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LAW OFFICES
PROFESSIONAL ASSOCIATION

2016 Session
Week 6 Report

The Legislature was back in full swing during week 6, with a full slate of committee meetings. The time is closing in on bills that have not been heard in committee, or have multiple committee references remaining. Also, both the Senate and House leadership have indicated that they are on track to resolve differences between both budgets, and are moving toward scheduling the budget conference. With three weeks left in Session, ample time remains, but at this point, neither the House nor Senate have named member conferees, nor has leadership assigned allocations to the appropriations subcommittees. The budget conference could begin as early as next week, week 7, and into the weekend of February 27th. Major funding differences remain in the areas of education funding, tax cuts, and economic incentives. Should you have questions or need further information on these issues, or issues not included, please contact us and we will provide that information.

Local Government Water Projects: This week, both the Senate and the House budget passed its respective house with $50 million allocated for water projects. Individual water project funding will not be finalized until late in the budget conference process.

- **Local Government Issues:** The following are bills filed that affect local governments. Should you have questions or need further information on any of these, our firm will provide that to you.

Indian Compact and Gaming Issues: SB 7072 and SB 7074 (Bradley) This week, the Senate Regulated Industry took its turn to consider the Indian compact and various issues relating to gaming in Florida. SB 7074 and SB 7072 accomplish the following:

- Ratifies the gaming compact, guaranteeing $3 billion over seven years in exchange for giving the tribe the exclusive right to operate blackjack, craps and roulette at its seven casinos
- Authorizes that IF two additional slots permits in Palm Beach and Miami-Dade counties, the tribe would not reduce its revenue share
- Provides for decoupling, which is the removal of the requirement that greyhound tracks, harness and quarter horse tracks and jai-alai permit holders operate their races and games in order to hold a card room or slots permit.
- Requires injury reporting at existing greyhound tracks within seven days of the injury
- Lowers the tax rate on slot machines from 35 percent to 30 percent
- Authorizes additional slots permits in Miami-Dade and Palm Beach
- Allows state regulators to use the proceeds from the gaming compact to spend up to $20 million to buy back inactive permits to contract/reduce the gaming footprint in Florida
- Authorizes slot permits to Brevard, Gadsden, Hamilton, Lee, Palm Beach and Washington Counties (which have already conducted voter-approved referenda to operate slot machines at their pari-mutuels).
- Authorizes the Governor to renegotiate a gaming compact with the Seminole Tribe to allow for the expanded games, in return for a lower revenue share than $3 billion.

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- Creates a $20 million annual purse pool financed by proceeds from the compact and another $25 million purse pool paid for by subsidies from the horse and greyhound tracks that operate slot machines but no longer conduct live races.

The House Regulatory Affairs committee met during week 5, and passed three committee bills, which are HB 7109, HB 7111, HB 7113. These bills are summarized in the week 5 report.

Transportation Network Companies (Uber, Lyft ride sharing services): HB 509 (Gaetz, M.) passed the full House during week 3, with a vote of 108 – 10, and is awaiting action in the Senate. HB 509 as passed, would take effect July 1, 2016, and was summarized in detail in the week 4 report.

Transportation Network Companies/Insurance: HB 1118, (Simmons), is the Senate TNC bill that at this time, only addresses insurance required of the company and drivers, and would take effect July 1, 2017. This bill:

- Specifies minimum insurance requirements for TNCs, and requires transportation network companies or drivers to maintain primary automobile liability insurance of at least $125,000 for death and bodily injury per person, $250,000 for death and bodily injury per incident, and $50,000 for property damage. The bill creates two time periods during which the insurance is required. The first time period is during the time when a driver is logged on to the transportation network company's digital network but not providing a prearranged ride. The second time period is during a prearranged ride.
- Requires TNC drivers to maintain liability insurance of at least $25,000 for death and bodily injury per person, $50,000 for death and bodily injury per incident, and $10,000 for property damage. Such coverage would apply at all times other than during a prearranged ride or when the driver is logged on to the TNC digital network but not providing a prearranged ride. The bill also requires that coverage meeting the requirements of the Florida Motor Vehicle No-Fault Law be maintained at all times.
- Preempts any local ordinances imposing insurance requirements on transportation network companies.
- Requires the TNC to provide an electronic notice to the TNC driver that it is illegal for a TNC driver to solicit or accept a ride if the ride is not arranged through the TNC's digital network; and if a TNC driver provides a ride not arranged through the TNC network, the ride is not covered by the TNC driver's or the TNC's insurance policy.

SB 1118 passed the Appropriations committee this week, with a vote of 11 – 2.

Public Corruption: HB 7071 (Workman) passed the full House on 1/27, and is awaiting Senate action. Please see prior reports for detailed summary.

Public Corruption: SB 582 (Gaetz) the Senate companion to the House bill, passed the Rules committee, with a vote of 11 – 0.

Government Accountability: SB 686 (Gaetz) CS/CS/SB 686 is an omnibus government accountability bill that would apply to local and state governments. The bill:

- Requires that, beginning in 2016, all elected municipal officers file the more detailed CE Form 6 financial disclosure with their qualifying papers for each year that they hold office.
- Requires local governmental entities to keep their final budgets, and any amendments thereto, on their website for a period of 2 years after adoption.
- Prohibits legislators from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act, if he or she knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the legislator's office or candidacy. A member who is employed by such an entity before his or her legislative service may keep his or her employment, however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of his or her legislative position. Additionally, such advancement, promotion, additional

compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee. For acceptance of future employment by legislators with such entity, several criteria must be met, including the position must already exist or be created without the knowledge or anticipation of the legislator's interest in the position, and the position must be open to other candidates.

- Includes changes to Florida's governmental ethics policies such as broadening the water management district lobbyist registration provisions to apply to many more special districts and applying post-employment lobbying restrictions to certain individuals with Enterprise Florida, its divisions, and the Florida Development Finance Corporation.
- Applies specific ethical standards and post-employment lobbying restrictions to corporations created or housed within the Department of Economic Opportunity (DEO) that are not currently covered by ethical standards.
- Extends the conflicting contractual relationship ban in s. 112.313(7)(a), F.S., to include contracts held by a business entity in which a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity.
- Amends Florida's criminal provisions relating to Bribery, Misuse of Public Office, Unlawful Compensation or Reward for Official Behavior, Official Misconduct, and Bid Tampering to replace the corrupt intent mens rea requirement with the knowingly and intentionally mens rea requirement. The bill also applies the crimes of Official Misconduct and Bid Tampering to "public contractors."
- Requires various governmental entities to adopt internal controls to prevent and detect fraud, waste, and abuse.
- Requires governmental entities to investigate claims of unauthorized compensation.
- Allows the Governor or Commissioner of Education, or their designees, to report that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency. The bill increases the Single Audit Act threshold from $500,000 to $750,000 and allows the Auditor General to review the threshold periodically and make appropriate recommendations to the Legislature. The bill makes changes to the financial reporting requirements and independent audit requirements. The bill specifies who can serve as members of the auditor selection committees for local governmental entities. The bill requires the Florida Virtual School to have an independent financial audit each year.

SB 686 has passed the committee on Community Affairs by a vote of 8 – 0, and will next be heard by the Appropriations committee.

Election Dates for Municipal Office: HB 7059 (Caldwell) The Florida League of Cities remains strongly opposed to this bill. This bill passed the House with a vote of 70 – 47, on 2/3.

The bill preempts to the state, the authority to establish the dates of elections of municipal officers and provides the exclusive method for establishing those dates. Any state law, municipal charter, or municipal ordinance that conflicts with the bill is superseded to the extent of the conflict. As a result, a municipality will no longer have authority to unilaterally establish the date of its municipal officer elections.

The House bill requires the date of elections for municipal officers to be established in accordance with one of the following options:

- Option 1: All elections of municipal officers in a county may be held on the same date as the general election in November of each even-numbered year or on the first Tuesday after the first Monday in November of each odd-numbered year, or both, as determined by the supervisor of elections (SOE);
  or
- Option 2: All elections of municipal officers in a county may be held on one alternative fixed date each year if the SOE and all municipalities within the county agree to the date and each municipality within the

county adopts the date by ordinance. Each ordinance must also provide the dates for qualifying for the election and the date on which the elected officers' terms of office commence.

The dates for elections of municipal officers may be selected under either Option 1 or Option 2, but not both.

Additionally, the provisions of the bill that establish the method of selecting municipal election dates do not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. Lastly, in order to provide for an orderly transition of office, the bill provides that the terms of incumbent elected municipal officers, affected by the change in election dates, will be extended to the next municipal election.

Election Dates for Municipal Office: The House bill has no Senate companion at this point, however, the League of Cities notes that the Senate Ethics and Elections Committee will be introducing a proposed committee bill (PCB), that would mirror the House bill language as summarized above. This PCB has not yet been released.

Gun Legislation: HB 163 (Gaetz, M.) The full House has passed a bill allowing individuals with concealed carry permits to carry guns openly, otherwise known as "open carry". Additionally, HB 163 was amended by Representative Wood to allow those with concealed carry permits, to take concealed weapons into the legislative chambers. The vote was 72 – 43 on this specific amendment language. Also, amendments were passed that would allow public hospitals to prohibit open carry, and that would allow those with concealed carry permits to take guns on university and college campuses. The Senate President and various key Senate members have voiced strong concern about some of these provisions. Senator Diaz de la Portilla has definitively said this week that as these bills have been referred to his committee, Judiciary, he will not hear them.

Election of Officers: HJR 165 (Artiles) proposes to amend the State Constitution to require that the offices of sheriff, property appraiser, supervisor of elections, tax collector, and clerk of the circuit court, would be elected offices, and would carry four year terms of office. The joint resolution was amended in its first committee to include tax collector, and to specifically clarify that the proposed constitutional amendment is applicable to all counties, including Miami-Dade County. Lastly, the HJR was amended to delay implementation until January 8, 2019, so that the affected counties would have time to amend their charters and hold elections.

The Senate companion, SB 648 (Hutson) was temporarily postponed in committee. We continue to work with members and the bill sponsor in both houses, to strongly oppose this bill, and subsequently the Senate bill has not had a hearing to date.

Traffic Infraction Detectors (Red Light Cameras): SB 168 (Brandes) which repeals the use of red light cameras, was passed by the Transportation committee with a vote of 4 – 3. The bill was amended in committee to change the effective date to July 1, 2019, in order to allow for current contracts with municipalities to expire. However, the bill is next assigned to be heard by the Transportation and Economic Development Appropriations subcommittee, Chaired by Senator Latvala, and the bill is not likely to be heard.

HB 4027 (Artiles) is the house companion bill. This bill passed full Appropriations committee with a vote of 15 – 12, on 2/16.

Drones: SB 642 (Diaz de la Portilla) and HB 459 (Fitzenhagen) these bills provide for liability for injury to a person or property damage in this state for the negligent operation of a drone..

SB 642 passed the Rules committee, 12 – 1, on 1/27 and the House companion, HB 459 has not been heard to date.

Drone Use by Sexual Predators: SB 510 (Hukill) and HB 1301 (Metz) would create a third degree felony for convicted sexual predators who use or operate a drone to view or record an image of a minor.

SB 510 has not been heard to date.
HB 1301 passed the Justice Appropriations Subcommittee 8 – 0.

Body Cameras/Law Enforcement Officers: HB 93 (Jones) and SB 418 (Smith) Requires law enforcement agencies that permit law enforcement officers to wear body cameras, to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data. The policies would be required to include the following:

- Guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on which law enforcement officers are permitted to wear body cameras;
- Any limitations on law enforcement-related encounters in which law enforcement officers are permitted to wear body cameras; and
- Guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.
- Training for use and storage of camera, and use and maintenance of data.

SB 418 will be heard in Fiscal Policy, 2/24.
HB 93 passed the Judiciary committee 17 – 0, on 2/4.

Natural Gas Rebate Program: SB 90 (Simpson) CS/SB 90 authorizes the Department of Agriculture and Consumer Services (DACS) to receive applications for additional rebates from the natural gas fuel fleet vehicle rebate program, giving preference to governmental applicants. Any remaining funds may be expended for commercial applicant rebates.

SB 90 has passed the Senate with a vote of 39 – 0, and the House companion bill, HB 285 (Ray) passed its last committee of reference this week, Regulatory Affairs, with a vote of 12 – 1. Additionally, there is $6 million allocated in both the House and Senate budgets to implement this rebate program. (line item #1367 in the Senate proposed budget, line item #1367 in the House proposed budget).

Fracking / Regulation of Oil and Gas: HB 191 (Rodrigues) passed the House on 1/27 with a vote of 73 – 45, but has met with resistance from the Senate, and is awaiting a hearing in the Senate Appropriations committee. Senator Lee, the chair of that committee has said that he would expect the Department of Environmental Protection (DEP) to attend and be available to answer questions regarding the science of the fracking process and impact, however, they were not at the previous committee.

HB 191 and SB 318 (Richter) in sum, would preempt to the state, all matters relating to the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas. Additionally, it directs DEP to conduct a study analyzing the potential impacts that high-pressure well stimulations may have on Florida's underlying geologic features. The bill prohibits permits for high-pressure well stimulations from being issued until the DEP adopts rules regulating high-pressure well stimulations and such rules take effect. Currently, 31 counties and 46 cities have passed ordinances or resolutions banning or opposing fracking.

The Senate Appropriations committee meets on February 25th and again on March 1st, but it is unclear at this time if the bill will be on the agenda. The February 25th agenda will be released late Monday or on Tuesday.

Florida Retirement System (FRS): Several bills address the Florida Retirement System, and are summarized below.

SB 7012 (Governmental Oversight and Accountability) a committee bill, this authorizes payment of death benefits to the surviving spouse or children of a Special Risk Class member killed in the line of duty. SB 7012 has passed the Senate 40 – 0.

HB 7107 (Caldwell, Artiles) would provide for the following:

- Effective July 1, 2016, the bill authorizes renewed membership in the investment plan for retirees of the investment plan, the SMSOAP, the SUSORP, or the SCCSORP (Senior Management Service Optional Annuity Program, the State Community College System Optional Retirement Program, and the State University System Optional Retirement Program).
- Effective July 1, 2016, the bill establishes new survivor benefits for members of the investment plan who are killed in the line of duty, as in SB 7012. It provides the same survivor benefits to the spouse and children of such member as those currently provided for pension plan members who are killed in the line of duty. The bill also provides the survivor benefits for any member of the investment plan who has been killed in the line of duty since 2002, when members were first allowed to participate in the investment plan. It also provides a process for calculating the retroactive benefit.
- Effective July 1, 2017, the bill changes the default from the pension plan to the investment plan for members who do not affirmatively choose a plan.

HB 7107 has passed the Appropriations committee with a vote of 16 – 9, and is now available to be heard by the full House.

HB 5005 (Corcoran) this House Appropriations committee bill revises the required employer retirement contribution rates for members of various membership classes and subclasses of FRS and the bill revises employer assessment to offset costs of administering investment plan.

For the extensive list of revised rates, please refer to amendment bar code 709216:
http://www.flsenate.gov/Session/Bill/2016/5005/Amendment/709216/PDF

HB 5005 has passed the full House with a vote of 114 – 0, was amended in the Senate, and passed the Senate with a vote of 40 – 0. This amended version must now be heard by the House.

SB 7014 (Governmental Oversight and Accountability committee) and **HB 881** (Raulerson) reestablishes renewed membership in the FRS. Currently, retirees initially employed in a regularly established position on or after July 1, 2010 are not eligible for renewed membership and would not earn creditable service toward a subsequent retirement benefit. This bill provides for renewed membership beginning on July 1, 2016.

SB 7014 has passed two of three committees and would need to be heard in Appropriations, and similar provisions are in HB 7107. HB 881 has not been heard, however various provisions in this bill can be found in the FRS bills listed above.

Immigration: Several bills address immigration issues this Session, and are summarized below.

Sanctuary Cities/Federal Immigration Enforcement HB 675 (Metz) and SB 872 (Bean) in sum, creates the "Rule of Law Adherence Act" which would require state and local governments and law enforcement agencies, including their officials and employees, to support and cooperate with federal immigration enforcement.

Specifically, the bill prohibits state or local governments, or law enforcement agencies, from having any law, policy or practice of any kind, which impedes immigration enforcement, and requires state and local governmental entities and law enforcement agencies to comply with and support immigration policy. The bill requires any sanctuary policies currently in effect, to be repealed within 90 days of the effective date of this Act.

HB 675 has passed all of its committees in the House and passed the full House with a vote of 80 – 38. However, the Senate companion bill, SB 872 (Bean) will not be heard in the Senate, according to Senator Diaz de la Portilla, who chairs its first committee of reference, the Senate Judiciary committee.

Persons Subject to Final Deportation Orders: HB 9 (Trujillo) and SB 118 (Hutson) would create a felony of the first degree for anyone who remains in the state after an order of deportation.

HB 9 has passed two of its three committees of reference. However, regarding the senate companion bill, this week, Chairman Diaz de la Portilla of the Senate Judiciary committee, has said that he will not hear SB 118.

Temporary Cash Assistance Program: SB 750 (Hutson) and HB 563 (Gaetz, M.) relates to immigration issues, makes changes to the eligibility standards for TANF, by deleting the requirement that the department pro-rate a share of income provided by a parent, that is an illegal or an ineligible noncitizen, in determining family income eligibility for TANF. This bill would allow the department to consider the total family income regardless of whether one parent is a noncitizen.

SB 750 has passed one of its three committees of reference. HB 563 has passed all of its committees and is awaiting action by the full House.

KidCare/ Medical Assistance Funding for Lawfully Residing Children: SB 248 (Garcia CoSponsors: Gaetz (D), Soto) and HB 89 (Diaz, J.) extends Medicaid and Children's Health Insurance Program (CHIP) eligibility to a "lawfully residing child" who is not a citizen or national of the United States but meets other applicable eligibility qualifications of Medicaid or CHIP. The federal programs permit states the option of covering this population. The bill defines "lawfully residing child" to conform to the federal program eligibility requirements and deletes references to "qualified alien." The bill specifies that the statutory changes do not extend Kidcare program eligibility or Medicaid eligibility to undocumented immigrants.

SB 248 has passed two of its three committees of reference and HB 89 has passed all of its committees of reference and is now ready for action by the full House.