



Volume **20** | Number **6** | **April 8, 2013**

Halfway through this legislative session that has seen a rebounding economy, and more money for the coffers, the uncharacteristic collegiality between the chambers and the legislators may now be over. Medicaid and pension-reform issues continue to create friction between Republicans and Democrats in the House and Senate, as well as the leadership of each chamber.

Committee hearings are in the process of winding down, so bills that have not been moving along will need to do so this week or likely fail for this session. As a result, the agendas of House and Senate committees this week include dozens of bills, which is sure to create a frenzied atmosphere. The local bill pertaining to the Civic Center is among those that will receive its first hearing tomorrow. For information on other bills still being considered, please see the Spotlight on Bills section of this newsletter.

In addition to the havoc of this week's committee-bill hearings, full chambers of the House and Senate are expected to pass versions of their respective spending plans for the coming fiscal year. Both renderings of these \$74 billion budgets restore last year's cut of \$300 million to state universities (about \$65 million for FSU), as well as "preeminence" funding for FSU and UF. (The House budget also allows for a 6-percent tuition increase, plus extra fixed-capital outlay dollars for FSU and UF.) Each chamber's budget also includes pay increases for state and university employees, but at differing levels. Resolutions to all of these budget differences will be decided during the budget conference process, which is expected to begin late next week.

April 2nd saw another successful FSU Day at the Capitol. The day provided the garnet and gold faithful a forum to show off their colors and pride. Please see the related story and photos for more details.

Bills and budgets will keep the legislative action hopping this week and you can catch it all live on either The Florida Channel, local cable channel 4, or online at WFSU.org.

As always, please don't hesitate to contact me if you have questions about bills, amendments or budget items. I can be reached at **(850) 644-4453** or kdaly@fsu.edu.

Kathleen

Seminole Spirit Fills the Capitol

Last Tuesday, the capitol rocked garnet and gold during FSU Day at the Capitol. A special thanks goes out to those who took time from their busy schedules to share the accomplishments of their departments and programs with the legislative community.

Thanks also go out to Gene Deckerhoff, “the voice of the Seminoles,” who served as emcee for the noontime activities in the capitol courtyard. Joining Gene was the Seminole Sound, FSU cheerleaders and Flying High Circus performers, who entertained the crowd, along with several athletic coaches and team members, who mingled with our alumni and friends.

The festivities actually started the day before with “A Seminole Evening” reception on the 22nd floor of the capitol. State lawmakers, legislative staff, alumni and supporters gathered with students and other members of the campus community to talk and learn while the sun set over Doak Campbell Stadium in the distance.

These special events would not have been possible, of course, without the support of our generous sponsors, which included: Capital City Consulting, LLC; Classic Fare Catering by Aramark; Coca Cola Bottling of Tallahassee; FCCI Insurance Group; Mr. & Mrs. Michael Fields; Florida Beer Wholesalers Association; Mrs. Lee Hinkle; FSU Alumni Association; FSU Student Government



Association; Larry J. Overton & Associates, Inc.; Mabry & Associates; Mr. Paul Mitchell; Ms. Diana H. Padgett; Mr. Ron Richmond, P.A.; Mr. Mitchell Rubin; Seminole Tribe of Florida; Sharkey's Capitol Café; Mr. David Shepp; Mr. and Mrs. James Smith; Mr. Guy & Mrs. Delores Spearman; Ms. Nancy Black Stewart, P.A.; Strategos Public Affairs; and Tri-Eagle Sales.

Pictures of the festivities will be posted to the Governmental Relations website – govrel.fsu.edu – later this week.

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Television Coverage

Live and taped coverage of legislative sessions, committee meetings and press conferences are broadcast on The FLORIDA Channel, during the legislative session. Coverage of all three branches of state government is available year-round on The FLORIDA Channel, Coverage schedules and LIVE streaming of The FLORIDA Channel's programming is available at TheFloridaChannel.org.



SPOTLIGHT ON **BILLS**

HB 7149 – Education Capital Outlay by Representative Seth McKeel (R – Lakeland),

makes various changes related to the manner and requirements of state universities regarding fixed capital outlay. The bill eliminates the requirement that universities enter into campus development agreements with local government host communities. The campus master plan would be required to identify the level-of-service standard established by the local government and the entity that would provide the service to the campus.

The bill increases the cap for university capital improvement fees from a maximum of 10% of tuition to 20% of tuition and tuition differential; and it increases the cap on the incremental increase per year from \$2 to \$3 per credit hour. The bill makes the following changes to Section 1010.62, F.S., relating to revenue bonds and debt:

- Specifically allows public private partnership agreements as a type of university debt.

- Expands the sources of revenues that can be used to secure debt to include technology fees, sales and services of education departments.
- Increases the potential amount that can be generated by the technology fee.
- Increases the amount of athletic fees that may be used to pay and secure revenue bonds.
- Eliminates the “functional relationship test” to allow auxiliary enterprises revenues (i.e. housing and parking) and revenues from royalties and licensing to be used to secure debt for academic, education and research facilities that are part of a multi-use project.
- Allows academic or educational facilities that are part of a multi-purpose capital outlay project to be bonded without legislative approval of the specific project.

The bill increases from \$1 million to \$2 million the maximum amount universities may spend for build-

ing replacement or renovation projects. The bill was filed last week and passed the House Appropriations Committee. There is no Senate companion at this time.

SB 1802 State Employee Health Insurance by Senator Jeremy Ring (D – Margate),

expands the group of employees eligible to participate in the State Employee Health Insurance Program. Under current law, no person paid from other-personal-services (OPS) funds is eligible regardless of the numbers of hours the employee works. Under the provisions of this bill, any state employee working an average of 30 or more hours per week will be eligible for health insurance coverage and premium subsidies. In addition, the proration of the state premium contribution will apply only to permanent employees working less than 30 hours per week on average. The bill requires employers participating in the program to submit certain information relating to employees paid from other-personal-services funds to ensure compliance with federal law.

Additionally, the bill continues the current level of contributions into health savings accounts for employees participating in the high deductible health insurance plans under the State Employee Health Insurance Program. The authority for the state to contribute to the accounts expires on June 30, 2013. Under this bill, the state can continue to contribute at the current levels (\$500 for individual coverage and \$1,000 for family coverage) for fiscal year 2013-2014. Beginning in fiscal year 2014-2015, the amount of the contributions by the state will be established in the annual general appropriations act.

The bill reported favorably by the Appropriations Committee last week and is now waiting to be heard by the full House. This issue is addressed in the proposed Senate General Appropriation's Act.

SB 684 – Preference in Award of State Contracts by Senator Alan Hays (R – Umatilla), specifies that an existing preference for Florida-based businesses that currently applies to public entity purchases of commodities and services also apply to the purchase of construction services. The bill also provides that this preference preempts any local preference regulation in contracts for construction services in which state-appropriated funds are spent. The bill passed the Governmental Oversight and Accountability Committee last week and is now in the Community Affairs Committee. A House companion, **HB 1017 by Representative Erik Fresen (R – Miami, FSU Alum)** is now in the Appropriations Committee.

HB 7123 – Sovereign Immunity by Representative James Grant (R – Tampa), Sovereign immunity is a doctrine that prohibits suits against the government without the government's consent. In 1973, the Florida Legislature enacted a limited waiver of sovereign immunity. This waiver provides that the state and its agencies and subdivisions

shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances. The statute imposes a \$200,000 limit per person, and a \$300,000 limit per incident, on the collectability of any tort judgment based on the government's liability. Amounts in excess of those caps may only be paid pursuant to a claim bill passed by the Legislature. The bill:

- Provides certain restrictions on persons lobbying a claim bill and requires certain disclosures.
- Separates the trial of a negligence lawsuit against a governmental entity; the jury will rule on liability; the judge will determine damages.
- Provides for certain damages awarded by the court to be paid immediately, allowing others to be put into trust and paid over time or by an annuity.
- Provides for certain damages held in trust to revert back to the governmental entity upon death of the claimant.
- Creates an insurance option whereby local governments can avoid claim bills.
- Raises the caps on damages paid by local governments to \$1,000,000 per person and \$1,500,000 per incident.
- Provides that the changes made by the bill to the waiver of sovereign immunity provisions apply to lawsuits brought after October 1, 2013.

The bill is now in the Appropriations Committee. There is no Senate companion at this time.

CS HB 1309 -- Procurement of Commodities and Contractual Services by Representative Ben Albritton (R – Bartow), makes the following revisions to provisions governing state agency procurement and contracting, including, but not limited to:

- Creating additional contract provisions for grant agreements;

- Requiring that agencies appoint grant managers who have obtained contract manager certification;
- Requiring agencies to upload redacted contracts and related information into a secure contract management website;
- Requiring the CFO to conduct audits on executed contracts and grant agreements;
- Maintaining the requirement in current law that DMS utilize a negotiation team with a chief negotiator when negotiating certain information technology contracts;
- Removing provisions that raised concerns in the bill, including provisions that authorized DMS to delegate the purchase of insurance, provisions that permitted agencies to suspend vendors from the vendor list, provisions that permitted agencies to combine funds for purchases, and provisions that created a direct-support organization.

The Appropriations Committee adopted two amendments and reported CS/HB 1309 favorable with committee substitute. The committee substitute:

- Removes the requirement that DMS establish and maintain a vendor list;
- Maintains the current requirement that contract managers responsible for contracts greater than \$35,000 must complete training conducted by the CFO; and
- Provides that effective December 1, 2014, contract managers responsible for contracts in excess of \$100,000 annually must complete training in contract management and become a certified contract manager. The training is jointly conducted by the DMS and the DFS.

The bill passed the House last week. A similar Senate Bill, **CS SB 1150 by Senator Lizbeth Benacquisto (R – Ft. Myers)** is now in the Appropriations Committee.

SB 7132, Taxation by Senator Joe Negron (R – Palm City),

reduces the annual fees paid to register a motor vehicle. The reduction in fees results in a \$12 annual decrease in the amount paid to register a motor vehicle.

The bill also deletes a tax credit that insurance companies can take against their premium tax liability of up to 15 percent of salaries paid to employees located or based within Florida.

The Appropriations Committee filed the proposed committee bill as SB 1832 last week. There is no House companion at this time.

SB 862 – Parent Empowerment in Education by Senator Kelli Stargel (R – Lakeland),

allows parents, through a petition process, to participate in the determination of a school turnaround option when a school is subject to intervention on the basis of poor academic performance. School districts are required to notify parents that they may select and submit to the district school board a school turnaround option when student performance in a school has failed to improve. In cases where a district school board fails to adopt a petition selection, the school board must submit the petition option, along with its own, to the State Board of Education for final determination.

The State Board of Education would be required to adopt rules regarding the petition process, including making available a model petition format and addressing petition signature-gathering, verification, and submission of petitions to the district school board.

Under the bill, school districts are required to notify parents if the classroom teachers assigned to their children have received poor performance ratings or if they are receiving classroom instruction from an out-of-field teacher. Upon request, parents would also receive perfor-

mance evaluations of any classroom teacher and school administrator involved in their child's education.

This bill requires districts to inform parents that virtual instruction is available from an "effective" or "highly effective" teacher for a student assigned to a classroom teacher who:

- Is teaching out-of-field; or
- Has received two consecutive annual performance evaluation ratings of "unsatisfactory", two annual performance evaluation ratings of "unsatisfactory" within a 3-year period, or three consecutive annual performance evaluation ratings of "needs improvement" or a combination of "needs improvement" and "unsatisfactory".

The provisions relating to parental notification with respect to out-of-field classroom teachers and performance evaluations would apply to charter schools.

The bill reported favorably by the Education Committee last week and is now in the Appropriations Committee. The House companion, **CS CS HB 867 by Representative Carlos Trujillo (R – Miami, FSU Alum)** passed the House last week.

HB 7097 -- Tax On Sales, Use, & Other Transactions by Representative Ritch Workman (R – Melbourne),

provides that a "mail order sale" includes the sale of tangible personal property over the internet. The bill adds in-state representatives of a dealer, in addition to the current law inclusion of in-state agents of that dealer, to cause a dealer to have nexus. The bill further establishes that an out-of-state dealer has nexus with Florida and is therefore obligated to collect tax if a person other than the dealer (excluding common carriers) engages in certain activities within Florida that assist the out-of-state dealer in making sales within this state.

The bill also establishes a rebuttable presumption that an out-of-state dealer who makes "mail order sales" to Florida customers is required to collect taxes if the dealer enters into an agreement with one or more persons ("affiliates") within Florida under which the Florida affiliate refers (directly or indirectly) potential customers to the dealer. The bill requires annual gross receipts by the dealer of at least \$10,000 in sales by customers who are referred by affiliates within Florida before this presumption is created. The definition of "dealer" is revised to include any person who uses within this state an office, distributing house, salesroom, or house, warehouse, or other place of business operated by any person other than a common carrier acting in the capacity of a common carrier.

Additionally, the bill establishes a recurring sales tax holiday on clothing and school supplies. The length of the holiday will be determined each year by the Revenue Estimating Conference to reduce total sales tax collections by at least the amount of new collections received pursuant to the changes to the mail order sales statute in the bill.

The bill is now in the Appropriations Committee. A comparable bill in the Senate, **SB 916 by Senator Anitere Flores (R – Miami)** is now in the Appropriations Subcommittee on Finance and Tax.

UPDATE ON BILLS

CS SB 1074 – State Owned or State Leased Space by Senator Alan Hays (R – Umatilla),

gives the Department of Management Services (DMS) more authority to coordinate and direct state agency use of state-owned and privately-leased office space, requires competitive solicitation for more agency leases, streamlines reports related to leasing activities, and increases reporting related to facility energy savings. The bill was amended last week to:

- Delete the requirement for the Department of Transportation to submit an inventory of transportation facilities to the DMS and the DEP;
- Require that governmental entities submit an inventory of all underused property that they own, lease, rent, or occupy and requires the DMS to adopt rules;
- Resolve a technical deficiency that provided rulemaking authority to the DMS instead of the BOT;
- Create the Underused Property Maximization Program in order to identify underused property and provide specific inventory, procurement, and disposition procedures and requirements related to underused property by state and local governmental entities;
- Provide definitions for “facility,” “governmental entity,” and “underused property”; and
- Provides non-recurring and recurring funds for the implementation of the act.

The bill reported favorably last week by the Environmental Preservation and Conservation Committee and will next be heard in the Appropriations Committee. The House companion, **CS HB 1145 by Representative Mike LaRosa (R – Saint Cloud)** is awaiting a hearing in the Government Operations Appropriations Subcommittee.

CS CS HB 883 – Fire Safety and Prevention by Representative Jim Boyd (R – Bradenton, FSU Alum), makes several substantive policy changes. Most significant among these are more stringent requirements regarding criminal histories for firefighter certification. The bill requires FDLE to search and retain the fingerprints of currently employed firefighters. In addition, the bill removed a provision that provided the Division of Financial Services new rulemaking authority for creating new fees, and it restored language contained in current law providing the agency authority to fix and col-

lect admission fees for fire safety training purposes.

Furthermore, the bill extends from two to four years the period during which fire equipment dealers may maintain an inactive permit; clarifies definitions to reflect current practices; and restores current law providing locations for which State Fire Marshall is required to adopt minimum fire safety standards; clarifies the scope of contractor licenses. The bill reported favorably in the Governmental Operations Appropriations Subcommittee and will be heard tomorrow in the Regulatory Affairs Committee. The Senate companion, **CS SB 1410 by Senator David Simmons (R – Altamonte Springs)** will be heard tomorrow in the Community Affairs Committee. Both bills will be amended tomorrow.

SESSION SCHEDULE

SENATE SESSION WEDNESDAY, APRIL 10, 10:00 a.m. to 6:00 p.m.

THURSDAY, APRIL 11, 2:00 p.m. to 6:00 p.m.

HOUSE SESSION THURSDAY, APRIL 11, 10:30 a.m. until completion.

FRIDAY, APRIL 12, 10:30 a.m. until completion.



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