

THE HEALTHCARE DEBATE LOOMS OVER THE SPECIAL SESSION, BUT THERE ARE MANY MORE BUDGET ISSUES TO BE DECIDED

The 2015 Florida Legislative Session ended without a budget, so lawmakers will be returning to Tallahassee on June 1, 2015 to pass a state spending plan. This Special Session is scheduled to end on June 20, just 10 days before the new fiscal year begins and the new budget must be in place.

The legislative proclamation calling the Special Session has been issued and sets forth the bills that may be discussed. The session will be mostly limited to the budget, the budget implementing bill and budget conforming bills (including a tax cut package). Conforming bills make changes to statutes that are necessary to align state law with appropriations. Several healthcare related bills have also been included (see below for a description of these bills and the conforming bills). There will likely be attempts to add other unresolved issues to conforming bills and even to the appropriations bill. Past legislatures have shown that the definition of “conforming” may be broadly construed.

HEALTHCARE EXPANSION IS THE BIG ISSUE

The budget stalemate, and the resultant unexpected early end to the session by the House, began with the expiration of federal funds for the Low Income Pool (LIP), which provides more than \$2 billion to hospitals and other providers to help fund indigent care. The House did not include funding for LIP in its budget, but leaders said they expected some federal funding would be forthcoming. The Senate created an alternative plan for LIP and funded it at \$2.17 billion. The Senate combined the redesigned LIP with its Florida Health Insurance Affordability Exchange (FHIX) program to provide private health coverage for 800,000 Floridians that are below 133 percent of the federal poverty level and who are not already covered by Medicaid. This program is a market-based alternative to Medicaid expansion under the federal Affordable Care Act, but the Senate expects it would still allow Florida to draw down billions in federal funding to the tune of \$2.8 billion in this first year. The cost to the state would be \$11.9 million.

The House refused to consider healthcare expansion and it became the most controversial issue of the session. With neither chamber showing signs of receding from its position, the session imploded. This is the major disagreement that must be resolved and the House has scheduled a hearing on the issue during Day 1 of the Special Session. There has been no sign of either position softening.

Recent news from the federal government could help. After maintaining that no federal LIP funding would be provided to Florida, on May 21 the director of the Centers for Medicare & Medicaid Services told Florida it can anticipate \$1 billion in funding for LIP next year, although that funding would fall to \$600 million in subsequent years. Although it appears this could help solve the LIP crisis this year, Senate leadership has already said this only strengthens the case for healthcare expansion.

The \$1 billion in federal funds certainly helps the cause of two priorities of the Legislature and the Governor: tax cuts and increased funding for public schools. Without that money, if the Legislature decided to not expand healthcare and to fund LIP with all state money, those priorities would be in jeopardy.

The rest of this *Budget Watch* focuses on the issues that will seek resolution during the Special Session.

THE BUDGET

The House and Senate passed their respective budgets with plenty of time remaining in the Regular Session, but conference negotiations never began. Healthcare aside, much of the two versions of the budget were at least close, but as is the case every year, there are a multitude of issues that need to find compromise. The two chambers must agree to every line-item, dollar amount and word in the appropriations bill.

The House budget totals \$76.154 billion and the Senate budget comes in at \$80.425 billion, which would be the largest budget in the state's history. The House proposal is \$826 million (1.1 percent) less than the Governor's recommended budget and \$919 million (1.2 percent) less than current year spending. The Senate budget would be a 4.3 percent increase over current year spending. The higher Senate budget is due to the proposed increase in federal dollars being drawn down for healthcare. In fact, the Senate spends \$229 million less in general revenue than the House.

Comparison of Proposed Budgets

\$ billions

(*figures may not add to totals due to rounding)

	TOTAL	GEN. REV.	TRUST FUNDS	FTEs
CURRENT YEAR (FY'14-15)	\$77.072	\$27.914	\$49.158	1114,503
<i>Proposed Budgets for FY2015-16</i>				
GOVERNOR'S BUDGET	\$76.980	\$28.329	\$48.651	113,485
HOUSE BUDGET	\$76.154	\$28.376	\$47.779	113,653
SENATE BUDGET	\$80.425	\$28.147	\$52.278	114,538

Selected major budget issues:

PreK-12 Education – Although both chambers increase education spending, they fall short of the Governor’s recommendation of a per-student K-12 funding level that would exceed the previous highest amount in history by \$50. The House provides a total education budget of \$22.278 billion, \$542.8 million more than the Senate. Most of that difference is due to the House spending \$449.0 million more in Public Education Capital Outlay (PECO) funds or educational facility construction and maintenance. The House provides \$113.7 million more for college construction projects and \$233.8 million more for university construction. The House also provides \$100 million for maintenance of charter schools, while the Senate provides no funding.

The House also provides \$19.0 million more for the Florida Education Finance Program (FEFP), which funds public schools. The \$19.7 billion in House FEFP funding allows for per student funding of \$7,130. The Senate provides \$7,123. Nearly two-thirds of the approximately \$750 million increase in total FEFP funding in the House and Senate budgets is local funds. This means property taxpayers will pay \$494 million more in school property taxes.

Higher Education – The Senate provides \$400 million for university performance funding, \$200 million of which is new state dollars and \$200 million would be redistributed from the base. The House provides \$200 million, \$100 million of which is new. The Legislature would also create a new performance funding system for colleges. The Senate offers \$60 million and the House offers \$20 million.

Environmental Land Buying – While the details of the implementation of constitutional Amendment 1 will also be worked out in the Special Session (see conforming bills below), both budgets, particularly the Senate, provide less for land buying than the amendment’s backers were expecting. The Senate only includes \$2 million for Florida Forever, the state’s main land buying program. The House has \$205 million for Florida Forever, but most of that is directed to other projects, such as \$100 million for water management districts to fund water resource programs. As the Florida TaxWatch 2014 Voter Guide analysis of Amendment 1 predicted, the list of approved uses gives the Legislature a lot of flexibility, so it is not certain the amendment will increase land buying or even environmental spending. Amendment 1 does not provide new money, it just redirects it. In fact, the proposed Senate budget for the Department of Environmental Protection is \$219.5 million less than current spending.

Other Environmental Issues:

- Everglades Restoration – the House provides \$139.1 million, the Senate provides \$86.1million.
- Local Water Projects – the House has \$80.6 million for some not yet named projects. The Senate does not fund any local projects.
- Springs Restoration – the Senate provides \$50.0 million and the House provides \$15.0 million, plus \$50.0 million for land acquisition to protect priority springs.
- Beach Renourishment – the Senate provides \$40.0 million, the House provides \$25 million, both down from \$45.1 million last year

Transportation – The House and Senate budgets both fully fund the Department of Transportation’s (DOT) \$9.3 billion work program, which makes up most of DOT’s budget. The total DOT budget is \$9.942 billion in the House and \$10.048 billion in the Senate. The Senate has a conforming bill (see SB 7045 below) that adds \$99 million to the State Transportation Trust Fund to increase funding for projects including bike trails, intermodal, and small county projects. The Senate also funds the Small County Road Assistance Program at \$50.0 million, almost twice as much as the House.

Economic Development – The Senate recommends \$1.167 billion for the Department of Economic Opportunity (DEO), \$204.0 million more than the House. The Senate provides \$180.8 million for DEO’s Strategic Business Development program, \$50.5 million more than the House. The Senate provides more than the House for Enterprise Florida and the House provides more for Space Florida.

The Governor had recommended \$85.0 million for economic development tools, programs such as the Quick Action Closing Fund and the Qualified Target Industry Business Tax Refund, which provide incentives for business investment in Florida. The Senate provided \$23.8 million and the House did not including any funding, as there was legislation moving through both chambers that would change those programs. The legislation did not pass.

Trust Fund Sweeps – The Senate would transfer \$333.2 million from designated trust funds to General Revenue, where it can be spent on any program. The House budget sweeps \$124.2 million from trust funds.

The House and Senate budgets are generally very close in criminal justice, the courts and general government.

TAX CUTS

Tax cuts were a stated priority of the Legislature during the session. The House passed a \$689.2 million tax cut package (HB 7141). The Senate did not produce a tax package, citing the budget stalemate. However, the Senate did advance several tax reduction bills through committees. The centerpiece of the House proposal is a \$470.5 million reduction in the communications services tax, a long-time Florida TaxWatch recommendation.

Other provisions supported by Florida TaxWatch research include a reduction in the sales tax on commercial leases and an increase in the research and development tax credit. The package also includes three different sales tax holidays. The rest is a patchwork of many different tax cuts, some of them very small and many that had not yet been part of any legislation.

There has not yet been a bill filed for the Special Session that contains the provisions of HB 7141. A bill has been filed (HB 35A) that would make the sales tax exemption for machinery and equipment permanent, even though it was not part of HB 7141. The exemption is a long-time Florida TaxWatch recommendation.

While tax cuts have seemed like a certainty, the budget stalemate put them in doubt, and even the Governor acknowledged that they might not happen. The promise of \$1 billion in federal funds for the Low Income Pool should help achieve tax reduction for Floridians. However, there is still a long process ahead, and the size and makeup of a final tax cut package is uncertain. To review the provisions of the House tax package and Senate tax legislation see the Florida TaxWatch April 2015 *Budget Watch*.

BUDGET CONFORMING BILLS

The proclamation setting the Special Session agenda included the bill numbers from the Regular Session. Special Session bills have now been filed and those new bill numbers are in parenthesis below.

Florida Business Information Portal – SB 2510 (2506A) and HB 5301 (13A) –The 2012 Legislature passed a bill calling for the development of the One-Stop Business Registration Portal to provide businesses with a single point-of-entry for completing and submitting the documents required to start a business. The portal has not been built, despite the expenditure of \$2.7 million. A consultant reported to the Legislature that the one-stop portal would be difficult to achieve. These bills would repeal the One-Stop Portal law and instead require the Department of Business and Professional Regulation to develop the Florida Business Information Portal. This new portal would provide a downloadable guide to starting a business in Florida, a checklist for starting different types of businesses, information regarding business tax registration and filing and information on registering with the Department of State. Both the House and Senate included approximately \$1.5 million for the portal in their budgets (the Senate provides slightly more than the House.) The bills have very similar language but the House calls for an added feature of the portal: a mechanism to guide users to the appropriate state licensing, permitting, and registration agencies.

Funding of Child Welfare Agencies – SB 2514 (2510A) and HB 5103 (11A) –Florida's child welfare services are provided through 20 regional organizations known as Community-Based Care lead agencies (CBC). The Department of Children and Families (DCF) competitively selects the CBCs. Currently, 90 percent of the \$587 million for CBC core services is allocated based on prior year expenditures and 10 percent is allocated through an equity formula based on factors such as the number of children in poverty and the number of calls to the CBC's abuse hotline. The Senate wants to eliminate the equity model for base expenditures, meaning that it would be based fully on prior year expenditures. The House bill would still subject 5 percent of funding to the equity model. For new additional funding, the Senate bill would allocate 20 percent to all CBCs, and 80 percent to CBCs that have base funding below their equitable share as determined by a new equity allocation model. The House does not address additional funding. The House also would require DCF to obtain specific legislative authorization before applying for, or renewing, work requirement waivers from the federal government for the Supplemental Nutrition Assistance Program, previously known as food stamps.

Florida Retirement System (FRS) Contributions – SB 2714 (2512A) and HB 5005 (5A) –

These bills set the employer (government) contribution rates to the FRS. Required contributions will be increased for state agencies (\$3.9 million) and counties (\$31.5 million). However, school boards, universities, colleges and cities will save \$69.8 million. The rates are based on the 2014 Actuarial Valuation. The bills also increase the employer contributions for the retiree health insurance subsidy program. The House increases rates from 1.26 percent to 1.66 percent, increasing costs for all employers by a total of \$122.7 million. The Senate has a smaller increase of \$96.8 million.

Transportation Funding – 7054 (2514A) – The Senate bill creates the Florida Shared-Use Nonmotorized Trail (SunTrail) network, as a component of the Florida Greenways and Trails System. SunTrail would be a statewide network of hard surface bicycle and pedestrian trails. The Department of Transportation would be mandated to include SunTrail in its five-year work program and fund it at a minimum level of \$50 million annually. Half of that money comes from another provision in the bill that redirects the portion of the \$225 “New Wheels Fee” that currently goes to General Revenue (GR) to the State Transportation Trust Fund (STTF). The fee is on the initial registration of a motor vehicle. This would move \$99 million from GR to the STTF. The bills further directs the funds be used for the:

- SunTrail Network – \$25 million;
- New Starts Transit Program – 3.4 percent (\$7.1 million);
- Small County Outreach Program – 5 percent (\$10.2 million);
- Florida Strategic Intermodal System – 20.6 percent (\$42.5 million); and
- Transportation Regional Incentive Program – 6.9 percent (\$14.2 million).

The House does not have a similar bill and the loss of \$99 million in GR may prove to be a sticking point during the Special Session. However, negotiations on the implementation of Amendment 1 will likely impact this bill (see below).

Implementation of Amendment 1 – SBs 576 (2518A), 578 (2520A), 580 (2522A), 582 (2524A), 584 (2516A) and HBs 1291 (15A), 1293 (17A), 1295 (19A) – In November 2014, Florida voters approved Amendment 1 to the Florida Constitution to require that 33 percent of proceeds from the documentary (doc) stamp tax be deposited in the Land Acquisition Trust Fund (LATF) to support conservation land buying and other environmental activities. These bills are the packages that implement the amendment.

Most of the bills create new LATFs within other agencies since all new trust funds must be created in a separate bill. Both the House and Senate create a LATF in the Department of State and the Department of Agriculture and Consumer Services. The Senate also creates a LATF in the Department of Transportation and the Agency for Persons with Disabilities. HB 1291 and SB 584 are the key implementation bills. They both put 33 percent of the doc stamp tax into the LATE, but they also change the distribution to the many other trust funds receiving doc stamp money. Other trust funds are closed or redistributed. The net effect is that much of the current environmental funding is consolidated into the LATE. Both bills result in \$741.8 million being put into the LATE but the House and Senate get there a bit differently. In the Senate plan, general revenue would be reduced by \$174.8 million and the STTF is reduced by \$98.8 million. Remember, SB 7054 (see above) would add \$99 million in GR to the STTF. The House would reduce GR by \$273.3 million and leave the STTF unchanged.

State Employee Collective Bargaining – *SB 2504 (2504A) and HB 5007 (7A)* – These bills provide that all collective bargaining issues at impasse for the 2015-2016 fiscal year regarding state employees will be resolved pursuant to the spending decisions contained in the General Appropriations Act for the 2015-2016 fiscal year. The House and Senate bills are virtually identical.

Medicaid – *HB 5101 (9A), SB 2152 (2508A) and SB 7044 (2A)* – HB 5101 and SB 2512 are the House and Senate conforming bills for Medicaid, revising the statutes to conform with the chambers' respective budgets. They deal with issue involving rural hospitals, the Low Income Pool and the Disproportionate Share Hospital programs, reimbursement of providers and the Statewide Medicaid Residency Program. SB 2512 also includes the Florida Health Insurance Affordability Exchange Program, which is also the subject of SB 7044. This was the most contentious debate of the 2015 session and the main reason there was need for a Special Session. The Senate plan would help approximately 800,000 low-income Floridians acquire access to affordable healthcare. The proposal is an alternative to the Medicaid expansion under the federal Affordable Care Act but, pending federal approval, would still allow Florida to draw down billions in federal funding. The bill would create a health-insurance “marketplace,” where low-income people would shop for plans. People with incomes up to 138 percent of the federal poverty level that do not qualify for Medicaid would be eligible. These income limits are currently \$16,000 a year for individuals and \$33,000 for families of four. Participants would pay monthly premiums ranging from \$3 to \$25 dollars and there is a requirement to be working or looking for work. The proposal would result in additional federal funding of \$2.8 billion in FY 2015-16, the cost to the state would be \$11.9 million.

Other Health Care Issues – HBs (27A), 999 (23A), 7047 (25A), 7097 (21A) – Perhaps in a compromise for including the Senate’s healthcare expansion proposal in the call, four non-budget conforming House bills are also included. HB 281 authorizes advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) to prescribe, dispense, order, and administer controlled substances under a supervising physician’s protocol. Expanding scope of practice for ARNPs and PAs is a priority of the TaxWatch Center for Health and Aging and the Center for Government Efficiency. HB 999 changes the allowable stay in an ambulatory surgical center from less than one working day to no more than 24 hours, which is the Federal Medicare length of stay standard. It also creates a license and regulation for Recovery Care Centers. This could save patients money by being able to stay longer in an ASC or an RCC rather than a hospital. HB 7047 provides that a direct primary care agreement is not insurance and not subject to regulation under the Florida Insurance Code. Direct primary care eliminates third party payers from the doctor-patient relationship. The bill also creates a program to promote Florida as a medical tourism destination. HB 7097 would provide more options, at different premium levels, for state employees in the State Group Insurance. This would give employees a choice between better benefits and lower costs. The call also includes “legislation repealing the hospital certificate of need program.” There was no Regular Session bill number, but a bill has been filed for Special Session (HB 31A).

A LAST WORD – MEMBER PROJECTS

Both budgets already contain a significant number of local member projects. Not all will make the final budget and there are likely to be new ones added during the Special Session, as member projects are often used to smooth contentious negotiations.

This session, Florida TaxWatch commends the Legislature for instituting some review of local member projects. Senator Jack Latvala, chair of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development, Senator Don Gaetz, chair of the Appropriations Subcommittee on Education and Representative Richard Corcoran, chair of the Appropriations Committee each created procedures designed to increase the openness and accountability of appropriating local projects. These types of processes should be encouraged and increased, and Florida TaxWatch recommends that the benefits they provide are not scuttled by the addition of unscrutinized projects during upcoming budget conference negotiations.

Projects added in conference, and therefore inserted into the budget without sufficient review and deliberation, are the focus of the annual Florida TaxWatch Budget Turkey Watch Report, released each year following the passage of the budget.

FY2015-16 HOUSE AND SENATE BUDGET RECOMMENDATIONS COMPARED TO CURRENT YEAR

(\$millions)

DEPARTMENT/AGENCY	HOUSE BUDGET	SENATE BUDGET	HOUSE +/- SENATE	CURRENT YEAR	HOUSE +/- CURRENT	SENATE +/- CURRENT
Admin. Funds (Statewide)	\$(1.0)	\$110.6	(\$111.6)	\$54.2	(\$55.2)	\$56.4
Ag. & Consumer Services	\$1,583.1	\$1,497.1	\$86.0	\$1,532.8	\$50.3	(\$35.7)
Business & Professional Reg.	\$151.2	\$148.1	\$3.1	\$147.8	\$3.4	\$0.3
Children & Families	\$2,974.7	\$2,956.7	\$18.0	\$2,892.3	\$82.4	\$64.4
Citrus	\$48.3	\$48.8	(\$0.5)	\$52.4	(\$4.1)	(\$3.6)
Comm. on Offender Review	\$10.1	\$9.7	\$0.4	\$9.6	\$0.5	\$0.1
Corrections	\$2,348.9	\$2,359.0	(\$10.1)	\$2,307.8	\$41.1	\$51.2
Economic Opportunity	\$963.4	\$1,167.4	(\$204.0)	\$1,120.3	(\$156.9)	\$47.1
Education	\$23,277.6	\$22,734.8	\$542.8	\$22,588.4	\$689.2	\$146.4
Elder Affairs	\$293.6	\$284.4	\$9.2	\$294.5	(\$0.9)	(\$10.1)
Environmental Protection	\$1,820.0	\$1,345.2	\$474.8	\$1,564.7	\$255.3	(\$219.5)
Financial Services	\$326.3	\$322.4	\$3.9	\$327.0	(\$0.7)	(\$4.6)
Fish & Wildlife Conservation	\$403.8	\$373.8	\$30.0	\$366.1	\$37.7	\$7.7
Governor's Office	\$369.9	\$367.9	\$2.0	\$259.0	\$110.9	\$108.9
Health	\$2,789.5	\$2,824.8	(\$35.3)	\$2,843.1	(\$53.6)	(\$18.3)
Health Care Administration	\$22,887.6	\$27,854.0	(\$4,966.4)	\$24,585.3	(\$1,697.7)	\$3,268.7
Hwy Safety & Motor Veh.	\$439.7	\$450.3	(\$10.6)	\$440.5	(\$0.8)	\$9.8
Justice Administration	\$856.0	\$851.5	\$4.5	\$854.0	\$2.0	(\$2.5)
Juvenile Justice	\$537.5	\$527.0	\$10.5	\$550.7	(\$13.2)	(\$23.7)
Law Enforcement	\$270.1	\$268.0	\$2.1	\$260.7	\$9.4	\$7.3
Legal Affairs	\$203.1	\$202.0	\$1.1	\$202.5	\$0.6	(\$0.5)
Legislature	\$203.8	\$203.8	\$-	\$204.0	(\$0.2)	(\$0.2)
Lottery	\$169.5	\$165.1	\$4.4	\$163.7	\$5.8	\$1.4
Management Services*	\$692.7	\$688.8	\$3.9	\$688.5	\$4.2	\$0.3
Military Affairs	\$84.1	\$75.6	\$8.5	\$114.5	(\$30.4)	(\$38.9)
Persons with Disabilities	\$1,161.7	\$1,199.2	(\$37.5)	\$1,153.5	\$8.2	\$45.7
Public Service Commission	\$25.3	\$25.1	\$0.2	\$25.5	(\$0.2)	(\$0.4)
Revenue	\$573.7	\$574.0	(\$0.3)	\$561.2	\$12.5	\$12.8
State	\$130.1	\$113.2	\$16.9	\$160.0	(\$29.9)	(\$46.8)
State Courts	\$509.3	\$519.4	(\$10.1)	\$515.9	(\$6.6)	\$3.5
Transportation	\$9,942.0	\$10,048.3	(\$106.3)	\$10,117.9	(\$175.9)	(\$69.6)
Veterans Affairs	\$108.5	\$108.6	(\$0.1)	\$114.5	(\$6.0)	(\$5.9)
Totals	\$76,154.2	\$80,424.6	(\$4,270.4)	\$77,073.0	(\$918.9)	\$3,351.6

* includes the new Agency for State Technology / Source: Florida TaxWatch, compiled using data from the Florida Legislature and the Executive Office of the Governor, March 2015

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Kurt Wenner, Vice President of Research, is a mainstay on the Tallahassee state budget watchdog scene and is the second-longest serving staff member of Florida TaxWatch. Kurt has authored all of the major tax publications produced by Florida TaxWatch, including pieces on Florida's Intangibles Tax, and general sales, property, and business tax issues. Kurt is the author of TaxWatch staples "How Florida Compares," the annual "Taxpayer Independence Day" report on tax burdens, and the annual "Budget Turkey Watch."

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