

# Broward SLI

State Legislative Information

February 11, 2011

Number 4 - Volume XIII

## Committee Week 4

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## Budget Overview

### Health and Human Services

The Governor's Budget Recommendations cover a two-year period. Many programs are funded at increased or existing levels in FY 2012, with deeper cuts occurring in the FY 2013 cycle. The rationalization for this approach, given by the Governor's HHS spokesperson, was the anticipated privatization of many programs. Specifically, the state will need to develop contractual service scopes, formulate invitations to negotiate (ITNs) or requests for proposals (RFPs) from private entities, enter into contracts, and assess the efficacy of privatization before implementing additional cost-savings measures in 2013; anticipated to take the form of drastic personnel reductions.

The budget proposes almost \$1 billion in Medically Needy program reductions in 2013 by limiting service access to pregnant women and children, barring thousands of transplant patients and those with catastrophic illnesses from participating in the program. In addition, only physician services will be covered (estimated at about 15% of total costs in the program). The Medically Needy program would, however, remain funded at current levels in the upcoming fiscal year under the Governor's proposal.

Another \$1 billion in savings is realized in the Agency for Health Care Administration budget reductions, which include imposing 5% cuts in state payments to hospitals, nursing homes and other health-care facilities, and instituting a provider rate freeze for inpatient and outpatient hospitalization. The Governor's spokesperson further elucidated the administration's "philosophy" for Medicaid Reform. The goal is to "reign-in" the existing system by capitating costs, allowing the state to "know what we're spending before we spend it." Privatization is anticipated to improve service delivery and promote a performance-based budgeting process.

Interestingly, HHS/Medicaid expenditures actually increase in FY 2012 by 2% under the Governor's budget, with a 2% decrease built in to FY 2013, creating an overall flat Medicaid expenditure line item. Medicaid Reform efforts were discussed in numerous committees throughout the week, and will be discussed in a separate article.

The overall HHS cuts over the two-year budget period amount to 7% less than current year's spending. This 7% constitutes an anticipated savings using the Department of Correction's privatization savings as a model.

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Other aspects of interest in the HHS Budget Proposal include, but are not limited to:

- Behavioral assistance services to group/foster homes is eliminated
- 5% rate cut to Nursing Home Diversion
- Adult Day services are consolidated
- Personal Care services are consolidated (respite, personal care, in-home supportive, etc. menu from which persons requiring assistance with activities of daily living currently choose are limited to one service)
- Reduction by approximately 4.5%, in the differential in rate reimbursement that currently exists for South Florida providers versus the rest of the state
- Reduction is provider rates under the APD waiver
- Elimination of Healthy Start
- \$27M cut in Department of Health Family Health and Nutrition Services
- Privatization of three mental health facilities
- Reduction in Adult substance abuse services and Baker Act funding
- Complete rewrite of Adult Protective Services Statute
- Elimination of the State Office on Homelessness and Challenge Grants (F.S. 622.420)
- Apparent elimination of Community Care for the Elderly (Governor's Office has not confirmed whether the program was part of a consolidation or eliminated in its entirety)

### Other Budgetary Issues

- State Aid for Libraries funding is maintained at 2011 levels
- Increases exist in economic development incentive programs by \$503.4 million over the two-year budget cycle, with reversion protection; existing incentive programs (QTI, QDC, HIPI, QAC and others) are consolidated to provide the flexibility to tailor state incentives to the needs of new and existing businesses
- All unspent funds in water projects revert to the general fund
- Local government grants and donations trust fund, where intergovernmental transfers are sent, is eliminated and moved to general revenue
- The Department of Community Affairs is reorganized
- The doc stamp trust funds for Technical Assistance, Beach Renourishment, Invasive Plants, Transportation funding (TRIP) for needed infrastructure, and Local & State Housing, are eliminated and shifted to general revenue
- Regional Planning Councils are defunded, making RPCs solely reliant on local governments for financial support
- Eliminates \$25 million in county contributions for juvenile justice detention cost share (which is positive for the counties)
- State monies related to Transportation Disadvantaged are redirected to general revenue
- Reduces \$82 million in the Department of Corrections; eliminates 1,690 FTEs
- The Office of Supplier Diversity is eliminated

### Online Travel Companies

This week, SB 376, by Sen. Gaetz, was slated to be heard in its first committee of reference, Community Affairs, but was unexpectedly postponed (TPd). The legislation allows intermediaries to avoid remittance of taxes on the full retail price of a hotel room. Presently, intermediaries collect taxes from online consumers based on the full

resale price, but remit only on the wholesale price the intermediary paid for the rooms. Online travel companies (OTCs) retain the difference between the taxes collected on the resale and remitted on the wholesale, as profits. SB 376/HB 493 promotes this merchant model that places national and locally-operated hoteliers in a competitive disadvantage, since they are required to remit taxes on the resale price. By legislatively condoning this practice, the state would erode the local “bed tax” owed to the counties in which rooms sold by intermediaries are occupied. On Thursday, Sen. Margolis signed on as a co-sponsor to the legislation. The House companion, HB 493 has yet to be scheduled for a hearing in its first committee of reference. While the issue of OTCs’ tax responsibility has been the subject of state legislation for the last three sessions, it is also actively being pursued at the federal level.

Unlike previous state legislative sessions, the opponents of the legislation sought by OTCs have grown substantially in numbers, and include national and regional hotel associations. The bill’s sponsor has indicated a desire to oversee a negotiation session between the various stakeholders within the next two weeks.

## Juvenile Justice

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The unfunded mandate attendant with the legislature’s distribution formula for counties’ funding responsibility for pre-dispositional juvenile detention continues to be a significant concern in the 2011 Session. Under Secretary Walters’s leadership, and in keeping with Governor Scott’s mission for the agency, a workgroup of county stakeholders was convened by Department of Juvenile Justice (DJJ) Thursday. Commissioner Wexler was one of three county representatives selected to participate in the workgroup. DJJ spent much of the inaugural workgroup describing the cost-sharing formula and its historical context. The next meeting and webinar will occur on Monday, February 21<sup>st</sup>, and focus on the counties’ proposed legislation to address the inequities in cost-sharing that presently exist, as well as recommend improvements to DJJ’s billing practices.

## Medicaid Reform

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The House of Representatives invited public testimony on the proposed expansion of Medicaid Reform. Both House and Senate leadership signaled their intent to reform the existing system in a joint letter earlier this year. Proposals being drafted by the legislature include capitation, reduced optional services (like dental coverage), a statewide managed care system, rate and reimbursement freezes and/or reductions for services and providers, etc. Commissioner Sharief traveled to Tallahassee to testify in the House and meet with key members of the legislature, as well as committee staff, to express the will of the Board that any reforms to Medicaid preserve the social safety net and assure continued access to care. Medicaid will be a significant topic of discussion during next week’s appropriations meetings, with draft Medicaid reform bills are expected to be released during the week of February 21.

## Pension Reform

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The Senate Governmental Oversight and Accountability Committee continued to hear input from various stakeholders regarding pension reform with the AFL-CIO and the Florida Associations of Colleges addressing the committee this week. In related developments, the Governor’s proposed budget recommends an employee

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contribution of 5% and the LeRoy Collins Institute, a well respected Florida think-tank, released a study warning of problems with local pension plans. The study concludes that many cities have promised more in benefits than they may be able to deliver and that cities and counties are not putting in the amount of money they really need to fulfill their promises and that a contributing factor to the problem has been the sagging investment market.

According to the Governor, requiring employees to contribute 5% of their earnings to their pensions will save the state \$2.8 billion in the next two years. The majority of participants in the FRS system are not state employees but rather county, school board, city or special district employees. In order for the state to reap the benefit of the potential savings to counties and cities from reduced FRS contribution rates the Governor's budget recommends a reduction in state revenue sharing and sales tax revenues currently provided to cities and counties commensurate to their retirement rate savings. The recommendation fails to take into consideration the fact that state revenue sharing and sales tax revenue is deposited to the general fund budgets of cities and counties whereas the savings from reduced retirement rates would be spread across all the different funds of the counties and cities such as enterprise funds, grant funds, constitutional officer funds etc. As a result, the general fund of cities and counties would lose more revenue than they would save on the expense side. In addition, it appears that cities who participate in FRS would suffer this loss while cities that have their own pension plan would not.

## Growth Management

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Growth management reform was discussed in multiple committees this week, with the overriding theme being limiting the state's role in the comprehensive plan review process. The Senate Community Affairs Committee heard from new DCA Secretary Billy Buzzett, who offered ideas on streamlining land use regulation in Florida. Buzzett suggested expanding the alternative state review process pilot program, of which Broward County is already a participating member, to allow for statewide participation. Under the pilot program, certain comprehensive plan amendments can qualify for the alternative review process, whereby state-level review is expedited and limited to issues of regional concern. Buzzett also recommended that the state find a vehicle to better encourage large-scale planning, advocating expansion of the optional sector planning program, which was created in 1999 but limited to five development projects. Designed for projects that encompass more than 5,000 acres, sector planning allows for a longer planning time frame and should provide landowners, developers, and environmentalists with more predictability in planning and design.

The committee also heard from the Florida Chamber of Commerce, who is currently in the process of drafting a proposal for growth management reform. The Chamber's presentation largely echoed Buzzett's ideas, and further advocated instituting more local and less state control over land use planning decisions. Among other ideas, the Chamber recommended expanding dense urban land areas (DULAs), reforming transportation planning requirements, and making school concurrency optional.

On a related note, SB 174 by Sen. Bennett, which reenacts the growth management aspects of 2009's SB 360, continues to make its way through committees. SB 174 passed in the Senate Governmental Oversight and Accountability Committee and is now in the Budget Committee.

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## Property Tax Related Bills

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The following property tax bills were heard in the Senate Community Affairs Committee and passed unanimously on Tuesday:

- SJR 390, a joint resolution proposing an amendment to the State Constitution to prohibit increases in the assessed value of homestead property if the just value of the property decreases. The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature and would require a 60 percent voter approval in order to take effect. It now moves to the next committee of reference, Budget.
- SB 434, sponsored by Sen. Latvala, prohibits adding the value of certain improvements to the assessed value of certain real property.
- CS/SB 382, sponsored by Sen. Bogdanoff, authorizes tax collectors to recover reimbursement for fees paid to vendors for providing electronic tax deed application services and authorizes certain tax collectors to require the use of electronic tax deed application services.
- SB 410, sponsored by Sen. Bennett, reenacts a provision relating to the burden of proof required by the government in an action challenging an impact fee and provides for retroactive operation of the act. The bill would restrict local governments' ability to impose/implement impact fee ordinances. It now moves to the next committee of reference, Senate Judiciary.

## TABOR

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SB 958, formerly PCB 7050 and filed on January 31<sup>st</sup>, has been submitted as a committee bill and referred to Budget. It will be heard by the Subcommittee on Finance and Tax on Thursday, February 17<sup>th</sup>. SB 958, also known as TABOR, is a joint resolution proposing an amendment to the State Constitution to require a new state revenue limitation based on inflation and population changes. It requires excess revenue 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 limitation; authorizes the Legislature to increase the revenue limitation by a supermajority vote; and authorizes the Legislature to place a proposed increase before the voters, requiring approval by 60% of the voters. The proposed amendment, if passed, would be submitted to the electors at the general election in 2012 and would first apply to state fiscal year 2014-15 if approved by voters. The bill currently applies only to the state budget, however it is anticipated that the House bill may be written to apply to cities and counties. It would put caps on the amount of revenue cities and counties could generate, which would hamstring their ability to perform their basic functions. Opposing any legislative or constitutional efforts to impose expenditure or revenue caps on local governments is a priority for Broward County.

## Ocean Outfall Bills Filed

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Legislation amending the ocean outfall law passed by the Legislature in 2008 has been filed for possible consideration in the 2011 Session. Senator Diaz de la Portilla has filed SB 796, and Rep. Trujillo HB 613, which extend for an additional 5 years (from 2018 to 2023) the heightened treatment and management requirements that domestic wastewater utilities must meet for ocean outfall discharges. The bills similarly extend

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(from 2025 to 2030) the shutdown of existing ocean outfalls in Southeast Florida, and the requirement that such utilities install a functioning reuse system that reclaims at least 60% of the actual annual flow of wastewater discharged through the ocean outfall based on monitoring data from calendar years 2003 through 2007.

The bills were filed on behalf of Miami-Dade County, but the provisions benefit the public wastewater utilities owned by Broward County, and the cities of Hollywood and Boca Raton, respectively. In addition to the extension of the key periods described above, favorable changes include:

- Allowing up to 10% of the utility's annual wastewater flow to be discharged to the ocean outfall after 2030 to cost-effectively manage peak flow discharges.
- Allowing the ocean outfall utilities to meet the reuse requirement by installing a system that provides a "treatment capacity" of at least 60% of the utility's actual annual outfall flow for reuse purposes; thus, postponing the installation of the distribution infrastructure to a later point in time when a significant reclaim water customer base is available.

The peak flow allowance is expected to produce significant costs savings to Broward County by avoiding a duplicate deep injection well system (4-6 wells) that would be needed to manage the disposal of peak capacity flow. Likewise, Broward County will also experience a cost savings from not having to install a reclaim water distribution system and have committed reclaim water customers by 2025. The bill allows the County to build capacity and to bring customers online as the distribution system is built in a financially feasible manner. Water Wastewater Services staff has estimated that total savings could reach between \$700-800 million.

SB 796 has been referred to the Senate Environmental Preservation and Conservation Committee, Community Affairs Committee, and the Senate Budget Committee. The house bill has yet to be referred to a committee.

## Water Policy

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The House Select Committee on Water Policy held a panel discussion of issues related to the EPA's Numeric Nutrient Criteria rule for Florida with individuals representing agriculture, utilities, as well as both sides of the Florida lawsuit fighting implementation of the new standards. The agriculture and utility sector representatives insisted that the new standards would essentially be impossible to meet, and that significant costs would be passed on to consumers. They also asserted that the standards did not sufficiently account for natural fluctuations in nutrient levels throughout the state due to the geographical differences, noting that pristine water bodies could actually qualify as polluted according to the numeric criteria.

Another major topic of debate was price, as the projected costs of compliance with the new rule have varied greatly depending on the study, and Chair Williams commented that she has seen one study showing that utility bills could increase as much as \$900 per year. According to a David Cullen, from the Sierra Club, these extreme predicted costs can be explained by the fact that the numbers produced were predicated on the assumption that reverse osmosis, an expensive water treatment system, would be required under the numeric standard. Cullen also asserted that the new standards provide a superior tool for preventing excess nutrient pollution, while the total

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maximum daily load (TMDL) approach works primarily to restore water quality after a water body has already been polluted.

The panel and committee members also discussed the pending lawsuit against implementation. Committee members expressed their discontent with the EPA's action and generally agreed that Florida should be able to solve the nutrient pollution problem by establishing its own appropriate standards. Unfortunately, according to some panelists, the pending lawsuit is only serving to delay restoration of water bodies, as the state and federal governments hash out the numeric nutrient criteria issue.

Chair Williams has filed HB 239, which would prohibit the EPA numeric standards from being implemented in Florida. The committee will hear public comment at the next meeting, which will be held during the week of February 21<sup>st</sup>.

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