



## **2018 Session Overview**

The 2018 Legislative Session adjourned Sunday, March 11th, at 4:16pm, extending session past the scheduled March 9th adjournment date, in order to finalize the constitutionally required budget.

Heading into this Legislative Session, it appeared that the focus would primarily be on Hurricane Irma response and recovery and the opioid crisis, priorities for Governor Scott. President Negrón was also focused on higher education funding and legislation, while the Speaker was promoting a comprehensive k-12 Education proposal. Then the legislature was rocked by several sexual harassment scandals, which resulted in the resignations of two Senators. However, every major issue or policy fight was eclipsed by the Valentine's Day shooting of 17 people at Parkland's Marjory Stoneman Douglas High School. The legislature immediately prepared a response, under the glare of the national spotlight, a charged political atmosphere and almost daily gun control demonstrations at the Florida Capitol. The resulting legislation was signed by the Governor last week and is detailed below. In addition to the legislation, other budget priorities took a backseat to a major increase in school safety funding. Simultaneously, the state's economist reduced the anticipated state revenue by \$167 million due to an expected decline in corporate income tax collections.

The final budget totaled \$88.7 billion. It includes \$22 billion in Medicaid funding, a \$21.1 billion education bill, \$9.9 billion in transportation projects, a \$1.5 billion boost in emergency response spending, \$400 million for the Marjory Stoneman Douglas School Safety Act, \$100 million for the Florida Forever land conservation program and an additional \$54.5 million to fight opioid abuse while setting aside \$3.3 billion in reserves. The Governor signed the budget on March 16, vetoing \$64 million in spending.

The number of bills passed this session was just under 200, which is lower than last session's 250, and lower than any session in the last 20 years.

Below is a summary of where key issues landed at the close of the legislative session.

### **Parkland Shooting Response**

The Legislature passed significant gun control measures that raise the age limit from 18 to 21 to purchase long guns, institute a three-day waiting period on gun purchases and ban "bump stock" devices that allow weapons to simulate fully automatic fire. The legislation includes \$400 million for mental health and school safety, including an additional \$69 million for mental health

programs in school and \$98 million to harden schools and upgrade other security measures, and a program that allows school districts to adopt programs that would allow school personnel to carry concealed weapons. The National Rifle Association has challenged the law in federal court.

## **Taxes**

This year's tax cut package HB 7087 totals \$171 million and was passed along with the budget Sunday afternoon in the extended call of session. This represents a sizable reduction from prior years' packages but the legislature was left scrambling for new revenues to pay for school safety improvements and mental health counseling as a result of the Marjory Stoneman Douglass massacre. The bill provides for a 3 day back to school sales tax holiday August 3-5 and a 7 day hurricane preparedness holiday June 1-7, 2018. The bill provides for a further reduction in the business rent tax dropping it from 5.8 to 5.7 percent, as well as provides a rebate to commercial airlines for aviation fuel taxes effectively reducing the rate from 4.27 to 2.85. It provides a refund in ad valorem taxes for persons displaced from their homes due to hurricane damage but exempts fiscally constrained counties, as well as the Keys which suffered the most damage from Hurricane Irma. It expands the permissible uses of the tourist development tax but only after at least 40% of the revenues are spent on tourism marketing. It provides for a 9% reduction in traffic fines and requires a performance audit be prepared in advance of the imposition of any new local discretionary sales surtaxes. The legislature also passed HJR 7001 a proposed constitutional amendment that will appear on the 2018 ballot to require all future legislatures to pass any tax or fee increase by a 2/3 vote in each chamber. It takes 60% of the voters to vote 'yes' to pass a constitutional amendment.

## **Education**

The 2018 Legislative Session included record spending for K-12 per student funds. Key legislative achievements include:

In a sweeping education bill that was the priority of the House of Representatives and Speaker Corcoran, the Legislature approved the expansion of school choice scholarship programs including Hope Scholarship Program for students who have been victims of bullying, harassment or violence, the Reading Scholarship accounts for struggling readers. The bill included a requirement that schools display, "In God We Trust", allowing successful principals to manage multiple schools, charter school reforms and a requirement that teachers unions must decertify if they represent less than 50% of the teachers in the state. (HB 7055) Requiring computer science and coding to be a greater priority in K-12 and prohibiting certain conduct with students by authority figures. (HB 495)

Creating a 10 percent provider payment differential in early learning based on the Office of Early Learning (OEL) adopting quality measures. The bill also includes a 5 % potential bump if a provider voluntarily submits data to OEL on child assessments for a potential total of 15% increase in the reimbursement rate. (HB 1091)

2018 Legislative Higher Education initiatives were encompassed in SB 4 – Excellence in Higher Education Act, a comprehensive higher education package that Governor Scott signed into law on Sunday. A priority of outgoing Senate President Joe Negron, SB 4 permanently expands

Florida's Bright Futures scholarship program. Under the new law, the scholarship program would provide 100 percent tuition for the 45,000 Florida Academic Scholars and 75 percent tuition for the state's 48,000 Florida Medallion Scholars. SB 4 also provides Bright Futures funding summer semester classes and semester stipends for student textbooks and classroom materials. The bill also expands the state match for a variety of "need-based" scholarship and aid programs including tuition assistance for farmworker families and first-generation college students, as well as increasing college and university facility recruitment tools to assist with graduation rates and access to performance funding opportunities. The bill also includes a controversial provision entitled the Campus Free Expression Act which eliminates "free speech zones" on university and college campuses. The provision seeks to eliminate public colleges and universities from limiting protests and demonstrations and distributing literature to specific locations on campuses, and instead designates generally all outdoor campus areas as "traditional public forums," effectively keeping colleges from restricting protest activity to certain areas.

## **Health Care**

Health care funding became a major point of contention this session, resulting in a standoff that forced lawmakers into overtime to pass a budget. The Senate wanted to overhaul how Medicaid money is distributed to hospitals and boost Medicaid payments to nursing homes. House leaders did not. The House eventually agreed to increase nursing home funding by \$130 million and the Senate backed off its hospital funding plan.

One of the Governor's top priorities was to require nursing homes and assisted living facilities to have generators in case of power outages and emergencies. Following the deaths of residents of The Rehabilitation Center at Hollywood Hills after Hurricane Irma, the Agency for Health Care Administration issued emergency rules requiring generators. These emergency rules drew concerns from health-care facilities. The agency then released modified generator rules, but the rules required legislative ratification in order to go into effect. The legislature approved two bills ratifying these rules. Additionally, the tax package includes a tax break for nursing homes that purchase electric generators.

The legislature responded to the rising number of opioid related deaths by boosting funding for opioid abuse prevention efforts by \$53 million and passing legislation restricting the number of pain pills that can be prescribed for acute pain. The legislation limits prescriptions to a three-day supply, or seven days if a doctor deems it "medically necessary," and adds new rules designed to enhance the use of Florida's prescription monitoring database, or PDMP. The legislation also adds \$5 million to a \$10.5 million fund that will allow addiction service providers to spend the money on any of the three major drugs used to treat addiction, including Vivitrol.

The legislature also passed a bill aimed at ending a longstanding dispute over which hospitals are allowed to operate trauma centers.

A bill that would allow physicians, chiropractors and group practices to sign "direct primary-care" agreements with patients without running afoul of Florida's insurance law has also been sent to the Governor.

Lawmakers included a provision to withhold more than \$1.9 million in Department of Health salaries and benefits in the final 2018-19 state budget until regulators fully implement medical marijuana. The language means certain Health officials will get a pay and benefits cut until they "implement" medical cannabis.

There were a number of additional health care proposals considered this session that did not ultimately pass. These included bills related to hospital Certificate of Need deregulation, allowing 24-hour stays at Ambulatory Surgical Centers, and authorizing Advanced Birth Centers.

### **Insurance**

This year was essentially a replay of last year's session. HB 7009 was passed by the House of Representatives as a means to reform the workers' compensation system in an effort to hold down rates after the prior year's double – digit increase. However the measure never got off the ground in the Senate after rates were set to decrease this year. HB 19/SB 150 sought to repeal the state's no-fault auto insurance system, known as PIP, which some argue is fraught with fraud. The House passed their bill, but after receiving one committee hearing in the Senate, the bill went no further and died on the calendar. The insurance industry, regulators, and consumer groups have tried unsuccessfully for five years to convince Florida lawmakers to reform the policyholder benefit known as assignment of benefits, or AOB, which allows an insured to sign over their insurance policy rights to a third-party. The insurance industry has continued to call out what they call abuse of AOBs by vendors and attorneys who use an AOB contract to take control of a homeowner's policy, inflate a claim, then sue an insurance company that disputes the bill. This year, HB 7015/SB 62/SB 256 were filed in an effort to curb such practices, and while the House passed their bill, the measure got bogged down in the Senate and ultimately died. It is very likely that we will see all these issues again next legislative session.

### **Water/Environment**

The legislature voted to make Florida's environment a top priority this year. The budget sets aside \$248 million for Everglades projects, including \$111 million for implementation of the Comprehensive Everglades Restoration Plan and \$64 million for the EAA reservoir, which is going to be constructed south of Lake Okeechobee to help clean the water and mitigate against polluted discharges into the surrounding waterways. It also provides \$101 million for the Florida Forever program, the most in a decade, for the state's environmental land acquisition fund that state voters approved in a ballot measure. The state will allocate \$87 million for land acquisition, \$6 million for local recreational redevelopment and \$5.8 million for Rural and Family Lands. The budget also provides \$50 million for springs restoration, \$25 million for the St. John's River and Keystone Heights lakes, and \$50 million for beach restoration, with an additional \$11.2 million for dune and beach damage caused by Hurricane Irma.

### **Transportation & Economic Development**

The budget kept funding levels the same for economic development programs that are priorities for the Governor. The Governor recommended \$100 million for Visit Florida, the state's tourism

marketing agency but lawmakers instead kept it at \$76 million. The budget also sets aside \$85 million for a fund that can be used for workforce training or construction projects that aid economic development.

The final budget sweeps \$185 million from the William E. Sadowski Affordable Housing Trust Fund for other priorities, leaving \$109 million for affordable housing.

An effort to increase penalties for texting while driving and make it a primary offense passed the House but stalled in the Senate after lawmakers raised concerns about privacy and racial profiling.

### **Regulated Industries**

Florida's Regulated Industries saw several pieces of legislation filed addressing the traditional industry areas including alcoholic beverage law, medical marijuana, and gaming. CS/HB 667 – Beverage Law was passed by both the Florida House and Senate and will be sent to the Governor's office for consideration. The bill allows Floridians to use electronics apps to purchase and schedule the home delivery of alcoholic beverages. Current Florida law allows alcoholic beverage vendors to make deliveries, but only for orders placed in their physical location. CS/HB 667 would allow orders to be placed electronically rather than from the beverage locations. The bill was widely supported by ride sharing companies such as Uber and Lyft, as well as by existing beverage delivery electronic app companies such as Drizly and Shipt.

CS/HB 961 – Beverage Law was also passed out of both legislative chambers and has been sent to the governor for consideration. The bill allows Florida beer distributors to give bars and restaurants "branded glassware" for free. Current law requires distributors to charge restaurant establishments for the specialty glassware. The controversial bill was pushed by large beer distributors such as Anheuser-Busch and opposed by smaller craft beer brewers who argued that the bill would provide an unfair advantage for small businesses competing with larger distributors.

In 2017 the Florida Legislature Passed SB 8A, implementing Florida's medical marijuana (MMJ) program. This year the legislature passed HB 6049 – Medical Marijuana Growers which removes a provision outlined in SB 8A requiring that a black farmer be a member of the Florida chapter of the Black Farmers and Agriculturalists Association in order to be eligible for a future MMJ business license. This issue has been challenged in court, and the legislature determined that the oversight was unconstitutional and was corrected to avoid future litigation against the state. The Legislature has also been frustrated with the Department of Health's Office of Medical Marijuana Use, and their failure to implement key provisions of SB 8A in a timely manner. In an effort to expedite the implementation process, the legislature included a provision in the 2018-2019 budget which would withhold more than \$1.9 million in Department of Health salaries and benefits until regulators fully implement the MMJ program.

Florida lawmakers again took up the controversial topic of gaming but were unable to reach a deal on legislation. Despite an end-of-session gaming conference between the House and Senate to consider among other items, a state expansion of slot machines and designated player games, the two chambers ended negotiations without an agreement. The House and Senate formally

ended gaming bill discussions Friday night, concluding any potential for renewing its gaming pact with the Seminoles this year unless Gov. Rick Scott calls a special session. Scott said Sunday he has no plans to do so. The tribe had given tentative approval to a proposed plan that would pay the state \$3 billion over the next seven years. But there was a “portfolio of issues” in other aspects of the bills that Senate President Joe Negron, R-Palm City, said Friday night was “just a bridge too far – we just ran out of time.” The November ballot will ask voters if they want to amend the state constitution to require voter approval for expanding gambling.

### **Criminal Justice**

Florida saw several Criminal Justice reform efforts advanced during the 2018 legislative session, however most were unsuccessfully passed.

HB 1095 – Penalties and Fees attempted to remove a variety of license suspension and revocation penalties for nondriving offenses. Exemptions included minor non-violent drug offenses, failure to pay certain civil and criminal fines, minor moving violations, and failure to pay certain child support obligations. The bill was postponed in the House Appropriations Committee.

SB 694 – Mandatory Sentences once again brought up the unsuccessful effort to allow judges discretion to sentence below many of Florida’s mandatory minimum drug thresholds when considering casing involving non-violent defendants who are not members of criminal enterprises. Despite last minute efforts to revive the measure, the controversial language was ultimately abandoned.

HB 714 – Theft Offenses sought to raise the threshold on felony burglary offenses from \$300 to \$1,000. Proponents argued that the threshold had not been raised in several years, and therefore had not adjusted for inflation with the value of goods in question. Despite objection, the bill advanced through all commit stops, but was withdrawn from consideration on the House Calendar.

Florida Criminal Justice reform efforts did see one final 11<sup>th</sup> hour victory with the passage of CS/CS/SB 1392 -- Prearrest Diversion Programs, the final substantive bill to pass the 2018 legislative session. If signed into law by Governor Scott, the sweeping program will instruct all Clerk of Courts, State Attorneys, and Public Defenders to create prearrest diversionary programs in each state judicial district. Through the use of civil citations and other diversionary programming, the districts are instructed to submit bi-weekly reports to the Florida Department of Law Enforcement who in turn will be charged with maintaining a public database updated monthly to examine the effectiveness of the programming.

### **Constitutional Revision Commission & 2018 Proposed Constitutional Amendments**

The 2017-2018 Constitution Revision Commission (CRC) adjourned on May 11, 2018 and sent eight proposed constitutional amendments to the Secretary of State to be placed on the General Election ballot for voter consideration. All but one of the proposed amendments “bundled”

unrelated issues together which formed, in part, the basis for seven of the eight proposed amendments to be challenged in court. To date, Amendment 6 -Rights of Crime Victims/Judges, Amendment 10- Changing Local Government Structure, and Amendment 13 – Ban on Dog Racing have withstood legal challenges and will appear on the ballot. As will Amendment 12 – Lobbying and Abuse of Office by Public Officers which was the only proposal not challenged in court.

Amendment 8 - School Boards and Public Schools will not appear on the ballot after it was struck-down by the Florida Supreme Court when they agreed with a lower court ruling that the title and summary of the proposal were “misleading.” There are also pending legal challenges to Amendments 7- First Responder Survivor Benefits/Public Colleges and Universities, Amendment 9 - Ban on Offshore Oil Drilling and Vaping in Enclosed Indoor Workplaces, and Amendment 11- Property Rights/Criminal Statutes which were struck-down by the circuit court and currently await a final ruling from the Florida Supreme Court.

In addition to the CRC proposals, five other constitutional amendments will appear on the ballot which were formed by joint legislative resolution or citizens’ initiative. Amendment 1 is a legislative initiative that provides an additional homestead exemption. If passed, it is expected to negatively impact local government revenues by almost \$700 million. Amendment 2 is a legislative initiative which would make the current cap on non-homestead property tax assessment permanent. Amendment 3 is a citizens’ initiative that seeks to require statewide voter approval of any expansion of casino style gambling. Amendment 4 is also a citizens’ initiative that would automatically restore voting right for most convicted felons upon completion of their sentences; it specifically excludes those convicted of murder or certain sexual offenses. Amendment 5 is a legislative initiative that would require a 2/3 vote of the legislature to impose or increase taxes and fees. Regardless of its origin, at least 60 percent of the vote is required to pass a constitutional amendment in Florida. At the time of this writing, polls show only two of the Amendments, 1- Increased Homestead Exemption and 7 - First Responder Survivor Benefits/Public Colleges and Universities, meet the 60 percent threshold

As always, thank you for your coordination of the advocacy team and its efforts. Please advise should you require any additional information on any issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Hartley", with a stylized flourish at the end.

Jeff Hartley