionally required two-thirds vote.

**[HB 7001: Approved by Governor. Chapter No. 2011-14.](#)**

**[HB 93: Approved by Governor. Chapter No. 2011-8.](#)**

**[HB 7003: Approved by Governor. Chapter No. 2011-15.](#)**

**[SB 410: Approved by Governor. Chapter No. 2011-149.](#)**

**Effective Dates:** These bills became effective upon becoming law. HB 7001, HB 93, and HB 7003 became law when signed by the Governor on April 27, 2011. SB 410 became law when signed by the Governor on June 17, 2011. Each bill additionally provides that they shall operate retroactively to June 1, 2009. If this retroactive application is held by a court of last resort to be unconstitutional, the bills state that they should then apply prospectively from the date that each becomes law.

### **Health Insurance**

CS/HB 1193 provides that a person may not be compelled to purchase health insurance, except as a condition of:

- Public employment.
- Voluntary participation in a state or local benefit.
- Operating a dangerous instrumentality.
- Undertaking an occupation having a risk of occupational injury or illness.
- An order of child support.
- An activity between private persons.

The bill also states that the provisions will not prohibit the collection of debts lawfully incurred for health insurance.

**Approved by Governor. Chapter No. 2011-126; Effective Date: June 2, 2011**

### **Household Moving Legislation**

CS/HB 901 makes changes to the state's household moving law; specifically:

- Clarifying the definition of "storage" for purposes of state law.
- Extending the license renewal cycle for movers and moving brokers to a biennial basis, and prohibiting a person from doing business as a mover or moving broker unless registered with the Florida Department of Agricultural and Consumer Services.
- Removing the requirement for movers and moving brokers to be licensed locally except in those counties with a local ordinance or regulation as of January 1, 2011 (i.e., Broward, Miami-Dade, Palm Beach and Pinellas Counties).
- Allowing Broward, Miami-Dade, and Palm Beach Counties to continue requiring that movers and moving brokers headquartered within such counties pay a registration fee to do business, but requiring the fee to not exceed the costs of administrating the county's household mover regulatory program.

**Approved by Governor. Chapter 2011-121; Effective date: July 1, 2011,**

except as otherwise provided.

### **Local Business Taxes**

CS/CS/CS/HB 311 creates an exemption from local business taxes for an individual who engages in or manages a business, profession, or occupation as an employee of another

person. The bill:

- Provides that the exempt employee is not required to pay a local business tax, obtain a local business tax receipt, or apply for an exemption from a local business tax.
- Provides that the exemption created by the bill does not apply to business taxes imposed by municipalities or counties on individual employees pursuant to a resolution or ordinance adopted prior to October 13, 2010 and the local authority may continue to impose and collect the tax.
- Removes statutory language which requires the Department of Business and Professional Regulation, by August 1 of each year, to submit to the local official who issues local business tax receipts a current list of professions the department regulates and information regarding those practitioners who should not be allowed to renew their local business tax receipt due to suspension, revocation, or inactivation of a state license, certification, or registration.
- Expands the prohibition against local governments issuing a business tax receipt unless a practitioner exhibits confirmation of an active state certificate, registration, or license to include practitioners of professions regulated by “the Florida Supreme Court, or any other state regulatory agency” not just the current statutory list of certain practitioners and certain state regulatory agencies.
- Specifies that a person operating as a real estate broker associate or a real estate sales associate is considered to be an employee. The bill specifies that an employee does not include an independent contractor.
- Specifies that “independent contractor” has the same meaning as provided in §440.02(15)(d)1.a and b, F.S.

**Approved by Governor. Chapter No. 2011-78; Effective date: July 1, 2011,** except that section 2, which creates the tax exemption, of the bill operates retroactive to October 13, 2010.

### **Local Government Accountability**

CS/SB 224 provides minimum budgeting standards for counties, county officers, municipalities, and special districts. The bill requires the budget of each county, municipality, special district, water management district, school district, and certain county officers to be posted on the government entity’s website. The bill requires certain counties, municipalities, and special districts to file their annual financial report and annual financial audit report with the Department of Financial Services and the annual financial audit report with the Office of the Auditor General within nine months of the end of the fiscal year. This bill also amends the reporting process used by the Legislative Auditing Committee and the Department of Community Affairs to compel special districts to file certain required financial reports.

The bill further allows municipalities with fewer than 100 persons to levy and collect special assessments in order to fund certain special security and crime prevention

services and facilities. If the costs of such services and facilities are funded by property taxes prior to the levy of the assessment, the bill requires the taxes to be abated annually thereafter in an amount equal to the full amount of the special assessment. [Approved by Governor. Chapter No. 2011-144; Effective date: July 1, 2011.](#)

### **Local Government Services**

HB 4031 repeals a section of law created in 1999 that provided a process for counties and municipalities to develop and adopt plans to improve the efficiency, accountability and coordination of the delivery of local government services. The Legislature believes that by repealing the statute, local governments may accomplish the same results by entering into interlocal agreements in the interest of cooperatively sharing resources for their mutual benefit. [Approved by Governor. Chapter No. 2011-199; Effective date: July 1, 2011.](#)

### **Mobile Home Park Lot Tenancies**

CS/SB 650 provides that:

- Local governments must cite the responsible party for violations of local codes or ordinances in mobile home parks.
- Local governments may not assess a lien, penalty, or fine, or initiate an administrative or civil proceeding against the mobile home owner or park owner who does not have any duty or responsibility for the alleged code or ordinance violation.
- Mobile home park homeowners' associations are given the right of first refusal to purchase a mobile home park when a mobile home park is subject to a change in land use.
- The bill clarifies that the provisions of §723.083, F.S., which requires local governments to consider the adequacy of parks for relocation, apply when a mobile home park owner gives notice of eviction based on a change in land use under §723.061, F.S.

[Approved by Governor. Chapter No. 2011-105; Effective Date: June 2, 2011.](#)

### **Pension Reform**

SB 2100 requires all employees in the Florida Retirement System (FRS) to pay 3 percent into their retirement accounts and face higher retirement age; retirement accounts will no longer collect an annual cost-of-living-adjustment starting July 1. The legislation, as passed, includes the following reforms to the existing FRS:

- Effective July 1, 2011, requires 3 percent employee contribution for all FRS members. DROP participants are not required to pay employee contributions.
- For employees initially enrolled on or after July 1, 2011, the definition of "average final compensation" means the average of the 8 highest fiscal years of compensation for creditable service prior to retirement, for purposes of calculation of retirement benefits. For employees initially enrolled prior to July 1, 2011, the definition of "average final compensation" continues to be the average of the 5 highest fiscal years of compensation.

- For employees initially enrolled in the pension plan on or after July 1, 2011, such members will vest in 100 percent of employer contributions upon completion of 8 years of creditable service. For existing employees, vesting will remain at 6 years of creditable service.
- For employees, initially enrolled in FRS on or after July 1, 2011, increases the normal retirement age and years of service requirements, as follows:
  - For Special Risk Class: Increases the age from 55 to 60 years of age; increases the years of creditable service from 25 to 30.
  - For all other classes: Increases the age from 62 to 65 years of age; increases the years of creditable service from 30 to 33 years.
- Maintains DROP; however, employees entering DROP on or after July 1, 2011 will earn interest at a reduced accrual rate of 1.3 percent. For employees currently in DROP or entering before July 1, 2011, the interest rate remains 6.5 percent.
- Eliminates the cost-of-living adjustment (COLA) for service earned on or after July 1, 2011. Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the reinstatement of the COLA, the new COLA formula will expire effective June 30, 2016, and the current 3 percent cost-of-living adjustment will be reinstated. Current retirees and employees retiring prior to July 1, 2011 are not affected by the COLA change.
- To implement the bill for the 2011-12 fiscal year, funds the Division of Retirement with four positions and \$207,070 in recurring funds and 31,184 in non-recurring funds.

Required employer retirement contribution rates for each membership class and subclass of the FRS for both the pension and investment retirement plans:

| Membership Class   | % of Gross Compensation Effective July 1, 2011 | % of Gross Compensation Effective July 1, 2012 |
|--|--|--|
| Regular  | 3.28   | 3.28   |
| Special Risk   | 3.28   | 3.28   |
| Special Risk - Administrative Support  | 4.07   | 4.07   |
| Elected Offices - Legislators, Gov, Lt. Gov, Cabinet Officers, State Attorneys, Public Defenders | 7.02   | 7.02   |
| Elected Officers - Justices, Judges  | 9.27   | 9.27   |
| Elected Officers - County Elected Officers   | 4.81   | 4.81   |
| DROP   | 3.31   | 3.31   |

In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of FRS for both retirement plans are as follows:

| Membership Class   | % of Gross Compensation Effective July 1, 2011 | % of Gross Compensation Effective July 1, 2012 |
|--|--|--|
| Regular  | 0.49   | 2.16   |
| Special Risk   | 2.75   | 8.21   |
| Special Risk - Administrative Support  | 0.83   | 21.40  |
| Elected Offices - Legislators, Gov, Lt. Gov, Cabinet Officers, State Attorneys, Public Defenders | 0.88   | 21.76  |
| Elected Officers - Justices, Judges  | 0.77   | 12.86  |
| Elected Officers - County Elected Officers   | 0.73   | 22.05  |
| Senior Management Service  | 0.32   | 10.51  |
| DROP   | 0.00   | 6.36   |

The estimated positive fiscal impact to counties statewide is nearly \$615 million, including approximately \$43.7 million for Broward County, which was made possible by the defeat of the sweep from County Revenue Sharing.

On June 20, 2011, the Florida Education Association (FEA) filed a constitutional challenge arguing that the measure violates the contractual and collective bargaining rights of current workers. A trial has been set for October 26, 2011. [\*\*Approved by Governor. Chapter No. 2011-68; Effective date: July 1, 2011.\*\*](#)

### **Pill Mills/Prescription Drug Monitoring Program**

The House and Senate began the Session with differing proposals, with the Senate aiming to maintain the existing Prescription Drug Monitoring Program (PDMP) and the House attempting to repeal the PDMP and instead prohibit doctors from dispensing most controlled substances. The two chambers ultimately found compromise in CS/CS/ HB 7095, which was also supported by the Governor and Attorney General. HB 7095 keeps the PDMP intact, originally passed in 2009 but not implemented due to funding limitations. Additionally, the bill actually strengthens existing law by shortening the reporting time under the PDMP from 15 days to 7 days and prohibiting physicians, under most circumstances, from directly dispensing Schedule II and III controlled substances. The bill also requires pharmacists and others to report instances of individuals obtaining or attempting to obtain controlled substances by fraudulent or improper means and creates additional standards for obtaining and maintaining pharmacy permits.

Unfortunately, no state funding mechanism is contained in the bill, and funds provided by prescription drug manufacturers may not be used to implement the PDMP. Thus, federal, local, or private monies will be needed to fully implement the program. The Governor held a bill signing ceremony for HB 7095 in Fort Lauderdale. **Approved by Governor. Chapter No. 2011-141; Effective Date: July 1, 2011.**

### **Property and Casualty Insurance**

CS/CS/CS/SB 408 makes numerous changes to laws related to property insurance, primarily residential property insurance. The bill:

- Requires the Florida Hurricane Catastrophe Fund (Cat Fund) to provide reimbursement for all incurred losses, including amounts paid as fees on behalf of the policyholder. However, the bill also specifies a number of losses that are excluded from payment.
- Authorizes the State Board of Administration (Board) and private market insurers to renegotiate the terms of a surplus note issued pursuant to the Insurance Capital Build-Up Incentive Program before January 1, 2011. If the insurer agrees to accelerate the payment period of the note by at least 5 years, the Board must agree to exempt the insurer from the premium-to-surplus ratios required by statute. If the insurer agrees to accelerate the payment period for less than 5 years, the Board may agree to an appropriate revision of the premium-to-surplus ratios after consulting with the Office of Insurance Regulation, subject to a minimum writing ratio of net premium to surplus of at least 1 to 1 or of gross premium to surplus of at least 3 to 1.
- Raises the surplus requirements for insurers transacting residential property insurance that are not a wholly owned subsidiary of an insurer domiciled in another state. For a new insurer, the bill raises the surplus requirement from \$5 million to \$15 million. An existing insurer that holds a certificate of authority before July 1, 2011, must have a surplus of at least \$5 million until June 30, 2016; from July 1, 2016 until June 30, 2021, a surplus of at least \$10 million; and on or after July 1, 2021, a surplus of at least \$15 million.
- Renames the Citizens "high risk" account the "coastal" account. Under current law, Citizens is authorized to offer policies that provide wind peril coverage only for risks located within the coastal account. The high risk area of the coastal account consists of areas that were eligible for coverage in the Florida Windstorm Underwriting Association, essentially coastal areas at high risk for a hurricane. The bill repeals the requirement to reduce the high-risk area after December 1, 2010, if necessary to reduce the probable maximum loss attributable to wind-only coverages to 25 percent below the "benchmark" for the high-risk area, which is defined in statute as the 100-year probable maximum loss for the Florida Windstorm Underwriting Association based on its November 30, 2000 exposures. The bill also repeals a requirement to reduce the high-risk area after February 1, 2015, by 50 percent below the benchmark. The requirement that the Citizens board issue an annual report showing the reduction or increase in the 100-year probable maximum loss attributable to wind only coverages and the quote share program is also repealed.

- As of January 1, 2012, Citizens must require agents to obtain from applicants for coverage a signed Acknowledgment of Potential Surcharge and Assessment Liability form. The form details that Citizens policyholders are subject to a Citizens policyholder surcharge of up to 45 percent of premium and emergency assessments.
- Revises the notice of cancellation, nonrenewal or termination requirements for personal lines and commercial lines residential property insurance policies. At least 120 days notice must be given to a named insured whose residential structure has been insured by the insurer or its affiliate for at least 5 years. Under current law 180 days notice must be provided for the cancellation, nonrenewal, or termination of such policies.
- Authorizes the nonrenewal of a policy that covers both a home and a motor vehicle for any reason applicable to either the property or motor vehicle insurance, so long as the insurer provides 90 days notice of the nonrenewal. The notice of cancellation requirement for a Citizens policy that has been assumed by an authorized "take out" insurer is reduced to 45 days.
- Authorizes an insurer to cancel or not renew a property insurance policy if the Office of Insurance Regulation finds that the early cancellation is necessary to protect the best interests of the public or policyholders.
- Authorizes insurers to renew a property and casualty insurance policy under different policy terms by providing to the policyholder a written "Notice of Change in Policy Terms" instead of a written "Notice of Non-Renewal."

The bill also:

- Repeals the consumer advocate report card for property insurers.
- Clarifies that the requirement that an insurer must pay property insurance claim within 90 days of receiving notice of the claim applies to reopened and supplemental claims.
- Specifies that the insurer may request at its own expense the verification of a uniform mitigation verification form provided to the insurer by the policyholder or policyholder's agent in addition to forms provided by an authorized mitigation inspector.

**Approved by Governor. Chapter No. 2011-39; Effective date: July 1, 2011.**

### **Property Taxation**

CS/SB 478 revises, updates and consolidates provisions of Chapter 197, F.S. relating to tax collections, sales, and liens to conform to present day collection technology methods.

The bill:

- Tolls the statute of limitations relating to proceedings involving tax lien certificates or tax deeds to the period of intervening bankruptcy.
- Amends requirements for tax deed applications and the purchase of tax certificates to provide definitions and include interest, fees, and costs on the face value of the certificate.
- Provides for electronic notice, programs, sales, and fees.

- Authorizes tax collectors to issue certificates of correction to the tax rolls for uncollectable personal property accounts.
- Consolidates provisions relating to the payment of deferred taxes.

**Approved by Governor. Chapter No. 2011-151; Effective date: July 1, 2011.**

### **Public Employee Severance Pay**

CS/CS/CS/SB 88 makes several changes relating to public employee compensation, including the award of bonuses and severance pay. Under current law, and notwithstanding the prohibition against extra compensation in §215.425, F.S., cities and counties may establish an extra compensation program, such as a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards. Bonuses paid under the program may not be included in the public employee's regular base rate of pay and may not be carried forward in subsequent years. See, §125.01(1)(bb) and §166.021(7), F.S. The bill establishes additional standards for bonus programs and places restrictions on the payment of severance to public employees. More specifically, the bill:

- Exempts payments of bonuses or severance made to an officer, agent, employee or contractor of a public hospital from the statutory prohibition against extra compensation, if paid from nontax revenues or non-state appropriated funds.
- Requires that any policy, ordinance, rule, or resolution designed to implement a bonus program must: base a bonus on work performance, describe the performance standards and evaluation processes in which a bonus may be awarded, notify all employees of the policy, ordinance, rule, or resolution on which a bonus will be based, and consider all employees for the bonus.
- Requires that any contract or employment agreement entered into by a governmental entity on or after July 1, 2011, including renewals, which contains a severance pay provision, include a provision that limits severance pay to an amount not exceeding 20 weeks of compensation, and a prohibition on payment of severance when an officer, agent, employee or contractor has been fired for misconduct.
- Limits non-contractual severance paid in settlement of an employment dispute to six weeks of compensation.
- Defines the term "severance pay" to include salary, benefits and perquisites for employment services yet to be rendered that are provided to an employee who has been, or is about to be, terminated. The term, however, does not include compensation for annual, sick, compensatory or administrative leave; early retirement under an actuarially funded pension plan; or a subsidy for the costs of a group insurance plan otherwise available to other employees of the government agency.
- Prohibits any gag rules regarding the discussion of a dispute, settlement, contract or agreement involving the payment of severance.

**Approved by Governor. Chapter No. 2011-143; Effective date: July 1, 2011.**

### **Public Records – Agency Emergency Notification Information**

HB 597 creates an exemption from public records requirements for any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency, including the person's name, address, telephone number, e-mail address, or other electronic communication address. The bill provides for retroactive application of the exemption, legislative review and repeal under the provisions of the Open Government Sunset Review Act, and a statement of public necessity as required by the State Constitution.

**Approved by Governor. Chapter No. 2011-85; Effective date: July 1, 2011.**

### **Public Records – Local Government Inspector General**

CS/HB 667 creates an exemption from Florida's constitutional and statutory public records requirements for investigative reports of an inspector general that are prepared for, or on behalf of, a local government. The investigative report becomes a public record when the investigation becomes final, i.e., when the report is presented to the local government. Information received, produced, or derived from an investigation is confidential and exempt from inspection or copying under state law until an investigation is complete or no longer active. An investigation is considered active if it's continuing with "a reasonable, good faith anticipation of resolution and with reasonable dispatch."

Unless reviewed and saved from repeal through reenactment, the exemption is repealed on October 2, 2016.

**Approved by Governor. Chapter No. 2011-87; Effective date: October 1, 2011.**

### **Public Records – Public Airports**

CS/HB 913 provides exemptions from public records for certain information held by public airports. In particular, the bill provides the following exemptions from statutory and constitutional disclosure requirements:

- Trade secrets held by a public airport are confidential and exempt from disclosure as public records. Trade secrets are those records as defined in §688.002, F.S.
- Proprietary confidential business information held by a public airport is confidential and exempt until the information is publicly available or the proprietor of the information no longer treats the information as proprietary confidential business information. The bill defines "proprietary confidential information business information which includes: business plans; internal audit controls and reports of internal auditors; reports of external auditors for privately held companies; client and customer lists; potentially patentable material; and business transactions other than transactions between a proprietor and a public airport.
- Any proposal or counterproposal exchanged between a public airport and a nongovernmental entity relating to the sale, use, development or lease of airport facilities is exempted from disclosure as a public record. The proposal or counterproposal ceases to be exempt once the proposal or counterproposal is approved by the public

airport's governing body. If the proposal or counterproposal is not submitted to the governing body for approval, then the proposal or counterproposal ceases to be exempt 90 days after negotiations between the public airport and the nongovernmental entity end.

The exemptions are repealed October 2, 2016 unless reviewed and reenacted by the Legislature. The bill also provides a statement of public necessity expressing the reasons why the public record exemptions are necessary. [Vetoed by Governor.](#)

### **Public Records and Meetings – Competitive Solicitations**

CS/HB 7223 reenacts the current public record and meetings law exemptions relating to sealed bids, proposals, and replies in response to RFPs, Invitations to Bid, and Invitations to Negotiate. Specifically the bill accomplishes the following:

- Reenacts, reorganizes and expands the public records exemption in §119.071(1)(b), F.S., to include replies, and provides the exemption lasts until an agency provides notice of an intended decision or 30 days (as opposed to 10 days under current law) after the sealed bids, proposals or replies to a “competitive solicitation” are opened. Competitive solicitation is defined in the bill as “the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.”
- If the agency rejects all bids, proposals, or replies and the agency concurrently issues a notice of intent to reissue the competitive solicitation, then the exemption continues in effect until notice of an intended decision on the reissued competitive solicitation or until the agency withdraws the solicitation, but not longer than 12 months following the agency’s notice rejecting all bids, proposals, and replies.

In addition, with respect to public meetings requirements, the bill reenacts, reorganizes and expands the exemption in §286.011(2), F.S., relating to negotiation meetings conducted with a vendor pursuant to a competitive solicitation, to include any portion of a negotiation meeting where a vendor makes an oral presentation or answers questions as part of the competitive solicitation. In addition, any portion of a “team” meeting at which negotiation strategies are discussed is also exempt.

A complete recording must be made of any portion of a meeting. Moreover, “[n]o portion of the exempt meeting may be held off the record.” The recording and all records presented at the meeting are exempt from public record disclosure requirements until the agency provides notice of an intended decision or 30 days (as opposed to 20 days under current law) after the sealed bids, proposals or final replies are opened.

Similar to the public records exemption above, the bill provides that if the agency rejects all bids, proposals, or replies and concurrently issues a notice of intent to reissue the competitive solicitation, then the recording and records presented at the meeting continue to be exempt until notice of an intended decision on the reissued competitive solicitation or

until the agency withdraws the solicitation. The recording and records, however, cannot be exempt for longer than 12 months following the agency's notice rejecting all bids, proposals, and replies. Lastly, the bill extends the automatic repeal until October 2, 2016. **Approved by Governor. Chapter No. 2011-140; Effective date: June 2, 2011.**

### **Real Property/Local Government**

HB 767, which should have a positive impact on counties, authorizes the Board of County Commissioners to negotiate the lease of real property for a term not to exceed five years rather than go through the competitive bidding process. The bill also allows government entities to transfer title to a road by recording a deed with the county or counties in which the right-of-way is located. **Vetoed by Governor on June 27, 2011.**

### **Residential Building Permits**

CS/HB 407 amends state law relating to residential building permits. The bill adds a new subsection (17) to §553.79, F.S. and prohibits a local enforcement agency, building code administrator, building inspector, or other official or entity from requiring, as a condition of issuing a building permit for a one- or two-family residential building, an inspection of any portion of a building, structure or real property that is not directly impacted by the construction activity for which the permit is sought. The prohibition does not apply to a structure's substantial improvement, a change of occupancy, conversion from a residential to a nonresidential or mixed use structure, or historic buildings.

The new provision does not prohibit the local enforcement agency, building code administrator, building inspector, or other official or entity, from:

- Citing an inadvertently observed violation in plain view during the ordinary course of an inspection.
- Inspecting a physically, nonadjacent portion of a building, structure, or real property that is directly impacted by the construction activity for which the permit is sought.
- Inspecting any portion of a building, structure, or real property when the owner or person having control of the property has consented to the inspection.
- Inspecting any portion of a building, structure, or real property pursuant to an inspection warrant issued for possible violations of state or local laws, or rules, relating to municipal or county building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing, or zoning standards, as provided in §§933.20-933.30, F.S.

The new subsection is automatically repealed upon the Secretary of State's receipt of a written certification from the Chair of the Florida Building Commission certifying the provisions of this subsection have been adopted as an amendment to the Florida Building Code.

**Approved by Governor. Chapter No. 2011-82; Effective date: July 1, 2011.**

## **Seaport Development**

CS/CS/CS/HB 399 makes changes to environmental, permitting and seaport planning processes for Florida's public deepwater seaport. This legislation is intended to assure potential investors that seaport related projects can be built in Florida. Furthermore, the bill is intended to significantly reduce project approval times, reduce the number of information requests from the Department of Environmental Protection (DEP) during the permitting process and limit permit challenges by third parties. The bill eliminates unnecessary permit requirements for typical maritime maintenance activities such as maintenance dredging and spoil disposal. Particularly, the bill makes the following changes:

- Requires the Florida Seaport Transportation and Economic Development (FSTED) Council to develop a list of priority projects annually and submit them to FDOT.
- Requires seaports to develop a strategic plan with a 10-year planning horizon addressing the following components: economic development, infrastructure development, intermodal transportation facilities, regulatory barriers, and intergovernmental coordination.
- Provides an exemption from stormwater management permits for overwater piers, docks, or similar structures.
- Revises the conceptual permit process established in legislation last year to provide a 60-day application by DEP, limits additional information requests to two, and places the ultimate burden of proof on a third-party who challenges the DEP's issuance of a conceptual permit.
- Provides that additional maintenance dredging permits are not required if the dredging is no more than necessary to restore previously dredged areas and previously undisturbed natural areas are not impacted.
- Provides that new spoil disposal site permits are not required for disposal sites existing before January 1, 2011 and which are certified as adequate for storage of spoil material.

**Approved by Governor. Chapter No. 2011-164; Effective date: July 1, 2011.**

## **Seaport Security Standards**

CS/CS/CS/CS/HB 283 makes substantial changes in state law relating to security requirements that apply to Florida's public seaports. In 2000, Florida became the first and only state to enact its own seaport security standards for deepwater ports. Despite the enactment of comprehensive security laws and regulations by the federal government after the events of September 11, 2001, Florida continued to enforce its unnecessary and duplicative security regulations. The 2011 Session finally brought an end to this costly duplication. The bill makes the following changes:

- Repeals the "Camber Report" statewide minimum standards and requires seaports to develop security plans based on federal security regulations.
- Repeals the state requirement that seaports develop a seaport security plan every five

years with assistance from the Regional Domestic Security Task Force.

- Eliminates the Florida Department of Law Enforcement and the state Office of Drug Control's regulatory roles regarding security at seaports, including the review and approval of security plans.
- Requires each seaport to periodically revise its security plans based upon its ongoing security risk assessments and ensure compliance with federal seaport security standards; allows Florida's seaports to implement security standards that are more stringent than required under federal seaport security laws and regulations.
- Eliminates the state criminal history background check and state-specific disqualifying offenses for working at a seaport; requires that persons seeking unescorted access to secure and restricted areas of a seaport possess a federal Transportation Worker Identification Credential (TWIC); and provides that seaports may not charge a fee for any credential that requires or is associated with a fingerprint-based background check.
- Prohibits, after July 1, 2013, seaports from charging a fee for a seaport-specific access credential in addition to the TWIC, except in cases of a "new hire" or where an individual has "lost or misplaced" their TWIC.
- Adds Port Citrus to the membership of the Florida Seaport Transportation and Economic Development (FSTED) Council, and allows Citrus County until July 1, 2014 to apply to the FSTED Council for a grant to study the feasibility of establishing a port in Citrus County.
- Repeals the Seaport Security Standards Advisory Council.

The bill is expected to save Broward County's Port Everglades Department between \$300,000 and \$400,000.

**[Approved by Governor. Chapter No. 2011-41; Effective date: May 24, 2011.](#)**

### **Sovereign Immunity – Wrongful Death Claims**

CS/CS/HB 277 amends §768.28, F.S., to reduce the time period for filing wrongful death actions against the state, its agencies or subdivisions (e.g., counties) from four years to two years. A claimant must also provide written notice of a wrongful death claim to the appropriate agency or subdivision, and within 2 years after the claim accrues (as opposed to 3 years currently) to the Florida Department of Financial Services (DFS).

Like medical malpractice cases, if DFS, or the appropriate agency or subdivision, fail to dispose of the claim within 90 days after notice is filed, the claim is deemed denied and the claimant can proceed with filing a civil action. The statute of limitations for medical malpractice and wrongful death actions is tolled during the period taken by DFS or the agency or subdivision to deny the claim.

**[Approved by Governor. Chapter No. 2011-113; Effective date: July 1, 2011,](#)**  
and applies to causes of action accruing on or after that date.

## **State and Local Government Contracting – Scrutinized Companies**

CS/SB 444 creates a new section of law, §287.135, F.S., prohibiting state and local governments from contracting with scrutinized companies. Specifically, the act prohibits companies on the state’s Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List from bidding on, submitting a proposal for, or entering into or renewing a contract with any state agency or local governmental for goods or services of \$1 million or more.

A state agency or local government may, on a case-by-case basis, provide an exemption from the prohibitions and allow a scrutinized company to be eligible to submit a bid or proposal, or may enter into or renew a contract with such company, if one of the conditions specified in the act are met – including when the local government makes a public finding that, absent the exemption, “the local government would be unable to obtain the goods or services for which the contract is offered.”

A company must certify, at the time of submitting a bid or proposal, or prior to entering or renewing a contract with state agency or local government, it’s not on the scrutinized company lists. State agency or local government contracts entered into or renewed on or after July 1, 2011, must also contain a provision allowing the awarding body (e.g., local government governing body) to terminate the contract, if the company is found to have submitted a false certification.

If a company is found to have made a false certification, the state agency or local government must give the company written notice of the determination. The company will then have 90 days to demonstrate the government’s decision is in error. If the company fails to refute the determination, the state agency or local government must file a civil action against the company. If the court concludes the company submitted a false certification, the company must pay a penalty equal to \$2 million or twice the amount of the contract for which the false certification was submitted and all reasonable attorney’s fees and costs, including investigative costs leading to the finding of false certification. The company would also not be eligible to submit any bids or proposals, or contract with the state agency or local government for a three-year period.

Any civil action must be brought within three years after the false certification is submitted. The act makes explicit that only the government may bring the civil action, no private right of action is authorized and an unsuccessful bidder may not protest the award of a contract or renewal on the basis of a false certification.

The act preempts state agency rules or local ordinances involving the award of public contracts for goods and services of \$1 million or more to scrutinized companies. To comply with federal law, the Florida Department of Management Services is required to submit

written notice describing the act's provisions to the Attorney General of the United States within 30 days after July 1, 2011. Moreover, the act becomes inoperative on the date that federal law ceases to allow states to adopt or enforce the prescribed contracting prohibitions.  
**Approved by Governor. Chapter No. 2011-104; Effective date: July 1, 2011.**

### **State Judicial System**

Several bills were filed during the 2011 Session seeking to change the Florida judicial system. While several proposals passed the House, they failed to win the necessary votes in the Senate. CS/HJR 7111 is a proposed constitutional amendment that will appear on the November 2012 general election ballot. The joint resolution makes the following changes to the Judiciary Article of the Florida's Constitution:

- Removes the two-thirds vote requirement for general laws enacted to repeal rules of court and limits the ability of the Court to readopt a court rule that has been repealed by the Legislature.
- Requires that each appointment of a justice of the Florida Supreme Court must be confirmed by the Florida Senate and prohibits the renomination of any person who was not previously confirmed by the Senate to fill a vacancy on the Court.
- Requires the Judicial Qualifications Commission to provide the Florida House of Representatives with all information that may be used to pursue the impeachment of a justice or judge.
- Removes language in the constitution establishing the staggered terms of JQC appointees.

If approved by at least 60 percent of the electors voting on the joint resolution, the changes to Article V of the State Constitution will take effect January 8, 2013.

**Approved by Legislature; to be placed on ballot in next general election.**

### **Value Adjustment Boards**

CS/CS/CS/HB 281 requires a petitioner before a value adjustment board who is challenging the assessed value of property to pay all non-ad valorem assessments owed and pay at least 75 percent of ad valorem taxes owed before the taxes become delinquent on April 1. Taxpayers that challenge the denial of a classification or exemption, or argue that the property was not substantially complete on the date of assessment, must pay the non-ad valorem assessments and must make a "good faith" payment of the tax. If the value adjustment board determines that the payment was grossly disproportionate to what was owed and was not made in good faith, the tax collector is to collect a 10 percent penalty. The bill requires the value adjustment board to deny the petition by April 20, if the required payment is not timely made.

If the value adjustment board determines that the petitioner owes ad valorem taxes in excess of the amounts paid, the unpaid amount accrues interest at the rate of 12 percent per year from April 1. If the value adjustment board determines that the petitioner is

owed a refund, the excess amount paid accrues interest at the rate of 12 percent per year from the date the taxes became delinquent.

The provisions of the bill do not apply to petitions for tax deferrals. This bill further provides that the current 4 percent property tax discount for early payment shall apply, but only if the corrected tax notice is mailed prior to the date the taxes become delinquent. The legislation is expected to have a positive fiscal impact on local governments.  
**[Approved by Governor. Chapter No. 2011-181; Effective date: July 1, 2011.](#)**

### **Veterans Property Tax Discount**

Senate Joint Resolution (SJR) 592 proposes an amendment to the Florida Constitution to allow partially or totally disabled veterans who were not Florida residents at the time of entering military service to qualify for the combat-related disabled veterans' ad valorem tax discount on homestead property. If approved by at least 60 percent of the electors voting in the next general election or at a special election held for that purpose, the amendment will take effect January 1, 2013.  
**[Approved by Legislature; to be placed on ballot in next general election.](#)**

### **Workers' Compensation Claims Reciprocity**

CS/SB 723 establishes a reciprocity process to ensure that Florida employees injured while temporarily working in another state receive only the workers' compensation (WC) benefits available under Florida law. The bill is intended to stop the practice, by some injured workers, of filing WC claims under the laws of the state where the injury occurred. The bill creates §440.094, F.S., relating to extraterritorial reciprocity, and provides as follows:

- If a Florida employee while working for his or her employer temporarily outside the state is injured during the course of employment, that employee is, or the employee's beneficiaries are in the event the injury results in death, entitled to receive benefits as if the employee was injured within the state.
- If an employee from another state is injured while temporarily working in Florida, the employee and his employer will be exempt from Florida law if: a) the employer has WC insurance coverage under its state's laws; b) Florida's extraterritorial law is recognized in the employer's state; and c) employers and employees covered under Florida's WC laws are exempted from the other state's WC insurance or similar laws.
- If an employee of another state is injured in this state while temporarily working for its employer in Florida, the employee's exclusive remedy against its employer is the WC laws of the other state.
- A certificate from a duly authorized officer or department from another state is considered *prima facie* evidence an employer carries WC insurance in the other state.
- Florida courts must take judicial notice of the laws of the other state in any litigation that involves an issue of the construction of laws of the other state.

- When an employee has a claim under the WC law of another state or foreign jurisdiction for the same injury or occupational disease as a claim filed in Florida, any compensation paid or awarded under such other WC law must be credited against any compensation due under Florida's WC law.
- An employee is considered to be temporarily working in another state, if the period of work does not exceed 10 consecutive days, or 25 days in a calendar year.
- The provisions of §440.094, F.S., apply to claims filed on or after July 1, 2011, regardless of when the accident occurred.

**Approved by Governor. Chapter No. 2011-171; Effective date: June 17, 2011.**

## **SECTION IV: Bills/Issues of Interest that Failed**

### **Arrestee Medical Expenses**

CS/SB 490 unanimously passed out of Senate Budget Subcommittee on Criminal and Civil Justice Appropriations after being amended to carve out Broward and Miami-Dade Counties. The amendment, sponsored by Broward Senator Smith, carved out charter counties with populations of 1.7 million or more. This carve-out would have assisted the County in averting the possible 56 percent increase in costs from the bill's passage. The bill would have authorized counties to reimburse hospitals at 110 percent above Medicare prospective payment rate, or 125 percent above such Medicare rate if the hospital operated at a negative margin in the previous year. SB 490 passed the full Senate but ultimately died in House Messages. The House companion, CS/CS/HB 257 died in the Health and Human Services Committee early in Session.

### **Capital Formation for Infrastructure Projects**

CS/CS/HB 943 would have created the Florida Infrastructure Fund Partnership, a contingent tax credit program designed to leverage investment and private funding for state infrastructure projects. The Partnership would have been authorized to raise \$700 million in private funds for direct investment in infrastructure projects including water or wastewater systems, communication systems, power systems, transportation systems, renewable energy systems, ancillary or support systems, or other strategic infrastructure needs. Tax credits would have been made available for redemption no earlier than 2023 to be used only as a guarantee on an investment partner's principal investment. The Florida Opportunity Fund would have served as the general partner of the program. A separate entity, the Florida Infrastructure Investment Trust would have administered the tax credit program. The Revenue Estimating Conference estimated that the bill would have had a recurring negative indeterminate impact on both state and local government revenues, possibly beginning in 2023, due to contingent tax credits. No more than \$150 million in credits could be utilized in any one state fiscal year.

### **Destination Resorts**

CS/SB 2050 would have designated up to five destination resort casinos in Florida and coupled Broward and Miami-Dade counties into district 5, in which only one resort could exist. The measure was amended to:

- Protect the thoroughbred industry from any impacts of the casinos.
- Provide pari-mutuels with slot machines with similar games and tax rates as any new facility that opens in Broward or Miami-Dade counties.
- Require any county that hasn't passed a referendum allowing slots to do so before a facility could open there.

The Legislature also appropriated \$400,000 to study the issue; however, the Governor [\*\*vetoes this proviso language on May 26, 2011.\*\*](#)

## **Enterprise Zones**

SB 1296 would have advanced the date of the expiration of the Florida Enterprise Zone Act, in effect eliminating enterprise zones in the state of Florida. The bill was never heard nor scheduled for hearing in any House or Senate legislative committee. The County strongly opposed this bill.

## **Energy**

CS/SB 2078, the primary energy policy bill of the 2011 Session, contained provisions relating to renewable energy, energy conservation, and economic development. Specifically, SB 2078 would have:

- Allowed investor-owned utilities to recover the costs of renewable energy projects, provided that at least 25 percent of the total renewable energy capacity came from renewable energy sources other than solar energy.
- Established a process for creating a state energy resources plan incorporating renewable energy.
- Required public utilities to conduct free energy audits of commercial structures within their service territories and report on energy savings options.
- Transferred the Florida Energy and Climate Commission (FECC) into an independent office within the DEP, to be named the Florida Energy Office.
- Repealed provisions relating to the Renewable Energy Portfolio (REP).

Broward County supports renewable energy legislation; however, SB 2078 would have repealed good energy policy such as the REP and the FECC and seemingly did not go far enough to encourage competition among renewable energy providers. The bill ultimately died in Budget.

The Governor has stated that he is working with utilities, industry, and renewable energy groups to develop a multi-year legislative package by September 2011. He also indicated that his program will likely incorporate coal, and may include offshore drilling and expansion of nuclear energy.

## **Environmental Permitting**

CS/CS/CS/HB 991 was a comprehensive bill designed to streamline and expedite the permitting process and eliminate duplicative review. Promoted as a means of facilitating development and growth, the bill was viewed by many as poor environmental policy and opposed by the Board. Among other things, the bill would have:

- Prohibited local governments from conditioning the approval for a development permit on an applicant obtaining other necessary permits or approvals from state or federal agencies.
- Required local governments with populations greater than 400,000 to seek delegation for wetland and surface water permitting by June 1, 2012 or be preempted from exercising such regulatory authority; Broward County currently has this delegation

and would not have been required to reapply under the terms of the bill.

- Created an “incentive-based” permitting program.
- Provided that a General Permit for surface water management systems serving up to ten acres could be authorized without agency action under certain conditions.
- Allowed applicants ninety days to respond to requests for additional information (RAIs) and expanded the process for submitting RAIs.
- Revised mitigation requirements for impacts related to transportation projects.

HB 991 passed in the House, although the Senate companion was never heard in committee. Nevertheless, an attempt was made during the last week of Session to amend the substance of HB 991 onto a separate bill that was moving in the Senate; this was unsuccessful. A section of the bill that places the burden of proof in permit challenges on the petitioner was successfully amended onto CS/CS/CS/HB 993, which was passed in both chambers and approved by the Governor. HB 991 ultimately failed, but it is anticipated that similar legislation will be filed next Session.

### **Fertilizer Preemption**

HB 457 would have preempted to the state the “sale, composition, packaging, labeling, wholesale and retail distribution, and formulation, including nutrient content level and release rates” of fertilizer by requiring local governments to adopt and follow a statewide Model Ordinance, which currently exists as a guideline regulation. The bill would have grandfathered in fertilizer ordinances adopted prior to July 1, 2011. HB 457 ultimately died in messages; the Senate companion, SB 606, was only heard in one committee of reference. Thus, local governments continue to have the authority to adopt fertilizer regulations that are more stringent than the Model Ordinance. Broward County currently does not have a fertilizer ordinance in place.

### **Local Government Ad Valorem Tax and Special Assessment Limitation**

The House Finance and Tax Committee proposed a Joint Resolution, PCB FTC 11-04, designed to limit the total of all ad valorem taxes and non-ad valorem assessments collected on any one parcel to two percent of the taxable value. The bill, entitled the local government ad valorem tax and special assessment limitation, stated that, “the maximum amount of all ad valorem taxes and special assessments collected by counties, municipalities, and special districts on any parcel of real property shall not, when combined, exceed two percent of the parcel’s highest taxable value.”

The bill as drafted would have impacted Broward County in a variety of ways:

- A typical tax bill collects revenues for approximately 8 different taxing authorities in Broward County, including but not necessarily limited to the school district, county, city of residence, hospital district, children’s services district, water management district, inland navigation district, drainage and/or community development districts.
- Until the tax and assessment rates are adopted and the rates are reported to the Tax Collector, there would be no way to determine if the cap had been exceeded.

- If it was determined that the cap had been exceeded, the proposed constitutional amendment did not prescribe how the situation would be remedied. When voting on the ballot measure, the public would not have had any information on how the reductions would be determined including which taxing authorities would have to reduce their budgets and how much each would have to reduce.
- How this “reduction” in revenues would be distributed could have a significant budgetary impact on the taxing authorities. It would be very difficult to ensure that the reductions imposed by general law would be equitable given that there were no criteria for determining how to measure whether a taxing authority should have to reduce the revenues collected.
- A good example of how this law would have resulted in inequities is the impact resulting from community development districts. These districts were created to pay for the capital and maintenance costs of infrastructure to serve new developments and often charge special assessments ranging from hundreds to thousands of dollars per parcel. There are currently no statutory provisions regulating the amounts for these assessments. It would have been inequitable for counties, cities and other general purpose governments to be forced to reduce their taxes and fees for certain properties due to the disproportionate impact of the special assessments made by community development districts.
- Treating all special assessments the same would also have resulted in inequities. Many special assessments are for capital improvements that add to the value of property and are not for recurring services. Also, it should be noted that not all special assessments are collected on the tax bill.
- Using the “taxable value” would also have resulted in inequities given the variance between the taxable values of similar properties due to Save our Homes (SOH). Properties that have large differentials between their taxable and assessed values would have a significantly lower cap than similar properties.
- Two percent is not a realistic cap given that the total millage rate is above two percent (excluding debt) in 25 out of the County’s 32 cities (including the unincorporated area) without even considering special assessments. Six out of the seven with total millage rates below two percent currently pay more than 1.95 percent. The only city with a total millage rate below 1.95 percent relies very heavily on its community development district’s special assessments to support its budget.

The committee bill was only workshopped before the House Finance and Tax Committee but never became an actual bill. Look for this committee bill to be reintroduced in the 2012 Legislative Session.

### **Ocean Outfalls**

Legislation filed to amend the state’s 2008 ocean outfall law and achieve savings for local taxpayers fell to political wrangling in the 2011 Session. A collaboration between

the Florida Department of Environmental Protection (DEP) and five local governments who operate ocean outfalls in Southeast Florida, CS/HB 613 passed the House 93-10. As passed, the bill would have:

- Extended the date for meeting advanced wastewater treatment and management (AWTM) requirements from December 31, 2018 to December 31, 2023.
- Maintained current law for eliminating ocean outfall discharges at December 31, 2025.
- Allowed utilities operating more than one facility to meet the 60 percent reuse requirement from its entire wastewater systems' annual flow as of December 31, 2025.
- Maintained the current law requirement that backup discharges of domestic wastewater after December 31, 2025, meet AWTM treatment standards. Backup discharges through ocean outfalls are authorized during times of reduced demand for reclaimed water produced from the functioning reuse system outfall utilities must construct by 2025.
- Allowed peak flow backup discharges not exceeding 5 percent of the facility's cumulative baseline flow, measured on a 5-year rolling average, and requires that such discharges meet the DEP's applicable secondary waste treatment and water-quality-based effluent limitations.
- Extended certain planning and reporting compliance dates.
- Required the detailed plan that an outfall utility must submit to DEP by 2014, to identify technically and economically feasible reuse options, and to include an analysis of the costs associated with meeting state and local water quality requirements, and comparative costs for reuse using outfall flows and other domestic wastewater flows.
- Required the detailed plan to evaluate reuse demand in context with several factors considered in the South Florida Water Management District's (SFWMD) Lower East Coast Regional Water Supply Plan.
- Required DEP, SFWMD and the outfall utilities to consider the above information for the purpose of adjusting, as needed, the reuse requirements, and requires DEP to report to the Legislature any changes necessary to the reuse requirements by February 15, 2019.

The Senate companion, CS/CS/SB 796, became mired in Senate politics and was not heard in the Senate Budget Committee. Attempts to withdraw the bill from the committee were unsuccessful. Additionally, a last ditch effort to amend the substance of CS/HB 613 (Amendment #641822-Sen. Bogdanoff) to CS/CS/HB 389, an environmental permitting bill, failed when the Senate did not consider the house bill during the waning hours of the Session.

### **Pretrial Release**

SB 372, by Senator Bogdanoff, was calendared three times in its first committee of reference, Criminal Justice, but was never successfully passed out. On April 4, the bill

was temporarily postponed for the third time in that committee, at which point many thought the bill had officially died in the Senate.

However, on April 12, the substance of SB 372 was successfully amended onto Sen. Bogdanoff's nonrelated SB 1398, a judiciary repealer bill. Several members of the committee who opposed pretrial legislation were unsure how to combat the motion. Despite a germanity and single-subject challenge, the amendment was accepted and the bill, as amended, ultimately passed from committee on 5-2 vote.

Specifically, the amendment limited eligibility for pretrial release programs to indigent defendants who qualified for public defenders, or those who had been ordered to attend such a program by the court. Further, defendants would have been required to wait 48 hours after arrest before becoming eligible for pretrial release. If that person could not afford bond, they would then be able to do so accordingly. The fiscal impact of the legislation, even as amended, was estimated to be \$45 million statewide, and approximately \$8 million to the Broward Sheriff's Office, based on additional in-custody days.

On the Senate floor, Sen. Bogdanoff removed the pretrial language from the strike-all to SB 1398, based on strong, bi-partisan opposition. Efforts in the waning hours of session to amend the substance of the pretrial bill in a House bill also failed.

CS/CS/HB 1379 met little resistance in the House and passed easily with even more eligibility limitations than its Senate counterpart. Only defendants who were indigent and therefore able to qualify for representation by the public defender would have been eligible for government-funded pretrial release. To the greatest extent possible, the resources of the private sector were to be used to assist in the pretrial release of defendants.

The bill provided that the Legislature intended that:

- The provisions not be interpreted to limit the discretion of courts with respect to ordering reasonable conditions for pretrial release of a defendant.
- Government-funded pretrial release be ordered only as an alternative to release on a defendant's own recognizance or release by the posting of a surety bond.

The bill provided that a defendant is eligible to receive government-funded pretrial release only by order of the court after the court finds in writing, upon consideration of the defendant's affidavit of indigence:

- The defendant is indigent or partially indigent as set forth in Rule 3.111, Florida Rules of Criminal Procedure.
- The defendant has not previously failed to appear at any required court proceeding.
- HB 1379 provided that, in lieu of using a government-funded program to ensure the court appearance of a defendant, a county may reimburse a licensed surety agent for

the premium costs of a surety bail bond that secures the appearance of an indigent defendant at all court proceedings if the court establishes a bail bond amount for the indigent defendant. A stakeholders' workgroup continues meeting to strategize for the FY2012 session. HB 1379 died in messages.

## **Transportation**

The House and Senate failed to agree on a transportation package in the final days of the 2011 Session. The House passed CS/CS/CS/HB 1363 unanimously one week prior to the end of session, but the bill died in the Senate Transportation Committee. Its companion, CS/CS/SB 1180, remained on special order calendar the last four days of session but was not heard. Despite their differences, each chamber's bill contained similar provisions that would have:

- Deleted defined terms in the Florida Transportation Code, namely, "arterial road," "collector road," "local road," "urban minor arterial road," and "urban principal arterial road," which FDOT asserted were obsolete. The bill also amended the terms "city street system," "county road system," and "state road system" to better clarify local, county and state road jurisdiction.
- Changed the imposition date of all local option fuel taxes from July 1 to October 1, and amended state law to allow local option fuel taxes to be used for installation, operation, maintenance, and repair of street lighting and signalization.
- Required a utility to initiate work to alleviate any interference with the continuous use, maintenance, improvement, expansion of a road or rail corridor upon receiving 30 days' written notice from the authority with jurisdiction over the road or rail corridor. The work had to be completed within a reasonable time stated in the notice or the deadline agreed upon by the authority and utility owner.
- Required bus benches and transit shelters installed by local governments on local county and state rights-of-way to comply with the ADA in addition to all other applicable laws and rules. Cities and counties were also required to indemnify, defend and hold harmless the FDOT from any suits, damages, liabilities, attorney's fees and court costs relating to the installation, removal or relocation of bus benches and transit shelters.
- Repealed the "Florida Intrastate Highway System" designation in Chapter 338, F.S., as recommended in FDOT's 2010 Strategic Intermodal System (SIS) Plan, and relocated components in §338.01, F.S., to §339.65, F.S. to create requirements for planning and developing SIS highway corridors.
- Amended §339.175(4), F.S., relating to MPO membership, to make representatives of FDOT advisors to MPOs, as opposed to non-voting members.
- Repealed the Strategic Intermodal Transportation Advisory Council which was created to advise and make recommendations to the Legislature and FDOT on policies, planning and funding of intermodal transportation projects.
- Amended several statutory sections relating to outdoor advertising, including provisions dealing with vegetation management and permits.

- Changed the cap on landscaping costs for FDOT projects from “not less than 1.5% of the amount contracted for a construction project” to “not more than 1.5% of the amount contracted for a capacity-adding construction project.”

### **Water Quality**

Although no significant water policy passed this session, the House created a Select Committee on Water Policy to identify issues to be studied through the next session. This committee did propose one piece of legislation, HB 239, in response to the EPA's publishing of numeric nutrient criteria for Florida lakes, streams, rivers, and springs. HB 239 would have prohibited state, regional, or local governmental entities from implementing or giving any effect to EPA's nutrient water quality criteria rules for the state's lakes and flowing waters in any program administered by a state, regional, or local governmental entity where the criteria are more stringent than necessary to protect the biological community and the designated use. The bill would not have limited the ability of any water management district or any state, regional, or local governmental entity to:

- Apply for any pollution discharge permit;
- Comply with the conditions of such permits, including NPDES permits; or
- Implement best management practices, source control, or pollution abatement measures for water quality improvement programs as provided by law.

HB 239 passed in the House, but ultimately died in Senate Messages, likely so as to not interfere with the state's lawsuit against the EPA on this issue.

## **SECTION V: Local Bills**

### **Local Bills that Passed**

#### **HB 861 – North Springs Improvement District**

This bill expands the North Springs Improvement District to include certain lands that were part of 'The Wedge' (Chapter 2007-222, Laws of Florida) which incorporated certain lands from Palm Beach County into Broward County. [Approved by Governor. Chapter 2011-251; Effective Date: June 21, 2011.](#)

#### **HB 865 – Town of Southwest Ranches**

This bill provides for certain changes to the Charter of Southwest Ranches. [Approved by Governor. Chapter No. 2011-252; Effective Date: June 24, 2011.](#)

#### **HB 1351 – South Broward Drainage District**

This bill clarifies the authority of the District to carry out water management activities, redefines certain terms, updates certain administrative and operational provisions, removes obsolete language and provides consistency throughout the charter. [Approved by Governor. Chapter No. 2011-264; Effective Date: June 2, 2011.](#)

### **Local Bills that Failed**

#### **HB 857 – City of Parkland Annexation**

This bill annexes certain properties at the request of the owners into the City of Parkland. The properties were part of 'The Wedge' (Chapter 2007-222, Laws of Florida) which incorporated certain lands from Palm Beach County and Broward County. Died in House Community & Military Affairs Subcommittee.

#### **HB 859 – Special Assessment to fund Law Enforcement**

This bill would authorize municipalities in Broward County to levy special assessments to fund law enforcement services with a reduction in ad valorem taxes. Died in House Community & Military Affairs Subcommittee.

#### **HB 863 – Broward County Council for Senior Services**

This bill creates a special taxing district in Broward County to provide services to seniors after approval at a referendum. Died in House Community & Military Affairs Subcommittee.

#### **HB 867 – Municipal Elections Qualifying Periods**

This bill corrects a glitch caused by a series of both general and special acts which placed an undue and costly burden on the supervisor of elections in Broward County. The bill will establish that the qualifying period for municipal candidates running for election in November will be the same as county officers. Passed the House of Representatives April 27, 2011; Died on Senate Messages, May 7, 2011.

**NOTES**





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