

MEMORANDUM

FROM: Burt Saunders
DATE: February 6, 2015
SUBJECT: Legislative Update for the Week Ending February 6, 2015

Introduction

As we move into the second committee week of February, several major issues pertaining to local government have begun to move forward. These include local government pension reform, lowering of the communications services tax, a ban on the practice of hydraulic fracturing for oil in the state of Florida, land use legal settlements, the elimination of regional planning councils, local government financial oversight, and the implementation of Amendment 1, which passed by a ballot initiative in the 2014 midterm elections. We will continue to keep you updated as these issues move forward through the legislative process.

SB 172: Relating to Local Government Pension Reform

SB 172, sponsored by Senators Bradley and Ring, is a bill that would radically change the way that insurance premium tax revenues would be applied to firefighter and law enforcement pensions under Chapters 175 and 185, Florida Statutes. Under the current system, all tax revenues equivalent to the 1997 insurance premium tax revenues must be applied to pensions for firefighters and law enforcement officers, while any revenues beyond the 1997 level are applied as “extra benefits”, which may or may not be allocated to the pension system.

SB 172 would make a number of changes to this system. It would raise the annual accrual rate on the state pensions from 2.0% to 2.75%, which would significantly increase the interest accrued on those pensions. The bill would also set a cap of 300 overtime hours per year for pension benefits. This is significant because those benefits are currently calculated based on overall salary, which includes overtime. The bill clarifies that the 1997 tax revenue level constitutes the “minimum benefits” that must be provided under Chapters 175 and 185, Florida Statutes, and the remainder must be used to fund additional “special benefits”, which are up to the discretion of the local agencies in charge of distributing the pensions.

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Currently, SB 172 is in the Senate Committee on Community Affairs. Overall, the bill radically restructures the state pension system for firefighters and law enforcement officers. Virtually every subsection of Chapters 175 and 185, Florida Statutes is affected by the bill in some way, and the effect on the cost of the state pension program is currently undetermined. SB 172 passed in the Governmental Oversight and Accountability committee with a unanimous vote, and it currently has not been significantly amended (there is a single amendment that clarifies several areas and removes some grammatical errors, but there has been no change to the actual text of the bill). Its equivalent House bill, HB 341, has been assigned to the House Governmental Operations Subcommittee, but it has yet to be voted on. It will be interesting to follow these bills as they continue to move through the legislative process over the next few weeks.

HB 105: Relating to Publicly Funded Retirement Programs

HB 105 would allow any municipal fire department that provides service to another municipality under an interlocal agreement to receive property insurance premium tax revenues from that municipality for the purpose of paying for retirement pensions for firefighters. Previously, areas served by an interlocal agreement did not pay those revenues to the fire department that served them; rather, those revenues went directly into the local general revenue fund. This bill would eliminate that loophole in the existing statute, thus providing an additional source of revenue for local firefighter pensions. HB 105 is currently in the House Government Operations Subcommittee, but it has not yet been heard or voted on.

SB 484: Relating to Regional Planning Councils

SB 484 would dissolve the state's 11 regional planning councils, and their responsibilities would be shifted to county and municipal entities. The bill would allow local government entities to create their own regional planning councils by interlocal agreement, but there would no longer be any state-level regional planning bodies. The bill was filed on January 23, and it has been referred to the community affairs committee.

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House Finance and Tax Committee Workshop: Local Government Entity Financial Oversight

One of the key goals of the House Finance and Tax Committee during the 2015 legislative session is the improvement of financial oversight for local governments. The draft resolution from the committee was divided into several sections, which are listed below.

Section 1

Section 1 adds the governor and the commissioner of education to the list of people who can refer complaints about local government financing to the Joint Legislative Auditing Committee. Previously, only the Auditor General, the Department of Financial Services, and the Division of Bond Finance at the SBA could refer those complaints.

Section 2

Section 2 adds local governments and local legislative delegations to the list of entities that must receive notices of noncompliance with auditing recommendations by school districts, charter schools, technical schools, Florida State Colleges, and state universities.\

Section 3

Section 3 requires that a similar report be made to clerks of courts.

Section 4

Section 4 would require that proposed county budgets remain posted on a public website for at least 30 days prior to the beginning of public budgetary hearings, and it would require that the final county budget be posted on the website for at least five years after its adoption.

Section 5

Section 5 adds the same requirements that were stipulated in section 4 to county budget amendments.

Section 6

Section 6 would significantly strengthen the auditing requirements for community redevelopment agencies, by requiring that each CRA perform an audit of all of its accounts within nine months of the end of the fiscal year. These audits would be performed by an independent CPA paid with public funding.

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Section 7

Section 7 would apply section 4's requirements to cities.

Section 8

Section 8 would apply section 5's requirements to cities.

Section 9

Section 9 would clarify the language of the various provisions that require state agencies and the judicial branch to have management systems that protect against fraud and waste. State agencies would have to testify under oath that those provisions are properly in place and being followed, and they would have to submit a written report to the Auditor General's office on the matter.

Section 10

Section 10 would require that independent accountants report whether local governments' annual financial reports are in agreement with their concurrent audit reports. The CPAs would be required to explain any significant differences

Section 11

Section 11 stipulates that local governments must also follow the regulations imposed upon state agencies and the judicial branch in section 9.

Section 12

Section 12 would strengthen the certification requirements for local government auditing committees. It would require that an independent agency monitor the auditors, provide a method of review, and strengthen the selection process for auditors. It would also provide a framework for rotating auditors, so that no single auditor would review the same government entity repeatedly.

Section 13

Section 13 is a conforming technical change.

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Section 14

Section 14 would require that all local governments inventory their tangible personal property, and that the CFO create a uniform inventory reporting requirement for all local governments.

Section 15

Section 15 would stipulate that water management districts follow the budget reporting requirements elaborated on in sections 4 and 5.

SB 110: Relating to Communications Services Taxes

As of February 4, there is one bill that has been filed in the Senate on communications services taxes. Senate Bill 110, filed by Senator Hukill on 11/18/2014, and referred to the Communications, Energy, and Public Utilities Committee on 12/12/2014, would amend State Statute 202.12 to lower tax rates on the retail sales of direct-to-home satellite television services. It would also change the way those tax revenues are allocated in the state budget beginning in the 2015-2016 budget year.

Currently, the sales tax rate for communications services is 6.65%, with an additional .15% gross surcharge that can be collected. SB 110 would lower that rate to 4.65%, provided that the communication device is both sold and used in the state of Florida. Specifically, satellite devices, which currently have a sales tax rate of 10.8% applied to them, would be reduced to an 8.8% tax rate. The amount of this tax distributed directly to individual county governments by the Department of Revenue would be reduced from 63% to 54.5%, while the remainder would be allocated to the Local Government Half-cent Sales Tax Clearing Trust Fund. The bill would apply to all transactions occurring on or after January 1, 2016.

As of February 4, although the bill has been filed and sent to the Communications, Energy, and Public Utilities committee, it has not yet been heard and no formal analysis has yet been given by the Senate staff.

HB 4009: Relating to Vacation Rentals and Public Lodging Establishments

HB 4009 would stipulate that vacation rentals and transient housing be removed from the list of establishments covered under regulations on public lodging establishments. It was filed on December 16, and it is now in the House Business and Professions Subcommittee.

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SB 264: Relating to Traffic Enforcement Agencies and Traffic Citations

SB 264 and its House equivalent, HB 421, would prohibit counties and municipalities from establishing or maintaining traffic citation quotas. It would also require auditing reports to be made on local governments' traffic citation revenues and expenses. SB 264 was filed on January 7, and it is now in the Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

SB 698: A Bill Relating to Specialty License Plates (Human Trafficking)

SB 698, sponsored by Senator Flores, would create a Safe and Free Florida specialty license plate. The funds generated by the issuance of this plate would go toward the F2F Life Project, which would be authorized to distribute those funds to various different agencies that provide care for sexually abused women, detoxification services, infant care for victims of human trafficking, advertising and awareness programs for the human trafficking issue, and any other service that aids victims of human trafficking. The unused funds from the program would be returned to the F2F Life Project, and the project would require an annual audit. The bill was filed on February 4, and it has not yet been assigned to a committee. Its concurrent House bill, HB 457, is now in the Highway and Waterway Safety Committee.

SB 516: An Act Relating to Health Insurance Coverage for Emergency Services

SB 516, sponsored by Senators Bean and Garcia, would prohibit insurance companies from requiring prior authorization before providing coverage to EMS personnel. The act would also require that the service be provided regardless of whether or not the service was a participating provider under the insurance company's policy. The bill was filed on January 26, and it has since been referred to the Senate Banking and Insurance, Health Policy, and Appropriations committees.

HB 231: Relating to Transportation (Bicycle Safety)

HB 231, sponsored by Representative Passidomo, would re-define the state's existing bicycle safety legislation to include pedestrians and people riding virtually every form of non-motorized vehicle in a bicycle lane. The bill would also define what constitutes a bodily injury in the case of an accident with a bicyclist or anyone else using a non-motorized vehicle. In addition to all of this, HB 231 would clarify that every part of the vehicle, including parts that extend from it, such as the side mirrors, must be no closer than three feet from a bicyclist when passing

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him or her. The bill would prohibit drivers from making right-hand turns in front of bicyclists or pedestrians, and it would prohibit harassing, taunting, or throwing objects from a car at bicyclists or pedestrians. The bill also proscribes misdemeanor penalties for any of these violations that do not cause bodily injury, and additional criminal penalties if they do cause bodily injury. Finally, the bill requires that anyone applying for a driver's license be tested on his or her knowledge of bicycle and pedestrian safety laws before being granted a Florida driver's license. The bill was filed on January 12, and it is now in the House Highway and Waterway Safety Committee.

HB 113: Relating to Local Government Construction Preferences

HB 113, sponsored by Representative Perry, would prohibit local governments from establishing ordinances that restrict a contractor's right to bid for construction contracts if that contractor does business primarily in the state of Florida. It also would require that public entities, such as state colleges and universities, public school districts, and other political subdivisions, disclose information about the use of funds appropriated by the state for construction projects that require a competitive bidding process, as long as at least 20% of the funding for the project comes from the state. It establishes a preference for Florida-based contractors in the bidding process, even if an out-of-state contractor is able to provide a slightly better bid. The bill was filed on December 16, and it passed the House Government Operations Subcommittee in a 9-4 vote on February 4.

Public Records Bills

There have been several public records bills filed for the 2015 legislative session, which are listed below:

SB 144: Relating to Public Records/Impaired Practitioner Consultants/Department of Health

SB 144, sponsored by Senator Bean, would exempt impaired practitioner consultants and their families from having their personal information reported under Florida's Sunshine Law. This is an expansion upon Florida State Statute 119, which affords the same privilege to a large variety of other professions in which reporting of personal information could compromise the safety of a state employee. The provisions of the bill would also apply to retired impaired practitioner consultants and their families. The bill was filed on November 24, and it passed the Senate Government Oversight and Accountability Committee with a 5-0 vote on February 3. It is now in the Senate Fiscal Policy Committee.

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HB 223: Relating to Public Records and Meetings/Postsecondary Education Executive Search

HB 223, sponsored by Representative Combee, would provide an exemption from the Sunshine Law's public records requirement for any applicant for president, provost, or dean of students of a Florida College System institution. It would also exempt any meeting held for the purpose of identifying and vetting those applicants from the public records requirement. Finally, it would provide a timeframe for when personal information from those candidates could be released, thus allowing them to go through the vetting process before being publicly identified. The bill was filed on January 9, and it is now in the House Higher Education and Workforce Subcommittee. Its identical Senate bill, SB 182, was filed on January 8 by Senator Hays, and is now in the Senate Governmental Oversight and Accountability Committee.

SB 224: Relating to Public Records/Public Agency Contracts

SB 224, sponsored by Senator Simpson, would require that any contract made by a state or local agency include the contact information of the agency's public records custodian. The bill would also require that any public records request regarding a private contract with a government agency go directly through the agency's public records department, rather than through the agency itself. Although the bill requires that all terms of a government contract must become public records after the contract has been completed, a former government contractor may retain its records. The bill stipulates criminal penalties for any contractor found to be in violation of the public records requirement under Florida's Sunshine Law. The bill was filed on January 25, and it passed in the Senate Governmental Oversight and Accountability Committee in a unanimous vote on February 3, which means that it will move on to the Judiciary Committee in the next few weeks. The companion bill to SB 224 in the House, HB 163, is now in the Governmental Operations Subcommittee.

HB 467: Relating to Public Records/Human Trafficking Victims

HB 467 would exempt any personal information filed on human trafficking victims from the public records requirement under Florida's Sunshine Law. It also exempts any previous criminal penalties filed against those victims that have already been expunged from reporting under the public records requirement. The bill was filed on January 20, and it is now in the House Criminal Justice Subcommittee. There is no companion Senate bill at this time.

SB 552: Relating to Public Records/Homelessness Surveys and Databases

SB 552, sponsored by Senator Hays, would exempt personal information collected in homelessness surveys from the public records requirement under the Sunshine Law. The bill would be retroactive, and it would only include personal identifying information on homeless people. Overall population counts and demographic information would not be affected. SB 552

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was filed on January 28, and it is now in the Senate Children, Families, and Elder Affairs Committee.

SB 166: Relating to Hydraulic Fracturing

SB 166 is a bill which would completely ban hydraulic fracking in the state of Florida. Currently, fracking for oil and natural gas is an extremely small niche industry in Florida, but it is a major industry in much of the rest of the country. Fracking is an extremely controversial practice; it has completely re-vitalized the once-dying U.S. oil and gas industry, but its environmental effects are currently only poorly understood.

SB 166 was inspired by the case of Hughes Oil, which proposed (but never completed) a project to drill for oil, possibly using hydraulic fracking, in the Big Cypress National Preserve. As of February 4, SB 166 has been referred to the Senate Environmental Preservation and Conservation Committee. It has yet to come up for a vote, and no amendments have been filed.

HB 383: Relating to Private Property Rights

HB 383 would fundamentally change the way that property use settlements are handled at the county level. It requires that any governmental entity wishing to make use of private property prove that the use of that property provides some sort of benefit to the county or municipality in question. It also stipulates that a property owner may bring legal action against the county or municipality if he or she feels that the governmental entity is not using his or her property for a purpose that benefits the jurisdiction in question. The bill would also allow for the reward of damages if the property owner feels that his or her property was used in an unconstitutional manner, even if the issues were previously resolved. HB 383 was filed on January 20, and it has been referred to the House Subcommittee on Civil Justice.

HB 623: Relating to Weapons or Firearms

HB 623, sponsored by Representative Rouson, would prohibit discharging a firearm on any residential property. This was previously legal in the state of Florida, provided that the homeowner provided a proper berm, and there were no restrictions on the acreage of the property required or the proximity to major roadways, railways, or canals. The bill was filed on February 5, and it has not yet been assigned a committee.

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Implementation of Amendment 1

Amendment 1 is an amendment to the Florida state constitution that was passed via a public referendum in the 2014 midterm elections. It fundamentally alters the way that documentary tax stamp revenues are spent by redistributing 33% those revenues to the Department of Environmental Protection's Land Acquisition Trust Fund, and it consolidates the vast array of environmental protection trust funds that the state currently maintains into a smaller and better organized set of trust funds within the Department of Environmental Protection, the Agency for Persons with Disabilities, the Department of Agriculture and Consumer Services, the Department of State, and the Department of Transportation. The amendment also prohibits those funds from becoming mixed with other sources of revenue, which previously made it virtually impossible to accurately determine how much money was actually going into the environmental protection trust funds. In order to carry out the provisions of the amendment, several bills have been filed in the Senate, and it will be important to watch these bills closely as they continue to move through the legislative process.

SB 586

SB 586 is the bill that would provide for the distribution of 33% of the state's documentary tax stamp revenues directly to the Land Acquisition Trust Fund of the Department of Environmental Protection. It also eliminates the funding provisions for all of the now-obsolete environmental trust funds, and it requires that all future disbursements to the new set of environmental trust funds will come directly from the Land Acquisition Trust Fund. This was the primary goal of Amendment 1, which passed with nearly 75% of the vote in the November 2014 midterm elections. SB 586 was filed on January 30, and it has not yet been assigned to a committee.

SB 584

SB 584 covers the trust fund restructuring requirement of Amendment 1. It stipulates that documentary tax stamp funding will no longer be mixed with other sources of revenue and fees, and that the revenue from the documentary tax stamp will only be deposited into the Land Acquisition Trust Fund. SB 584 would also restructure or terminate a number of existing environmental trust funds, with the majority of those funds being consolidated into the Land Acquisition Trust Fund. SB 584 does not terminate any programs that currently receive state funding; it simply consolidates them into a smaller set of funds, which will ease the accounting and distribution process for those funds. SB 584 was filed on January 30, and it has not yet been assigned to a committee.

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Creation of New Land Acquisition Trust Funds

Four further bills filed by Senator Dean on January 30 will create several divisions of the Land Acquisition Trust Fund within the Agency for Persons with Disabilities, the Department of Agriculture and Consumer Services, the Department of State, and the Department of Transportation. Documentary tax stamp revenues deposited within the Department of Environmental Protection's Land Acquisition Trust Fund will be further appropriated to these trust funds, and from there they will be appropriated to various state environmental programs. This will allow every dollar deposited into the LATF at the DEP to be easily tracked to its final destination. Senate Bills 576, 578, 580, and 582 have been filed, but they have not yet been assigned to a committee.

Schedule for the Next Week

This coming week is primarily appropriations week. Thus, the Senate Appropriations committee will be primarily discussing budget proposals and tax revenues, while very few bills are scheduled to be discussed in committee.

2/9/2015

No meetings scheduled.

2/10/2015

Senate Appropriations Subcommittee on General Government will discuss funding initiatives for various state agencies.

Review of local funding initiatives in Senate Appropriations Subcommittee on General Government.

2/11/2015

Senate Appropriations Subcommittee on General Government will discuss current revenue appropriations from document tax stamp revenues and how the programs that receive those appropriations will be funded under Amendment 1.

Senate Appropriations Subcommittee on Education will discuss education budget for fiscal year 2015.

2/12/2015

Discussion of education budget in Senate Appropriations Subcommittee on Education.

2/13/2015

No meetings scheduled