

Broward SLI

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Destination Resort Gaming Workshop

On Wednesday morning, casino representatives and lobbyists converged in the Senate Regulated Industries Committee, where a workshop focused solely on SB 710, was undertaken. The bill's sponsor, Sen. Bogdanoff, introduced the event with an historical perspective on gaming in the state, including the lottery and tribal casinos. Sen. Bogdanoff reminded the audience that during the 2010 Seminole Compact debate, she warned against offering a monopoly to the Seminoles; that, while she would prefer to see gambling eliminated entirely, the state has no regulatory authority over the tribes; and that as a result, this bill should be viewed as an effort to craft a "strategic vision" for gaming in Florida. The sponsor's consistent mantra, throughout the workshop was that this bill is a vehicle for reforming gaming and creating consistency.

The State Gaming Commission envisioned under the bill would be stationed in South Florida and replace the Pari-mutuel Gaming Commission, while morphing with the Florida Lottery. While pari-mutuel parity issues were discussed, it is clear that the bill's sponsor is looking for direction from the legislative body as a whole, before designing an approach. Sen. Bogdanoff offered a context for the present predicament, stating that whatever competitive disadvantage exists resulted from the industry dictating terms to the legislature and insisting on placing slots on the ballot.

Genting, Churchill Downs/Isle of Capri casinos, Sands, MGM and Wynn all made formal (20-minute) presentations before the committee. Senators asked a wide variety of questions and sought clarification on: impact to the Seminole Compact; job creation figures; market saturation and ability for South Florida to accommodate three Destination Resorts; constitutionality of having separate tax rates; willingness to pay property taxes; pari-mutuel parity; and diversity within the industry (Sen. Siplin requested a report detailing women-, and minority-ownership and employment information before the next committee hearing in December).

Genting indicated that they would be willing to guarantee certain employment projections (including the percentage of minorities hired at 20%) and underwrite 50% of certain international, nonstop flights into Miami International Airport. Furthermore, Genting described their business model as one of "export" (i.e., focused on attracting clientele from other regions to the destination) and dismissed any notion that they would be unable to attract the visitors and generate the revenue contemplated in their presentation. Churchill Downs/Isle of Capri urged the legislature's consideration of parity, arguing that racinos benefit from a truly "free market" model. Additionally, the presenter reiterated that asking existing facilities to make \$2B investments in order to access the tax benefits proposed in the bill was unreasonable and unfair. Sands focused

on their involvement in the communities where they have a presence and the owner's commitment to philanthropic ventures—including drug rehabilitation. When asked whether they could support parity for the pari-mutuels, Sands indicated they anticipated parity in Florida legislation and "planned accordingly." Sands implored the committee to move cautiously, citing the disparities in the market analyses presented to the members. MGM described its business model as being focused on convention and leisure revenues (currently generating over 60% of the company's profits) and reminded the audience that while the bill may be written to allow other counties, like Gadsden, to pass referenda allowing slots (and thus be permitted to host a Destination Resort), the only geographical market that could support a \$2B investment is South Florida. Wynn expressed its view that the South Florida market could easily sustain three resorts, and that their business model assumed benefit from similar resorts, located in close proximity.

After over two hours of audience testimony and additional committee member discussion, the Chair articulated the next steps for the bill. At the December Senate Regulated Industries meeting, another workshop on the bill will be scheduled, where the impact to the Seminole Compact will be explained at the outset. Sen. Rich requested that Amy Baker, Director of the Legislature's Office of Economic and Demographic Research, be present to justify her fiscal and market saturation analysis. It is the Chair's intent, with the stated support of the Senate President, to take this bill up the first week session, amend it, and vote it out of committee.

Metropolitan Planning Organizations

A draft bill relating to the Department of Transportation has been released and is being sponsored by Sen. Latvala who has indicated a willingness to work with Broward to address some concerns with the bill. Specifically, the bill requires urbanized areas with multiple Metropolitan Planning Organizations to submit one combine project priority list beginning in 2013.

On November 15, the Board added to the 2012 State Legislative Program opposition to requiring urbanized areas with multiple Metropolitan Planning Organizations to submit one combine project priority list beginning in 2013.

The bill also includes the following Port-related economic development items:

- \$35 million per year shall be made available to fund Strategic Port Investment Initiative.
- \$15 million per year for the Florida Seaport Transportation and Economic Development grant program.

The Office of Intergovernmental Affairs and Professional Standards (OIAPS) will continue to work with the sponsor and other members of the Legislature to ensure the County is not negatively affected by this legislation.

Local Business Tax Receipts

On Wednesday, the House Finance and Tax Committee held a workshop on HB 4025, relating to Local Business Taxes sponsored by Rep. O'Toole. The bill, as it is currently written, repeals chapter 205, F.S., the "Local Business Tax Act." The workshop, along with member questions, provided a history of the Local Business Tax in Florida, first instituted in 1972 as the Occupational License Tax and why the sponsor wishes to repeal the tax.

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The discussion focused on the need to assist small businesses in tough economic times and the perceived need to reduce business taxes to help create more jobs; although, some members of the committee indicated that their annual Business Tax Receipt payment for their personal businesses was only \$55 per year. A total of 35 counties reported receiving \$32 million per year (2.9% of taxes and .1% of total revenue) with 269 municipalities taking in \$127 million per year (9.2% of all taxes and .5% of total revenue).

The Local Business Tax Receipt (LBTR) in Broward County is used in the budget process as a contributing component to the General Fund and as the majority portion of income for the Broward Alliance <http://www.gflalliance.org/>.

The historical allocation of the LBTR amount collected is as follows: The County's cost and fees are subtracted from the total amount collected with the remaining amount being allocated to the Broward Alliance (33%) and the municipalities (66%). As part of the new unofficial contract with the Broward Alliance, there will be an 80/20 split of the current 33% allocation between the Alliance (80%) and the County (20%). In other words, the Alliance will receive 26.4% and the County's allocation will be 6.6%.

Budget projections for LBTR are based on the prior fiscal year's revenue as well as historical performance. If the LBTR is repealed effective July 1, 2012 then fiscal years 2012 and 2013 will be impacted along with future years.

The repeal would eliminate approximately \$1.7 million in revenue, for both County and the Alliance, and \$1.7 million for the municipalities, a substantial negative impact on Broward County's budget, as well as the budgets of the municipalities within Broward County. The Office of Intergovernmental Affairs and Professional Standards is closely monitoring this bill.

Economic Development

The Transportation & Economic Development Appropriations Subcommittee met on Tuesday to hear a presentation by Enterprise Florida on the state's business Incentives and job creation overview. Mr. Swoope, President and CEO of Enterprise Florida (EF), began with an update on EF's incorporation into the new Department of Economic Development (DEO) and moved into an historical analysis of Florida's numerous economic development incentive programs intended to create jobs and bring much needed commerce to the state.

Florida currently has eleven (11) economic development incentive programs, with 1,622 incentives approved since 1995. In a defensive posture, due to reports that companies were taking incentive money and not producing the required results from tax-payer funding incentives, the DEO will deliver to the Legislature an incentive report, due December 30, 2011, that is expected to outline the results of the over 1,622 incentives. Six percent (2% of total) have been renegotiated and members want to know if the money is being used appropriately.

The most popular incentive program is the Qualified Target Industry (QTI) Tax Refund, intended to create high wage jobs in targeted high value-added industries. The QTI is structured so that no cash is paid up front, only in arrears. They are performance based incentives with 1,047 projects with a projected 80,870 jobs created. Analysis appears to indicate that it works well: creating jobs, hitting wage benchmarks. Meanwhile, since 2007 through 2011, statistics show Florida is creating fewer jobs for twice the money.

The staff of the committee tried to segregate data and remove the effects of the

recession; trying to control for projects that were not completed appropriately or are without an executed contract—less than a quarter of all projects that had executed contracts have been completed. Under QTI, there is no allocation of dollars until a project is shown to be performing. Sen. Sobel requested that more specifics be offered about the names of companies, types of jobs, jobs by year, etc. benefitting from QTI payments. Sen. Gaetz agreed and asked that the agency develop a website to enhance transparency.

Other incentive programs discussed include:

- The Quick Action Closing Fund (QACF), intended to spur new job creation in target industries, has 95 total projects, with a reported 14,034 jobs created. It is budgeted at \$18.1 million in FY 2011-12.
- The Economic Development Transportation Fund (Road Fund): intended to alleviate transportation impediments that adversely impact a company's location or expansion decisions, has 166 projects and a total state investment of \$115 million (they do not count the number of jobs created). It is budgeted at \$14 million in FY 2011-12.
- The Brownfields Redevelopment and Bonus Tax Refund Program, intended to spur new job creation and investment in blighted or environmentally contaminated areas, is budgeted at \$1.5 million in FY 2011-12.
- The Local Government Distressed Area Matching Grant Program intended to spur new job creation and capital investment in Florida's distressed areas and assists local governments in attracting and retaining targeted businesses.

Criminal Justice

Juvenile Justice and Inmate Reentry

In the Senate Criminal Justice committee, Thursday, two bills were postponed (TPd)—SB 506, relating to Parole and SB 426, relating to Elderly Inmates, by Sen. Smith. The committee heard SB 504, giving the Department of Juvenile Justice discretion in determining whether, and how much (up to \$5000 is authorized), to pay to a family of a youth who dies in the Department's custody for funeral expenses. The bill passed 4-0.

SB 448, by Sen. Bogdanoff was the final bill considered, in order to allow for last minute negotiations with the Sheriff's Association, Police Chiefs and State's Attorneys. Three amendments were offered and adopted; two to clarify and limit offender eligibility. The bill, as amended, expands the availability of drug court to persons already convicted and sentenced, instead of its present applicability only as a pre-conviction, diversion from incarceration. SB 448 will allow persons convicted of drug-related offenses or assessed as suffering from substance abuse disorder/addiction (serving time for non-violent, non-habitual, non-sexual offenses requiring registration), to serve as little as 50% of their sentences. Upon determination of eligibility, a judge would have the discretion to order an inmate assessed; the prosecuting attorney would be notified, and the offender's criminal history would be considered. If a determination is made, subsequent to thorough assessment, that an inmate should be permitted to serve a truncated sentence in exchange for participation in a treatment program, the individual must then be evaluated by drug court personnel.

Based on the eligibility limitations added through the two late-filed amendments, previous opponents voiced neutrality, and even cautious support of the bill; indicating they would continue to work with the sponsor. The bill passed 4-0.

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Protection of Minors

The House Criminal Justice Subcommittee met Tuesday and unanimously voted to move HB 437, by Rep. Eisnaugle, forward. Presently, if an adult is convicted of photographing or videotaping a minor, they do not have to register as a sex offender. Further, charges are brought against offenders for the single reel of film or video produced – rather than for each child depicted in the film or photograph. Under this bill, if an adult commits a video voyeurism crime against a minor child (16 and under) then he or she must register as a sex offender. Even more, the felony is increased from a 3rd degree felony to a 2nd degree felony and would charge the offender for every child depicted in the material.

Misdemeanor Pretrial Substance Abuse Programs

The House Justice Appropriations Subcommittee met Wednesday and favorably voted for HB 183, by Rep. Moraitis, which would align the misdemeanor drug court program with the federal drug court program. By doing this, it gives flexibility to repeat offenders to enter into a pretrial substance abuse program; increasing recidivism, and reducing incarceration rates for misdemeanor offenses. Although HB 183 passed favorably, there was some concern about the number of times an offender can “repeat” the offense and still enter into a pretrial program. Rep. Moraitis made it clear that this was not a “free pass” for those that do not take the program seriously; it is the judge’s discretion whether a repeat offender can participate.

Property Tax Cap Proposal

The Senate Community Affairs heard testimony on SB (SJR) 312, by Sen. Simmons, seeking to "rescind and withdraw" House Joint Resolution (HJR) 381, which passed in the previous session and is slated to appear on the November ballot. Simmons's bill is intended to correct what the sponsor deems "an inequity between similarly situated properties" which "penalizes and disincentivizes" real estate purchases. HJR 381, known as Amendment 4: (1) seeks to reduce annual non-homestead assessment limitation; (2) legislatively authorizes a prohibition on assessment value increases in any year when the market value of a property decreases; and (3) authorizes an additional homestead exemption. If approved by a majority of the electorate, Amendment 4 would also delay the future repeal of non-homestead assessment limitations. SB/SJR 312 is contingent upon adoption of Senate Joint Resolution 314 or similar legislation proposing alternative amendments to the Florida Constitution. If SJR 312 passes each house of the Legislature by a 3/5th affirmative vote, it will replace Amendment 4 on the 2012 ballot.

The legislation's sponsor indicated during a lengthy discussion in committee, that property purchasers would be able to avail themselves of either the Save Our Homes exemption **or** the super exemption created, whichever offers the most benefit. The fiscal impact of such a proposal is estimated at \$565M; cause for consternation amongst local governments. The Florida Association of Counties (FAC) previously negotiated, during last year's tax-cap legislative hearings, a fiscal note not-to-exceed \$423M statewide: a fact reiterated by Sen. Simmons, who promised to ensure the impact did not exceed the previously agreed-upon figure. FAC testified that they were not taking a formal position on SJR 312 until the conclusion of the FAC Legislative Conference, ending this week. Meanwhile, an amendment was offered, and adopted, creating a 5-year "true-up," which few seemed to understand or support. The amendment garnered significant opposition from committee and audience members who had signed up to support the legislation prior to the amendment's adoption. The amendment was subsequently withdrawn. Sen. Richter also offered an amendment that was withdrawn. The bill passed 7-0.

Senate Health and Human Services Appropriations

The committee on Tuesday heard presentations. The first was a detailed analysis of the cost-saving potential for transitioning all current Medipass recipients into Managed Care. The agency's economic analysis predicted a 6% savings rate in the 31 counties to which this would apply (the five pilots, including Broward, are not included, as they are under an existing, and far broader, 1115 Waiver extension). Mr. Justin Senior, Acting Deputy Secretary of AHCA, described the total savings to the state at \$83.7M, annually, should such a step be undertaken (requiring legislation, a 1915B waiver request to the federal Centers for Medicare and Medicaid Services (CMS), as well as a detailed transition plan for all affected persons). Sen. Rich requested information as to how the savings rate of 6% was established (using what mathematical formula and with what actuarial assumptions). Sen. Sobel requested additional data on the impact of a Medipass transition to managed care on effective Disease Management programs. In addition, the committee heard from Florida Kidcare and received extensive information detailing how the prescription drug shortages are impacting pharmacies, hospitals, and patients across the nation and Florida.

Government Efficiency Task Force

The Government Efficiency Task Force (GETF) met on Wednesday evening to discuss several issues including expressway authority consolidation and reformation of Florida's Consultants Competitive Negotiation Act (CCNA), 287.055, F.S. The current CCNA system does not allow price to be considered at the outset of the procurement process; only qualifications are assessed. Presentations revealed a system that purportedly excludes smaller firms and renders taxpayers unable to assess the appropriate price/cost of projects. The GETF heard recommendations to create a three-tiered alternative to the current system, which would: (1) allow the current CCNA process to be utilized, especially in smaller localities without substantial procurement resources; (2) offer a modified "best value" approach to jurisdictions seeking a hybrid alternative between the current CCNA and the "best value" approach; and (3) implement a "best value" process. The presenter suggested that the best value approach, adopted in several other states, allows price and qualifications to be solicited separately, using independent formats, so that a procurer considers price *and* qualifications in the initial selection process. The Department of Transportation countered that a legal opinion would be needed since the Brooks Act prohibits consideration of anything beyond qualifications and certainly would not allow for negotiation up and down the line (e.g., if negotiation is unsuccessful with bidder #1 and procurer moves to #2, procurer cannot go back to #1 later). After substantial discussion of the potential for opening up additional bid protests under Chap, 120.57 if the state adopted a best value approach, the GETF voted to recommend the three-tiered procurement option, with three dissenters.

FAC Legislative Conference

The Florida Association of Counties (FAC) hosted the 2011-2012 FAC Legislative Conference in Walton County from November 16 to 18 to adopt the final 2012 Legislative Program. Mayor Rodstrom, Vice Mayor Jacobs, and Commissioners Lieberman, LaMarca, and Sharief attended. The various policy committees met and selected their respective legislative priorities for the upcoming Session. Broward County staff and Commissioners worked to ensure the inclusion of certain Broward priorities and issues in the FAC Legislative Program, including: language to ensure that excess revenues collected from

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managed lanes are returned to the counties where the revenues originated, to be used for transit and transportation projects; language opposing and changes the Chapter 252, F.S., that would impose mandates on counties relating to functional needs shelter services within general population shelters; and language supporting removal of the exemption that prohibits local governments from requiring that commercial establishments direct their recycled materials to county recycling facilities. At the conclusion of these meetings, the Legislative Executive Committee, consisting of the chairs and co-chairs of all committees, selected the following five overall legislative priorities:

- Opposition to any increases in county or employee FRS contributions.
- Support for having the state fully fund juvenile detention facilities for pre- and post-disposition.
- Oppose further restrictions on pretrial programs.
- Support reversing the proportionate share payment restrictions for transportation, which were enacted as part of the growth management legislation passed in 2011.
- Protecting our county health departments that serve the most vulnerable in our communities.

The final version of the 2012 FAC Legislative Program should be available sometime next week.

FAC Legislative Day is scheduled for February 1 in Tallahassee. If you need information or would like to attend, please contact the Office of Intergovernmental Affairs and Professional Standards at 954-357-7575.