

TALLAHASSEE WEEKLY REPORT

June 4-8, 2012

Voter Purge

Secretary of State Ken Detzner responded this week to the United States Department of Justice's request that Florida stop efforts to purge noncitizens from the state's voting rolls. Detzner stated that the state's actions are legal and questioned the DOJ's interpretation of the National Voter Registration Act of 1993.

The head of the DOJ's Civil Rights Division says the state's voter purge violated the federal voter registration act, which sets a deadline of 90 days before a federal election for the systematic removal of names from voter lists. Due to the August primary for the United States Senate race, any purge after May 17 may be considered illegal.

Detzner replied that the only reason the 90-day time frame was pierced is because the Department of Homeland Security's refusal to provide access to its alien verification database.

Miami-Dade Public Defender

Oral arguments were heard in the Florida Supreme Court this week in a case involving the Miami-Dade Public Defenders office's decisions not to take on new cases because its lawyers work about 500 noncapital cases per year, which is well above the 200-case limit recommended by the Florida's Public Defender Association.

While the United States Supreme Court ruled in the 1963 Gideon v Wainwright case that the Sixth Amendment guarantees legal representation to poor defendants and mandates states to provide an attorney if a defendant cannot afford one, Miami-Dade Public Defender Carlos Martinez stated "There is no meaning to the right to counsel under the Gideon decision if public defenders are required to take as many clients as they're assigned without any limitation, without any review by the court whether that representation is actually effective and it's competent."

In 2008, Circuit Judge Stanford Blake agreed to let Martinez's office turn down third-degree felony cases such as auto theft, forgery and robbery. The Third District Court of Appeal rejected this decision, which is now before the state Supreme Court to decide.

Florida Chief Deputy Solicitor General Louis Hubener stated that the justices should uphold the Third DCA's decision. He argued that a 2007 law passed by the Legislature prohibits public defenders from withdrawing from cases because of "underfunding, excessive caseload or the prospective inability to adequately represent a client".

Justice Fred Lewis did not accept this rationale and chose to focus on compliance with the Sixth Amendment, stating “this is not a legislative mandate, it’s a constitutional mandate. We don’t send third-graders in to defend”.

In 2008, our Public Defender saw its main source of legislative funding reduced by 12.5 percent, and saw its caseload spike because of the recession. This led to attorneys having limited time to take depositions and prepare legal arguments, forcing cases to be delayed.

Business with Cuba

Odebrecht Construction, the South Florida construction firm generally thought to be the impetus behind the bill signed into law that bars companies that do business with Cuba and Syria from competing for government contracts in Florida, is suing to block this new law.

The company says “it does not conduct, and never has conducted, business operations in Cuba”. It states that another “remote and distant” branch of its parent company is involved in the expansion of Cuba’s Port of Mariel. It is asking a federal judge to stop the law from being implemented or enforced. The complaint lists over \$3 billion in infrastructure projects for which the company says it wants to compete. HB 959, set to take effect on July 1, would bar the company from competing for these projects.

The suit also contends that the new law is unconstitutional and unenforceable, in part because it aims to set foreign policy for the state of Florida, a power which rests with the federal government.

A federal judge has approved an expedited schedule for the challenge, with a hearing set to take place on June 25.

Medicaid

The states’ Agency for Healthcare Administration has signed a \$36 million contract with a health plan that will transition rural Medicaid patients and their doctors into a managed care system. The contract, with Coral Gables-based Better Health, will allow doctors in the 31 counties covered by the project to continue receiving fees through Medipass and will try to make itself “invisible” to patients, according to the report.

In 20011, the Legislature passed a bill that will shift the state’s Medicaid patients into managed care by 2014, so long as the plan is approved by the federal government. The bill preserves the Medipass program, in which doctors guide patient care for a monthly fee, mostly in rural counties that have yet to attract more than two plans or provider networks.

House Speaker's Office

Incoming House Speaker Will Weatherford began filling out his staff this week, by naming Kath Mears as his chief of staff and Ryan Duffy as his communications director.

Mears previously served as an advisor to former Senate Presidents Tom Lee and Ken Pruitt, as well as former Governor Charlie Crist. She most recently ran the communications for Congressman Dan Webster's 2010 congressional campaign before becoming a Vice President at On3 Public Relations.

Duffy has already been working with the press on Weatherford's behalf as press secretary for the House's Republican leadership. He was previously the communications director for Bill McCollum's gubernatorial race, and the managing director of social media at Ron Sachs Communications.

Economic Growth

A report released this week the by the state's Office of Economic and Demographic Research showed that Florida's economy grew last year, but at a slower pace than the previous year, and slower than most other states. Housing sales and prices are rebounding, but problems with foreclosures and underwater properties continue to bring down the real estate market. The report also showed that the unemployment rate dropped significantly, but not primarily due to job creation.

The economy grew at a rate of .5 percent in 2011, slower than the .9 percent growth in 2012. Per capita personal income grew 3.5 percent, but was the fifth lowest rate among states. The national average increase in per capita personal income for last year was 4.3 percent. The state remains one of five states where earnings remain below pre-recession levels.

The report also showed that while Governor Scott has touted the decline in the unemployment rate since taking office, this is a result of workers leaving the workforce, not finding jobs. Florida's unemployment rate for April was 8.7 percent; down from 9.9 percent in December, but 75 percent of that decrease comes from a shrinking workforce. Since December, the number of people in the workforce has shrunk by 48,000 to a total of 9,255,000 workers, even though the working age population has grown by 67,000 to a total of 15,384,000 people. The reports shows that as a result of the state adding 2,600 people of prime working age every month, it will take the creation of approximately 1 million jobs to keep up with the Governor's pledge of 750,000 jobs in order to reach pre-recession levels.

2012 Elections

The qualifying period for candidates to appear on the ballot ended today at noon. Below, please find the list of candidates that will be running for state Senate and House seats in our local delegation. As there are technically no incumbents due to redistricting, candidates currently serving in the chamber for which they are running will appear in italics.

Senate

Senate District 35: John Couriel (REP), *Gwen Margolis* (DEM)
Senate District 36: *Oscar Braynon II* (DEM)
Senate District 37: *Anitere Flores* (REP)
Senate District 38: *Rene Garcia* (REP)
Senate District 39: Dwight Bullard (DEM), James Bush III (DEM), Sal Gutierrez (DEM), Ron Saunders (DEM)
Senate District 40: *Miguel Diaz de la Portilla* (REP)

House

House District 100: *Joe Gibbons* (DEM), Sheldon Lisbon (DEM)
House District 102: Melvin Bratton (DEM), Sharon Pritchett (DEM)
House District 103: Renier Diaz de la Portilla (REP), Manny Diaz, Jr (REP), Alfredo Naredo-Acosta (REP)
House District 105: Paul Crespo (REP), *Carlos Trujillo* (REP)
House District 107: *John Patrick Julien* (DEM), *Barbara Watson* (DEM)
House District 108: *Daphne Campbell* (DEM), Alix Desulme (DEM), Pat Santangelo (DEM)
House District 109: Bernadine Bush (DEM), *Cynthia Stafford* (DEM)
House District 110: Ileana Abay (REP), *Jose Oliva* (REP)
House District 111: Maykel Balboa (REP), *Eddy Gonzalez* (REP)
House District 112: Gus Barreiro (REP), Alex Diaz de la Portilla (REP), Alex Dominguez (DEM), Eric Padron (REP), Jose Javier Rodriguez (DEM)
House District 113: Waldo Faura (DEM), David Guzman (NPA), Adam Kravitz (DEM), David Richardson (DEM), Mark Weithorn (DEM)
House District 114: Amory Bodin (REP), *Erik Fresen* (REP), Ross Hancock (DEM)
House District 115: *Michael Bileca* (REP), Eugenio Perez (REP), Jeffrey Solomon (DEM)
House District 116: *Jose Felix Diaz* (REP), *Ana Rivas Logan* (REP)
House District 117: Harold Ford (DEM), Kionne McGhee (DEM), Carmen Morris (DEM)
House District 118: *Frank Artilles* (REP)
House District 119: *Jeanette Nunez* (REP), Libby Perez (REP)
House District 120: Morgan McPherson (REP), Holly Raschein (REP), Ian Whitney (DEM)

TALLAHASSEE WEEKLY REPORT

June 11-15, 2012

Wage Theft

This week, the Miami Herald published an editorial praising our wage theft ordinance. It can be found below. A Palm Beach County Commissioner has reached out to OIA in an effort to meet with county staff involved in implementing our wage theft ordinance in an effort to replicate it in their county.

OUR OPINION: Miami-Dade, with its wage-theft law, is a national model the state should stop attacking

Miami-Dade County's effective wage-theft ordinance emerged safe and sound from this year's legislative session, despite the best efforts of lawmakers — in the sway of monied special interests — to kill it.

Because the ordinance still stands, it casts Miami-Dade County as a leader in a state that does little to nothing to protect workers from employers who don't pay up. Better still, Broward and Palm Beach counties are considering their own wage-theft ordinances, joining Miami-Dade at the forefront of protecting workers, helping well-intentioned employers who are in a financial bind and penalizing the bad actors.

A ranking by the Progressive States Network found that "Florida has exactly zero laws on the books that would incentivize employers to stay honest." And when it comes to holding employees accountable to their employees with such measures as notice of wages and paydays and pay stubs with each pay period, "Florida held the shameful honor of scoring 0, a score that only Alabama and Mississippi — two states that have never had wage and hour laws — can also share."

Well, whoopee — we're among the best of the worst!

Not every company or business owner withholds payment for work done out of a skin-flinted maliciousness. Sometimes, cash flow is a real problem, and employees get stuck, unpaid. Either way, it's a problem in Miami-Dade County and far beyond its borders. It's enough of a problem in this community of day laborers, construction workers, migrant workers and small businesses that Miami-Dade enacted an innovative solution.

Its wage-theft ordinance gives workers who have consistently gone unpaid an effective tool with which to go up against their delinquent employers and win. When a worker lodges a complaint of nonpayment, the county tries to conciliate the matter, talking to the employer — usually by phone — to come to some sort of meeting of the minds. If that initial effort is unsuccessful, the employer gets a letter and then the case goes to a

hearing examiner for a decision. If the employer has a history of abuses, he likely will owe not just the original amount withheld, but also is penalized twice that amount, which goes to the worker. The business owner also has to pay administrative costs.

It's a low-cost solution that, since November 2010, has recovered more than \$1 million for workers.

But this example of fair play has sent statewide business interests over the edge. The Florida Retail Federation, which protested that there should be a statewide wage-theft law, did some serious arm-twisting in Tallahassee this year. The group sought to make it almost impossible for cheated employees to seek, to say nothing of recover, payment. This would have eviscerated Miami-Dade's ordinance — and run roughshod over the county's home-rule charter.

State Sen. Anitere Flores, chair of the Judiciary Committee, stood firm to protect the county's law, as did a bipartisan group of Miami-Dade lawmakers, and the bill went down. Good work, Sen. Flores.

Better still, Circuit Court Judge Lester Langer, in considering a Retail Federation lawsuit against the ordinance, found for the county, saying, "This was a responsible and reasonable exercise of governmental authority."

As for the study that shows Florida to be a real laggard in coming to the aid of aggrieved workers, the Sunshine State lacks a department of labor, which would be a natural venue for enforcement. Perhaps the Retail Federation will step up? There should be an effective statewide law. The state attorney general's office could join the Federation in taking the lead. Otherwise, Florida will remain dead last, denying fairness and justice to taxpaying workers.

Transportation Funding

OIA attended an event at the Port of Miami yesterday, at which a ceremonial bill singing was held for SB 1988, which the Governor officially signed into law on April 20.

The bill includes over \$450 million for transportation projects, and enables the bonding of another \$450 million. About \$60 million will go directly to improve Florida ports, with another \$10 million devoted to strategic transportation planning and most of the rest going to road building. The bill directs the Department of Transportation to develop a strategic plan for interconnected transportation involving roads and ports. It also streamlines decision-making and environmental regulations concerning transportation projects.

According to the Florida Ports Council, the state's 14 seaports handled \$149 billion worth of goods in 2011, with a majority of the trade coming from South and Central America.

Foreclosures

While foreclosures around the country continue to dip slightly, the numbers in Florida continue to rise, according to a report released by RealtyTrac, a California-based company that tracks distressed properties.

Florida's foreclosure rate was at one filing for every 340 housing units in May, an increase of 37.62 percent over the same month last year. Nationwide, the number was at one for every 639 units, a drop of 4.16 percent over May 2011.

Tampa had the highest increase in foreclosures by far, where filings jumped 110.71 percent over May 2011, ranking fifth among the 20 largest U.S. metro areas. Miami was ranked sixth, with one filing for every 333 housing units.

Citizens Property Insurance

Barry Gilway, a Maryland-based insurance executive, was chosen by the Citizens Property Insurance Corp. board as its new President. Gilway is the CEO of Mattei Insurance Services. He beat out California Earthquake Authority CEO Glenn Pomeroy.

Gilway and Pomeroy were the two candidates, out of five finalists, recommended by the board by a presidential selection committee. Interim President Tom Grady was among the finalists, but was not recommended by the committee for the final round of interviews.

Gilway, whose start date is unknown, will take over at a time when Citizens is in a political fight over the company's rates. The Citizens board will meet on July 16 to develop plans to break a 10 percent cap on annual rate increases for new customers that was put in place by the Legislature in 2009. Gilways said Citizens rates need to be "adequate" in the large population centers of Miami-Dade, Broward, Palm Beach, Hillsborough, and Pinellas counties, but any increases must take economic factors into account.

Florida Association of Counties

The Florida Association of Counties (FAC) will hold its annual conference next week in Orange County, at the Orlando World Center Marriott. This is FAC's largest yearly event, and is attended by commissioners and staff from across the state.

General information on the conference can be found here: http://www.fl-counties.com/Pages/Member_Services/Conferences/Annual_Conference.aspx

The conference agenda can be found here: <http://www.fl-counties.com/Docs/Education/Conferences/Annual%20Conf/Conf%20Program%20Overview.pdf>

Political

- State Representative Carlos Trujillo received the endorsement of former Governor Jeb Bush this week. Rep. Trujillo is seeking a second term in the House, and faces a challenge in the Republican primary from Paul Crespo.
- State Senator Jim Norman, first elected in 2010, abandoned his bid for reelection by dropping out of the Republican primary. Sen. Norman has been dogged by ethics questions since he was first elected for failure to disclose a \$500,000 home which was purchased by a political contributor. He faced a primary challenge from House Speaker Pro-Tem John Legg and former state Rep. Rob Wallace. Upon Norman's decision, Senate leadership was quick to coalesce around Rep. Legg as their choice to take the now open seat.
- Senator John Thrasher announced today he would be dropping out of the race to become Senate President after the 2016 elections, and would be supporting Senator Joe Negron. Senator Jack Latvala is also in the running, and is thought to have gained more support. The Republican primary elections in the open seat will be very telling in who wins the position, as some candidates have the support of Latvala, while some have the support of Thrasher and Negron.

TALLAHASSEE WEEKLY REPORT

June 18-22, 2012

Pensions

The Florida Legislature, the Florida League of Cities, and the Florida Association of Counties have filed court papers in support of the state's argument that the Florida Supreme Court should overturn a circuit court ruling which blocks a requirement for government workers to contribute a portion of their salaries to their retirement.

The groups say local governments are dealing, today, with the same budget pressures that existed in 2011 when SB 2100 became law. The circuit court ruling would cost counties and cities an estimated \$590 million. Circuit Judge Jackie Fulford says the law breaks a contract with public employees, violates a constitutional ban on "takings" by the government, and circumvents the requirement that changes in employee benefits go through the collective bargaining process.

Anyone challenging the law has until next week to file a response.

Global Cities Initiative

OIA participated in the "Global Cities Initiative", which took place at the University of Miami, and was put together by the Brookings Institute and JP Morgan Chase. Deputy Mayor Jack Osterholt represented Miami-Dade County on one of the panels, joining City of Miami Mayor Tomas Regalado and Coral Gables Mayor Jim Cason.

The purpose of the forum was to explore how metropolitan-led economic growth, including global trade and investment, are a vital component to job creation, and how the greater Miami area can leverage its position in the global market.

For a complete recap of the event, including conference materials, can be found at: <http://www.brookings.edu/events/2012/06/19-global-cities-miami>.

College Tuition

A Board of Governors reached an agreement this week to increase tuition at Florida's public universities. The increases, which range from 9 percent to 15 percent, were sought after by many of the schools to help offset a \$300 million cut to the state university system.

Governor Scott, who addressed the Board early in the week, expressed discontent at the decision to raise tuition, stating “Tuition rates have risen 71 percent over the past four years and graduates are facing unprecedented levels of debt. We can’t continue on this path.”

Some of the state’s bigger schools, such as Florida State University (FSU) and the University of Central Florida (UCF), had to sit through several votes before the Board agreed to their specific rate increase. FSU saw failed votes for a 15 percent increase, then a 14 percent increase before the Board approved a 13 percent rate hike. UCF sat through 5 votes before it received a 12 percent increase.

Transportation

The Florida Department of Transportation (FDOT) announced this week the period of the State Infrastructure Bank (SIB) program. Last fall, FDOT approved loans totaling \$105 million for 11 projects around the state.

The SIB program is a 17 year old federal program that passes money through state transportation departments to local governments for programs. The loans are handed out at below market rates.

For this year, FDOT has approximately \$125 million to lend for transportation projects, with applications being accepted from July 2 to August 31. The department expects to announce the awards in October, with the money available in July 2013.

Everglades

A review by the National Research Council shows that little progress has been made in restoring the Everglades. The report shows that while progress has been made in the construction of restoration projects, they have done little to reverse generations of decline.

The full report can be found here: http://www.nap.edu/catalog.php?record_id=13422.

Political

- The Associated Industries of Florida announced its first round of legislative endorsements this week. The group has yet to choose a candidate in several of the more competitive races. The full list can be found at: http://aif.com/press_release/2012/pr_12endorse_charts.shtm

TALLAHASSEE WEEKLY REPORT

June 25-29, 2012

Affordable Care Act

As it relates to Florida, the Supreme Court's decision yesterday on the Affordable Care Act also held that the state should have flexibility in deciding whether to expand Medicaid. Attorney General Pam Bondi, one of the nationwide leaders in the lawsuit filed against the United States Department of Health, said that while she was disappointed in the Court's ruling, she welcomed the Medicaid decision and the limits the court recognized on the federal government's power.

Florida will face a series of choices in the upcoming year about how to implement the law, and whether it wants to extend Medicaid coverage to hundreds of thousands of new patients. The law would have extended Medicaid coverage to everyone earning below 133 percent of the federal poverty level and increased federal support for the program by funding the Medicaid expansion in its entirety through 2016, with the federal share falling to 90 percent in later years. As it stands now, 55 percent of the Florida's \$21.2 billion Medicaid program is funded by the federal government.

The state will now also have to decide whether to address other aspects of the law that elected leaders have refused to implement. A new Medicaid computer system that was approved by legislators this past session could provide some of the technical infrastructure for the state health insurance exchange.

As it relates to Jackson Hospital, a concern rests in the care of undocumented immigrants, a group not covered by the Affordable Care Act. Jackson executives, according to the Miami Herald, expressed concerns at a retreat last week that this reform may result in reduced payments that now get from federal sources to treat the uninsured, on the theory that many uninsured will now get Medicaid.

Senate Health Appropriations Chair Joe Negrón has called on Congress to pass an alternative health care measure. He says if this does not happen, it might be preferable for Florida to set up its own health insurance exchange instead of allowing the federal government to intervene.

Below, please find reaction on the Supreme Courts' rulings from the Governor, Attorney General, and our U.S. Senators:

- **Governor Rick Scott:** *"The tax question was repeatedly refuted by members of Congress who helped pass this health care takeover. The justices have declared that the central provision of Obamacare is a judicially mandated tax. A new tax, pure and simple. This is just another burden the federal government has put on American families*

and small businesses. With the national economy struggling to recover, now is not the time to implement a massive social program that injects nothing but uncertainty and doubt into our economic system. By doing so, they have put up yet another major roadblock to efforts to get people back to work and forced the government into the important relationship between patients and their doctors. I stand with Justice (Anthony) Kennedy (who dissented) that the entire act should have been held invalid."

- **Attorney General Pam Bondi:** *"Surprised. Shocked. They (justices) did say, however, that they (Congress) cannot do this under the (Constitution's) Commerce Clause, that you cannot force a person to purchase a product simply by being alive under the Commerce Clause. However, they (justices) found that this is a tax, and that's contrary to everything that our president has been saying. So this is a tax on the American people, and that's how it was upheld."*
- **U.S. Senator Bill Nelson:** *"A lot of us feel the health care law wasn't perfect. But it was needed. Our system was broken and we had to do something. Insurance companies were refusing to cover people or dropping those who got sick. So, we passed legislation to prevent insurers from running roughshod over people. And today, the Supreme Court upheld most of these reforms. Now, I think it's time we finish the job of fixing our economy and creating more jobs."*
- **U.S. Senator Marco Rubio:** *"What's important to remember is that what the court rules on is whether something is constitutional or not, not whether it's a good idea. And while the court has said that the law is constitutional, it remains a bad idea for our economy, and I hope that in the fall we will have a majority here that will not just repeal this law, but replace it with real solutions that will insure more people and cost a lot less money."*

Property Insurance

An order issued this week by state Insurance Commissioner Kevin McCarty allows insurance executives with pending form filings, which are changes in policy coverage sought to comply with new state laws, to certify that their forms are error-free and follow state statutes. The order also states that if the form is later found to be in error or contrary to state law, the Office of Insurance Regulation can revoke its approval.

McCarty issued the order in response to a large backlog of property insurance forms that was created because of an increase in filings combined with a shortage of experienced analysts. Several insurers have been waiting for months to get approval on forms to take advantage of SB 408, which passed in 2011 and tightens rules on sinkhole claims and other coverage.

Senator Mike Fasano, who has fought the insurance industry in the past, and fought against SB 408, has called this order a "rubber stamp" for insurance companies. It is important to note, that while Senator Fasano is termed-out, he is running for an open House seat.

Voter Purge

A federal judge rejected a request by the United States Department of Justice (DOJ) to block Florida's purge of ineligible voters from its rolls. U.S. District Judge Robert Hinkle said a provision in the law prohibiting a systematic removal of names within 90 days of an election does not apply to noncitizens.

A legal advisor for the statewide association that represents county elections supervisors informed his members that if they have "sufficient documentation" that a person is not a U.S. citizen they can now remove them from the voting rolls.

The county Elections Department has informed our office that nobody has been removed from the rolls in Miami-Dade County.

Film and Entertainment

Florida Film Production Coalition, a nonprofit industry group, hosted a workshop at the Latin Chamber of Commerce's (CAMACOL) U.S.A. Miami Media and Film Market conference. The agreement at the workshop was the Florida needs to be more aggressive in the film industry due to the competition it faces from other states. Currently, the state puts a cap of \$8 million per project on tax credits, while many other states have no cap.

A newly formed organization, the Congress of Motion Pictures Associations of Florida (COMPASS), suggested a removal of the aforementioned cap. COMPASS has retained Fausto Gomez as its lobbyist. Gomez felt the workshop was an excellent start and now they "need to hone a measurable legislative program to be advanced in the next session".

2012 Legislative Session

The Office of Intergovernmental Affairs' "2012 State Legislative Report" was released last week. Hard copies of the report were delivered to the Chairman and members of the Board of County Commissioners, the Mayor, and the County Attorney. An electronic copy can be found at: <http://www.miamidade.gov/intergov/library/2012-state-legislative-report.pdf>. The report details all issues of interest to Miami-Dade County that were taken up this past session, and also includes the final reports submitted by our contract lobbyists, and a list of bills passed by members of our local delegation. Should anyone have a question on anything found in the report, please feel free to contact our office.

Also related to this past session, attached, please find a report prepared by Lobbytools with a listing of bills that go into effect on July 1.

Political

- State Senator Anitere Flores endorsed Juan Zapata's campaign to become a County Commissioner this week. Zapata, who served with Senator Flores in the Florida House from 2004-2006, is running for the District 11 seat being vacated by Chairman Joe Martinez.
- Holly Raschien, a Republican House candidate in District 120, which encompasses portions of Miami-Dade County and all of Monroe County, announced the unanimous endorsement this week of every incoming senior Republican member of the Florida House. Raschien is seeking the seat being vacated by Representative Ron Saunders, who is seeking the Senate seat being vacated by Larcenia Bullard. She previously served as the aide in the district to former Representative Ken Sorenson. The members endorsing Raschien were Representatives Marti Coley, Eddy Gonzalez, Doug Holder, Ed Hooper, Seth McKeel, Peter Nehr, Bryan Nelson, Jimmy Patronis, Steve Precourt, and Rob Schenck.