

PBC Legislative Update

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IN THIS ISSUE:

State Issues

Legislative Priorities

1. Pensions
2. Enterprise Zone
3. Energy Legislation
4. Traffic Control
5. Pain Management
6. Pre Trial Bill
7. Juvenile Justice:
 - Criminal History
 - Alt. Detention
 - Civil Citations
8. State Budget
9. Transportation
 - Disadvantaged
10. Beach Funding –
Gov. Scott Visit
11. Belle Glade Senior
Center
12. Public Records
13. Wage Theft
14. Property Rights
15. NNC
16. Fertilizer
17. Airports
18. Homelessness
19. 911 –Good Sam
20. Aff Housing
21. TBI
22. Film Incentives
23. Local Bill Update

Federal Issues

1. We're Open in
2011!
2. FY 2012 Approps

State Issues -Fifth Week of Session

Pensions

By: Ericks Consultants, Moya Group, Pittman Law Group, Corcoran & Johnston, and County Staff

House Bill 1405 by Rep. Workman remained untouched when it was brought to the House Floor for a vote this week. The language from HB 1405 was amended onto SB 2100 and passed the Florida House 78-39 on Thursday, April 7th. House Bill 1405, proposes several changes to the Florida Retirement System including:

- Requiring a 3% employee contribution for current and future members of all classes of the FRS Pension Plan and Investment Plan (was 5% in the original filed version).
- Closing the Deferred Retirement Option Program (DROP) to new participants, effective July 1, 2011.
- Increasing the retirement age and years of service for members of the FRS who enroll on or after July 1, 2011.

As written in the bill, the retirement age for a person entering the Special Risk or Special Risk Administrative Support classes would go from age 55 to age 60 and the years of service would shift from 25 to 30. The bill also increases the retirement age for all other classes of employees from 62 to 65 years of age, and the years of service from 30 to 33 years.

Senate Bill 2100 by Alexander relating to pension reform also passed the Senate.

The following provisions are included in the Senate bill:

Employees contributions would work as follow:

- 2% on their first \$25,000 in salary
 - 4% on anything earned between \$25,001 and \$50,000
 - 6% on any salary above \$50,000
- (A provision mandates elected State Legislators and Cabinet Members pay a higher tiered amount: 3%, 5% and 7%)
- Deferred Retirement Option Program would be extended to state workers for 5 additional years
 - Only require high-paying state workers and elected officials who are hired or elected past July 1, 2011, to enroll in a 401 (k) styled private pension plan
 - New employees would work for 10 years before being vested
 - Eliminates the COLA for new retirees. The existing COLA is 3%

Further, the provision extending the retirement age from 55 to 62 to the special risk class was removed.

The bills are now in posture that will most likely involve the appointment of a conference committee from both chambers to the resolve the differences in both bills.

Enterprise Zones

By: Pittman Law Group and County Staff

HB725 by Rep. Perman/SB2156 by Senate Budget Committee

Section 42 of the Senate's enormous government reorganization package, SB2156, amends s. 290.0055, F.S., to provide authority to a governing body of a county jurisdiction which nominated an application for an enterprise zone that is no larger than 12 square miles and that includes a portion of the state designated as a RACEC (Rural Area of Critical Economic Concern) to apply to newly created Jobs Florida to expand the boundary of the enterprise zone by up to 3 square miles. Two of the four current enterprise zones that are potentially affected are those in Pahokee (EZ-5001) and South Bay (EZ-5002) in Palm Beach County.

Senator Joe Negron introduced this amendment last week. The reorganization bill passed the Senate by a vote of 36-2 and was then sent to the House. The House refused to concur with the Senate's bill and the bill will now head to a conference committee. SB2156 incorporates the language in HB725 by Rep. Steve Perman. Staff will continue to monitor this important economic development language.

The Office of Economic and Demographic Research (EDR), during the Revenue Estimating Conference, adopted a "0 cash" impact in FY 11-12.

Energy

By: Corcoran & Johnston and County Staff

SB 2078 by Sen. Benacquisto/HB 7217 by Rep. Ford - Energy Incentives and Initiatives

On Monday, April 4th, the Senate Communications, Energy and Public Utilities Committee heard and passed Senate Bill 2078 with bi-partisan support. It was amended to look similar to the House's version, HB 7217 by Rep. Clay Ford.

This legislation establishes a process for creating a state energy resources plan. The bill makes the following legislative findings:

- Florida currently has very little renewable energy in production and increasing this quickly would be costly to ratepayers.
- Each of the regulated utilities is different, and each would be affected differently by a renewable energy requirement.
- A mandate would be inappropriate, and the PSC is to develop a state energy resources plan as an expansion of its duties relating to the ten-year site plan requirement.

Senate Bill 2078 allows the state's four largest utilities to collect up to \$375 million from customers for new projects over five years.

If a utility chooses to do so, at least twenty-five percent of the total renewable energy capacity must be from renewable energy resources other than solar energy. Total costs for a utility in any calendar year cannot exceed two percent of the utility's total revenue from retail sales of electricity for the calendar year 2010. Both the House and Senate versions abolish the Florida Energy and Climate Commission (FECC) and transfer the powers, duties, and functions of the FECC from the Governor's Office to the Department of Agriculture and Consumer Services (DOACS).

Current law requires the Public Service Commission (PSC) to adopt rules for a renewable portfolio standard (RPS) requiring each provider to supply renewable energy to its customers either by producing it, by purchasing the renewable energy itself, or by purchasing renewable energy credits. The rule is not to be implemented until ratified by the Legislature. Senate Bill 2078 deletes all existing provisions requiring the PSC adopt an RPS rule.

In Committee, Sen. Thad Altman offered an amendment that would require utilities to offer a standard form contract that provides smaller renewable energy producers the

opportunity to bid on providing the energy. Some small business solar energy installers spoke in favor of the amendment, remarking that with this provision, it would clean up the environment and encourage competition. The amendment failed 10-4.

Opponents of the bill include the Florida Alliance for Renewable Energy (without Sen. Altman's amendment), the Florida Industrial Power Users Group and AARP, among others. Some proponents include the Audubon of Florida, Associated Industries of Florida (AIF), the Florida Solar Energy Industries Association (FlaSEIA) and the Florida Chamber of Commerce.

Senate Bill 2078 passed 12-1 and is now headed for the Senate Budget Committee. House Bill 7217 passed unanimously out of the House Energy & Utilities Subcommittee on March 29th. Its final stop is the House State Affairs Committee.

Traffic Control Signals

By: The Moya Group and County Staff

HB 149 by Rep. Ahern/SB 1180 by Sen. Latvala

The House Transportation & Highway Safety Subcommittee heard HB 149 by Rep. Larry Ahern on Monday. It requires yellow lights to maintain certain signal intervals. Furthermore, it provides that traffic citations shall be dismissed if the traffic control signal is not correct. This legislation also requires the Florida Department of Transportation (DOT) to publish a Traffic Engineering Manual of uniform traffic control devices and yellow light display durations. House Bill 149 passed unanimously. It still has two more committee stops.

Senate Bill 1180 by Sen. Jack Latvala has been placed on the April 13th agenda for the Senate Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations. It passed unanimously out of the Senate Transportation Committee on March 29th.

Pill Mills/Prescription Drug Monitoring Program

By: Foley & Lardner, Moya Group, Ericks Consultants, Corcoran & Johnston, and County Staff

There was little action this week on the competing pain management bills, HB 7095 and SB 818, in the legislature. However, there was some good news late this week after the State Department of Health signed the final order ending the bid dispute that has kept the currently approved Prescription Drug Monitoring Program on shaky ground for the past year.

The order allows the State to move forward with the contract with Health Information Design Inc., who won both administrative challenges regarding disputed bids, to manage the Pill database. While this is good news for the implementation of the database, it still has not addressed some of the privacy concerns held by Gov. Rick Scott.

Pretrial Release

By: The Pittman Law Group, the Moya Group, Ericks Consultants and County Staff

SB372 by Sen. Bogdanoff/HB1379 by Rep. Dorworth

The Senate's Pretrial legislation, SB 372 by Sen. Ellyn Bogdanoff, was on the Criminal Justice Committee agenda again this week; however, due to a possible lack of supportive votes, the legislation was once again temporarily postponed. It is expected to be placed on the agenda another time. **Thank you to Sen. Chris Smith** who has maintained his opposition to this bill.

The House companion bill, HB 1379 by Rep. Chris Dorworth, is currently in the House Judiciary Committee. Palm Beach County continues to oppose this measure because it will cause a significant increase in inmate housing costs and would only allow indigent defendants to be placed in pretrial diversion programs.

Juvenile Justice Issues

Criminal History Records of Juveniles

SB 1534 by Sen. Smith/ HB 1297 By Rep. Thurston

By: The Pittman Law Group

The bill would have sealed all records for juveniles once released from them from their sentence. Unfortunately, this was the last week for subcommittee meetings in the House. It appears the House bill will die in the *Criminal Justice Subcommittee*. Staff will continue to work with the sponsors to look for a feasible vehicle for some similar language.

Alternative Detention / Community-Based Alternatives to Detention:

HB 333 by Rep. Corcoran/SB 554 by Sen. Fasano

By: The Pittman Law Group

The House bill is expected to create a Community-Based Juvenile Justice pilot program and put the parts in place for the program to grow in the future. Ultimately, the counties would be hired by DJJ to run these programs. To this point, Palm Beach County is not listed as one of the pilot counties; however, the County would be interested in the pilot program in future pilot years.

It appears the Senator Fasano's bill will not be heard despite its two committees of reference. With that said, a similar Senate bill has been created and proposed as conforming language in the budget. The bill passed during Third Reading last week and will be sent to Conference. Staff will continue to work the appropriate conferees to add a House line item.

Juvenile Civil Citations

HB997 by Rep. Pilon/SB1300 by Sen. Storms

By: County Staff

Legislation creating a Juvenile Civil Citation program modeled after the successful program in Miami-Dade County passed its last committee this week, the House Judiciary Committee. It is now on the Second Reading Calendar.

The Senate Budget Committee will hear the identical Senate bill, SB 1300 by Sen. Rhonda Storms, next week.

Civil Citation Programs (CCP) and other diversion programs provide law enforcement with an alternative to taking youth into custody. Under a diversion program, a law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation assessing not more than 50 community service hours, and requiring participation in intervention services appropriate to identified needs of the juvenile. If the child fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, the law enforcement officer must issue a report alleging the child has committed a delinquent act and a juvenile probation officer must commence the intake process pursuant to s. 985.145, F.S.

Language assuring that counties with programs similar to the Civil Citations program would be able to maintain those programs if so desired was amended to the bill earlier this Session. If a County chose to implement a civil citation program, then DJJ would be available to assist in the implementation of such.

Palm Beach County operates a program similar to a Civil Citation program; however, it is one of six judicial circuits in Florida that does not operate a true CCP.

State Budget*By: County Staff*

Both chambers approved their version of the General Appropriations Act for FY 11-12 (SBs 2000 & 2002 in the Senate; HBs 5001 & 5003 in the House). There were no amendments to the transportation, agricultural and environmental resource program allocations previously reported. Budget conference will commence once the Speaker and Senate President agree on a total allocation, and set allocations for each of the budget sub-committees. Below is a table summary by Agency of some of Palm Beach County's issues to monitor during the budget process.

Agency	Line Item	Program	House	Senate
Department of Education (DOE)				
	#15C	Palm Beach State College - Multipurp Clsrm/Admin Bldg, site - West Central	-	19,750,000
		FAU Scripps Facility	-	-

Agency for Health Care Administration (AHCA)	Line Item	Program	House	Senate
	#146 - 149	Florida Kidcare Program	319,393,740	312,900,375
	#167	Community Mental Health Services (Medicaid Services)	72,674,442	67,702,630
	#175	Home Health Services (Medicaid Services)	171,267,718	167,217,795
	#183	Rural Hospital Financial Assistance Program	14,030,766	14,030,886
	#199	Medicaid Patient Transportation	141,958,450	144,054,210
	#208	Rural Health Services	101,277,171	99,986,651

Department of Children and Family Services (DCF)	Line Item	Program	House	Senate
	#321	Reinvestment Grant - DCF Share	NA	NA
	#330	Children's Mental Health	46,771,346	73,227,299
	#331	Community Mental Health	218,746,022	51,949,627
	#332	Baker Act Services	62,333,949	62,333,949
	#343	Children's Baker Act Services	14,021,460	14,021,460
	#350	Children and Adolescent Substance Abuse Services	72,115,003	72,115,003
	#351	Community Substance Abuse Services	123,518,882	79,992,968
	#360	Challenge Grants	2,031,354	2,031,354

	#361	Fed. Emer. Shelter Program	3,822,427	4,610,380
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Department of Elder Affairs (DOEA)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#390	Community Care for the Elderly	53,044,996	48,007,186
	#392	Older Americans Act	97,090,726	97,090,726

Department of Health (DOH)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#443, 466, 483, 495, 556	County Health Units	-	-
	#444	Primary Care Program	8,865,764	16,383,035
	#446	School Health Services	20,319,530	20,319,530
	#507 (Senate)	County Health Dept. - Construction, Renovation, & Equip.	8,508,900	30,144,200
	#507A	Maintenance & Repair of County Health Departments	7,533,960	7,533,960
	#511	Emergency Medical Services County Grants	6,211,675	6,211,675
	#512	Emergency Medical Services Matching Grants	4,681,461	4,681,461
	#557	Local Health Councils	1,006,000	1,006,000
	#492	Health Departments Salary (Rate) Pool	-	-

Department of Corrections (DOC)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
		DOC Pretrial Release	4,269,953	4,269,953
	#614	Reinvestment Grant - DOC Share	NA	NA
	#688	South Bay Correctional Facility	5,050,052	5,050,052
	#688	Sago Palm Work Camp	1,477,625	1,477,625
	#746	DOC Sentencing Alternatives	-	-

Department of Juvenile Justice (DJJ)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#1118-1128	County Share Predisposed Detention	73,412,822	74,342,269
	#1124	Fiscally Constrained County Detention Center Costs Grant	4,632,618	4,632,618

Department of Law Enforcement (FDLE)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#1157	Community and Statewide Drug Abuse Prevention Program	4,497,908	4,497,908

Department of Agriculture, Consumer Services, & Commerce (FDACS)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#1358	State Forest Receipts	595,000	595,000
	#1395A	Deepwater Horizon	3,842,667	3,842,667
	#1456	Mosquito Control	1,293,368	2,007,860
	#1580B	Everglades Restoration	26,000,000	2,100,000

Department of Community Affairs (DCA)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
		Century Commission	-	-
	#1563	Regional Planning Councils	2,500,000	2,000,000
	#1570	EM - Disaster Preparedness, Planning, and Administration	2,389,944	2,389,944
	#1572	EM - Emergency Management Performance Grant	6,338,361	-
	#1590	EM - Emergency Management Programs	7,389,061	7,389,061
	#1592	EM - Repetitive Flood Claims	1,800,000	1,800,000
	#1593	EM - Severe Repetitive Loss Pilot Program	4,500,000	4,500,000
	#1597	EM - Predisaster Mitigation	3,500,000	3,500,000
	#1598	EM - Hurricane Loss Mitigation	6,892,389	6,892,389
	#1599	EM - Flood Mitigation Assistance Program	4,000,000	4,000,000
	#1616A (Senate)	EM - Local Emergency Management Facilities	-	-
	#1617	EM - Local Emergency Management Critical Facilities	8,000,000	3,000,000
	#1625	Community Development Block Grants	34,000,000	34,000,000
	#1641	Community Services Block Grants	17,876,599	17,876,599
	#1642	Home Energy Assistance	111,164,000	111,164,000

	#1646	Weatherization	13,000,000	13,000,000
	#1647	HFC - Affordable Housing Programs	-	5,000,000
	#2535BA	Housing Finance Corporation (HFC) - Affordable Housing Programs	-	32,500,000
	#2535BB	Housing Finance Corporation (HFC) - State Housing Initiatives Partnership (SHIP) Program	-	5,000,000

Department of Environmental Protection (DEP)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#1685	Payment in Lieu of Taxes	1,360,000	1,360,000
	#1686B (Senate)	Florida Forever	-	-
	#1693 (Senate)	Everglades Restoration	26,000,000	2,100,000
	#1763	Total Maximum Daily Loads	4,885,000	4,000,000
	#1769A (Senate)	Beach Renourishment and Restoration	-	16,251,075
	#1788	Nonpoint Source (NPS) Management Planning Grants	12,470,000	12,400,000
	#1789	Drinking Water Facility Revolving Loan Program	81,683,538	91,053,594
	#1790	Wastewater Treatment Facility Revolving Loan Program	165,593,724	164,346,724
	#1791	Small County Wastewater Treatment Grants	16,600,000	16,600,000
	#1814	Inland Protection Trust Fund	130,000,000	125,000,000
	#1852 (Senate)	Florida Recreation Development Assistance	-	-
		Alternative Water Supply	-	-

Department of Transportation (DOT)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#1918B	Aviation Development Grants	134,752,273	187,442,157
	#1918C	Public Transit Development Grants	155,584,581	223,970,480
	#1918E	Seaport - Economic Development	15,000,000	15,000,000
	#2069	Transportation Disadvantaged Program	38,404,800	44,904,800

	#2070	Transportation Disadvantaged - Medicaid	65,486,126	65,486,126
	#2110A (House)	Small County Road Assistance Program	10,000,000	2,930,404
	#2111	Small County Outreach Program	21,362,190	42,410,085
	#2112	County Transportation Programs	35,183,087	800,007,529
	#2128	Local Government Reimbursement Program	33,499,781	-

Agency for Workforce Innovation (AWI)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#2214	Regional Workforce Boards	249,042,919	249,042,919
	#2234	School Readiness Services	588,279,070	-

Executive Office of the Governor (EOG)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#2442A (House) #2535AB (Senate)	Economic Development Tools	18,342,473	23,520,518
	#2442C (House) #2535AF (Senate)	Quick Action Closing Fund	14,700,000	48,600,000
		Economic Development Projects	-	-
	#2445 (House) #2535X (Senate)	Florida Commission on Tourism	21,299,209	35,299,209
	#2668	Rural Community Development	1,300,000	1,170,000
	#2669B (House)	Rural Infrastructure	-	-
	#2672	Economic Development Transportation Projects	15,000,000	-

Department of Management Services (DMS)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#1289C / 2932	Wireless 911 Distribution to Counties	70,190,273	70,190,273
	#1289D / 2933	Wireless 911 Distribution to Providers	15,484,846	15,484,846
	#1289E / 2934	Non Wireless 911 Distribution to Counties	50,030,674	50,030,674

Department of Revenue (DOR)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
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	#30550 / 3055N	Fiscally Constrained Offset (Amendment 4)	-	2,900,000
	#30550 (House)	Fiscally Constrained Offset (Amendment 1)	23,575,123	25,000,000
	#3104	Emergency Distribution from Local Gov. 1/2 Cent (Small Counties)	16,367,042	16,900,000
	#3105	Inmate Supplemental Distribution from Local Gov. 1/2 Cent	592,958	592,958

Department of State (DOS)	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#3153	Special Election Reimbursement	800,000	1,600,000
	#3157	Voting System Assistance	525,000	525,000
	#3158	Statewide Voter Registration System - HAVA	2,794,815	2,794,815
	#3164	Federal Election Activities - HAVA	2,000,000	2,000,000
	#3172	Historic Preservation Grants	618,250	618,250
	#3187A (House)	Library Cooperatives	1,000,000	-
	#3188	Aid to Libraries	20,546,017	2,792,039
	#3193H / 3197	Arts Grants	297,200	-
	#3193I / 3200	Cultural and Museum Grants	1,000,000	2,000,000

State Court System	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	#3242	Traffic Hearing Officers	-	1,339,864
	#3251, 3252, 3253	Drug Courts	-	12,483,000

Reverter Issues	<u>Line Item</u>	<u>Program</u>	<u>House</u>	<u>Senate</u>
	SECTION 30	Loxahatchee Slough Pump Station Facilities	-	500,000
	SECTION 31	Loxahatchee Sough Restoration (M-Canal Widening)	-	1,000,000

Beach Funding – Gov. Scott visit

By: County Staff

Thank you to **Sen. Ellyn Bogdanoff** who arranged for a two hour visit this week with Gov. Rick Scott and local government officials to discuss and observe issues related in Beach Restoration. Gov. Scott toured beaches in South Palm Beach and Singer Island and discussed issues with County Commissioners Marcus, Taylor and Abrams regarding existing trust fund allocations and extended permitting for beach restoration projects. Beach renourishment project funding in the Senate budget is at \$16.2 million. Those funds will cover the first 12 projects on the State's renourishment project prioritization list, an improvement over the Governor's proposal to eliminate funding. Although Palm Beach County's budget requests are not included in the top 12, funding for the City of Delray Beach's request of \$2.28 million in State matching funds for its \$14.5 million Delray Beach renourishment project has been included on the State priority list.

Belle Glade Senior Center

By: The Pittman Law Group and County Staff

One of Palm Beach County's top funding priorities this year is to secure funding for a new Senior Center in the Belle Glade community. Thanks to the efforts of Sen. Joe Negron and Sen. Lizbeth Benacquisto, an amendment to provide \$1.4 million for the Center's construction was successfully added to the Senate proposed budget on April 7th.

County staff will continue to focus on securing a matching amount in the House budget during the conference committee process. Additionally, Staff will work with the Governor's office to advocate for this much needed project. The added bonus of constructing a new, large Senior Center would be converting the existing Senior Center into the County's second Homeless Resource Center, identified as a top priority of the County's Homeless Advisory Board and the Health Care District of Palm Beach County.

Public Records

By: The Pittman Law Group, the Moya Group and County Staff

SB828 by Sen. Bogdanoff/HB 667 by Rep. Clemens creates an exemption from the public records requirements for information received as part of active investigations of the Inspector General on behalf of a unit of local government.

Senate Bill 828 by Sen. Ellyn Bogdanoff was placed on the Judiciary Committee for April 4th, but there was insufficient time to take it up and it has been rescheduled for April 12th. Its companion, HB 667 by Rep. Jeff Clemens, passed 18-0 out of the House State Affairs Committee and is currently on the Second Reading Calendar.

Wage Theft

By: County Staff

HB 241 by Rep. Goodson/SB 982 by Sen. Norman - Wage Protection

The Senate Community Affairs Committee heard SB 982 by Sen. Jim Norman on Monday, April 4th. This bill, also known as the "Florida Wage Protection Act," prohibits a county, municipality, or political subdivision of the state from adopting a wage theft ordinance or regulation that exceeds certain state and federal laws.

Senate Bill 982 passed 7-1, and its next stop is the Senate Judiciary Committee. The House companion bill, HB 241, was not heard in its last committee, the House Judiciary Committee, this week.

Property Rights (SB 998 & HB CS/HB701)

By: Akerman Senterfit and County Staff

In 1995, the Bert Harris Act was enacted by the Legislature to provide a new cause of action for private property owners whose property has been "inordinately burdened" by a state or local government action that may not rise to the level of a "taking" under the State or Federal Constitution. Several court decisions since the Act's original adoption have affected the applicability of the Act.

CS/HB 701 provides additional legislative intent to these issues. Specifically, it:

- Restructures the definition of existing use to make it clear that the term "existing use" has two separate definitions:
 - (1) An actual, present use or activity on the real property, including periods of inactivity which are normally associated with, or are incidental to, the nature of the activity, or
 - (2) Such reasonably foreseeable, non-speculative land uses which are suitable for the subject real property and compatible with adjacent land uses and which have created an existing fair market value in the property greater than the fair market value of the actual, present use or activity on the real property.
- Clarifies that both "inordinate burden" and "inordinately burdened" mean the same thing.
- Specifies that a moratorium on a development that is in effect for longer than 1 year is not a temporary impact to real property and **may** constitute an "inordinate burden".
- Changes the requirement that property owners who seek compensation under the Bert Harris Act present the claim in writing to the head of the governmental entity from 180 days prior to filing an action to 150 days prior to an action (90 days for agricultural properties).
- Specifies that payment of compensation can be part of a settlement offer from the local government.
- Deletes the term "ripeness" but would leave the language requiring the local government to provide a written decision identifying the allowable uses to which the subject property may be put. The bills clarify that the failure of the local government to issue the decision within the notice period constitutes the local government's final decision identifying the uses for the subject property. For the purposes of fulfilling the prerequisites to judicial review on the merits, the issuance or failure to issue the written decision operates as a final decision that has been rejected by the property owner.
- Clarifies that enacting a law or adopting a regulation does not constitute applying the law or regulation to a property. This provision should allow property owners to sue when the restrictions are applied to their property without being excluded by the statute of limitations even if the law or regulation was enacted more than a year before it is applied to the property.
- Deletes the section of the Bert Harris Act that provides for the sovereign immunity of government and replaces it with language that waives sovereign immunity for causes of action under s. 70.001, F.S. This is consistent with how the section of law was interpreted by the courts in *Royal World Metropolitan, Inc. v. City of Miami Beach*.
- Provides that the enactment of this bill would be applied prospectively and would not affect pending litigation.

CS/HB 701 passed the House Economic Affairs Committee on Thursday. This was the bill's last committee of reference; it will next be available for floor action.

Numeric Nutrient Criteria

By: The Moya Group and County Staff

On Tuesday, the House Subcommittee on Federal Affairs reviewed and passed a **PCS** for **CS/SB 239**. The PCS, which includes an **amendment** made in committee, is substantially different from the original CS, which the committee was concerned would be hindered by outdated standards.

Designated Uses for Florida Surface Water Classification System

Firstly, the **PCS** revises the Designated Uses for Florida Surface Water Classification System (considered to be outdated) and places the revised system in statute. The DEP would be authorized to revise the classification system by rule, which must be ratified by the Legislature prior to its taking effect. If such revisions are ratified, the statutorily created classification system will no longer be in effect. These Designated Uses would instead be the required determination in setting numeric nutrient criteria. The current criteria only lists five categories of use, each of which covers broad definitions pertaining to both human use and environmental use. The revisions to the criteria would do two things:

- 1.) It would split the human and aquatic life uses into separate use classification systems so that the unique criteria associated with each broad category could be readily identified. This would allow readers to better understand differences in water quality necessary to protect specific uses within each broad use category.
- 2.) It would establish two additional human uses and three additional aquatic life uses to incorporate flexibility into the current system. Use Attainability Analysis would have to be conducted before any waters could be reclassified into any use requiring less protection than its current (generally default Class III) classification.

Adoption of Numeric Nutrient Criteria by DEP

Second, the original CS for **HB 239** would have authorized the DEP to adopt numeric nutrient criteria for a particular surface water body or class of surface waters if the DEP determined that numeric nutrient criteria were necessary to protect aquatic life expected to inhabit those waters, and if the criteria are based on objective and credible data. The criteria were to be expressed in terms of concentration, mass loading, waste load allocation, load allocation, and surrogate standards, such as chlorophyll-a, and may be supplemented by narrative statements.

The PCS, by an **amendment** adopted in committee, no longer provides for adoption of these standards; the DEP shall not determine the numeric nutrient criteria based on what is necessary to protect aquatic life but instead on what is necessary to protect "designated use" as defined above.

TMDLs

Thirdly, the PCS provides that numeric nutrient TMDLs developed by the DEP and approved by the EPA constitute the site specific numeric interpretation of the narrative nutrient water quality criteria.

Last, the PCS directs the DEP to publish a Notice of Proposed Rulemaking no later than May 31, 2012, to revise the dissolved oxygen criteria applicable to Florida water bodies to take into account the variability that occurs in natural settings.

The same environmental groups that first filed the lawsuit against the EPA have voiced their opposition to this bill.

The **PCS** for **CS/HB 239** will next be heard the House State Affairs Committee, which is its last committee of reference.

Fertilizers (CS/CS/HB 457)

By: Pittman Law Group and County Staff

On Thursday, the House State Affairs Committee approved a PCS of **CS/CS/HB 457**, relating to fertilizer use.

In 2009, the Legislature passed SB 494, relating to water conservation. Among its many provisions, SB 494 directed the Department of Environmental Protection (DEP) to adopt and enforce a Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes by January 15, 2010. That law encouraged adoption and enforcement of the model ordinance by local governments that are located in areas where water is impaired by certain nutrients. It also allowed local governments to adopt more stringent standards if specified criteria were met. Current law dictates that local governments that had adopted their own ordinance prior to January 1, 2009 are exempted from the provisions of SB 494, as are farm operations.

CS/CS/HB 457 sought to enact a single, uniform state standard by declaring all local regulations relating to the use and sale of fertilizers void and investing DACS with the exclusive authority to regulate the sale of fertilizer, including its composition, formulation, packaging, use, application, and distribution.

The bill; however, was amended by the House State Affairs Committee to:

1. Reinstate provisions currently in law acknowledging variations in ambient conditions throughout the state, and the potential need for "additional and more stringent fertilizer management practices at the local level."
2. Preserve the grandfathering provisions relating to local ordinances adopted prior to July 1, 2011 currently in law.
3. Eliminate local government pre-emption provisions in prior versions of the bill.
4. Provide criteria for the future adoption of additional and more stringent local standards, including that these be part of an overall program for the control of multiple sources, science based, and that the DACS be notified of the adoption of the more stringent standards.
5. Strike a provision added by the Community and Military Affairs Committee which affirmed the authority of the DEP and WMDs under chapters 373 and 403 to adopt rules or issue orders requiring fertilizer practices that are necessary to achieve compliance with applicable water quality standards or to implement federally authorized or delegated programs.

It will next go before the House Subcommittee on Community & Military Affairs.

Public Records for Public Airports

By: Darcy Foster, Tampa Airport

Public Records for Public Airports: CS/HB913 and CS/SB994 provide an exemption from public records requirements for proprietary and confidential business information submitted and held by a public airport and for any proposal or counterproposal exchange between the governing body of a public airport and a nongovernmental entity relating to the sale, use, development, or lease of airport land or airport facilities. Additionally, the bills provide for exceptions, future review and repeal and include statements of public necessity.

The bills have passed unanimously, as amended, through their respective committee referrals. Both bills are identical and each bill has one last committee of reference: CS/HB994 - Senate Governmental Oversight and Accountability and CS/HB913 - House State Affairs Committee.

Homelessness Prevention Grant Program - HB131 by Rep. Reed/SB948 by Sen. Hill

By: County Staff

The Committee Substitute for House Bill 131 by Rep. Betty Reed relating to Homelessness was approved by a vote of 10-0 on April 5th by the House Health & Human Services Access Subcommittee. This legislation would allow for the creation of a voluntary contribution option on vehicle registration and Driver's License applications or renewals. The revenue collected would be deposited in the Grants and Donations Trust Fund of the Department of Children and Family Services and used by the State Office on Homelessness to supplement grants made under s. 420.622(4) and (5), provide information to the public about homelessness in the state, and provide literature for homeless persons seeking assistance. Contributions received under this program would be granted to local lead agencies to provide emergency financial assistance to families facing the loss of their current home due to a financial or other crisis.

The bill is now in the Appropriations Committee. Similar legislation in the Senate, SB948 by Sen. Tony Hill, has not yet been heard by a committee.

911 Good Samaritan - HB 91 by Rep. Bernard/SB1146 by Sen. Sachs

By: County Staff

The 911 Good Samaritan legislation is a top priority of Palm Beach County, especially the Sheriff's Department. The bill provides that a person who in good faith seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the person's seeking medical assistance. The bill also provides that a person who experiences a drug-related overdose and is in need of medical assistance may not be not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the overdose and the need for medical assistance. Furthermore, the bill adds an addition to the list of mitigating circumstances a judge may consider when departing from the lowest permissible sentence: *the defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.*

It is suspected that a majority of drug overdoses are witnessed by bystanders who stall or fail to seek medical attention due to fears of being arrested. Florida is currently in the midst of a drug overdose crisis. Law enforcement and medical personnel believe that passing this legislation would save lives by allowing witnesses to call 911 without fear of punishment.

The Senate version, SB1146 by Sen. Maria Sachs, will be heard next week in the Senate Health Regulation Committee. HB91 currently awaits action by the House Judiciary Committee.

Affordable Housing - HB639 by Rep. Aubuchon/SB2154 by Budget Committee

By County Staff

The House passed HB639 on March 31st, which removes the statutory limitations on the amount of documentary stamp revenue that goes into the State Housing Trust Fund and the Local Government Housing Trust Fund. The legislation is now in Senate Messages.

This week, the Senate passed SB 2154, which permanently redirects documentary stamp revenues used for affordable housing into the General Revenue fund. The House refused to concur and instead passed legislation creating a new economic development agency overseen by the Governor (Jobs Florida). This legislation, HB7205 and HB 7207, combines the revenues from several existing trust fund sources, including the housing trust funds, into one fund to be used for economic development purposes. Affordable housing would be part of those purposes.

Both chambers will begin to iron out their differences next week in conference. The documentary stamp tax revenues will be included in those discussions. Staff will continue to monitor and participate in these discussions to ensure affordable housing revenue sources are maximized and protected from uses other than affordable housing.

Traumatic Brain Injury

By: County Staff

HB 17 by Reps. Nelson and Abruzzo/SB 138 by Sen. Bennett - Military Veterans Convicted of Criminal Offenses

One of Palm Beach County's legislative priorities is the Traumatic Brain Injury (TBI) issue. House Bill 17, also known as the "T. Patt Maney Veterans' Treatment Intervention Act," by Reps. Bryan Nelson and Joe Abruzzo would require a judge to hold a "veteran's status hearing" before sentencing a defendant found to have committed a crime if the defendant alleges he or she committed the offense as a result of post-traumatic stress disorder (PTSD), a TBI, substance use disorder, or psychological problems caused by his or her military service in a combat zone. The bill authorizes the judge to place eligible veterans into a treatment program rather than proceed with criminal prosecution.

House Bill 17 passed the House Criminal Justice Subcommittee 15-0. It still has 3 more stops. Its Senate companion, SB 138 by Sen. Mike Bennett passed the Senate unanimously 37-0 and is now in House Messages.

Film Incentives

By: County Staff

HB 7203 by Rep. Precourt - Economic Development

The Entertainment Industry Financial Incentive Program was enacted in 2010, and HB 7203 by Rep. Steve Precourt makes several of the following changes to that program:

- Creates a geographic bonus tax credit
- Specifies that any production that spends at least 85% of its expenditures within an "underutilized region" may receive an additional 5 percent tax credit
- Provides an additional 15 percent credit on qualified expenditures that are compensation paid to specified students
- Creates a 5 percent bonus credit for filming at least 50 percent of principal photography at a "qualified production facility"

The maximum amount of tax credits available for fiscal years 2012-13 through 2014-15 has been increased from \$38 million per year to \$50 million per year through this legislation.

As of March 2011, The Office of Film and Entertainment (OFE) has either awarded or certified \$226.7 million in tax credits to 117 certified productions, out of a total of \$242 million available over 5 years. Of that amount 59% (\$134.2M) was awarded or certified for high impact television series; 12% (\$26.2 million) was to digital media products and video games; and 18% (\$41.9M) was to feature films. Geographically, the majority of credits were for productions in southern Florida, with 72% (\$163.4M) of the credits going to productions in one of Miami-Dade, Broward, Palm Beach, St. Lucie, Monroe, or Charlotte Counties.

The Film Industry provides many incentives for Palm Beach County, including increased revenue for many local businesses, hotels and restaurants and stimulates job creation.

House Bill 7203 passed the House unanimously. The Senate refused to concur with the language and amended the bill with similar language.

Local Bill Update

By: County Staff

Lake Worth Drainage District Local Bill HB 741 by Rep. Berman

Rep. Lori Berman's HB 741 is moving quickly through the House. It expands the powers of the Lake Worth Drainage District (District) by granting it the authority to enter into interlocal agreements with local governments and public and private utility providers to develop and operate water supply facilities in Southeast Florida. It would also provide for financing for the development and operation of water supply facilities by the issuance of notes, bonds, and other evidences of indebtedness.

This particular Bill has been determined by the District to be necessary to support the Palm Beach County Water Utilities Department (PBCWUD) and the coalition of water utilities attempting to create the C-51 west basin water supply reservoir at 20-mile bend. As a result, PBCWUD has provided testimony at a recent PBC Delegation meeting in support of this local bill.

House Bill 741 passed unanimously 24-0 in the House Finance & Tax Committee and is on the House Economic Affairs Committee agenda, its last committee of reference, for April 12th.

House Bill 4191 by Rep. Bill Hager relating to the repeal of the South Lake Worth Inlet Advisory Committee and House Bill 1045 by Rep. Jeff Clemens relating to the Loxahatchee Groves Water Control District have passed all of their committees and are available to be brought up for consideration on the House Floor.

FEDERAL ISSUES

By: US Strategies

FY 2011 Appropriations

At the eleventh hour, on Friday, April 8th, a deal was worked out between President Obama, Speaker Boehner and Senate Majority Leader Reid on funding for FY 2011. Because of this deal, a government shutdown was averted. Discretionary spending for the rest of FY2011 is nearly \$39 billion less than had been budgeted for the previous year and \$79 billion less than the Administration had wanted for 2011.

The White House announced that the two sides agreed to cut \$13 billion from funding for programs at the Department of Labor, Education, and Health and Services as well as over \$1 billion to cut across non-defense agencies, forcing everyone to "tighten their belt." There will also be reductions to housing assistance programs and some health care programs along with \$8 billion in cuts to Department of State for Foreign Operations. Other cuts included \$630 million in earmarked transportation projects, as well as \$2.5 billion in transportation funding that is ready to be earmarked. In addition to these cuts, \$30 million was eliminated for a job training program that was narrowly targeted at certain student loan processors, and \$18 billion in cuts that were deemed "unnecessary" by the Pentagon.

Because there was so little time to avoid a government shutdown as the clock ticked past 11 p.m. toward the midnight deadline, lawmakers also agreed to a "stopgap" measure covering the next several days until the spending measure for the rest of this fiscal year can be finished and signed into law.

We will report to you once more details of the FY2011 budget agreement are public.

FY 2012 Budget Resolution

On Wednesday, April 6th, the House Budget Committee adopted on a 22-16 party-line vote the resolution offered by Chairman Paul Ryan (R-WI) the previous day, Tuesday, April 5th. The Committee rejected nearly 20 Democratic amendments during the mark-up. The budget resolution doesn't have the force of law, but does set the parameters for tax and spending bills and sets a ceiling on discretionary spending which the appropriations committee must follow.

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**Palm Beach County
Legislative Affairs**

301 North Olive Avenue
Suite 1101.4
West Palm Beach, FL
33405

**Todd J. Bonlarron
Director**

Phone

Office (561) 355-3451
Mobile (561) 310-7832

Fax

(561) 355-3982

E-mail

tbonlarr@pbcgov.com

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The budget resolution would cut about \$6 trillion in spending over a decade; restructure programs such as Medicaid, Medicare, and the Supplemental Nutrition Assistance Program; and replace the current tax system with one that is simpler and has lower rates. It would set the level of total discretionary spending, excluding the cost of war operations in Iraq and Afghanistan, for next year at \$1.019 trillion, \$102 billion lower than the amount requested by the President. When spending for the Defense, Homeland Security, and Veterans Affairs Departments are backed out, \$360 billion would be left for non-security discretionary spending, returning it to 2008 levels and freezing it there for five years.

Specifically, the budget resolution would:

- Establish a binding cap on total spending as a percentage of gdp;
- Require any increase in debt levels to be accompanied by spending reductions;
- Require regular congressional review of mandatory spending programs;
- Continue the FY 2011 earmark ban in FY 2012;
- Eliminate federal subsidies for high-speed rail;
- Privatize Fannie Mae and Freddie Mac;
- Reduce the federal workforce by 10% and freeze federal pay through 2015;
- Reduce fixed payments to farmers and revise government support for crop insurance;
- Return Pell grants to pre-stimulus levels;
- Consolidate job-training programs;
- Convert the federal share of Medicaid spending into a block grant to states indexed for inflation and population growth;
- Convert the Supplemental Nutrition Assistance Program into a block grant and make aid contingent on work or job training;
- Implement federal time limits and work requirements for rental assistance;
- Starting in 2022, provide seniors with a Medicare payment to buy insurance from a list of guaranteed private coverage options, cap non-economic damages in medical liability lawsuits, and require that any current-law Medicare savings be applied to Medicare only;
- Require that if the Social Security trust fund becomes unsustainable, the president and congressional leaders submit plans for restoring its balance; and
- Repeal and defund the health reform law.

Among the resolution's tax reform proposals, it would keep overall revenue between 18 percent and 19 percent of GDP, consolidate the current six brackets and cut the top individual rate to 25 percent from 35 percent, and reduce tax expenditures by eliminating or modifying deductions and credits.

The resolution is expected to go to the House floor next week. Likely to be offered as an amendment is a Republican Study Group alternative budget plan which members say "builds" on Chairman Ryan's plan. It would provide for even deeper cuts in federal spending, cutting more than \$300 billion next year in overall spending and \$3.3 trillion over 10 years. Specifically it would:

- Repeal the health reform law and eliminate \$677 billion in additional spending over 10 years;
- Freeze total discretionary spending at FY 2008 levels (\$933 billion); beginning in 2013;
- Fund defense at the amount requested in the President's budget so that defense spending would total \$696 billion in FY 2012 and would increase to \$747 billion in FY 2021;
- Fund non-defense discretionary spending at \$409 billion in FY 2012 and reduce it to \$218 billion in 2021;
- Reduce unnecessary mandatory spending—other than Medicare, Medicaid, and Social Security—by \$1.9 trillion between FY 2012 and FY 2021;
- Block grant the Medicaid program and phase in an increase in the age for Social Security and Medicare eligibility to 70 and 67 respectively.