



April 30, 2010

Legislative Update

Final Week of Session, April 26 - April 30, 2010

2010 Legislature Adjourns

The 2010 Legislature finished its work Friday night, with the House adjourning at 6:59 p.m. and the Senate ending at 8:47 p.m. The last action was the passing of the 2010-11 budget and a batch of budget implementing and conforming bills. The new budget came out of conference totaling \$70.4 billion, higher than the spending plans passed by both the House (\$67.2 billion) and the Senate (\$68.6 billion).

The budget contains no new taxes or fees but contains about \$2.3 billion in federal stimulus money. There is also a large chunk of funding contingent on the federal government approving approximately \$1 billion in additional Medicaid funding (FMAP). The budget uses that FMAP money to free up general revenue that would have been spent on Medicaid. The budget also uses \$437.5 million from the newly ratified gaming compact with the Seminole Tribe.

The Legislature also sweeps \$507 million from various trust funds into general revenue, including an ill-conceived \$160 million sweep from the State Transportation Trust Fund. The House had wanted to sweep over \$400 million. The Senate, along with Florida TaxWatch and many other organizations, opposed any sweep. While the sweep was reduced in conference, it will still have a negative impact on new projects and is expected to cost thousands of jobs. If the state receives the federal FMAP money, \$40 million will be put back in the STTF. The Senate also insisted on a \$19 million loan repayment from the Tampa Expressway Authority to further mitigate the impact of the sweep.

The budget includes a modest \$1.22 per student increase in K-12 education funding. For universities and community colleges, there will be an 8% increase to base tuition, and universities have the option to go as high as 15%. The House also accepted a Senate proposal to change the communications services and gross receipts taxes that, while not increasing taxes, has the effect of shifting \$20 million from general revenue into the public education capital outlay.

(PECO) fund to allow for more bonding. This provided for approximately \$300 million in additional college and university building projects.

Another sticking point, environmental funding, was settled by putting \$15 million into Florida Forever and \$10 million into Everglades restoration. The Everglades funding will swell to \$50 million in the FMAP is received.

It appears that a number of local member projects made it into the budget, some added very late in the conference process. This happened in spite of the stated position early in the session that there would be no funding for these type projects. Stay tuned for Florida TaxWatch's annual *Turkey Watch* report for more information.

The Legislature wisely did not spend everything it had, instead keeping substantial reserves. With no federal stimulus money next year, it is estimated the state may face a \$5 billion shortfall. Total reserves (including the Chiles Endowment) exceed \$2 billion.

Some other issues from the last week of session:

Taxes

There will be a three-day sales tax holiday for books, clothing, footwear, wallets, handbags, and backpacks, from August 13 through August 15, 2010. Items must cost \$50 or less to qualify. It is estimated taxpayers will save \$21.3 million. Florida TaxWatch supported this measure as a small break for taxpayers and a way to boost retail spending.

A proposed roll-back of some of the tax increases passed last year, including those for drivers' licenses and auto tags, did not occur; however, the new \$7.50 shoreline fishing license was repealed. Some new tax exemptions and tax credits were included in the "jobs bill" package (see below).

Economic Development "Jobs Bill"

The legislature this week passed SB 1752, containing a number of provisions aimed at job growth, business development, and long-term economic expansion. This included a number of Florida TaxWatch incentives for the marine and aviation industries, including a sales tax cap for fractional aircraft. Read the Florida TaxWatch [report](#) that demonstrated the positive benefits of this measure.

Other provisions in the jobs bill include (some of the funding is contingent on the state receiving the federal FMAP funding):

- \$10 million in Jobs for the Unemployed Tax Credits, provided to any new or existing qualified targeted industry business that hires a new employee who is unemployed. Businesses are eligible for a \$1,000-tax credit per each qualified employee
- Expanding the manufacturing machinery and equipment sales tax exemption
- \$15 million for the Quick Action Closing Fund to ensure the state is able to provide the means necessary to attract new, and expand existing, high-impact businesses
- Expanding the Qualified Target Industry Tax Refund program
- \$3 million in Local Government Matching Grants, individual grants may be up to \$50,000
- \$4 million in Defense Infrastructure Grants
- Lowering the threshold to qualify for High Impact Performance Incentive Grants
- \$3 million in Research Commercialization Matching Grants to assist small businesses seeking federal research and development funding
- \$2 million to expand the Economic Gardening Pilot Program
- \$2 million in State University Research Commercialization Assistance Grants
- \$19.8 million to Space Florida from multiple programs to provide additional opportunities for space businesses and the Space Coast workforce
- A five-year, \$242 million transferable tax credit incentive program for Florida's Film and Entertainment industry. Tax credits are awarded only after certified projects complete production and submit a final report.

Medicaid Reform

A wide-ranging transformation of Florida's Medicaid program did not happen this year. The Senate had proposed a 19-county expansion of the state's current five-county pilot program, putting a quarter of a million low-income citizens into managed care. The House plan was more sweeping, putting 2.7 million Medicaid beneficiaries into managed care plans over the next five years (by 2015). It ultimately was decided it was too much too fast but you can be sure this will be revisited next session.

Cost and Benefit Analysis of Legislation

SB 1178 was passed this week to inject cost-benefit, return on investment, and dynamic scoring into the bill impact estimating conference process. The legislation allows the Senate President or House Speaker to request special impact sessions of the Revenue Estimating Conference to use these techniques. This enhancement to the state's analysis of legislation was supported by Florida TaxWatch, especially consideration of macro- and micro-economic behavior responses to law changes, or what is commonly referred to as "dynamic scoring." Read the recent Florida TaxWatch report [here](#).

Property Insurance

While legislation allowing most property insurers to raise statewide premiums by up to 10% without approval by the state's Office of Insurance Regulation did not pass, a watered-down property insurance bill was passed on the last day of session. It allows insurance companies to raise premiums to account for reinsurance rates, inflation and other factors, reduces the deadlines for filing claims from five years to three years, and requires newly-created and existing companies to boost their reserves, but gives existing companies several years to do it. It also places additional restrictions on public adjusters and how they market their services. The Governor has indicated he may veto the bill.

Cost Savings Legislation

A number of recommendations included in the final report of the Florida TaxWatch Government Cost Savings Task Force were enacted by the 2010 Legislature. That report contains 88 individual recommendations that have the potential to save the state more than \$3 billion annually. You can read the report [here](#).

These recommendations were passed by both the House and the Senate and if signed by the Governor, will become law:

Class Size Amendment – The Legislature is sending a proposed constitutional amendment to the voters to change the 2002 class size amendment to provide greater flexibility to school districts and save approximately \$350 million. Under the current amendment, individual class sizes would be limited to 18 students through third grade, 22 students in grades fourth through eight, and 25 students in high school. The rewrite would soften the standard by limiting the school wide average class size to those totals, but allows individual classes to go as high as 21, 27, and 30 students, respectively. This Florida TaxWatch supported amendment will go to the voters in November 2010.

Florida Tax Credit Scholarship – SB 2126 will expand the Florida Tax Credit Scholarship, a program that gives businesses a tax credit in exchange for paying for a scholarship. The bill adds new tax sources that are available for the credit, increases the total amount of scholarship money that can be awarded from \$118 million to \$140 million. It also expands the income eligibility for students and increases the per student award gradually from \$3,950 to 80 percent of per pupil spending. It also adds important accountability provisions for private schools. Florida TaxWatch research was on the scholarship program was cited several times on the floor. That research has found that in addition to increasing school choice, the savings from reducing the number of public school students will more than offset the tax credits.

Cap Bright Futures Scholarships – The Legislature reduced the future cost of Bright Futures, through steps including increasing test score requirements to qualify for the program, reducing the number of credits covered, and reducing the time of utilizing the award from 7 years to 5 years.

Reduce Exemptions from Competitive Bidding – **SB 2386** removes certain types of services from the list of services exempted from competitive bidding requirements, including auditing services, academic program reviews, health services, and Medicaid services.

Increase use of electronic payment disbursements – **SB 2386** also directs all agencies and the judicial branch to use electronic payment disbursement for all state payments where possible.

Increase use of electronic payment receipts – **SB 2386** directs all agencies and the judicial branch to use electronic payment receipts for all state payments where possible.

Improve Enforcement of the Preferred Pricing Clause – **SB 2386** requires each state agency to review its contracts to determine if each contractor complies with the applicable preferred pricing clause. Contracts, which include a preferred-pricing clause and were executed, renewed, extended, or modified on or after July 1, 2010, must require an affidavit by the contractor attesting that the contract is in compliance with the preferred pricing clause. The term “preferred-pricing clause” is defined.

Renegotiate Non-Client-Service Contracts – **SB 2386** requires each state agency to review and renegotiate existing contracts renewals to reduce contract payments by 3 percent.

Ensure only eligible dependents receive health insurance – **SB 2374** directs the Division of State Group Insurance to competitively procure dependent eligibility verification services. Based on information from the Department of Management Services and the experience of other states, Florida TaxWatch estimates such an eligibility audit could save as much as \$30 million.

Reduce Corporate Filing Fees but Stop Waiving Late Penalties – **HB 5505** removes a provision that results in the Department of State routinely waiving the supplemental corporate late fee, making the fee mandatory. It is estimated to bring in an additional \$16.8 million for the new budget.

Reducing Medicaid Fraud – **SB 1484** includes a major fraud reduction initiative – the Medicaid and Public Assistance Fraud Strike Force Act. The bill would add additional staff to the Chief Financial Officer’s (CFO) office and create a Fraud Strike Force to pursue Medicaid and public assistance fraud. It also directs the state to enter into a contract with third-party vendors to provide a real time, front-end database to decrease inaccurate payment to Medicaid providers and

improve the overall efficiency of the Medicaid claims-processing system. It also requires a thorough review of the state's fraud processes.

Tax Amnesty – HB 5801 creates a three-month Tax Amnesty program from July through September 2010. This amnesty will provide taxpayers the opportunity to pay overdue taxes without late penalties, with reduced interest charges, and with avoidance of criminal prosecution. The Revenue Estimating Conference estimates it will bring in \$82.9 million.

Adding Department of Revenue Tax Auditors to Increase Tax Compliance – HB 5801 also provides 25 new auditors to the Department of Revenue (DOR).

Dispose of Unneeded State Facilities & Land Holdings – SB 1516 requires the Department of Environmental Protection to maintain a comprehensive database of all state-owned real property that is available to the public electronically. Objectives of the system include the elimination of duplicate information processes, reducing the need to lease or acquire additional property and increase state revenues and maximizing operational efficiencies by annually identifying those state-owned real properties that are the best candidates for surplus or disposition.

Reducing Textbook Costs – HB 5101 requires that instructional materials adopted after 2012-13 be adopted in an electronic format.

Reducing office supply costs – The budget implementing bill (HB 5103) provides for office supplies to be competitively procured through a multiple vendor state term contract.

Automated Verification System of Child Care Providers – The Task Force recommended a point-of-sale verification system, rather than the current self-reporting system, to verify attendance and cut down on fraudulent child care claims. SB 2014 requires the Agency for Workforce Innovation, which houses the state's subsidized child care program, to establish a single statewide information system to, among other things, track child attendance.

Reducing Pension Costs – HB 1307 reduces the Florida Retirement System contribution rate for administrative costs that is paid by employers. This will save the state \$4.2 million.

Financial Institution Data Match – HB 7157 will allow DOR to do electronic data matching with financial institutions for those taxpayers that already have tax liens in the public record for matching and recovery of funds owed to the State of Florida. Any financial records obtained may be disclosed only for the purpose of enforcing the tax laws.

Require All State Employees to Contribute to their Health Insurance – While most state employees contribute to the cost of their health insurance, more than 25,000 employees,

including legislators, do not. The Legislature eliminated the free health care coverage by requiring them to pay \$100 a year for individual coverage and \$360 a year for family coverage.

Increase the Number of Lottery Selling Points – Both the House and Senate budgets provide authority to acquire up to 500 additional ticket terminals to increase the size of the retail network. The budgets also would provide \$3.9 million to purchase 750 automated vending machines.

Expand the Redirection Program – The Legislature added \$1.6 million to the Redirection Program in conference to maintain the expansion that was funded last year. Also, the Agency for Health Care Administration was given authority to seek a waiver to provide mental health services to juveniles in the program.

Maximize Lease Space – The budget contains proviso that holds Master Lease Space Improvement Funds in reserve until the Department of Management Services provides a report detailing the projects and their justification.

Promote Alternatives to Incarceration and Reduce Recidivism – The budget authorizes the Department of Corrections to contract to implement a risk/needs analysis pilot program to focus treatment and services on those most likely to re-offend and to determine alternatives to incarceration for low risk inmates.

Promote Alternatives to Incarceration – The budget also provides funding for pilot programs for offenders who would be sentenced to prison but could be diverted to other programs. The budget also authorizes the Department of Juvenile Justice to contract for services to divert youth from secure detention to alternative community based services.

Outsource Recovery of Aberrant Medicaid Claims – The Senate budget authorizes contracting out on a contingency basis for post-audit claims analyses to identify and recover Medicaid overpayments.

Purchasing – The budget requires a business case plan for the competitive solicitation of the state purchasing system, MyFloridaMarketPlace, by July 1, 2010. Upon approval of the business case plan by the Legislative Budget Commission, a contract will be competitively solicited.

This following cost saving legislation was considered but failed to pass:

Reducing Pension Costs – SB 2022 would have required each active member of the Florida Retirement System, the Senior Management Service Optional Annuity Program, and the State

University and Community College Optional Retirement Programs to contribute a modest 0.25% of gross salary to help fund their retirement benefits. Most state retirement systems are contributory systems, while Florida is a non-contributory system. This will save \$41.6 million in the next budget year and \$83.2 million annually thereafter. The bill passed the Senate but was not taken up by the House.

Expand Drug Courts – HB 1587 and SB 2714 would have created a post-incarceration drug court program. The investment would be more than offset by savings from reduced incarceration. Both bills died in Criminal & Civil Justice Appropriations.

Expand Programs That Reduce Recidivism – HB 811 and SB 2260 would have initiated six new faith- and character-based programs at existing prisons. Eligibility for these programs would also be increased. Research shows that these programs reduce recidivism at no cost to the state. Both bills died in their last committee of reference.

Online Hotel Bookings from Internet Intermediaries – SB 156 and HB 335 would have required online hotel booking companies to apply state and local taxes to the full price of the booking, not just the amount paid to the accommodation owner for the right to book the room. The House Finance and Tax Council took up the bill but a vote was deferred. **HB 1241** took the opposition approach, clarifying that the tax is not due on the full amount. That bill passed the House but died in messages.

Collecting Sales and Use Taxes Currently Due on Remote Sales – HB 165 and SB 204 would have brought Florida into full compliance with the Streamlined Sales and Use Tax Agreement and allowed Florida to begin collecting sales taxes on remote sales from members of the voluntary compact. These bills did not have a committee hearing. **HB 1443** called for the state to contract the development of an Internet Sales Tax Automated Sales Tax Tracking program (i-Start) to use credit card companies to track and collect the tax for the state. The bills also required that when collections exceed \$5 billion, the state sales tax rate will be reduced by 1%. It died in the House Policy Council.

Federal Revenue Maximization – HB 1465 and SB 2032 would have created an Office of Federal Revenue Maximization in the Governor's Office to respond to federal grant opportunities and coordinate the use of federal funds in the state with the CFO, the Governor's Office of State-Federal Relations, the judiciary, the Legislature, and the Legislative Committee on Intergovernmental Relations. The legislation was filed but has not heard in committee.

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Florida TaxWatch is a statewide, non-profit, non-partisan research institute that over its 30-year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Its mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies and

programs and to increase the productivity and accountability of Florida state and local government. Its support comes from homeowners and retirees, small and large businesses, philanthropic foundations, and professional associations. On the web at www.FloridaTaxWatch.org.