

PBC Legislative Update



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State Issues

Third Week of the 2013 State Legislative Session

Internet Cafes

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

Despite the Chairman Richter's promises to not meet again during the current Session, the Senate Select Committee on Gaming met on Monday and unanimously passed a bill that would ban Internet Cafes. SB 1030 by Sen. Thrasher was amended to mirror the House's language. Sen. Sachs offered an amendment to protect adult arcades as well as legalize electronic card operated machines rather than just coin-operated machines. She withdrew the amendment after concluding that her colleagues were willing to work on the issue going forward. Chairman Richter stressed that gaming in the state of Florida is "illegal unless it is legal," and because Internet Cafes and the like have not been made explicitly legal, they are in fact illegal despite a gap in legislation widely interpreted as a loophole.

Meanwhile, the House officially passed HB 155 by Reps. Trujillo and Patronis. A motion to move the bill back through the committee process, due to the rapidly fast pace in which the bill has moved, failed. The bill passed 108-7 and is now waiting to be heard in the Senate.

Florida Retirement System (FRS) Reform

By: Ericks Consultants

In a party-line vote of 74-42, the House passed HB 7011 by Rep. Brodeur, the plan to reform the FRS pension system by moving all employees hired after January 1, 2014, into an investment plan rather than the traditional defined benefit plan- after a lengthy, debate on Friday. HB 7011 still differs significantly from the Senate plan, SB 1392 by Sen. Simpson, which advanced passed its second of three committees of reference this week. Senate Community Affairs voted 6-3 to advance the Senate plan, with promises that they would not change the plan to conform to the House version. SB 1392 allows employees to continue to choose between the defined benefit and investment plans, however it offers incentives to enroll in the investment plan.

An additional FRS bill has begun to move through the process. SB 7122 passed unanimously through the Senate Committee on Governmental Oversight and Accountability. The bill would slightly increase the percentage of employer contribution from 1.11% to 1.25% to the Retiree Health Insurance Trust Fund.

Sovereign Immunity Limitations

By: County Staff, Corcoran & Johnston and The Moya Group

PCB SCCB 13-01 Relating to Sovereign Immunity was heard in the House Select Committee on Claims Bills Thursday morning. The legislation passed through Committee with a 5-3 vote and several members who voted for the bill expressing serious concern with portions of the legislation, especially the raising of caps on the

governments liability.

PCB SCCB 13-01 provides an option for local governments to self-insure or purchase insurance to avoid claims bills. To be provided protection from claims bills a local government must purchase or maintain insurance equal to or greater than three times the caps on damages. A local government that self insures or purchases insurance will only be responsible for the deductible and will not be liable for any awards in excess of the policy limits.

The bill raises the caps to \$1,000,000 per person and \$1,500,000 per incident for judgments against local governments. However the bill does not raise the caps on damages for judgments against the state or its agencies. The bill does state, as in current law, that a judgment may be awarded in excess of the caps, but amounts over the cap may only be paid with the passage of a claims bill and, by amendment adopted in committee, could only be awarded using state funds to pay the additional claim.

County staff testified in opposition to the bill during the committee meeting pointing out the increased cost to government and the potential impacts to small business vendors who may see insurance policy premiums increased if this legislation were to move forward.

Thank you to Rep. Bill Hager who filed a series of amendments to address several of the County's concerns including reducing the cap back to current levels in statute.

Currently there is not a companion bill for this language in the Senate.

Elections Reform

By: Ericks Consultants

On Monday, the Senate Committee on Ethics and Elections passed SB 600 by Sen. Jack Latvala. This is the Senate companion to HB 7013 by Rep. Boyd that the House passed last week. The bill's language is the same as the House in that it gives local supervisors of elections greater discretion in the number of early voting days and locations of early voting polls, and it places a word limit on the ballot. Unlike the House bill, which garnered widespread bipartisan support, SB 600 only moved forward in a party-line vote of 8-5. Democrats on the committee declined to support the bill after they were unsuccessful in amending the language to include more reforms to make voting even easier.

Local Business Tax Reform

By: Ericks Consultants

The House Finance & Tax Appropriations Subcommittee voted to file a PCB that would simplify the Local Business Tax in a revenue neutral way. A staff member presented the bill by mentioning that local business taxes would be set up according to three different classifications by square footage of the facility. Chairman Workman added that discussions would continue to clarify language regarding home offices and square footage.

Local Wage Ordinances

By: Ericks Consultants

SB 726 by Sen. Simmons, which would preempt county family medical leave ordinances as well as set up a task force to study the issue, passed the Health Policy in a 6-3 vote. The bill was amended to change the nine-member task force to an eleven-member taskforce with an economist and physician filling the additional two positions.

Criminal Justice Commission

By: The Moya Group

HB 361 by Representative Kerner, relating to Public Meetings/Criminal Justice Commissions was heard in its second committee of reference Monday afternoon. The House Government Operations Subcommittee unanimously supported the bill. House Bill 361 provides an exemption from public meeting requirements for that portion of a meeting of a duly constituted criminal justice commission at which specified members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the commission.

Red Light Cameras

By: Ericks Consultants and Corcoran & Johnston

The Senate Committee on Transportation unanimously passed a rewritten version of SB 1342- Sen. Abruzzo's red light camera bill that originally prohibited citations for right-turn-on-red, reduced fines, provided uniformity to yellow light intervals, and made it easier for appeal. The committee adopted a strike-all amendment and an amendment to the amendment sponsored by Sen. Jeff Clemens that would restore the amount of the fines and allow right-on-red citations if there is reasonable cause that the driver failed to stop (such as hitting a pedestrian). The amended language also provided greater requirements for successful repeal.

Animal Control Agencies

By: The Moya Group

SB 0872 Relating to Animal Shelters or Animal Control Agencies by Senator Abruzzo was heard Monday afternoon in the Senate Agriculture Committee. SB 872 requires each animal shelter and animal control agency to compile monthly and annual summaries of statistical data; listing the categories of information required in the summaries. The bill requires the summaries be posted on the entity's website within a specified time period. It also requires each summary to be signed by the director of the animal shelter or animal control agency as true and accurate. The legislation was passed by the Committee with unanimous support.

Summer Camps

By: County Staff

HB 591 by Rep. Pafford/SB 630 by Sen. Clemens relate to the Regulation of Summer Camps.

The Senate version of this bill passed its second committee of reference with a 9-0 vote in the Children, Families and Elder Affairs Committee where a Committee Substitute was filed. It now heads to the Appropriations Committee. The House Bill is facing somewhat of an uphill battle as it has not been scheduled for a hearing in any committee at this point. This could be related to the \$3 million price tag associated with developing a database needed to comply with the requirements of the proposed legislation, which would require background screenings for summer camp workers in the same manner as daycare and preschool workers undergo background checks.

In addition to requiring Level II background checks for those summer camp staff that come into contact with children, the proposed legislation also provides penalties for violations, including felony charges for second and third violations for those situations where a camp represented itself as having properly screened personnel but did not and a child was harmed.

Pharmacy & Controlled Substance Prescriptions

By: County Staff

SB 1192 by Sen. Grimsley passed its first committee of reference, Health Policy, with a Committee Substitute and a 9-0 vote. It now heads to the Subcommittee on Health & Human Services Appropriations. The counties were concerned with this bill mainly due to language contained within the legislation as originally filed that preempts regulation of pain management clinics to the state, thereby undoing some of the great work Palm Beach County has done to manage the proliferation of "pill mills" that the area saw in recent years. However, the CS approved this week in the Senate Committee does contain amended language approved earlier in the week in a House Committee that provides an exception to the preemption language that allows counties to maintain their ability to regulate pain management clinics.

Affordable Housing Fix Advances in House and Senate

By: The Moya Group

HB 921 Relating to Tax Exemptions for Property Used for Affordable Housing, by Representative Renuart, was heard in its second committee of reference. The House Committee on Finance and Tax passed the bill with unanimous support Wednesday afternoon. The bill removes the provision authorizing the affordable housing property exemption to apply to affordable housing owned by a Florida-based limited partnership whose sole general partner is a not for profit corporation qualified as charitable under the Internal Revenue Code. The Revenue Estimating Conference estimated the provisions of the bill will have a positive impact on local government revenue in FY 2013-14 of \$23.4 million (\$117.2 million recurring). The bill is effective upon becoming a law and the removal of the exemption applies to the 2013 ad valorem tax rolls.

Agritourism (SB 1106 & HB 927)

By: Anfield Consulting

On Wednesday the Senate Community Affairs Committee passed CS/SB 1106 without amendment. It will next go before the Senate Rules Committee, which is the Senate bill's last committee of reference.

On Tuesday of last week, the House companion, **HB 927**, was passed by the House Agriculture & Natural Resources Subcommittee after it adopted a single amendment, which brings the bill into greater conformity with the Senate version. The only remaining difference is that in the House version, the liability portion specifies that agritourism operators have an obligation to inform guests of a potentially dangerous animal. The Senate version specifies only that operators inform guests of dangerous conditions and farm machinery, the animal portion having been removed over concerns by the bill sponsor that it may lead to frivolous lawsuits. **CS/HB 927** will next be heard in the House Civil Justice Subcommittee.

Numeric Nutrient Criteria (SAC2 & SB 7034)

By: Anfield Consulting and Corcoran & Johnston

The PCB amends current law to direct DEP to establish numeric nutrient criteria for remaining waterbodies in the state that were not covered under the rules approved by EPA on November 30, 2012. The PCB also specifies that once EPA removes federal numeric nutrient criteria and ceases future numeric nutrient criteria rulemaking in the state, Rule 62-302.531(9), F.A.C., described above, will be removed from the Florida Administrative Code. In addition, the PCB exempts from legislative ratification any additional estuary criteria adopted by DEP during 2013. The PCB also directs DEP to establish specific numeric nutrient criteria for unimpaired waters (including DEP's calculation of the current conditions of those waters) and for those estuaries and non-estuarine coastal waters without numeric nutrient criteria established by rule or final order as of the date of the report, and directs DEP to send a report to the Legislature and Governor conveying the status of establishing numeric nutrient criteria.

Update: On Wednesday, the House State Affairs Committee passed **SAC2** with one technical amendment. Support for the bill was broad among local governments and water managing authorities. The Sierra Club voiced their opposition to the bill for its adoption of narrative criteria for certain water bodies.

The Senate version, **SB 7034**, was submitted as a Committee Bill by the Senate Environmental Preservation & Conservation Committee last week, and has now been filed as **SB 1808**.

Community Transportation Projects

By: Ericks Consultants

HB 319 advanced passed its second of three committees of reference this week. The House Subcommittee on Transportation and Highways Safety approved HB 319 in an 8-1 vote despite opposition from the Florida Association of Counties. Rep. Ray argued the bill was a simple fix that ensured that one person would not have to pay for another person's impacts.

What to Expect Next Week

The House and Senate will only be meeting Wednesday and Thursday. This will be the last week for bills to be heard in their House Subcommittees of reference. The Senate schedule will only consist of meetings to discuss budget allocations and appropriations.

Sober Homes

By: County Staff

Currently, sober homes are popping up in numerous municipalities across the state in single-family residential communities. They are unregulated, unlicensed and are not defined in statute. There will be a strike-all amendment filed that will include the following:

- Defines a sober house transitional living home as a residential dwelling unit that provides a peer-supported, managed, alcohol-free and drug-free living environment;
- Provides that the Department of Children and Families (DCF) shall license all sober home facilities;
- Requires sober home operators to adhere to local, municipal or county standards with regards to zoning and occupancy;
- Provides for distancing requirements between sober home facilities of at least 1,000 feet;
- Grandfathers in all sober home facilities that are established before July 1, 2013, but they must register with DCF;
- Allows for licensing exemptions for those off-site treatment facilities that are already currently licensed with DCF;
- Does not provide for a license transfer to a new owner/subsidiary, should a sober home be sold; and
- Authorizes DCF to create rules to penalize sober homes that do not obtain a license.

We anticipate that HB 1089 by Rep. James Grant will be heard in the House Health Innovation Subcommittee on Thursday. SB 738 by Sen. Jeff Clemens is expected to be placed on the Senate Children, Families and Elder Affairs Committee agenda for April 1st.

Community Development

By: County Staff

SB 928 by Sen. Simpson modifies the process used by the Florida Housing Finance Corporations (FHFC) to allocate low-income housing tax credits and other federal and state resources. It also deletes an ad valorem tax exemption for certain limited partnerships that provide affordable housing. The legislation extends the Community

Contribution Tax Credit to 2025 and repeals the statutory authority for the obsolete Homeownership and Opportunity for People Everywhere (HOPE) program. Lastly, the bill revises the housing development qualifications and loan-making eligibility parameters of Housing Finance Authorities.

This bill has been placed on the Senate Appropriations Subcommittee on Finance & Tax agenda for Wednesday, March 27th. Its House Companion, HB 437 by Rep. Davis, is waiting to be heard in the House Finance & Tax Subcommittee.

Economic Development Incentives

By: Ericks Consultants

The Senate Appropriations Subcommittee on Finance & Tax promised to review, tweak, replace, or repeal Florida's economic incentive programs to ensure they are effective. The review will take place when the committee meets next week. Chairman Hukill stated that part of the purpose of the review was to find \$150-200 million in funding for projects that are coming before the Senate. Senate F&T is not alone in its skepticism. The Senate Appropriations Subcommittee on Transportation and Economic Development chose in their budget proposal to not fund millions worth of incentives that the Governor had recommended. The committee also unanimously passed SB 446, which requires companies applying for incentives to obtain a surety bond in the same amount of what is being sought. Meanwhile, SB 406, which requires an economic analysis to be conducted for each incentive granted, passed its final committee of reference, Senate Appropriations, in a 15-1 vote after being amended to exempt spring training facilities.

Federal Issues

Weekly update

By: Becker & Poliakoff

Lawmakers in both chambers will work on the appropriations bill funding the federal government for the rest of FY-2013 while also debating their competing budget for FY-2014. Beginning next week, Congress will have a two-week recess and return to Washington the week of April 8th.

THE SENATE: Will resumes working on H.R.933, the omnibus appropriations bill for FY-2013. The substitute would add full Agriculture, Commerce-Justice-Science and Homeland Security appropriations measures to the House-passed bill, which already included the full appropriations for the Defense and Military Construction-VA Departments.

The Senate will consider its budget bill for FY-2014. The bill, approved March 14 by the Senate Budget Committee on a 12-10 party-line vote, calls for almost \$1 trillion in tax increases, targeting individual tax preferences used by the higher income Americans to bring down the projected \$845 billion deficit this year. The plan would combine the increases with almost as much in spending cuts, with about a \$500 billion reduction in domestic spending program with an additional \$240 billion coming out of the Pentagon's budget. Senate rules bar filibusters on the budget resolution, with a simple majority required for adoption.

THE HOUSE: Will consider its budget resolution for FY-2014. The House budget would balance the government's spending and reduce \$5 trillion in 10 years by limiting the annual rate of growth to 3.4%. The bill assumes that Congress will repeal the 2010 health-care law and partially privatize Medicare. The bill consolidates the seven tax brackets for individuals into two — 25% and 10%. The top individual rate under the January tax deal is 39.6%. The budget plan seeks a maximum corporate rate of 25% and a "more competitive system of international taxation."

Federal Appropriations

By: Alcalde & Faye

The Senate is expected this week approved a spending measure that would fund the Federal government through the remainder of Fiscal Year (FY) 2013. The bill, an expanded version of a Continuing Resolution (CR), which initially passed the House on March 6th, does not "fix" the Sequester. It maintains the House's overall spending level of \$984 billion in discretionary spending, which includes the \$85 billion in automatic cuts (sequestration) that went into effect March 1st.

The measure also includes three additional spending bills – Agriculture, Commerce-Justice-Science and Homeland Security – along with the Defense and Military Construction-Veterans Affairs bills that were included in the House CR. Those agencies are given greater flexibility to manage the impact of the sequester cuts.

Palm Beach County Shore Protection Project

By: Alcalde & Faye

We asked Representative Lois Frankel to take the lead on a letter to the U.S. Army Corps of Engineers (USACE) seeking funding for the Palm Beach County Shore Protection Project in the USACE Fiscal Year (FY) 2013 Work Plan. The Congresswoman agreed to do so, and we were able to secure the support of Representatives Alcee Hastings, Patrick Murphy and Ted Deutch as cosponsors.

The letter to USACE is necessary since Congress is unable to direct funding to the Palm Beach County Shore Protection Project.

Water Resources Development Act

By: Alcalde & Faye

Senate Environment and Public Works Committee Chairwoman Barbara Boxer (D-CA) and Ranking Member David Vitter (R-LA) have signaled that they have come to an agreement on a proposed bipartisan water resources bill - Water Resources Development Act (WRDA).

Senator Vitter said the agreed upon the proposal would drawing heavily on the model used in last summer's surface transportation authorization, providing for streamlined environmental reviews for critical port and waterway infrastructure projects, and include "punitive" budgeting penalties that would be imposed on the Corps and other Federal agencies for missing construction deadlines. Additionally, the Senate proposal would create a pilot program, modeled on separate legislation that Senator Vitter and Senator Bill Nelson (D-FL) have sponsored, that would let the U.S. Army Corps of Engineers hand off management of some projects to state and local governments.

On the House side, during his first hearing as Chairman of the Transportation and Infrastructure (T&I) Committee, Chairman Bill Shuster (R-PA) touted the importance of a strong national transportation system to the U.S. economy, including federal grant programs for state and local infrastructure projects. He proposed creation of a national infrastructure bank as well as a promise to move forward with a WRDA this Congress.

Tax Exempt Municipal Bonds

By: Alcalde & Faye

As part of ongoing deficit reduction efforts, the Obama Administration and some key Members of Congress have proposed measures to alter the tax-exempt status for municipal bonds – either by capping interest at 28 percent, or as recommended by the 2010 Simpson-Bowles Commission, eliminating the exemption altogether.

If implemented, the proposed cap would significantly increase the costs of borrowing for local governments and could prevent many infrastructure projects from moving forward. Furthermore, because the tax would apply not only to new borrowing, but also to all outstanding bonds, investors would be taxed on investment which they

reasonably expected would be tax-exempt as long as they are outstanding – an unprecedented form of retroactive taxation.

Knowing the significance of municipal bonding as a valuable tool in providing essential financing for local capital projects, we have been working in collaboration with several national associations, including the United States Conference of Mayors, National League of Cities, and the National Association of Counties to urge Congress to reject any proposals to hamstring the financing of local infrastructure projects by changing the tax-exempt status of municipal bonds.

To date, no official proposal has been released, however we will continue to monitor any further developments.

Marketplace Fairness Act Introduced

By: Alcalde & Faye

Last month, Senators Mike Enzi (R-WY), Richard Durbin (D-IL), and Representatives Steve Womack (R-AR) and Jackie Speier (D-CA) introduced an Internet/mail-order sales tax collection bill (the Marketplace Fairness Act of 2013). The measure, if approved, would grant state and local governments the authority to enforce existing sales tax laws by requiring online and catalog retailers to collect sales tax at the time of transaction.

The legislation does not create a new tax, rather it simply provides the authority to enforce existing state and local sales and use tax laws, eliminating the competitive advantage currently enjoyed by out-of-state Internet retailers, reducing the need to raise taxes, and relieving consumers of the legal burden to report to state tax departments the sales taxes they owe on online purchases. The bipartisan measure provides a pathway for states and localities across the country to collect an estimated \$23 billion annually in uncollected tax revenue to balance their budgets by collecting taxes already owed instead of increasing taxes or cutting vital services.

The bill is supported by over 200 business, labor, and state and local government organizations across the Country.

USDA Proposes Changes to Definition of Rural Communities

By: Alcalde & Faye

On February 22nd, Agriculture Secretary Tom Vilsack sent Congress a report providing an overview of the various definitions of the word “rural” as it is used to determine eligibility for a variety of government programs, including those administered by USDA Rural Development. This report was mandated by Congress in the 2008 Farm Bill. One of the report’s key recommendations is to use a population limit of 50,000 for all non-housing programs targeted to rural businesses and communities. This represents a broadening of eligibility as some programs currently have a population cap of 10,000 or 20,000, while others maintain the 50,000 upper threshold. This proposal must be authorized through the Farm Bill process, with the Senate Agriculture Committee supporting similar changes in the last Congress and the House Agriculture Committee opposed to changes to the definition.

USDA had already announced that it would begin using the Census’ 2010 population figures starting on March 28th. As population shifts within and between states, some communities will no longer meet eligibility criteria for programs serving “rural” residents and businesses based on total population. The report states that population criteria alone is not sufficient to define rural and leads to disjointed funding decisions that hinder regional collaboration. The report recommends broadening the population cap, while at the same time giving priority to the most rural and impoverished communities. It also recommends prioritizing regional collaboration and giving the agency greater flexibility to serve rural places. The report is available at <http://www.rurdev.usda.gov/Reports/RDRuralDefinitionReportFeb2013.pdf>.



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Numeric Nutrient Criteria Agreement Reached

By: Alcalde & Faye

The U.S. Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (DEP) reached an agreement on March 15th that grants Florida the right to set numeric nutrient limits for its waterways. The legislation will remove the overlapping state and federal rules and instead only require standards developed by state scientists. The agreement has been widely praised by lawmakers in both Florida and Washington.

Residential PACE Suffers Further Set-backs

By: NACo Staff

On March 19, the 9th Circuit Court of Appeals reversed a lower District Court decision that forced the Federal Housing Finance Agency (FHFA) to move forward with a rule making on Property Assessed Clean Energy (PACE) programs. The 9th Circuit Court stated that the FHFA acted in its responsibility as a conservator of Fannie Mae and Freddie Mac programs. NACo supports funding for PACE programs and supports their treatment by federal regulators as a traditional tax assessment program with first lien status. [More](#)