



May 2, 2008

Legislative Update

Last Week of Session, April 28 – May 2, 2008

Sine Die – 2008 Legislature Finishes Its Business

The 2008 General Session of the Florida Legislature finished on time today, ending at 6:02 p.m. Here is a summary of what they accomplished.

The Budget. The Legislature passed a \$66.2 billion spending plan for FY 2008-09, which is a reduction of more than \$5 billion from what was initially authorized last session; because of the unprecedented drop in state revenues, the debate over how to distribute budget cuts without raising taxes dominated this session.

The budget cuts \$332 million from K-12 education, or \$131 (1.8%) per student. Payments to hospitals serving the poor were cut by \$250 million and nursing home payments were cut by \$164 million. The Legislature used \$354 million from tobacco fund reserves to prevent cuts to the Medically Needy Program.

The budget has \$305 million to add prison beds and \$300 million to continue the Florida Forever environmental lands program. While it appeared that there would be no money for Everglades restoration, \$50 million was added by Legislative leaders in conference.

There was no increase in taxes; but over \$200 million in fees were increased, most of which were court fees included to reduce potential cuts to state attorneys and public defenders. A 6 percent tuition increase was also included (and the Governor says he will not veto it, as he did last year).

There were no pay raises for most state employees, but state troopers will get a 5 percent increase.

What Passed (selected legislation Florida TaxWatch has been following)

Property and Casualty Insurance (SB 2860). The House and Senate had different perspectives, but a compromise was reached on a multi-issue property insurance bill. The

Senate wanted more pressure on insurers to cut rates while the House wanted to start getting the state out of the insurance business. The end result was a plan to freeze premiums for the 1.3 million policyholders in Citizens Property Insurance Corp. for another year. The plan will also prohibit insurance companies from charging higher rates unless they are approved by the state and will increase fines for violating state rules. It will also use \$250 million out of Citizens' reserves to pay private carriers to take on policies. **However, the Legislature did not do much to reduce the state's risk from a major storm.** The Legislature did not pass legislation – based on a plan offered by CFO Alex Sink – to shrink the hurricane catastrophe fund's exposure by \$3 billion in order to reduce the risk to Floridians, who will be subject to huge assessments if a major hurricane struck.

Health Insurance (SB 2534). The Legislature passed a plan to offer low-cost insurance to the state's 3.8 million uninsured. The final bill was a compromise between the Governor and the House, basically including both plans. The Governor supported offering low-cost coverage (about \$150 per month), removing the requirement that insurers offer wide-ranging coverage. Companies could offer stripped-down plans to cover only basic doctor and hospitalization fees. The House proposed setting up a public-private corporation that would help small businesses get access to lower-cost policies, at a cost of \$1.5 million to the state. The Governor and Senate initially opposed the corporation concept, but the final bill contains both plans, although it was amended to give the Office of Insurance Regulation more authority. The Governor has said he will not veto the money to fund the corporation.

“Highest & Best Use” and VAB Reforms (HB 909). An already good bill to implement needed reforms to the Value Adjustment Boards (VABs) was amended late in the process to loosen the “highest and best use” requirement for property tax assessments. Additionally, the bill: (1) requires that property appraisers consider “any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use;” (2) requires uniform policies and procedures for boards, special magistrates, and taxpayers in board proceedings; (3) requires two citizens to be VAB members; (4) precludes county attorneys from serving as counsel to the board; and (5) requires all counties to appoint special magistrates, regardless of the county's population.

Corporate Income Tax Credit Scholarship Program (HB 653). The Legislature upgraded the Scholarship Program, an idea that has long been supported by Florida TaxWatch. Provisions include increasing the \$88 million maximum credit by \$30 million, allowing siblings to participate, and increasing scholarship amounts.

Promoting Green Energy (HB 7135). This legislation creates the Florida Energy and Climate Commission to promote a more comprehensive, long-term state energy policy. It requires ethanol to make up 10 percent of Florida's total fuel supply by 2010. The Public Service Commission will also develop a renewable portfolio standard to increase the use of wind, solar, and other renewable energy. Newly constructed buildings will be up to 50 percent more efficient by 2019. A Florida Energy Systems Consortium will leverage the expertise of Florida's university research community to grow the state's emerging green economy.

Corporate Income Tax “Piggyback” and Speedup (HB 5065). Every year, the Legislature passes a “piggyback” bill that conforms Florida's corporate income tax code to the federal code by picking up annual changes. Florida TaxWatch supports this annual bill that makes tax compliance less burdensome for businesses and enforcement easier for the state. This year's legislation is a little different. It still conforms the tax codes, allowing businesses to keep one set of books and use federal taxable income as the base for Florida's tax; however, the taxpayer

must add-back the increased federal depreciation deduction provided by the Economic Stimulus Act of 2008. Allowing businesses to apply that deduction to their state taxes would have saved them a total of \$146.8 million next year. While it would have been preferable to extend that stimulus to state taxes, such a big hit to state revenues did not have much legislative support, given the budget climate. Moreover, the legislation advances the due date for quarterly estimated taxes from July 10 to June 30, which provides an extra payment in FY 2008-09, adding \$93.8 million to the state coffers for the next budget; however, there will be less money next year.

Cost-Saving Idea - Eliminating Form DR-219 (HB 7019). This form, which is intended primarily to provide the Department of Revenue (DOR) with property sales information for analysis of county tax rolls, is of little use to DOR because the information on the form is unreliable and available elsewhere. Florida TaxWatch has recommended eliminating the form since 2001. This long-overdue move will save more than \$12 million annually. (The savings comes from eliminating the 1 percent commission paid to county clerks to handle the form and reduced expenses for DOR.)

Economically Targeted Investments (SB 2310). This bill will allow the State Board of Administration to invest up to 1.5 percent of the Florida Retirement System's assets in growth and technology investments in Florida businesses.

What Didn't Pass

Property Tax Challenges – Two measures to help taxpayers contesting property assessments passed the House but were not taken up in the Senate. The proposed constitutional amendment HJR 7005 would have eliminated the Property Appraiser's presumption of correctness in property tax assessment disputes that wind up in court. HB 1283, supported by Florida TaxWatch, would have reduced the burden of proof on the taxpayer in such disputes to a preponderance of the evidence.

Streamlined Sales Tax Project – This would have made Florida a full member of the Streamline Sales Tax Project, a consortium of states working to make the collection of state sales taxes on remote sales easier on businesses, and therefore more politically feasible. Florida TaxWatch has long-recommended full participation as a way to remove a severe competitive disadvantage facing our in-state retailers and to collect potentially billions of dollars in taxes currently owed to the state.

CSX/Commuter Rail Project – One of the most controversial issues of the session, providing a commuter rail in central Florida, fell apart in the last day of session. Other issues that had been included in the transportation bill got stripped away as well, including a 25 percent toll increase for Florida's Turnpike and a \$2 rental car surcharge that would have been used to improve South Florida's Tri-Rail system. A proposal by the Governor to create a gas tax holiday was also briefly considered, but was not passed by the Legislature.

State and Local Government Revenue Limitation – A state and local government "tax cap" that would limit the annual increase in state and local revenue according to a preset formula – growth in population plus inflation plus 1 percent.

Local Government Tax Limit – Requiring a supermajority vote of the local governing body to levy a new tax, special assessment, non-ad valorem assessment, or impact fee.

Sales Tax Holidays – Despite public statements that another back-to-school sales tax holiday would be provided, the bill never passed the Senate. A tax holiday for hurricane supplies was ruled out earlier.

Financial Management by Local Governments – This legislation clarified the long-understood role of the Clerk of the Circuit Court as the institutional check on the people's money controlled by the Board of County Commissioners.

Transparency in Local Government Contracting – This legislation would have required local governments and state agencies to electronically post specific information on contracts on the web.

Education Governance – A proposed constitutional amendment to return the Commissioner of Education to an elected post and replace the appointed State Board of Education with the Cabinet.

Research and Development (R&D) Tax Credit – Modeled after a federal tax credit, this proposal would have provided a corporate income tax credit equal to 10 percent of the difference between the qualified R&D expenditures in the current year and the average R&D expenditures over the previous four tax years.

New Markets (Corporate Income) Tax Credit Program – A corporate income tax credit to encourage capital investment in rural and urban low-income communities.

Florida Research Commercialization Matching Grant Program – This program would have assisted small or startup companies that take advantage of federal and state partnerships to accelerate their growth and market penetration.

Gambling – Early in the session, the Senate passed a pair of bills to raise revenue by expanding gambling. One bill would have allowed the addition of thousands of electronic gambling machines, similar to slot machines, at greyhound tracks, horse tracks, and jai-alai frontons. This proposal could have generated up to \$500 million in state revenue. The other Senate proposal would have lowered the tax rate for casinos in Miami-Dade and Broward pari-mutuels to 35% from the current 50% rate while setting minimum revenue goals; supporters say this would allow casinos to invest more money in their facilities to attract more players. The House was adamant in its opposition to expanding gambling.

Save Our Homes "Fix" – Legislation introduced this session attempted to "fix" a little-known quirk in Save Our Homes: Under current law, if the just value of a house under SOH protection falls, the assessed value of the home will still increase by the SOH limit (the lesser of 3 percent or inflation), as long as the assessed value is still below the just value. While it certainly seems unfair for a homeowner's taxes to increase while their property's value falls, this quirk does have the effect of reducing the property tax shift to non-homestead properties.