



FROM THE HALLS OF THE CAPITOL A REPORT FROM TALLAHASSEE



AGC Alabama Northwest Florida Section

**Prepared by R. Bruce Kershner, Government Relations Director
February 11, 2018**

Week Five Legislative Report

Dollars May Not Derail Budget

On Thursday, the Florida House and Senate approved their rival versions of a new \$87 billion state budget. Legislators will now have the next month to work out the differences. The annual session is scheduled to end on March 9. Lawmakers are actually a week ahead of schedule in completing work on their respective budgets...and they may need that extra time. Only \$100 million separates the two chambers, chump change when compared to the overall budget dollars. The stumbling block is not the dollars but a potential procedural clash between the two chambers. The House passed a major education bill, including a voucher-like program for bullied students and directly linked the legislation to its budget plan. But the Senate has, at least initially, declined to accept the House education bill as part of the budget negotiation process.

A surge in building due to the hurricane-recovery and a change in the way the state collects gambling payments from the Seminole Tribe will give lawmakers a little fiscal wiggle room as they negotiate; that and a slight positive adjustment by state budget analysts on Friday which raised estimates for revenue collections by almost \$500 million.

Gaming Back on the Table

As we enter the final weeks of the annual Legislative Session, there's a big question out there . . . can legislators cut a deal on gambling in the Sunshine State? Gambling is technically illegal in Florida, but it's allowed at casinos owned by the Seminole Tribe of Florida, and it's also allowed at dog and horse tracks scattered throughout the state. In the last several years, legislators have considered several gambling proposals, including ones that would allow new casinos in South Florida. Those bills have not made it to the finish line because each year there's been huge

disagreements among the tribe, track owners and those who don't want any more gambling in the state.

Gubernatorial Debate?

He may not have officially announced his candidacy for governor, but House Speaker Richard Corcoran is scheduled to have a debate with Democratic gubernatorial candidate, Tallahassee Mayor, Andrew Gillum. They will face off Tuesday, February 13 at 8:00 p.m. in the Florida Internet and Television studio in Tallahassee. The debate will be moderated by Bay News 9's Troy Kinsey and will last 45 minutes.

Looking Ahead to Week Six

Lawmakers are rolling into the final four weeks of the nine-week annual Legislative Session with lots of work still in front of them. If you slept through the first half of the 2018 Legislative Session, don't worry . . . you didn't miss much. Only four (4) bills have passed both chambers and await the Governor's final action. The assignment of Benefits (AOB) issue continues to cling to life. The House passed reform legislation that generally has support from the insurance industry, while the Senate Banking and Insurance Committee has moved legislation generally supported by the state's trial bar. Both chambers' bills appear doomed in the opposite chamber unless a deal can be reached in the final weeks of Session.

AGC Amendment Goes on Senate Bill 784

The construction bond bills filed on behalf of Associated Builders and Contractors had a few provisions in them that were related to bond litigation and amended Chapter 627, the insurance code. These were provisions that opponents objected to and told **Senator Steube**; and on Tuesday, February 6, those two provisions were amended to **SB 784** by Senator **Jeff Brandes**. Although a similar bill sits on the House Calendar, the **Brandes** bill still has three committee references to go before reaching the Senate calendar.

Update on Other Bills in Play

Use of Wireless Communications Devices While Driving/Texting While Driving

(CS/CS/HB 33 by Toledo/CS/SB 90 by Perry)

As the bills stand now, they both make texting a primary offense and are similar but not identical. The House bill has provisions not in the Senate bill that specify what actions by law enforcement would require a warrant. The Senate bill has language that requires deposit of fines into the Emergency Medical Services Trust Fund which is not in the House bill. Both bills now require law enforcement agencies to track the ethnicity of violators and report same to the Department of Highway Safety & Motor Vehicles who must make an annual report to the Governor, Senate President and House Speaker beginning February 2019. Obviously, the differences in the bills will have to be resolved for the bills to pass. Word from the Don't TXT and Drive Coalition is that the Senate will accept the House bill, but we will see how that goes.

STATUS: **CS/CS/HB 33** is on the House Calendar. **CS/SB 90** has been referred to the by

Senate Communications, Energy, and Public Utilities Committee; Transportation Committee; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations Committee. The bill remains in the Senate Appropriations Committee, its last committee reference. No movement on either of the bills during the fifth week of Session.

Impact Fees

(CS/CS/HB 697 by Young/ CS/SB 324 by Young)

These Florida Home Builders Association supported bills, which would rein in the assessment and collection of impact fees, are in good position.

STATUS: **CS/CS/HB 697** has been referred to the House Local, Federal and Veterans Affairs Subcommittee; Ways and Means Committee; and Government Accountability Committee. The bill unanimously passed the House Government Accountability Committee, its last committee reference, on Thursday, February 8 on a vote of 20-0. The bill now goes to the House Calendar. **CS/SB 324** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. The bill remains in the Senate Appropriations Committee. No movement on the Senate Bill during the fifth week of Session.

Statute of Limitations for Actions Relating to Real Property Improvement

(CS/CS/HB 875 by Leek/CS/CS/SB 536 by Passidomo)

These ABC supported bills make additional changes to the statute of limitation for latent defects and create time periods for commencement of counterclaims, cross-claims and third-party claims.

STATUS: **CS/CS/HB 875** has been referred to the House Civil Justice & Claims Subcommittee; and Judiciary Committee. The bill unanimously passed the House Judiciary Committee, its last committee reference, on Wednesday, February 7 on a vote of 20-0. The bill now goes to the House Calendar. **CS/CS/SB 536** has been referred to the Senate Judiciary Committee; Community Affairs Committee; and Rules Committee. The bill unanimously passed the Senate Community Affairs Committee on Tuesday, February 6 on a vote of 6-0. The bill goes to the Senate Rules Committee, its last committee of reference.

Regulatory Reform-Licensing

(CS/HB 1041 by Plakon/CS/SB 1114 by Brandes)

These bills specify licenses that can be obtained after certain specified time periods have lapsed since the conviction or determination of guilt. The professions included are cosmetology and barbers, construction contractor in the subtrades and specialty contractors and nursing assistants. The bills allow a person to apply to the respective board for a declaratory statement as to whether they are eligible for licensure and create procedures and time periods.

STATUS: **CS/HB 1041** has been referred to the House Careers and Competition Subcommittee; Local, Federal and Veterans Affairs Subcommittee; and Commerce Committee. The bill remains in the House Local, Federal and Veterans Affairs Subcommittee. **CS/SB 1114** has been referred to the Senate Regulated Industries Committee; Commerce and Tourism Committee;

Appropriations Committee; and Rules Committee. The bill passed the Senate Commerce and Tourism Committee on Tuesday, February 6 on a vote of 3-2. The bill now goes to the Senate Appropriations Committee. No movement on the House Bill during the fifth week of Session.

Regulatory Reform-Red Tape Reduction Act

(HB 791 by M. Diaz/SB 1268 by Perry)

These bills would create the Red Tape Reduction Advisory Council under the Executive Office of the Governor, consisting of members appointed by the Governor, House Speaker and Senate President. A baseline for the number of administrative rules in existence on January 1, 2019 would be established and an agency could not adopt an additional rule without repealing an existing rule. The council shall: (a) Annually review the Florida Administrative Code to determine whether any rules are duplicative or obsolete, are especially burdensome to businesses within the state, disproportionately affect businesses with fewer than 100 employees or disproportionately affect businesses with annual revenue below \$5 million. If the council determines that a rule meets at least one of these criteria and can be repealed or amended with minimal impact on public health, safety and welfare, the council shall recommend repealing or amending the rule.

STATUS: **HB 791** has been referred to the House Oversight, Transparency & Administration Subcommittee; Appropriations Committee; and Government Accountability Committee. The bill passed the House Appropriations Committee on Tuesday, February 6 on a vote of 18-8. The bill goes to the House Government Accountability Committee, its last committee reference. **SB 1268** has been referred to the Senate Governmental Oversight and Accountability Committee; Appropriations Subcommittee on General Government; and Appropriations Committee. No movement on the Senate Bill during the fifth week of Session.

Business Filings

(CS/HB 661 by M. Miller/CS/SB 610 by Young)

These bills would require the Department of State to create a notification program by December 31, 2018 to combat fraudulent filings of business and corporate records.

Status: **CS/HB 661** has been referred to the House Oversight, Transparency and Administration Subcommittee; Transportation and Tourism Appropriations Subcommittee; and Government Accountability Committee. The bill is scheduled to be heard by the House Transportation and Tourism Appropriations Subcommittee on Tuesday, February 13 at 12:30 p.m. **CS/SB 610** is on second reading on the Senate Calendar. No movement on either of the bills during the fifth week of Session.

Notaries Public

(CS/HB 771 by J. Grant/SB 1042 by Brandes)

These bills create new sections of statute with respect to electronic notarization. They allow an individual and witnesses to appear “in person” via computer audio-video communication technology and specify detail as to validations, forms and other requirements.

STATUS: **CS/HB 771** has been referred to the House Civil Justice & Claims Subcommittee; Transportation & Tourism Appropriations Subcommittee; and Judiciary Committee. The bill remains in the House Transportation & Tourism Appropriations Subcommittee. **SB 1042** has been referred to the Senate Judiciary Committee; Governmental Oversight and Accountability Committee; and Rules Committee. The bill remains in the Senate Governmental Oversight and Accountability Committee. No movement on either of the bills during the fifth week of Session.

Theft

(CS/HB 713 by Donalds and Alexander/CS/SB 928 by Bracy)

These bills raise the threshold for third degree felonies and make other changes to theft statutes.

STATUS: **CS/HB 713** has been referred to the House Criminal Justice Subcommittee; Justice Appropriations Subcommittee; and Judiciary Committee. The bill remains in the Senate Judiciary Committee, its last committee reference. **CS/SB 928** has been referred to the Senate Criminal Justice Committee; Judiciary Committee; and Rules Committee. The bill remains in the Senate Rules Committee, its last committee reference. No movement on either of the bills during the fifth week of Session.

Workers' Compensation

(HB 7009 by Commerce Committee and Burgess)

The business community and workers' compensation coalition do not believe the bill goes far enough to make a substantial difference in the anticipated rate hikes. The bill repeals caps put in place in 2003, requires the existing medical reimbursement panel to move to annual adoption of maximum reimbursement allowances, extends timeframes in which employees may receive certain workers' compensation benefits and in which a carrier must notify a treating doctor of certain requirements and revises provisions relating to retainer agreements and awarding attorney fees. It also allows the Judge of compensation claims to deny a claim if the claimant or claimant's attorney did not make a good faith effort to settle the claim out of court.

STATUS: **HB 7009** was received by the Senate and referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. No movement on the bill during the fifth week of Session.

Property Insurance (Assignment of Benefits (AOB))

(HB 7015 by Trumbull/SB 62 by Hukill/SB 256 by Farmer/SB 258 by Farmer/CS/CS/SB 1168 by Steube)

Although some similar concepts are addressed in both bills, they remain substantially different and substantial compromise would have to occur for anything to pass.

STATUS: **HB 7015** was received by the Senate and referred to the Senate Banking and Insurance Committee; Judiciary Committee; and Rules Committee. **SB 62** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 256** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 258** has been referred to the Senate Banking and

Insurance Committee; Appropriations Committee; and Rules Committee. **CS/CS/SB 1168** has been referred to the Senate Banking and Insurance Committee; Judiciary Committee; and Rules Committee. The bill passed the Senate Judiciary Committee on Tuesday, February 6 on a vote of 7-3. The bill goes to the Senate Rules Committee, its last committee reference. No movement on any of the bills except **CS/CS/SB 1168** during the fifth week of Session.

Small Business Participation in State Contracting

(SB 114 by Campbell)

This is the same legislation filed for several years by **Senator Campbell**. It would require state agencies to break contracts into smaller pieces to allow for smaller contractors to bid. It would require 35% of the agencies contracts to be awarded to small contractors, and it would prohibit requiring bonds for contracts under \$500,000. This is legislation we have opposed and will continue to do so. At present, there is no House companion bill.

STATUS: **SB 114** has been referred to the Senate Governmental Oversight and Accountability Committee; Appropriations Subcommittee on General Government; and Appropriations Committee. No movement on the bill during the fifth week of Session.

Permit Fees

(CS/CS/CS/HB 725 by Williamson/CS/SB 1144 by Perry)

These bills require permitting and inspection fees to be published on the local government's website and require justification through specific reporting prior to raising the fees

STATUS: **CS/CS/CS/HB 725** is on the House Special Order Calendar on Wednesday, February 14. **CS/SB 1144** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. The bill unanimously passed the Senate Appropriations Subcommittee on Finance and Tax on Monday, February 5 on a vote of 5-0. The bill goes to the Senate Appropriations Committee, its last committee reference. No movement on the House Bill during the fifth week of Session.

Bills Dead for the Session

Construction Defect Claims

(HB 759 by Trumbull/SB 680 by Passidomo)

Last week, I said these bills were in trouble. This week, I am going to pronounce them dead.

STATUS: **HB 759** has been referred to the House Civil Justice & Claims Subcommittee; and Judiciary Committee. The bill was scheduled to be heard by the House Judiciary Committee, its last committee reference, on Wednesday, February 7; however, the bill was TPed for the second time. **SB 680** has been referred to the Senate Judiciary Committee; Commerce and Tourism Committee; and Rules Committee. No movement on either of the bills during the fifth week of Session.

Construction Bonds

(HB 723 by McClain/CS/SB 908 by Steube)

The bills would have required notice of nonpayment to be verified along with notice of nonpayment requirements. The bills would have also provided that claimant or lienor who serves fraudulent notice of nonpayment shall be deprived of rights under bond.

STATUS: **HB 723** was not heard by a committee of reference. **CS/SB 908** was heard by one committee of reference.

Direct Purchases of Tangible Personal Property by Contractors

(HB 715 by Leek/SB 1108 by Young)

The bill would have authorized governmental entities to allow specified entities to use its certificate of entitlement of exemption for certain tangible personal property. It would have also provided procedures for allowing such use and require a letter of authorization to specify issues regarding risk of damage or loss of property.

STATUS: Both bills were never heard by one committee of reference.

Actions Against Contractors without Required Insurance Coverage

(HB 89 by Spano/SB 604 by Steube)

The bills would have provided that contractors who fail to carry required insurance may be personally liable for damages that would have been covered by such insurance.

STATUS: **HB 89** was heard by one committee of reference. **SB 604** was not heard by any committee of reference.

Electrical Contractors

(HB 295 by Mercado/SB 446 by Gibson)

This effort by labor unions to strengthen journeyman requirements was never heard.

STATUS: Both bills were never heard by one committee of reference.

Florida Building Commission

(HB 299 by McClain)

This bill would have pared down the number of building commission members.

STATUS: **HB 299** was heard by one committee reference; however, there was no Senate companion.

Opened and Expired Building Permits

(HB 1077 by /SB 1322 by Powell)

These bills would have authorized the Construction Industry Licensing Board to take actions against any contractor, construction business or financially responsible officer if found guilty of failing to properly close any permit or satisfy any applicable permit requirement. It also required

the Florida Building Commission to adopt rules and amend the applicable Florida Building Code to enact procedures designed to encourage property owners and contractors to close permits properly.

STATUS: Both bills were never heard by one committee of reference.

Annual Business Organization Reports and Fees

(HB 373 by M. Grant/SB 1228 by Hukill)

These bills would have changed corporate annual reporting to bi-annual reporting.

STATUS: **HB 373** was never heard by a committee of reference. **SB 1228** was heard by one committee of reference.

To view and print the above bills from this week's Legislative Report, please go to either www.floridahouse.gov or www.flsenate.gov. Other legislative information can be found by going to www.leg.state.fl.us. If you have any questions or need additional information, please contact me at rbkershner@att.net.