



## 2017 Legislative Session – Week 2

It was an interesting second week. For many of us experienced lobbyists it seemed more like Week 5. Many policy bills are already being put to bed, either cued up to pass or already dead. Compromises are beginning to be made to move bills. Things that generally happen around the mid-point are happening now. With a looming three-way budget battle between the Senate, House and the Governor on the horizon, we suspect the legislators are clearing the decks now as much as they possibly can.

### BUDGET IN A HOLE

Last week, we shared information on the Governor's proposed budget for the state which is available at [Governor's Budget](#). It totals \$83.5 billion, a whole \$1.2 billion above the previous year. The Governor has \$1,249,563,178 from General Revenue and Lottery dollars for the FCS program fund (\$1,218,247,415 in 2016-17). The Senate dropped a budget this past week that reduces higher education overall by \$131,249,240. Of that reduction, the FCS is hit by \$55 million to developmental education, \$30 million in suspension of state incentive for performance funding, and \$10 million in CAPE performance funds (industry certifications). In all, the FCS bears almost 75% of all higher education cuts in the Senate proposals. Discussion heard from Senate leadership indicates there is some room to negotiate so we have some hope to bring these cuts back on to the table. In the House, the FCS has been held harmless, with most higher education cuts, \$80 million being borne by the SUS.

### BILLS TO WATCH

#### CS/CS/[SB 374](#) by Hukill (compare [SB 2](#), [HB 3](#), and [HB 929](#))

Citing this act as the College Competitiveness Act of 2017, the bill contains some major policy provisions that impact the FCS. First, it renames the FCS the Florida Community College System, but does not require any college name changes. It also calls for the creation of a new State Board of Community Colleges to provide more autonomy and better oversight of the FCS. The bill goes on to amend the baccalaureate degree approval process. After negotiation on the initial bill draft that would have made BS degree approval almost a two year process, we have successfully brought it back to within a year from notice of interest to approval. The bill also proposes capping enrollments in FCS bachelor's degree programs within specified growth ranges based on 2015-16 enrollment. Although we have moved the needle on this to a position more acceptable than initially proposed, the COP and the AFC lobbying team still hopes to work on it more to assure our colleges can effectively respond to local needs and continue to provide a low cost four-year degree alternative for all Floridians. The bill has passed two committees with the next stop at Senate Appropriations to be scheduled.

#### CS/CS/[SB 2](#) by Galvano (compare [HB 3](#), [SB 374](#), [HB 5](#), [HB 155](#), [HB 489](#), [HB 929](#), [SB 1296](#), [SB 1464](#))

This bill is referred to as the "Florida Excellence in Higher Education Act of 2017" and covers several policy issues. It expands financial aid provisions and modifies programmatic mechanisms to assist students in accessing higher education to emphasize on-time graduation. The bill also expands and enhances policy and funding options for state universities to recruit and retain exemplary faculty, enhance the quality of

professional and graduate schools, and upgrade facilities and research infrastructure. For the FSC, the bill modifies our performance measures once again. Specifically,

1. A student retention rate, as calculated by the Division of Florida Colleges;
2. A 100 percent-of-normal-time program completion and graduation rate for full-time, first-time-in-college students, as calculated by the Division of Florida Colleges using a cohort definition of “full-time” based on a student’s majority enrollment in full-time terms;
3. A continuing education or post-graduation job placement rate for workforce education programs, including workforce baccalaureate degree programs, as reported by the Florida Education and Training Placement Information Program, with wage thresholds that reflect the added value of the applicable certificate or degree. *This paragraph does not apply to associate in arts degrees;*
4. A graduation rate for first-time-in-college students enrolled in an associate of arts degree program who graduate with a baccalaureate degree in 4 years after initially enrolling in an associate of arts degree program;
5. One performance-based metric on college affordability.

The bill also modifies measures of the Distinguished Florida College System Institution Program which recognizes our highest performing colleges by requiring 100% of normal time completion for at least 50% of all full-time FTIC students, and 100% of normal time completion for at least 40% of all FTIC Pell recipient students. Additionally, those measures now factor an 88% continuing education or job placement rate, with consideration of wage thresholds that reflect added value for workforce programs. Also, an excess hours measure of 40% or lower will be considered for AA recipients who graduate with 72 or more credit hours. SB 2 has passed the Senate and is in messages awaiting action by the House. HB 3 is being heard the House today.

#### **[SB 128](#) by Baxley (compare [HB 245](#))**

Known as the “Stand Your Ground” bill this will shift a key burden of proof in “stand your ground” self-defense cases from defendants to prosecutors in the pre-trial hearings. With Democrats labeling it “a shoot to kill” and “how to get away with murder” bill, it passed the Senate by a 23-15 vote, with Sen. Anitere Flores, R-Miami, joining Democrats in opposition. Flores, president Pro-Tem in the Senate, has stopped other guns bills including concealed carry on university and college campuses (SB 622). A House version of the bill (HB 245) awaits its stop in the House Judiciary Committee. A similar proposal failed to pass last year after Senate approval.

#### **[HB 153](#) by Mariano (similar [SB 1462](#))**

This bill covers excess hours and would trigger a 10% surcharge at 120% of the time to complete a four-year degree. Currently it is at 110%. The bill exempts from the surcharge first-time-in-college students who complete the requirements for their baccalaureate degree program within 4 years. Also, credit hours earned in upper-division-level courses that must be repeated to meet the requirements for a baccalaureate degree in a science, technology, engineering, or mathematics discipline are not calculated as hours required to earn a baccalaureate degree. The bill would result in a positive economic impact for students who are first-time-in-college students who complete their requirements for their baccalaureate degree within 4 years. Also, it would result in a positive economic impact for students who must repeat upper-division-level courses for a baccalaureate degree in science, technology, engineering, or mathematics discipline. The bill has passed two committees and is ready to be heard next in the Education Committee.

#### **[SB 104](#) by Brandes (Identical [HB 265](#))**

The bill would authorize high schools to offer students opportunities to take specified computer coding courses that satisfy foreign language credit requirements. It would add certain computer coding courses into the Course Code Directory. It also authorizes the Florida Virtual School to offer computer coding courses. The bill is awaiting its first committee stop in the House Pre K-Quality Committee.

#### **[HB 253](#) by Duran (identical [SB 540](#))**

This bill tweaks the Bright Futures Scholarship eligibility and revises criteria for renewal of Florida Bright Futures Scholarship Program awards to include 30 volunteer service work hours. It also disallows work for a relative's business or work for which the student received academic credit or payment. The bill also would require a written and signed documentation of earned volunteer service work hours, and provides an exception for a student who enlists in military service. It would apply to students first eligible in 2017-18. The bill awaits its first stop in the Postsecondary Education Subcommittee.

#### **[HB 11](#) by Plakon (identical [SB 1292](#))**

This bill covers collective bargaining as it relates to public employees. Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment assisted by the Public Employees Relations Commission (PERC). Current law specifies that public employees have the right to be represented in collective bargaining by any employee organization of their own choosing or to refrain from being represented. An employee organization seeking to become a certified bargaining agent for a unit of public employees must register with and be certified by the PERC. A registration granted to an employee organization is valid for one year and must be renewed annually. The renewal application must include a current annual financial report that contains specific information.

The bill requires an employee organization to include the following information in its annual financial report for each certified bargaining unit that the organization represents:

1. The number of employees in the bargaining unit who are eligible for representation by the employee organization; and
2. The number of employees who are represented by the organization, specifying the number of members who pay dues and the number of members who do not pay dues.

If a registered employee organization does not submit this information for a certified bargaining unit it represents, the organization's certification for that unit is revoked. This provision does not apply to an employee organization that represents, or seeks to represent, employees who are law enforcement officers, correctional officers, or firefighters. The bill also requires an employee organization that has been certified as the bargaining agent for a unit whose dues-paying membership is less than 50 percent of the employees eligible for representation in that unit to petition the commission for recertification as the exclusive representative of all employees in the unit within one month after the date on which the organization applies for registration renewal. The certification of an employee organization that does not comply with this requirement is revoked. This requirement does not apply to an employee organization that represents, or seeks to represent, employees who are law enforcement officers, correctional officers, or firefighters. The bill has passed on committee in the House and awaits its next stop with the Government Accountability Committee. The bill has not moved in the Senate.

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Every once in a while, the generally abstract issues discussed during the legislative session intersect with something out of real-life, something more visceral than a bill full of clauses and subsections.

When Aramis Ayala, the new state attorney in Orange and Osceola counties, announced that she would not pursue death sentences in capital cases during her time in office, it brought new life to a debate about state-sanctioned executions that had seemed to die down.

By the end of the day Thursday, Gov. Rick Scott had booted Ayala from a high-profile case and Republicans and law-enforcement officers were howling in outrage over the prosecutor's decision.

There were also less emotional developments as the Legislature went through its second week. Lawmakers continued to grapple with how to handle a tight budget situation that got little better as the final verdict came down on how much money the state will have to spend in the year beginning July 1.

Meanwhile, some heavily lobbied pieces of legislation continued their trek through the process. But few of them were likely to stir up as much passion as Ayala's decision.

#### A FIGHT OVER CLOSURE

The week started out well for supporters of Florida's death penalty. On Monday, Scott signed a bill aimed at fixing a flaw that the state Supreme Court found in the state's newest death penalty system.

"Governor Scott's foremost concern is always for the victims and their loved ones. He hopes this legislation will allow families of these horrific crimes to get the closure they deserve," Scott spokeswoman Jackie Schutz said in a statement early Monday evening.

The new law --- the second death penalty "fix" in a year --- came in response to a series of court rulings, set off by a U.S. Supreme Court decision in January 2016 in a case known as *Hurst v. Florida*.

The Legislature last year hurriedly passed a law to address the federal court ruling, but the Florida Supreme Court struck down the new statute. Florida justices said the law was unconstitutional because it only required 10 of 12 jurors to recommend death, instead of unanimous jury decisions.

Critics of the death penalty still had problems with the new scheme, but it appeared to clear the way for prosecutors to move forward before the seemingly inevitable appeals began.

That's when Ayala made her announcement, with the most immediate impact being on the case involving accused cop-killer Markeith Loyd.

Scott quickly appointed Brad King, state attorney for the 5th Judicial Circuit, to handle the case of Loyd after Ayala refused to recuse herself.

Loyd is accused in the execution-style killing of Orlando Police Lt. Debra Clayton in January. Loyd is also accused of the December shooting death of his pregnant ex-girlfriend, Sade Dixon. Orange County Sheriff's Deputy Norman Lewis died as a result of a traffic crash during the hunt for Loyd.

"I am outraged and sickened by this loss of life and many families' lives have been forever changed because of these senseless murders. These families deserve a state attorney who will aggressively prosecute Markeith Loyd to the fullest extent of the law and justice must be served," Scott said in a statement announcing the move.

For her part, Ayala cited numerous problems with the death penalty as the rationale for her decision, which she said she reached after "extensive and painstaking thought and consideration."

The death penalty has not proven to be a deterrent to crime and the cases drag on for years, adding to victims' anguish, according to Ayala.

Some Republicans suggested Scott might need to go further.

"I think she ought to be thrown out of office," said Sen. Jack Latvala, a Clearwater Republican considering a bid for governor in 2018.

Others were less fiery. Even some death-penalty proponents agreed that Ayala enjoys latitude regarding whether to seek death sentences.

"I'm a big supporter of local discretion on filing decisions," Sen. Rob Bradley, a Fleming Island Republican who is a former prosecutor, told The News Service of Florida on Thursday.

#### BUDGET PICTURE: STILL TOUGH

If lawmakers were looking for some relief from their fiscal heartburn when economic forecasters met to estimate the state's future tax revenues, none was coming. The verdict of a Friday gathering --- another \$115.2 million by June 30, 2018 --- did little to change the overall outlook for the budget.

"In terms of what they're facing, they pretty much have the same picture," said Amy Baker, head of the Legislature's Office of Economic & Demographic Research, which helps develop the forecasts.

Lawmakers aren't expected to face a shortfall in the budget year that begins July 1. But by the following year, lawmakers could be \$1.3 billion short of how much they will need to cover expected spending, with a \$1.9 billion hole projected the year after that.

Senate President Joe Negron, R-Stuart, indicated Friday that the revised forecast also didn't do anything to change how leaders will shape their spending plans.

"As we evaluate our budget priorities, it is likely that funding for new initiatives will be offset by reduced spending on projects and programs added to the budget by prior legislatures," Negron said in a statement issued by a spokeswoman.

The new forecast came a couple of days after the House's top budget-writing committee heard ideas for potential cuts across state government. Suggestions included cuts in payments to hospitals, reductions in spending on universities and scaling back early-learning and other public-education programs.

House Appropriations Chairman Carlos Trujillo, R-Miami, said how closely lawmakers follow the recommendations, which were couched as an "exercise," remains to be seen. But he said a reduction in expected spending of about \$1.4 billion is a "realistic goal" for the coming budget year.

"I think it's a roadmap --- whether we decide to go down Road A or Road B --- but I think it's a roadmap of how we're going to craft our budget," he said. "I don't think anything's set on stone as far as specific amounts."

#### LOBBYIST IN CHIEF

Using the term loosely, the highest-profile lobbyist of the year so far might be Scott. He has spent weeks banging away at House Republicans who want to curtail business incentives and tourism marketing money, and he shows no signs of letting up.

On Monday, Scott brought his roadshow through Tallahassee --- not coincidentally, where many of the reporters covering the session are located --- for a roundtable with business leaders and state officials.

At Danfoss Turbocor Compressors Inc., Scott declined to rule out vetoing the budget for the year that begins July 1 if it doesn't include funding for business incentives. But he spent most of his time trashing legislation that would abolish business-recruitment agency Enterprise Florida and overhaul tourism marketer Visit Florida, approved last week by the House.

As he has done at other stops during a recent media blitz aimed at saving business incentives, Scott singled out a local lawmaker: Rep. Halsey Beshears, R-Monticello.

"Why in the world would Halsey Beshears or anybody else vote to eliminate Enterprise Florida and decimate Visit Florida?" Scott told reporters after meeting with business leaders and state economic development officials. "This is about some family getting a job. I'm going to fight for those families all this session."

More conventional lobbyists had their eyes on other legislation considered this week.

Four years after House and Senate leaders thought they had finally settled a decade-old turf battle between the state's optometrists and ophthalmologists, the "eyeball wars" have returned.

The old compromise allowed optometrists to prescribe oral medications, but not perform surgery. But now, optometrists are seeking to expand their scope of practice to perform some surgical procedures. Optometrists maintain the proposal is an access-to-care issue, while ophthalmologists argue it would endanger patient safety.

The House Health Quality Subcommittee narrowly approved the proposal Wednesday by a one-vote margin, after two hours of testimony.

The measure (HB 1037) would allow optometrists who receive special training to perform certain kinds of surgery in which "human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photo disrupted by the use of surgical instrumentation," including lasers and scalpels, according to a House staff analysis of the bill.

But the chances in the Senate remain dicey.

Another big-ticket item, focused on key changes to the workers' compensation insurance system, was approved by the House Insurance & Banking Subcommittee.

The panel approved a bill that deals with a series of issues, such as the duration of benefits for some injured workers and the amounts of money hospitals and ambulatory surgical centers get paid to provide outpatient care to workers.

But almost all of the debate focused on attorney fees, which business groups blame for driving up costs in the workers' compensation system. The bill (PCB IBS 17-01) would allow judges of compensation claims to approve fees up to \$250 an hour for workers' attorneys.

And the decades-old prohibition on selling liquor in grocery and large retail stores narrowly continued to advance in the House on Tuesday.

The Government Operations & Technology Appropriations Subcommittee voted 7-6 to support an amended proposal ([HB 81](#)) that would end a Depression-era law requiring liquor stores and bars to be separated from groceries and other retail goods, an issue commonly referred to as the "liquor wall."

Rep. Bryan Avila, the Hialeah Republican sponsoring the measure, rejected claims by opponents that his legislation, three years in the making, will increase access to liquor by minors and harm existing businesses.

"While shopping at Publix is a pleasure, certainly their argument is not," Avila said. "The only reason the antiquated law is being opposed is to maintain the status quo."

The House bill, which appeared to stall a week ago, remains controversial for many.

"The losers are clearly going to be the small businesses," said Rep. Kathleen Peters, a Treasure Island Republican who voted against the bill.

**STORY OF THE WEEK:** Aramis Ayala, the new state attorney in Orange and Osceola counties, announced that

she would not pursue death sentences in capital cases during her time in office, escalating debate over the state's death penalty.

QUOTE OF THE WEEK: "It ain't right to put the apple schnapps next to the apple sauce."--- Pat McClellan, owner of the Flora-Bama lounge and package store in the Panhandle, on legislation knocking down the "liquor wall" for grocery stores.