



MEMORANDUM

TO: Florida Association of Special Districts

FROM: Terry E. Lewis, M. Christopher Lyon, Lori E.H. Killinger, Natalie Kato

DATE: March 16, 2016 *MLC*

SUBJECT: Legislative Session Report

The 2016 Regular Session of the Florida Legislature adjourned sine die on time at around 6:30 p.m., Friday, March 11, 2016 and most of us offered a silent prayer of thanks. With respect to special districts generally, the Session was marked by legislation titled variously, “special district transparency”, “special district lobbyist registration”, “public corruption” and “special district accountability”. Our team spent an enormous amount of time in defensive mode explaining to our legislative friends that there was little or no basis to impose additional regulations or costly, redundant records keeping on special districts that are already as transparent as cities and counties so far as operations and budgets. They are rarely if ever lobbied by special interests and scrupulously adhere to Florida’s Code of Ethics for public officials. We are pleased to report that none of the onerous, “attack” legislation passed.

Generally, a highlight of the Session involved a feud between the Governor and the Legislature. Seems last year the Governor vetoed several hundred million dollars of appropriations for local projects without bothering to let anyone know his intentions before the “stealth vetoes”. This appeared to galvanize the House and Senate into unified action against a perceived common enemy. (They usually spend most of a Session fighting with each other.) So, this year, the Governor’s proposed budget included roughly a billion dollars in tax cuts, primarily for businesses. The Legislative budget presented to the Governor on Friday, March 11th contained less than half of his requests. The next shoe to drop is how the Governor will retaliate with his veto pen this year. And you probably thought legislative work was all fun and games.

Other items of general interest in the 82.3 billion dollar state budget; a general budget increase over last year of approximately 5%, an increase in public education funding of \$458,000,000 (approximately 1 %), \$132,000,000 for Everglades restoration, \$ 57,000,000 for the northern Everglades and Indian River Lagoon, \$32,600,000 for beach restoration and \$ 50,000,000

and a three day back-to-school tax holiday. Interestingly, the Governor asked for \$250,000,000 for a “Florida Enterprise Fund” to attract new businesses to Florida. He was given \$ 0.

As to legislation of specific interest to special districts, the following is a summary of what did and did not happen in 2016:

Water Policy
SB 552 (Dean)

On the third day of the Session, the Legislature passed SB 552, comprehensive regulatory legislation intended to protect state waters. The new law provides:

1. Florida’s water management districts (except the Northwest Florida Water Management District) must adopt minimum flows and levels for Outstanding Florida Springs (“OFS”) by July 1, 2017.
2. The Department of Environmental Protection (DEP) must initiate rulemaking to verify water quality monitoring requirements in lieu of implementation of best management practices.
3. The Office of Economic and Demographic Research must conduct an annual assessment of Florida’s water resources and conservation lands, to include current and future expenditures by governments and utilities related to water supply and demand and water quality protection and restoration.
4. DEP is required to investigate the feasibility of creating a web-based map of watersheds and water bodies with information about water quality.
5. DEP must develop focus areas for OFS or groups of springs that contain at least one OFS.
6. DEP must initiate an assessment of any OFS or spring system which has not had an impairment determination made under numeric standards and modify existing basin management action plans to comply with modified water quality standards in an OFS.

Special District websites
SB 516 (Ring/Gaetz)/HB 745 (Nunez)

SB 516 by Senators Ring and Gaetz and HB 745 by Representative Nunez would have required special districts and only special districts to create and maintain extensive financial information on their websites in formats not previously required for financial disclosure. The additional information required would have to allow the general public to:

1. View multiple years of budget, general ledger and checking account data in real time.
2. Review year-over-year spending trends, examine individual accounting entries, and filter data according to categories in the special district's chart of accounts, including, but not limited to, funds, departments, divisions, programs, or activities.
3. Download financial data and graphs.
4. View data in different graphical formats, including, but not limited to, stacked line, trend line, bar graph, and pie chart.
5. View data in tabular formats.
6. View information for multiple special district departments, divisions, funds, or financial categories simultaneously.
7. View and compare revenue and expense trends simultaneously on the same graph for any level of financial data.

We were able to demonstrate that these requirements would effectively require every district in Florida (more than 1600) to either add staff or hire a consulting company to perform the required tasks. There is one company that has the current capability to do this and could build quite a sizable business from the legislation. We were also able to forge an alliance with numerous other interested parties who use special districts and would have been impacted as well. As a consequence, the legislation only had two hearings in Senate Committees and one in the House and then died. As a side note, the Senate sponsors of the bill are term-limited and will not return.

Special Districts
HB 479 (Metz)/SB (Stargel) 956

HB 479 by Representative Larry Metz was approved by the Legislature and signed by the Governor. It is now Chapter 2016-22, Laws of Florida. The legislation is primarily a clean-up (“Glitch Bill”) from the previous overhaul by Representative Metz of Chapter 189, the Special Districts Accountability Act. The main substantive changes for special districts in the new law are:

1. A district’s tentative budget must remain on the district’s website for at least 45 days and the final budget must be posted to the district website within 30 days of adoption and remain on the website for 2 years.
2. Budget amendments must also be posted to the district website and remain on the website for 2 years.
3. The charter of any new independent district must reference the district’s status as independent.
4. The following information must be posted to the special district website:
 - a. A list of regularly scheduled meetings;
 - b. The public facilities report if applicable;
 - c. The link to the Department of Financial Services website; and
 - d. At least 7 days prior to a meeting, the agenda for the meeting and any available meeting materials.

Special District Accountability
HB 7001) (Local Government Affairs

HB 7001 is a committee bill filed by the House Local Government Affairs Committee to require the Department of Economic Opportunity to exclude inactive special districts from the official list of special districts. Excluded, inactive special districts would be maintained on a separate list until such time as they become active, dissolved or merged. The legislation never had a Senate companion and died.

Government Accountability
SB 686 (Gaetz)/HB 593 (Metz)

As originally filed, SB 686 and HB 593 were similar to legislation regarding governmental accountability filed last year that failed to pass. This year both bills initially included a provision that required all counties, municipalities, hospital districts, children's services councils, expressway authorities, port authorities and all independent special districts that exercise ad valorem tax authority and have annual revenues of \$5 million dollars or more to install a lobbyist registration program and maintain records of all lobbyists who seek to influence a special district decision regarding matters such as contract or policy matters. Senator Gaetz' legislation also contained a provision that would have prohibited any employee, the chief executive officer or chief financial officer of a special district from serving on the auditor selection committee for the special district.

HB 593 did pass the House with the lobbyist provisions amended out. However, the legislation did not receive a hearing in the Senate and died. SB 686 eventually died on the Appropriations Committee's final agenda when the Committee ran out of time without ever considering the bill. And, as we previously mentioned, Senator Gaetz is term limited and will not return next year.

Hospital Districts
SB 614 (Hutson)/HB 477 (Costello)

This legislation would have required every hospital district with ad valorem taxing authority to conduct a referendum no later than July 1, 2016 on the question of whether the district's taxing authority should be reauthorized for a period of 10 years. And, if the referendum was successful, subsequent referenda would be required every 10 years thereafter. If the referendum failed and the district is dissolved, the assets and liabilities of the district are transferred to local general purpose government within which the district is located. The legislation died without a hearing and probably was the result of local squabble between a hospital district and some other interest group. We reference the bill however because this concept has been floating around since Senator Negron was successful in imposing the referendum requirement on children's services councils some years ago.

Public Records
HB 273 (Beshears)/SB 390 (Simpson)

HB 273 was approved by the Legislature and signed into law by the Governor, Chapter 2016-20, Laws of Florida. The legislation provides the following:

1. After July 1, 2016 every public agency contract must contain language in 14 point boldfaced type that states that "IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (telephone number, e-mail address and mailing address) . . .
2. A contractor must respond and provide all public records to the records custodian upon request.
3. Anyone requesting public records must make the request to the agency's public records custodian.
4. If a civil action is filed against a contractor for violating the public records act, the contractor must be given written notice at least 8 days before the lawsuit can be filed in circuit court.

This legislation is designed to avoid public records litigation initiated when someone makes a public records request of a contractor or a low level agency employee other than the records custodian for the agency. Currently, there is an epidemic of such lawsuits going on because of the mandatory attorney's fees provision in the public records act for failure of an agency employee or contractor who doesn't know the law to respond to the records request.

Public Records
HB 1021 (Steube)/SB 1220 (Garcia)

This legislation would have provided a circuit court judge with discretion in determining whether attorney's fees should be granted to a plaintiff who filed a civil action to enforce the provisions of the public records act. The legislation did pass the Senate but never received a hearing in its last committee in the House and died. This legislation would have been beneficial in conjunction with Chapter 2016-20 and is a likely candidate to be refiled next year.

Certificates of Public Convenience and Necessity ("COPCN")
HB 517 (Renner)/SB 742 (Hutson)

Chapter 401, Florida Statutes, authorizes a county to issue COPCNs to other fire rescue and emergency transport providers in the county that wish to provide basic or advanced life support. However, Chapter 401 provides no avenue of appeal if an applicant's application is unreasonably denied. This legislation would have required a county to adopt an ordinance if it did not have one

already that would have provided an unsuccessful COPCN applicant with a pathway to appeal to a circuit court. HB 517 died on the calendar in the House and SB 742 died in the Senate Rules Committee.

Firefighter cancer presumption
HB 345 (Fitzenhagen)/SB 456 (Latvala)

This legislation would have created a presumption that a full time firefighter or paramedic who contracts cancer did so in the line of duty and is eligible for death and disability benefits. The legislation received no hearings in the House, one in the Senate and died.

Ad Valorem Taxes
HB 1015 (Nunez)/SB 1222 (Flores)

This legislation would have changed the definition of “roll back rate” in Chapter 200, Florida Statutes, the law governing the method by which a local government may levy ad valorem taxes and the tax increase limit from one year to another that a local government may approve. Basically the changed definition would have decreased the amount by which an ad valorem tax levy could be increased by simple majority vote of a governing board.

HB 1015 passed all its committee references but was never heard by the House. SB 1222 never received a hearing in the Senate Appropriations Committee and died.

Election Law
SB 112 (Thompson)/HB 361 (Lee)

SB 112 did pass the Legislature and has been signed by the Governor (Chapter 2016-37, Laws of Florida). The legislation changes the term “absentee ballot” to “vote by mail ballot”. There is no substantive change to election law.

Election Law
HB 541 (Spano)/SB 744 (Bean)

HB 541 (Chapter 2016-23, Laws of Florida) adds criteria to the definition of “address of legal residence” to include criteria such as apartment, house or condominium numbers, street addresses, etc.