



In this the eighth and final weekly edition of the Capitol Perceptions 2015 Legislative Session newsletter, there is not much new to report. Your final issue will be sent in a few weeks and will include a comprehensive legislative session summary of all bills.

As the Legislature winds down policy issues this week, before officially ending the 2015 regular session in anticipation of a special session sometime in June to resolve the state budget, there have been just a few changes in some of the bills we have been tracking.

### **Baccalaureate Degrees**

As you have likely heard, the Council of Presidents have struck an agreement with Senator Negron to resolve the issues surrounding our delivery of bachelor degree programs. Like many bills that come together in one massive committee bill toward the end of the legislative session, this issue is no different. What we knew as [SB 1252](#) (Stargel), has now been morphed in to [SB 948](#) (Gaetz), and this train bill has left the station with the colleges' baccalaureate degree issue along for the ride. The comparable bill on the House side is likely to be [HB 7125](#), but there are as many as 37 other bills that contain some provision included in SB 948. More on this below.

### **[HB 565](#) and [SB 1054](#) regarding reclassification of senior management positions**

Last week, the Senate laid SB 1054 on the table and picked up HB 565 which should be scheduled for 3<sup>rd</sup> reading this week in both chambers. This AFC proposal, put forward at the request of the Council of Business Affairs would allow state agencies including our colleges to review and reclassify positions in the senior management category once every five years. Currently there is no such provision to do this on a regular basis.

### **[HB 913](#) and [SB 7024](#) regarding the repeal of provisions relating to investments in institutions doing business in or with Northern Ireland.**

This bill provides for distribution of Fund B Surplus Funds Trust Fund assets to certain participants including 26 of our 28 Florida colleges. These funds have been recovered from SBA investments made with companies doing business in Northern Ireland which went bad as a result of restrictions placed due to social unrest. The provision of this bill would allow the SBA to return the recovered funds directly to the college.

### **PERFORMANCE FUNDING**

The biggest excitement last week was when the Department of Education released its proposed Performance Funding metrics for the Florida colleges. The metrics include eight (8) common measures to be addressed by all institutions. The ninth measure is referred to as a "local measure". There are five choices for colleges to select with regard to their local measure. For a

complete summary of the Performance Funding proposal including a Point Summary and a Model Simulation click on the link below.

[https://www.floridacollegesystem.com/publications/performance\\_funding.aspx](https://www.floridacollegesystem.com/publications/performance_funding.aspx)

## **FROM THE NEWS SERVICE OF FLORIDA WIRE...**

Normally, the next-to-last week of the legislative session would be spent putting the pieces in place for the ceremonial handkerchief drop on the final day of the annual gathering. Lawmakers would be hammering out a budget agreement --- with a setback likely to happen over the weekend --- and deals on major legislation would be struck. This has not been a normal session.

Lawmakers are still trying to get to where they can start negotiations on the state spending plan, and next Friday's scheduled conclusion of the legislative session long ago became a milestone instead of a finish line. The House and Senate are still an entire health-insurance program and billions of dollars apart on the budget.

Some major legislation is starting to get closed out, but other issues are still looming --- and getting close to a resolution on reforming the troubled Department of Corrections is cold comfort when lawmakers know they're going to be back in Tallahassee at some point in May or June. Those who work in the Capitol often express annoyance at the nighttime and weekend meetings that come with the annual budget negotiations. But as they get a taste of quieter days in the final weeks of the session, some of them likely wouldn't mind a little bit more noise.

## **BUDGET TALKS?**

House and Senate leaders continued to swap offers on the broad outlines of a budget Friday, but remained far apart on more than just the numbers, with divisions remaining on the conditions for negotiations and the mechanics of how to bridge the differences. By the end of Friday, the House had made a significant concession to the Senate on hospital funding --- but said it would only follow through if the upper chamber dropped insistence on using Medicaid expansion dollars to help lower-income Floridians purchase private insurance. The Senate essentially said the House offer was still inadequate, in part because two components of the health-care puzzle facing the Legislature are tied together.

With a week left in the legislative session, it is inevitable that lawmakers will have to return to the Capitol for either an extension of the current session or a special session in a few weeks. And despite the continuing offers, Senate leaders clearly did not expect in-depth negotiations to begin soon over the nuts and bolts of the budget plan. "There's no need for you to stay in town," Senate Appropriations Chairman Tom Lee, R-Brandon, told colleagues eager to head home for the weekend.

At the heart of the disagreement lies what to do about the coverage expansion and the Low Income Pool, or LIP, program that is largely used to cover the expenses of uninsured, low-income Floridians who show up at hospitals needing treatment. The \$2.2 billion LIP program is set to expire June 30 unless the state can reach a new agreement with the federal Centers for Medicare & Medicaid Services.

Federal officials and the Senate would like to see the House and Gov. Rick Scott consider the

Medicaid expansion alternative in conjunction with LIP. But Scott and House leaders are fiercely opposed to tapping the expansion funds, which come from the federal Affordable Care Act, commonly known as Obamacare. The House is now proposing to use up to \$600 million in state funds to draw down additional federal money to shore up hospitals in case the federal government rejects a new version of LIP or comes back with a significantly smaller figure. That is the amount the Senate has called for if the state has to replace LIP.

But House Speaker Steve Crisafulli, R-Merritt Island, said the Senate has to abandon its expansion plan first. "We stand ready, willing, and able to partner with the Florida Senate on joint priorities," the House said in an unsigned, written offer to the Senate. "There is no need to use Medicaid expansion as a condition for finishing our constitutional duty to pass a balanced budget."

The Senate response, which came after a "deadline" requested by the House: No dice. The upper chamber has said that LIP or a state replacement and the \$2.8 billion expansion program are both needed to give long-term stability to hospitals and other medical providers and to prevent damage to the state's economy. "Equipped with this knowledge, we are not willing to rush to a resolution that could damage our economy --- particularly when there is a clear alternative available to maximize federal taxpayer dollars returning to Florida while staying true to the Medicaid reform principles we all support," Gardiner wrote in a response.

Senate leaders also want to wait to hear back from federal officials on the state's LIP proposal before finalizing any budget. Most provocatively, the upper chamber wants to communicate directly with the Centers for Medicare & Medicaid Services. When two senators traveled to Washington late last month to get a direct update, the trip angered the Scott administration, which has been handling formal negotiations with the federal government. "We're indicating to the House and to the governor that the Senate would like to take a much more active role in asking questions of CMS, because we need to know," Gardiner said.

The House points out that a response from the federal agency could take until early July --- after the beginning of the state's budget year. But Gardiner says it's almost impossible to move forward on a reliable budget without at least an understanding of how much money the state can expect once the federal government makes its decision. "Out of respect for everybody ... let's make sure that we give CMS every opportunity to give us a number that puts us in a position where we can make a decision and we're not back here later making cuts because something bad happened," he said.

The two chambers also disagree on how to handle the negotiations if little progress has been made by next Friday, the scheduled end of the regular legislative session. The Senate would like to extend the session until June 30, the day before the state's budget year begins, if necessary. According to senators, that would make the process for passing a budget easier.

Under the Senate plan, lawmakers would likely still return home and return to seal any budget deal. But remaining in session would prevent lawmakers from campaign fundraising in the interim. Doing so would also make it more difficult for Scott to call a special session, something that would give him much more control over the agenda --- though lawmakers could achieve that goal by simply calling a special session on their own. The House, for its part, says there's no need to keep the session going unless the talks are moving ahead.

"I think you would extend the session if next week we're talking about budget negotiations. It would be foolish for us to leave otherwise," Crisafulli said. "But if we're not getting into a point of where we're working through a reasonable approach to solve the budget impasse, then we would leave and reset and take a clear mind and come back." Despite their differences, lawmakers seemed buoyed by the fact that something like a negotiation was finally underway after weeks of gridlock. "While that conversation is a little narrow for our taste right now, at least we're talking," Lee said.

## **SENATE TO CONSIDER CLAIM BILLS**

The Senate will hold a floor session and consider more than a dozen "claim" bills, which stem from lawsuits filed against government agencies because of injuries or deaths. Sovereign-immunity laws typically limit to \$200,000 the amount state and local agencies can be required to pay in such lawsuits. But the Legislature can approve claim bills that direct larger payments. The bills stem from injuries or deaths in various parts of the state, including Miami-Dade County, Broward County, Palm Beach County, Pasco County, Jacksonville, Tallahassee, Hialeah, Hollywood and North Miami. (1 p.m., Senate chamber, the Capitol.)

## **POWDERED ALCOHOL**

The House will hold a floor session and take up a variety of issues, including bills ([SB 998](#) and [HB 1247](#)) that would ban the sale of powdered alcoholic beverages.

## **DRONES**

The House is expected to consider bills ([SB 766](#) and [HB 649](#)) dealing with surveillance by drones. (2:30 p.m., House chamber, the Capitol.)

## **HOW TO DANCE WITHOUT DANCING**

House Appropriations Chairman Richard Corcoran, R-Land O' Lakes, infamously delivered a blunt warning to the Senate about its Medicaid expansion alternative early this month: "We're not dancing." And while that might be true as far as it goes --- the House has shown no signs that it will give in on the program --- the two chambers are beginning to look at each from across the dance floor. The closest thing to a breakthrough that lawmakers had seen in weeks came Thursday, when the House sent an initial offer to the Senate on the broad outlines of a budget. There is still no agreement on some of the biggest obstacles to a deal, especially when it comes to the Senate's plan to use Medicaid expansion dollars to help lower-income Floridians purchase private health insurance, but the discussions are something resembling progress. "While that conversation is a little narrow for our taste right now, at least we're talking," said Senate Appropriations Chairman Tom Lee, R-Brandon.

But a key piece of the puzzle could remain at least partially outstanding until after the state's new budget year begins July 1: With the state submitting a concrete model for the Low Income Pool, or LIP, program to federal officials on Monday, the federal Centers for Medicare & Medicaid Services will not be able to give a final answer to the state by June 30.

Not that some Florida officials weren't willing to try. "We are expediting our submission of this LIP model in order to help CMS speed up their decision," said Agency for Health Care Administration Secretary Liz Dudek. "CMS knows that our budget depends on their rapid response to this model." Lawmakers are hoping to get some signs about how much money they

can expect from a new version of LIP, currently a \$2.2 billion program, set to expire June 30, that is largely used to cover the expenses of uninsured, low-income Floridians who show up at hospitals needing treatment. The negotiations also followed a tit-for-tat set of meetings Tuesday morning. At a gathering of the full Senate during what was to be a meeting of the Senate Appropriations Committee, lawmakers heard a gloomy picture of what would happen to the state's economy if the upper chamber's proposal wasn't adopted.

Meanwhile, House leaders urged their members to hold strong in the face of an onslaught from business groups, hospitals and editorial boards. And Gov. Rick Scott said he was ready to call a special session to pass a continuation budget --- even if no one in the Capitol had ever heard of a continuation budget. "If the House and Senate fail to agree on allocations and begin a budget process that can be completed in an extended session, then I will call the House and Senate into a special session to pass a budget that continues current year funding levels for critical services like education, law enforcement, children services, and transportation," Scott said.

The governor also started calling Republican senators separately into his office to threaten vetoes and use a spreadsheet containing hospital profits to try to get his way. Senators didn't sound terribly intimidated. "It tends to galvanize the membership around their president. The most dangerous guy in Tallahassee is always the guy with no hope. So when you extinguish the flame of hope from the members, you give them no reason to negotiate," Lee said. "So my encouragement would be for us all to put all this behind us and move forward. And that comes from someone who doesn't entirely have clean hands."

## **ALL ABOARD!**

With the budget and the negotiating leverage it provides in limbo and time beginning to evaporate, lawmakers started getting creative this week. And that meant so-called legislative "trains," where multiple bills are combined into single packages. While meant to boost the odds of particular provisions making it into law, the trains just as often derail. In the Senate Appropriations Committee, more than dozen individual bills eventually glommed onto a single measure ([SB 948](#)) that gained approval from the panel. But not before an agreement between Sen. Joe Negron, R-Stuart, and state colleges attracted some controversy.

Negron has been on a crusade in recent years to dial back the number of four-year degrees offered by state colleges, which are largely two-year institutions. After Negron --- who could become Senate president after the 2016 elections --- threatened more sweeping legislative action, he and the colleges made a deal. The agreement would explicitly state that four-year degrees are a secondary mission of the colleges and would cap the share of a school's enrollment devoted to four-year programs, based on where they stand now. "I think there's plenty of room for growth, but it isn't unrestrained, unbridled growth," Negron said. Negron has said the increase in four-year programs competes with state universities. Others say the programs are a low-cost alternative for students who aren't necessarily fresh out of high school.

"Seventy-five percent of the people who earn baccalaureate degrees at our state college system are over 25 years old," said Sen. Jack Latvala, a Clearwater Republican who is perhaps not coincidentally Negron's opponent in the Senate presidency race. "In our state university system, 75 percent of those who earn them are under 25 years old. It's a separate market." On Thursday and Friday, the House started its own education train, this one on the floor, when it attached charter school legislation and a proposal dealing with school uniforms to a wide-

ranging school choice bill ([HB 1145](#)) that has caused some concerns for Democrats.

The bill, which passed on an 80-36 vote, would allow parents to send their children to any school in the state that hasn't reached capacity, and it would allow non-teachers to enter the classroom in full-time jobs related to their field of expertise --- an accountant, for example, teaching a finance class. "You're doing a good waltz and you're doing a bad waltz," said Rep. Alan Williams, D-Tallahassee. "And when you do that, the dance doesn't look good."

Trains were also shaping up on water policy and health-care legislation.

## **CULTURE WARS**

As the days until the end of session ticked away, lawmakers were also considering another kind of timeline: imposing a 24-hour waiting period for women seeking abortions. The bill (HB 633) is headed to Gov. Rick Scott's desk after being approved on a party-line vote by the Senate and an almost party-line vote by the House. "This is not a procedure --- it is a life," said Rep. Jimmie Smith, R-Inverness. "Representative (Jennifer) Sullivan, the greatest consequence of your bill is a beautiful baby."

Lawmakers earlier this week approved adding exceptions for victims of rape, incest, domestic violence or human trafficking to the bill. However, those victims could only get waivers of the 24-hour waiting period if they can produce police reports, restraining orders, medical records or other documentation. "All of this documentation is unnecessary government intrusion into the lives of women," said Sen. Geraldine Thompson, D-Orlando. "This is not a reflection period --- this is a 24-hour ban," said House Minority Leader Mark Pafford, D-West Palm Beach.

**QUOTE OF THE WEEK:** "The relationship I have with Richard Corcoran, I think, is excellent. I would define it as strictly platonic, despite the fact that we have date night every Wednesday night and share a bottle of wine, a cigar and talk a little bit about what's going on here and more broadly the political landscape."---Senate Appropriations Chairman Tom Lee, R-Brandon, on his relationship with his House counterpart.