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LAW OFFICES
PROFESSIONAL ASSOCIATION

2016 Session
Week 7 Report

Late Friday of week 7, the budget conference began, and meetings continued through Saturday, ending for the day after 8:00 pm, and continued all day Sunday into the evening. Several issues have been settled, the House and Senate have agreed there will be no incentives package, something the Governor has pushed as a high priority this Session. Early on, the Governor's legislative priority of a $250 million tax incentive package, was met with skepticism from House leaders, who questioned the efficacy of incentives and the role in the free market. During Session, the Senate diligently worked through various incentives, and were poised to put a package together for conference. At the beginning of conference, however, the Senate leadership changed direction, compromised with the House, and took incentives off the table. At the time of this writing, though the budget conference is not complete, the status of the incentives package is not likely to change.

Additionally, the tax cut package has not been finalized, and as it stands, leadership has agreed to a total package of $400 million, which is significantly less than the Governor's request for $1 billion in tax cuts. The tax cut package which passed the House previously, is scheduled to be heard and substantially amended on 3/1 in the Senate Appropriations committee.

Significant budget areas that remain unresolved include education and environmental issues. In education, the House and Senate disagree on funding for high-performing state universities and on spending for the "Best and Brightest" public school teacher bonuses, which are based on teachers' college admissions test scores among other qualifiers. More minor issues remain unresolved in other subcommittee areas, such as Criminal Justice, Transportation, and Economic Development. The conference committee process is expected to continue through the end of week 8.

Water Projects: Both the Senate and the House budget still include $50 million allocated for water projects. Individual water project funding have not yet been addressed, but are expected within the next few days.

- **Local Government Issues:** The following are bills filed that affect local governments. Should you have questions or need further information on these issues, or issues not included, please contact us and we will provide that information.

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 passed the Senate with a vote of 39 – 0, and the House companion bill, HB 285 (Ray) passed all of its committees, but has not been heard by the full House to date.

Fracking / Regulation of Oil and Gas: HB 191 (Rodrigues) passed the House on 1/27 with a vote of 73 – 45, and the Senate companion, SB 318 (Richter) was heard but failed by a vote of 9 – 10 in the Senate Appropriations

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committee. Through a rules maneuver, this bill was brought back by a motion to reconsider, and was left pending. The bill has been put back on the agenda for Senate Appropriations for 3/1.

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.

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.

Government Accountability: CS/CS/SB 686 (Gaetz) is an omnibus government accountability bill, which does the following:

- 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 certain 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.
- 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.
- 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 local governmental entities to keep their final budgets, and any amendments thereto, on their website for a period of 2 years after adoption.
- 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 not yet been scheduled for a hearing by its last committee, Appropriations.

Election Dates for Municipal Office: HB 7059 (Caldwell) The Florida League of Cities remains strongly opposed to this bill. This bill has passed the House with a vote of 70 – 47, on 2/3. The House bill has no Senate companion at this point, and it was expected that the Senate would address this bill, but to date, no companion has been released.

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.

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.

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.

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