



2017 Legislative Session – Week 4

The fourth week of the 2017 Legislative Session has come and gone. Things are starting to get interesting.

HOUSE BUDGET BILL RELEASED

In recent weeks, we shared information about the proposed reductions from the Senate ([SPB 2500](#)) to the FCS appropriation by as much as \$98 million. This reduction included \$55 million specifically targeted at Developmental Education, \$30 million suspension of state incentive Performance based funds, and \$10 million in CAPE certifications performance funds.

This week, in the House, we were somewhat surprised by the extent of reductions (PCB APC 17-01) proposed there. It had been rumored the FCS would be held relatively harmless in the House budget. However, the House has proposed non-recurring reductions totaling about \$65.5 million (-5.4%) off set by college-held reserves. In addition, the House wants to take another \$9.9 million in recurring funds based on transfers to Foundations from colleges. Also eliminated are \$2,400,000 in Aspen Awards and a \$2,000,000 for Distinguished Colleges.

Both the House and the Senate deducted specific items from prior year non-recurring funding, and then added specific items proposed for 2017-18. Both Chambers added back an adjustment for Lottery funds to restore base funds totaling \$13.2 million. The AFC lobbying team continues to work with both Senate and House leadership to understand the importance of preserving our base, particularly as it relates to developmental education and our foundations.

PECO

Public Education Capital Outlay (PECO) in the Senate budget is proposed at \$128 million for new construction projects, upgrades and remodeling and renovations. The House is proposing \$54.5 million only for renovation and remodeling projects.

BILLS TO WATCH

[HB 929](#) by Raburn and [CS/CS/SB 374](#) by Hukill

Emanating from the Senate as SB 374, the companion House bill, HB 929 was updated with a committee substitute last week.

Baccalaureate Degrees

The bill specifically addresses that bachelor's degree programs must be designed to meet regional workforce needs of the service area and the needs of place-bound, nontraditional students. This is an important point we have been emphasizing in our lobbying efforts so it is good to see it in the bill now. The bill also addresses articulation agreements with universities. Other changes to the process include requiring more data driven justification, a timetable for submitting the proposal after notice of intent, and The Florida College System institution's efforts to sustain the program at the cost of tuition and fees for students not to exceed \$10,000 for the entire degree program, including flexible tuition and fee rates and the use of waivers.

Enrollment Caps

The bill also places a 20% system cap on baccalaureate degree enrollments, which at the current growth rate could take as many as 20 years to reach. Current baccalaureate enrollments are average approximately 5% system-wide.

Articulation Agreements

The bill also asks for articulations to include provisions for reverse transfers for students who have met AA requirements after leaving a college and enrolling in a university. It also requires each college to have one "targeted pathway" articulation. To participate in a "2+2" targeted pathway program, a student must: 1. Enroll in the program before completing 30 credit hours, including, but not limited to, college credits earned through articulated acceleration mechanisms pursuant to [s.1007.27; 2. Complete an associate in arts degree; and 3. Meet the university's transfer requirements. It also updates the new bachelor's degree approval process to allow 60 days, instead of 30, for a university or ICUF institution to object to a new degree.](#)

FCS Governance

The [CS HB 929](#) also creates a Governance Study Committee, consisting of 10 members, including the FCS Chancellor, who will serve as chair and be a non-voting member, and the Chancellor for Career and Adult Education who will also be a non-voting member. The President of the Senate and the Speaker of the House shall each appoint one member who is: a president of a FCS institution whose service area includes a state university; a president of a FCS institution whose service area does not include a state university; a director of a career center operated by a district school board; and a representative of the business community. The committee shall conduct a study to review national best practices of governance of undergraduate education and career postsecondary education, including any correlation between the type of governance structure and improved outcomes, accountability, or efficiency in such programs.

The study must examine effective relationships between business and industry, colleges, and school districts and make recommendations to strengthen such relationships to meet workforce demands and better prepare students for entry into the workforce. In addition, the committee must review the mission of each college and determine whether changes to the academic program offerings of the college have enhanced or undermined the primary mission. If the committee makes a determination that it is advisable to transfer the administration of FCS institutions and career centers from the SBE to another government entity, then the committee must make

recommendations regarding the best methods for accomplishing a transfer and the fiscal impact that a transfer would have on the state.

[CS/CS/SB 2](#) by Galvano (compare [HB 3](#))

As described in previous weeks, this bill covers several policy issues and has passed the Senate by a 35-1 vote. Its companion bill, HB 3 is moving slowly in the House and still has two committee stops remaining in Higher Education Appropriations Subcommittee and the full Education Committee.

[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. It passed the Senate by a 23-15 vote and is currently in “messages” awaiting action in the House. On Tuesday, April 4th the House will hear HB 245--the Stand Your Ground Expansion proposal. This bill would place the burden on the party wishing to overcome the claim of self-defense, the prosecution. It will make it easier to claim stand your ground, and places an extra burden on the state who must prove that the defendant did not stand his/her ground.

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Special Session?

Speculation about lawmakers needing a special session is nothing new in Tallahassee; the ratio of legislative sessions to rounds of overtime rumors is roughly 1-to-1. But with House Speaker Richard Corcoran, R-Land O' Lakes, implicitly raising the prospect of a special session in his opening-day speech this year, the rumors were already in overdrive. And the release of budget plans this week is likely only to fuel speculation that lawmakers won't finish by the scheduled May 5 end of the regular session. On the bottom-line figure, the House and Senate are roughly \$2 billion apart on how much to spend in the budget year that begins July 1.

There's more where that came from. The Senate apparently doesn't count another \$2 billion in university tuition toward its bottom line, while the House does. So what looks like a dispute between \$83.2 billion in the Senate and \$81.2 billion in the House might in fact be something more. All of this in a session where the governor and Corcoran are essentially at war with each other over business incentives. Also, the timeline for negotiating the spending plans is tougher than usual.

The rumors of a special session aren't new, but every so often they're right --- and this year could be the latest example.

DOLLAR DAZE

The tightness of the calendar goes something like this: The House and Senate's budget-writing committees are expected to vote on their spending plans next week. The week after that is when floor votes are likely to happen. That gives lawmakers a little more than two weeks to close the \$2 billion or \$4 billion gap, depending on how you want to count it, then decide how to spend what's left over, then get the agreement printed in time for a 72-hour cooling-off period before lawmakers vote on the final package. That's not a lot of time in legislative terms.

There are some philosophical differences that make the debate that much more difficult. The

House and Senate are deeply divided, for example, on whether to fund the business incentives that Gov. Rick Scott loves, but House lawmakers hate.

The Senate wants more than \$80 million for programs tied to Enterprise Florida, the state's economic development agency; the House has already voted to abolish Enterprise Florida. The Senate wants \$76 million for tourism-marketer Visit Florida; the House is pitching \$25 million.

House Transportation & Tourism Appropriations Chairman Clay Ingram, R-Pensacola, said the budget proposal is "basically following the tenets" of the House bill that included abolishing Enterprise Florida. "Being a policy bill, I know there are negotiations going on between the House and Senate on the policy of that bill," Ingram said.

Senate Appropriations Chairman Jack Latvala, R-Clearwater, said Tuesday he doesn't support the House approach on the agencies but that his focus is "getting what we have over here done first." "The House does its thing, the Senate does its thing, then we see where it goes," Latvala said.

Another philosophical divide is on local property taxes for education. The House argues that allowing property taxes to rise with the values of the underlying properties is a tax increase. The Senate doesn't see it that way, because the rate of the tax --- called the millage --- doesn't change. "We've kept that at the same (level) and believe that keeping the millage rate the same is not a tax increase," said Sen. David Simmons, an Altamonte Springs Republican who oversees the public-schools budget in the Senate.

Asked whether there might be room to negotiate, Simmons' House counterpart pointed to something Corcoran told a reporter for the Tallahassee bureau shared by the Tampa Bay Times and Miami Herald. "I think the speaker was quoted as saying 'hell no' on raising taxes, so I'm just going to defer to his quote," said Rep. Manny Diaz Jr., R-Hialeah.

And that's before getting to different priorities. The Senate wants to boost funding for higher education, a chief priority for Senate President Joe Negron, R-Stuart, while the House is seeking less. There are also differences over which employees should get raises, and how much.

SEE YOU IN COURT --- OR MAYBE NOT

Scott and Corcoran shared something in common this week: They both earned victories in trying to get someone out of the courtroom. A circuit judge sided with Scott on Tuesday in a dispute over the removal of Central Florida State Attorney Aramis Ayala in the high-profile case of accused cop-killer Markeith Loyd. Orange County Circuit Judge Frederick Lauten's ruling came after Scott yanked Ayala, the elected prosecutor for Orange and Osceola counties, from the case because she refuses to seek the death penalty for Loyd or any other defendant. Ruling from the bench, Lauten refused to reinstate Ayala as prosecutor in the case after Scott reassigned it to Ocala-area State Attorney Brad King, an outspoken proponent of the death penalty.

Ayala had asked the court for a temporary stay of the proceedings in Loyd's case while she challenged whether Scott has the authority to oust her. Ayala immediately pledged to appeal Lauten's ruling. "By inserting his personal politics into this case, Governor Scott's unprecedented action is dangerous and could compromise the prosecution of Markeith Loyd and threatens the integrity of Florida's judicial system," Ayala said in a statement Tuesday. "We will move forward to expose the governor's action as unlawful and unconstitutional in a way that does not compromise the successful prosecution of Markeith Loyd."

Scott wasn't backing down. His office issued a statement after Lauten's ruling that said the governor "stands by his decision to assign State Attorney Brad King to prosecute Markeith Loyd after State Attorney Ayala refused to recuse herself." "As Governor Scott has continued to say, these families deserve a state attorney who will aggressively prosecute Loyd to the fullest extent of the law and justice must be served," the statement said.

Limiting Supreme Court Justices

House Speaker Corcoran's victory, meanwhile, came on a House bill that would limit Supreme Court justices and appeals-court judges to two consecutive terms in office. House members voted to approve the measure ([HJR 1](#)) on a 73-46 vote nearly along party lines. The defection of six Republicans was almost enough to kill the amendment, which needed 72 votes to get through the chamber.

Legal organizations across the political spectrum have opposed the legislation, but Corcoran brushed that off. "That tells you we are doing what is right," Corcoran said. "And neither special interest hand-wringing nor political influence will stop the House from doing what is right. It boils down to this --- we believe that no government job should be for life."

But opponents argued that the measure was aimed at weakening the judicial branch after a string of Supreme Court rulings that have stymied Republicans who dominate state government. Many of those rulings have been issued by majorities featuring long-serving Democratic appointees. "At the end of this day, the bill will have one major chilling effect: a less-independent judiciary beholden to the executive and legislative branches," said Rep. Evan Jenne, D-Dania Beach.

Right or not, the proposal faces long odds in the Senate, which has traditionally watered down or rejected House bills that take on the courts.

ON THE TURN?

The years-long quest to pass a new gambling package continued this week, as the House and Senate both moved forward gambling bills, setting the stage for the first serious negotiations in years between legislative leaders --- and the Seminole Tribe of Florida --- on the thorny issue. That's the optimistic version, because the proposals are essentially diametrically opposed to each other.

The Senate overwhelmingly approved a measure ([SB 8](#)) that is friendly to the pari-mutuel industry. The bill would allow slot machines in eight counties where voters have approved them, legalize controversial card games at the heart of a legal battle with the Seminoles, and allow nearly all tracks and jai alai frontons to do away with live racing or games, a process known as "decoupling."

Hours later, a major House committee supported a more status-quo measure ([HB 7037](#)) focused on a 20-year agreement with the Seminoles, called a "compact." A portion of a 2010 compact that gave the tribe exclusive rights to operate banked card games, such as blackjack, at most of its casinos expired in 2015, prompting a new round of negotiations --- and litigation --- with the state.

But discussions about a new compact failed to gain traction last year, after lawmakers did not

approve a deal struck by Scott and the tribe late in 2015. While the House and Senate now are coming from opposite ends of the spectrum, Republican legislative leaders acknowledged Thursday the packages provide a starting point for lawmakers to work toward a consensus during negotiations.

"Right now, I think we've demonstrated the two bodies can disagree as to what the fundamentals of a bill can look like, but that doesn't mean the idea is dead," House Commerce Chairman Jose Felix Diaz, R-Miami, told reporters after his committee supported the House version Thursday. "We're very far apart. That's for sure. They're almost like alternative bills. I don't know what our pressure points will be."

Senate bill sponsor Bill Galvano, a Bradenton Republican slated to take over as president of the chamber after the 2018 elections, said lawmakers need to act to provide certainty for the industry and to maximize revenue from the tribe and the pari-mutuels. "We have this ambiguous, unpredictable state of flux out there that needs to be wrangled in," Galvano told reporters. If nothing else, perhaps gambling could be resolved in a special session.

STORY OF THE WEEK: Lawmakers unveiled budgets separated by billions of dollars, beginning the long process of coming to an agreement on the annual spending plan.

QUOTE OF THE WEEK: "Obviously, searches of EDRs (electronic data recorders) in motor vehicles were not on the minds of the first United States Congress when the Fourth Amendment was introduced in 1789, and the United States Constitution's right to privacy sheds no light on the subject (particularly since there is no provision actually describing such a right to privacy)."-
--4th District Court of Appeal Judge Alan Forst, dissenting from a ruling that said authorities needed a warrant before they could download information recorded in a car's "black box."