

Legislative Link

A legislative update provided by the United Way of Florida, Inc.

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REV MAX NO BRAINER

Heading into the final week of the regular session, the Senate and House are poised to pass local revenue maximization legislation. Marred by deep philosophical and political divisions regarding how Florida will pay for current and future services, rev max stands as one of the bright spots of the session.

And it's no wonder. Last year, about \$900 million was earmarked by Congress for Florida, but Florida didn't take it. Instead, because the state couldn't – or didn't want to – identify state matching dollars to draw down the federal funds, those funds reverted to the Federal Treasury and were used by other states to improve their qualities of life. And Florida continued to languish far behind most other states on an array of “carin” indices.

This week, the House Appropriations Committee passed CS/HB 475, and Representative Sandy Murman, and CS/SB 1454, by Senator Jeff Atwater was placed on the Senate Special Order Calendar. Virtually all of the legislators who have been asked to support these bills have said the same thing: “It seems like a no brainer”.

In more than one respect, it is a no brainer. Why should Florida leave hundreds of millions of dollars “on the table” in Washington when local funds can be used to match to draw them down? It doesn't make much sense.

On the other hand, “brainier” rev max issues do exist, the biggest one being expressed by one word: “supplant”. Admittedly, the “thou shalt not supplant” language in the rev max bills is “feel good” language. The Legislature can supplant or not supplant – any time it wants. Even with a constitutional prohibition against replacing (i.e. supplanting) state education dollars with lottery revenues, the Legislature has done so.

Even so, advocates have been so committed to retaining language in the rev max bills expressing legislative intent that local rev max funds – and the matching federal dollars they draw down – will not be used to supplant state revenues. On the flip side, rev max is wholly voluntary.

If a community senses the evil tentacles of supplantation, it can refrain from engaging in any rev max efforts. It can also protect itself by prohibiting supplanting in its rev max contract with its state department rev max partner.

Because of the \$700 million Medicaid Upper Price Level (UPL) program that currently supplants local hospital revenues, rev max advocates agreed this week to exempt Medicaid from the supplanting prohibition in the bill. This removes one of the major barriers to passage of the legislation, as the Legislature is unprepared to find an additional \$400 million dollars or so to replace local funds that are currently being used to supplant UPL state funds.



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United Way of Florida, Inc.

WORKER'S COMP BILLS MOVE

As reported in last week's Legislative Link, the Senate comprehensive worker's comp legislation (CS/SB 132) provides an opportunity for nonprofits and charitable organizations to purchase worker's comp coverage through Florida's Worker's Compensation Joint Underwriting Association (JUA). Included in tier 2 of a new three-tier JUA structure, charitable and nonprofit organizations would be able to secure coverage if they are unable to do so in the voluntary market and have an experience modification factor of .05 or less. Their premiums would be capped at 125 percent of approved voluntary market manual rates. CS/SB 1132 passed the Senate Appropriations Committee on Tuesday and was placed on the Senate calendar.

On the House side, CS/HB 1837 has passed its only committee of reference – the State Administration Committee – and has been placed on the Special Order calendar. Although time ran out before the nonprofit language could be added to the bill in the State Administration Committee, amendments have been drawn to add language on the House floor that would allow 501(c)(3) not-for-profit organizations to purchase coverage from the JUA at reduced rates.

There are significant differences between the House and Senate worker's comp bills. These will be two of the most comprehensive packages passed by the House and Senate this year, and will likely be referred to conference committee where their differences can be worked out. Nonprofit advocates will work hard to ensure that nonprofits are helped by the legislation to the greatest extent possible.

BILL AIMS TO SAVE VISION AND LIVES

Initiated by Lake Worth grandmother Pam Bergsma who lost her 3-year old grandson to a disease few have heard of, legislation aimed at increasing early detection of the cancer Retinoblastoma is having difficulty for the second year. Retinoblastoma is a disease that causes the growth of malignant tumors in the retinal cell layer of the eye or eyes. The National Retinoblastoma Research and Support Foundation reports that 250- 350 new cases are diagnosed each year in the United States. According to the MD Anderson Cancer Center, the majority of children are diagnosed before the age of two years.

SB 2174/ HB 115 would require each infant born in a Florida hospital to receive an eye examination using an ophthalmoscope and dilation of the pupils for detection of pediatric congenital and ocular abnormalities. It requires health insurance policies and HMO contracts covering children to include coverage for such eye examinations at birth, 6 to 8 weeks of age, and 6 to 9 months of age.

SB 2174 by Senator Villalobos was approved this week by the Senate Health, Aging and Long Term Care Committee and has three additional committees of reference. HB 115 by Representative Bucher was approved by the Health Services Committee but has five committees from which it would need to be withdrawn to reach the floor.

*“Only a life lived for others is worth living.”
Albert Einstein*

LEGISLATIVE SPECIAL TREATMENT

Last year, in a partisan battle that played out in so many ways, the Legislature passed a law requiring that the cost of implementing constitutional amendments placed on the ballot through citizen initiative must be included with the amendments. This requirement was passed by the legislature in anticipation of the class size amendment going before voters last year; Democrats claimed the Republican controlled Legislature passed it in an effort to kill the amendment. In a move that surprised few who are involved in the legislative process, the Legislature exempted itself from the new law; so constitutional amendments placed on the ballot by the Legislature need not include the projected implementation costs.

SENATE PASSES UPK BILL

ast Thursday, the Senate passed CS/SB 1334, the Senate plan for implementation of the voter approved and constitutionally mandated Universal Prekindergarten Program (UPK). The bill creates a voluntary, universal pre-kindergarten education program within the Agency for Workforce Innovation. It provides that "the program shall provide a high-quality prekindergarten learning opportunity in the form of early childhood development and education which is voluntary, of high quality, delivered according to professionally accepted standards, and free for every child of this state who is four years of age." The bill requires the State Board of Education to conduct a study on the curriculum, design, and standards for the UPK and to submit, by October 1, 2003, a report that includes recommendations on program elements relating to curriculum and standards, quantity of instruction (including hours per day and days per year), delivery system standards (including provider standards, and licensing and regulatory requirements), assessment and evaluation, funding the options, and recommendations of best practices to improve the outcomes of school readiness coalitions and providers.

In addition to the Board of Education report, the Office of Program Policy Analysis and Government

Accountability (OPPAGA) and the Auditor General's Office are required to conduct studies.

OPPAGA is required to conduct a performance audit of school readiness programs administered by the Florida Partnership for School Readiness and the School Readiness Coalitions from 2000-2003. The Auditor is required to re-assess the implementation, efficiency, and outcomes of the School Readiness Program and examine the progress achieved by the Florida Partnership for School Readiness and the School Readiness Coalitions. In addition, OPPAGA is to evaluate the ability of the school readiness system to effectively implement UPK based upon the Board of Education's curriculum, design, and standards recommendations. The OPPAGA study is due January 15, 2004.

The Auditor General is required to conduct a financial and operational audit of school readiness programs administered by the Florida Partnership for School Readiness and School Readiness Coalitions, with a focus on examining compliance with state and federal law and with Partnership rules. The House UPK (CS/HB 193) was withdrawn from the Appropriations Committee this week and placed on the Calendar. Because of the constitutional mandate, there is little doubt that a UPK bill will pass. (For an overview of the House bill, see Volume VIII, Issue 5 of your Legislative Link.)

Funny Signs . . .

On a taxidermist's window: "We really know our stuff."

In a podiatrist's office: "Time wounds all heels."

At the electric company: "We would be de-lighted if you pay your bill. However, if you don't, you will be."

Percentage of children under age 5 in child care settings out of their own homes:

- ✓ Family Child Care (37%)
 - ✓ Child Care Centers (26%)
 - ✓ Non-parental relatives' homes, some of which are Family Child Care Homes (21%)
 - ✓ Nursery schools and preschools (14%)
 - ✓ Schools (2%)
-

- ✓ Number of nations besides Somalia and the United States that have yet to ratify the Convention on the Rights of the Child: 0

HIGH SPEED RAIL STILL ON TRACK?

In the 2000 General Election, voters approved a constitutional amendment to construct a high speed rail system in Florida, the first segment of which would connect Tampa and Orlando. However, projected costs for this first phase of the project—high range from \$2.1 to \$2.4 billion—have emboldened opponents' efforts to remove the amendment from the constitution. House Joint Resolution 309 by Representative Allen would place an amendment on the 2004 General Election ballot to repeal the constitutional amendment. This action will require a 3/5 vote of each chamber and earlier this week the outlook appeared dim as a vote killed the resolution by a 57-61 vote. However, the following day, a motion to reconsider the vote by which it failed was adopted and another vote on the resolution may be taken. The Senate companion bill, SB 1400 by Senator Klein, remains in the Transportation and Economic Development Appropriations Committee.

INDEPENDENT LIVING SERVICES TO BE IMPROVED

Following recommendations of the Independent Living Services Integration Workgroup, CS/ CS/ SB 1556 amends current law to exempt the property acquired by youth through the Independent Living Transition Services from the requirements for state owned property, allowing the youth to retain the items purchased for them through the program. The bill creates the independent living services workgroup to assess the implementation and operation of the independent living services system and advise the department on actions that would improve the ability of the system to meet established goals. Reports are required to be submitted to the Legislature for the next two fiscal years on the status of the implementation, problems encountered, and successes experienced, as well as other specific issues identified in this bill. CS/CS SB 1556 was approved this week by Governmental Oversight and Productivity and has been placed on the Special Order Calendar in the Senate.

THE COST OF THE COURTS

In 1998, Florida voters amended Article V of the Florida Constitution, requiring the state to pay salaries and other expenses for county and circuit courts, state attorney's offices, public defender's offices, and court appointed attorneys, beginning July 1, 2004. Currently, those costs are paid by county government.

Today, counties contribute \$670 million of the court's \$1.2 billion annual cost, according to state estimates. Pursuant to the constitutional amendment, the state will have to pick up that tab next year. That's an additional almost \$600 million the state will have to begin to pay effective next year. With state budgets tight this year – and forecast to be as tight next year – legislators will be looking for any way possible to lessen the impact on the state's budget. One option that has county governments concerned would be to reduce state funding to the counties in the same amount as the Article V costs, and using those funds to pay for the court system. If this were done, counties would realize no additional savings, and the state would incur no additional costs. It will be interesting to see if the 2003 Legislature moves forward on Article V revisions or waits until the 2003-04 Session to address them.

Senator Victor Crist chairs the Joint-Legislative Committee on Implementation of Article V. That committee will be making recommendations to the 2003 Legislature on how to proceed.

THE YEAR'S BEST [ACTUAL] HEADLINES OF 2002

"Astronaut Takes Blame for Gas in Spacecraft"
"Kids Make Nutritious Snacks"

BUDGET... WHAT BUDGET?

On Wednesday the Senate appointed its budget conferees (see below). Not in recent history has the appointment of conferees been so long delayed. Division between the House and Senate over potential sources of revenue (to tax or to borrow), priorities (the House included \$400 million in “turkeys”), as well as a spending level for the budget (the Senate budget spent nearly \$1 billion more than the House) had led to a virtual standstill on the budget. Session is scheduled to end next Friday. To end on time, the Legislature must produce a compromise budget by next Wednesday. Until yesterday, it appeared that we were headed for an extended or special session. However, as this Issue goes to print, it appears that House and Senate leaders have agreed on a spending level 475 million higher than the House’s budget (\$250 million in recurring funds and \$225 in non-recurring funds) and will be able to move ahead with budget negotiations this weekend.

SENATE PRESIDENT JIM KING ANNOUNCES SENATE BUDGET CONFEREES

Senate President Jim King announced the following 2003 Senate Budget Conferees:

Senator Ken Pruitt, Chair
Senator Debbie Wasserman Shultz, Vice Chair

Appropriations - At Large

Senator Alex Diaz de la Portilla
Senator Dennis Jones
Senator Ron Klein
Senator Tom Lee

Appropriations - Subcommittee on Article V Implementation and Judiciary

Senator Rod Smith, Chair
Senator David Aronberg
Senator Mike Haridopolos
Senator Alex Villalobos
Senator Steve Wise

Appropriations - Subcommittee on Criminal Justice

Senator Victor Crist, Chair
Senator Nancy Argenziano
Senator Lee Constantine
Senator Mandy Dawson
Senator Mike Fasano

Appropriations - Subcommittee on Education

Senator Lisa Carlton, Chair
Senator Mike Bennett
Senator Anna Cowin
Senator Les Miller

Appropriations Subcommittee on General Government

Senator Charlie Clary, Chair
Senator Larcenia Bullard
Senator Paula Dockery
Senator Al Lawson
Senator Evelyn Lynn

Appropriations - Subcommittee on Health and Human Services

Senator Durell Peaden, Chair
Senator Rudy Garcia
Senator Frederica Wilson

Appropriations - Subcommittee on Transportation and Economic Development

Senator Daniel Webster, Chair
Senator Jeff Atwater
Senator Tony Hill
Senator Jim Sebesta
Senator Gary Siplin

olf Quotes . . .

If my IQ had been two points lower, I'd have been a plant somewhere.” Lee Trevino
I have a tip that can take five strokes off anyone’s game; it’s called an eraser.” Arnold Palmer

MEDICAID BUY-IN BILL UNLIKELY TO PASS

enate Banking and Insurance this week unanimously approved SB 1394 by Senator Wasserman Schultz, which reenacts the Ticket to Work/ Medicaid Buy-in program that was enacted by the Legislature in 2001 and subsequently repealed in December 2001, effective July 1, 2002. The bill provides for Medicaid eligibility for persons 16-64 who meet certain criteria.

SB 1394 and its companion bill, HB 155 by Representative Cusack, must be withdrawn from their additional committees of reference to advance to the floor; however, this is unlikely to occur.

AUTISM BILL STALLED AGAIN

It appears that for the fourth year, legislation that would require health insurers or HMOs that offer major medical coverage to include treatment for autism spectrum disorder will fail to become law. SB 84, by Senator Steve Geller, was unanimously approved this week by the Senate Banking and Insurance Committee. However, this was the bill's first committee of reference and it must be withdrawn from its three additional committees to reach the Senate floor. Similarly, the House version, HB 169 by Representative Nan Rich, was also approved unanimously by its first committee of reference, Health Services, but was not heard by the six additional House committees to which it was referred.

The Things That Movies Teach You

- If a killer is lurking in your house, it's easy to find him. Just relax and run a bath - even if it's the middle of the afternoon.
- Medieval peasants had perfect teeth.

CRIB SAFETY: IMPORTANT

According to the Federal Consumer Product Safety Commission, about 11,380 children were injured in 2001, and 156 died between 1997 and 2002 because of unsafe cribs. During spot checks of cribs in 90 hotels and 27 states and the District of Columbia in 2000, federal inspectors reported finding loose hardware, unsecured mattress supports and other problems that could cause injuries or suffocation.

SB 222, would address this situation by mandating crib inspections in hotels and motels, and make it illegal to sell dangerous, used cribs. Inspections could be used to determine that cribs meet national

safety standards. Although the bill passed the 2001 Legislature, Governor Bush vetoed it, stating that the cost outweighed the benefits. To address his concerns, the bill has been amended to mandate inspection in only five counties during the first phase of its implementation, which will provide state authorities an opportunity to determine its true benefits.

SB 222 has been placed on the calendar. The House companion, HB 217, was not heard by any of its committees of reference.

School Readiness Budget Replaces TANF – This year's school readiness budget includes about \$19 million of TANF funds. Heading into the 2003 legislative session, advocates were concerned that Congress was poised to reduce TANF funding, raising fears that school readiness TANF funds might disappear. Fortunately, both the House and Senate proposed 2003-2004 budgets propose replacing the \$19 million in TANF with state general revenue.

FATE OF CHILD CARE BILLS UNCERTAIN

Emergency Plans- SB 1962 by Senator Debbie Wasserman Schultz would require child care facilities and private and nonpublic schools within 3 miles of nuclear power plant to develop and maintain emergency evacuation plans. While the bill moved forward in the Senate this week- it was approved by the Comprehensive Planning Committee on Monday- there is no House companion, which makes success this session unlikely.

Licensing- Legislation that adds literacy and language development for children age birth to 5 years to the training required by child care center personnel and operators of family day care homes and large family child care homes was approved this week by the Senate Education Committee. S/CS/SB 2446, by Senator Debbie Wasserman Schultz, also increases the annual in-service training requirement for child care center personnel; requires operators of registered family day care homes to annually complete a health and safety home inspection self evaluation check list; amends current law to prohibit unlicensed or unregistered operation of a family day care home or large family child care home; and provides grounds for seeking an injunction to close a child care facility.

The House companion, HB 1141, by Representative Coranne Ausley, is in the Education K-20 Committee. Attempts are being made to withdraw

both bills from their remaining committees of reference so they may move to the floor for a vote.

Facilities- So controversial that its House companion (HB 521) failed on a 5-7 vote in committee last week, CS/CS/CS SB 194 was amended this week to remove language that revised the requirements for religious-exempt child care programs to qualify for exemption from licensure. The following provisions remain in the bill:

- Requires an applicant for licensure to attest to the accuracy of the information regarding previous violations by signing an affidavit;
- Directs DCF to establish uniform penalties for violations of the licensing requirements;
- Requires the department to establish a central statewide database system to record violations and penalties imposed on child care facilities;
- Requires the department to establish a definition for child care, which distinguishes between programs requiring licensure and after-school programs that do not require licensure.
- Transfers the Child Care Program from DCF to the Department of Health.

The Senate Health and Human Services Appropriations Committee approved the bill unanimously. However, since the bill has died in the House, it is unlikely to be successful this year.

ASIC MATH

*365.25 days of drinking low-calorie beer because it's less filling: 1 lite year
Half of a large intestine: 1 semicolon*

GUARDIAN AD LITEM PROGRAM BILL

House Bill 439 by Representative Nan Rich, which creates a statewide Guardian ad Litem office within the Justice Administrative Commission, passed the full House Appropriations Committee and could be heard on the House floor this week. The Senate companion, SB 1974 by Senator Skip Campbell, is expected to be pulled from Committee and head to the floor as well. The legislation has the strong support of Governor Bush and child advocates statewide.

This article was submitted by the Children's Services Council of Broward County.)

OUTPATIENT COMMITMENT BILL ON THE MOVE IN HOUSE AND SENATE

After undergoing some major changes in an effort to ease opponents' concerns, a bill to create the option of involuntary outpatient treatment continues to move through the legislative process. The Senate version (CS/SB 748) is expected to be withdrawn from Senate Children & Families Committee and be sent to the floor for a vote. The House companion, HB 1197, was passed Thursday by the Appropriations Committee.

A major revision in the bill has been the substitution of New York State's "Kendra's Law" criteria for defining who is eligible for involuntary outpatient commitment. Kendra's Law has three court challenges and sponsors doubt the criteria would more clearly limit who would be affected by the law. The criteria are similar to what was previously outlined in the bill.

Other changes to the bill include:

1. Removal of language authorizing an individual's guardian advocate to authorize medication.
2. Deletion of a proposed voluntary treatment agreement to be supervised by the courts.
3. Removal of language that limited the court's authority to hold people in contempt of court for failure to comply with an outpatient commitment order.
4. Creation of an Involuntary Outpatient Placement Implementation Task Force to develop a plan for implementing the new legislation.
5. A change in the effective date of the proposed law from July 1, 2003 to October 1, 2004.
6. The addition of rule-making authority for the Department of Children & Families.

Fiscal impact has been significantly mitigated by the changes, although court system officials estimate it will cost them from \$440,000 to \$1.2 million to implement the bill.

This article was submitted by the Florida Council for Behavioral Healthcare.)

Why Athletes Can't Have Real Jobs . . .

- *Shelby Metcalf, basketball coach at Texas A&M, recounting what he told a player who received four F's and one D: "Son, looks to me like you're spending too much time on one subject."*
-

Teacher Shortage Looms . . .

About 154,000 teachers teach the state's 2.45 million K-12 students.

Nearly one-third of the state's teaching force is between the ages of 50-59 and nearly 60 percent are older than age 40.

Some estimates put the need at 25,000 new teachers by this fall alone – 16,000 to handle student growth and another 9,000 to handle class size reduction.

Education programs at state universities will only provide about one-fourth of the demand, requiring a boost in out-of-state recruiting and alternative certification for non-education majors and those entering the field from other careers.

Florida's average teacher salary is \$38,719, ranking us 31st nationally, according to the National Education Association. Among states similar in size, Florida ranks behind New York (\$53,081 average), Illinois (\$50,000), and Pennsylvania (\$50,599).

FEDERAL CHILD CARE FUNDING BACKGROUND AND TANF UPDATE

As you recall, federal child care funding comes to states in two ways:

Discretionary, which is the funding provided each year by the appropriation process. This money is at 2.1 billion. States receive this money and do not have to match it with state dollars. The Child Care Development Block Grant (CCDBG) law sets the “authorized” level, but authorized levels are not binding on Congress.

Mandatory funding is the funding established by the Temporary Assistance for Needy Families (TANF) law and is set for each of the next five years. This money is now at \$2.7 billion per year having started at a level of \$1.1 billion in 1996. Part of this total of \$2.7 billion (\$1.1 billion) is given to the states without a match and the remaining \$1.6 billion is provided if the states provide a match in state dollars. Because this is mandatory money, Congress does not have to appropriate or approve it each year. When Congress and the White House adopt a TANF reauthorization level this year they will set the funding for mandatory child care for each of the next five years.

VOTE FOR CHILD CARE FUNDING DURING THE BUDGET DEBATE

On March 1, the Senate debated a Budget Resolution. This Budget Resolution, once agreed to by both Houses, sets targets for this year’s spending. It also sets targets for potential tax cuts or program cuts for future years. It is a guide for Congress as they make their budget and tax cut decisions in the next few months.

This Resolution includes provisions for a tax cut. The House and Senate were debating over the level of tax cuts. The figures ranged from the President’s \$725 billion cut to the Senate’s \$350 billion cut. The final figure will apply to cuts over the next ten years.

At one point during the Senate Budget Resolution debate, an amendment was offered by Senator Jeff Bingaman of New Mexico to take \$4.6 billion of this tax cut and put it into child care. This \$4.6 billion plus what was already in the Budget Resolution would have allowed for a total increase of \$5.5 billion in child care **mandatory funds** (the \$4.6 billion was combined with \$900 million already in the Budget Resolution). This is the same amount of funds that was adopted by the Senate Finance Committee last year in their TANF reauthorization bill. If this amendment had been passed, this would

not have guaranteed more funding for child care but it would have improved the likelihood that Congress would have increased mandatory funding by that much when they take up their child care and TANF reauthorization this Spring. Unfortunately the amendment failed by a vote of 49 to 50.

NEXT STEPS ON CHILD CARE

The Senate Health, Education, Labor and Pensions (HELP) Committee passed a child care reauthorization bill that sets the child care regulations and proposes authorized or “discretionary” child care funding levels for the next five years. When the Senate Finance Committee adopts a TANF reauthorization bill, the child care bill and the TANF bill will be combined into one bill for Senate floor debate.

It is expected that the Senate Finance Committee will consider a TANF bill the first week of May. For our purposes in Florida, a delay may be better since our Session may extend and we would have real numbers to base our budget on.

(This update was submitted by the Juvenile Welfare Board of Pinellas County.)

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