

TALLAHASSEE WEEKLY REPORT

August 6-10, 2012

State Budget

State economists expect tax collections to grow by 4.3 percent in the coming fiscal year, with an additional 5 percent growth the year after that. Amy Baker, the lead economist for the state's Office of Economic and Demographic Research says "Recovery is finally beginning to take hold in the housing market. Real estate tax and documentary tax collections continue to grow strongly."

As recently as the 2008-2009 fiscal year, state revenue collections dropped by almost 13 percent, resulting in billions of dollars in spending cuts and the elimination of programs.

Despite the positive signs, Governor Rick Scott has asked his agencies to propose budgets for the coming year that reflect a 5 percent cut in spending. These budgets are the frameworks used by legislators when drafting the state budget.

The state budget currently stands at around \$70 billion, which the largest revenue source being the 6-cent sales tax.

Elections

State officials warned this week that they may take new legal action against the federal government as a result of not having received access to the federal immigration database. The state wants to use the database to determine the citizenship of nearly 2,600 voters.

In July, the federal government announced it would let the state use the database, but no agreement has been reached.

Aside from the above issue, U.S. Justice Department is demanding information from nine county election officials regarding voters the state initially identified as being ineligible. The state, this week, released to the media what it called an "obsolete" list of over 180,000 registered voters the state suspected of being noncitizens.

Florida Supreme Court

Circuit Judge Terry Lewis, located in Tallahassee, dismissed a lawsuit aimed at throwing three Florida Supreme Court Justices off the November ballot, where they are seeking retention. The judge also ruled that a pair of voters who are against retaining the justices had no legal right to sue. The voters are represented by attorneys from the Atlanta-based conservative Southeast Legal Foundation and have stated that they will appeal.

The suit alleges that Justices Peggy Quince, Fred Lewis, and Barbara Pariente illegally used court employees to advance their campaigns because the staffers helped prepare their election qualifying papers. The justices have denied any wrongdoing.

Governor Scott had initially asked the Florida Department of Law Enforcement (FDLE) to investigate the allegations against the justices, which centered on a recess taken during court hearings on redistricting to get file their campaign paperwork on time after they were notarized by court staffers... FDLE determined court employees also notarized papers for four justices that had appeared on the 2010 ballot. Investigators found it is a widespread practice, usually done out of convenience. The FDLE report was forward to Leon County State Attorney Willie Meggs, who declined to file charges, dismissing the allegations as a “trifle”, saying that simply notarizing a signature does not constitute furthering a political campaign.

Public Service Commission

The Public Service Commission (PSC) has been holding public meetings around the state – including one in Miami earlier this week – related to a \$690 million rate request by Florida Power and Light. If approved, FPL would increase the base rate of the average customer’s utility bills by \$7.09 in June 2013.

Governor Scott has not taken a stand on the issue, despite his concern about cost of living increases for energy. He has said that keeping Florida’s cost of living low is a priority in his bid to attract employers to the state.

The PSC will continue holding public hearings around the state through the end of the month.

TALLAHASSEE WEEKLY REPORT

August 13-17, 2012

Election Law

The United States District Court for the District of Columbia ruled late Thursday that recently passed state legislation that restricts the number of early-voting days could result in a dramatic reduction in voting by blacks. The bill, which passed in 2011, reduced the number of early-voting days from twelve to eight. The Court ruled that because of the law's potential impact on minority voters, it would not allow Florida to put the changes in five Florida counties covered by federal voting laws (Collier, Hardee, Hendry, Hillsborough, and Monroe).

The ruling states: "In sum, Florida is left with nothing to rebut either the testimony of the defendants' witnesses or the common-sense judgment that a dramatic reduction in the form of voting that is disproportionately used by African-Americans would make it materially more difficult for some minority voters to cast a ballot".

The law went before a federal court because the five aforementioned counties are covered by federal voting laws due to a past history of discrimination and must have any changes pre-cleared by the United States Department of Justice or a federal court. Traditionally, the state has postponed election-law changes for the entire state until the changes have been cleared for those counties. But last year, the state directed the other 62 counties to start following the new law.

Governor's Office

Jon Costello, who has worked as Governor Scott's legislative affairs director for the duration of his term, announced his resignation, effective September 7. Prior to his stint in the Governor's office, Costello worked for the firm of Rutledge, Ecenia, Purnell, one of Miami-Dade County's contract lobbyists in Tallahassee.

Costello, who says his departure is voluntary, will be appointed by the Governor to an unpaid board seat on the Northwest Florida Water Management District. He has yet to speak to potential employers, because he first wanted to make public his intention to leave.

The Governor stated "Jon has been a trusted advisor and an invaluable member of my team going back to my days campaigning to become Governor. Like me, Jon believes Florida must focus on creating jobs, improving education and keeping Florida's cost of living affordable."

Unemployment

After over two years of steadily decreasing unemployment numbers, the state's unemployment rate went up 0.2 percent in July to 8.8 percent. The adjusted numbers reflect a loss of 3,300 nonagricultural jobs from the previous month; even while the size of the labor force shrunk by 1,000 people.

Please see the following press release from the state's Department of Economic Opportunity for more information: <http://www.floridajobs.org/news-center/news-feed/2012/08/17/overall-job-trend-is-positive-despite-slight-uptick-in-unemployment-rate>.

Constitutional Amendments

In preparation for the proposed constitutional amendments that will appear on the November ballot, we will try to pass along columns and articles further explaining the effects of each ballot item.

Please see the following column which references Amendment 8: <http://www.ncregister.com/daily-news/religious-freedom-amendment-on-the-ballot-in-florida/>.

Clerks of Court

The Joint Legislative Budget Commission (JLBC) approved a request by Governor Rick Scott to restore \$29.5 million to this year's budget for the state's clerks of court, which has been in effect for seven weeks. The initial budget had included a \$30 million cut. Bob Inzer, the Leon County Clerk and chair of the state clerks' association budget committee says that, without this funding, between 700 to 900 employees statewide would have to be released.

The JLBC agreed to allow county clerks to tap into a trust fund that gets its money from court fees and fines. Budget cuts since 2007 have reduced the clerks' staff by about 25 percent statewide.

Voter Screening

Florida elections officials announced this week that they have signed a formal agreement with federal authorities to let the state use an immigration database to screen voters. State officials have spent months seeking approval to use the database to see whether some registered voters were non-U.S. citizens and ineligible to vote.

The United States Department of Homeland Security agreed in principle to let the state use the database earlier in the summer, but did not sign a binding agreement until this

week. State officials will initially use the database to screen the names of about 2,600 registered voters the state initially suspected were ineligible.

The state's push to identify potentially ineligible voters has drawn multiple lawsuits, including one from the United States Department of Justice. A judge refused this year to block the state from carrying out its proposed voter purge, but the lawsuit is still active and federal authorities have asked for information about the effort from nine counties.

Florida Association of Counties

Commissioner Bill Williams, from Gulf County, has resigned his position as President of the Florida Association of Counties (FAC). The Commissioner has chosen not to seek re-election in Gulf County to pursue other career opportunities. He will continue to serve on FAC's Board of Directors until the expiration of his term as a commissioner.

Commissioner Bryan Desloge, from Leon County, was sworn in as Interim President, and will fill out the remainder of Williams' term. The new interim Executive Committee of FAC is as follows: Interim President Bryan Desloge (Leon), Interim President-Elect Ken Welch (Pinellas), Interim First Vice President Grover Robinson (Escambia) and Interim Past President Dough Smith (Martin).

In other FAC news, the FAC Policy Conference will be held from September 19-21 in Pinellas County. This conference serves as the opportunity for FAC to set its legislative agenda for the upcoming legislative session. More information can be found at: http://fl-counties.com/Pages/Member_Services/Conferences/Policy_Committee_Conference.aspx.

Elections

Below please find the results from this week's primary elections, as they relate to the Miami-Dade Legislative Delegation:

- **Senate District 39, Democratic Primary:** Representative Dwight Bullard won the primary for the seat being vacated by his mother, Senator Larcenia Bullard. Representative Bullard defeated House Minority Leader Ron Saunders and former Representative James Bush. He will now face Republican Scott Hopes in the general election. This district has a strong Democratic majority.
- **House District 100, Democratic Primary:** Representative Joe Gibbons, who has represented Broward County for the last 6 years, but was drawn into Miami-Dade County during the redistricting process, defeated Sheldon Lisbon. Because there is no general election opponent, Representative Gibbons has won a fourth and final term in the House.

- **House District 102, Democratic Primary:** This district had no incumbent, due to redistricting. Sharon Pritchett defeated Melvin Bratton, and has won the seat since she will only face a write-in candidate in the general election.
- **House District 103, Republican Primary:** Hialeah Gardens teacher Manny Diaz Jr defeated School Board Member and one time House member Renier Diaz de la Portilla. This victory is viewed as critical to Representative Jose Oliva's bid to become House Speaker after the 2018 elections, as Diaz has supported Oliva, while Diaz de la Portilla did not. Diaz will be the House member, since there is only a write-in on the general election ballot.
- **House District 105, Republican Primary:** Representative Carlos Trujillo was elected to a second term in the House, after defeating Paul Crespo in this newly drawn seat, which now takes in portions of Broward and Collier County. He faces a write-in in the general election.
- **House District 107, Democratic Primary:** This newly drawn seat pitted two incumbents against each other, Representatives John Patrick Julien and Barbara Watson. Watson leads by the slimmest of margins, and a recount is likely to take place. There is no opposition in the general election.
- **House District 108, Democratic Primary:** Representative Daphne Campbell was elected to a second term in the House after defeating Alix Desulme and Pat Santangelo. She faces a write-in candidate in the general election.
- **House District 109, Democratic Primary:** Representative Cynthia Stafford was elected to a second term in the House after defeating Bernadine Bush in the primary. She wins re-election since there is no general election opposition.
- **House District 110, Republican Primary:** Representative Jose Oliva was elected to his first full term in the House after defeating Ileana Abay. Representative Oliva was first elected to the House in a special election last year to replace County Commissioner Esteban Bovo. He faces a write-in in the general election.
- **House District 111, Republican Primary:** Representative Eddy Gonzalez was elected to his fourth and final term in the House after defeating Miguel Balboa. He faces a write-in in the general election.
- **House District 112, Republican Primary:** Former Senator and Representative Alex Diaz de la Portilla defeated former Representative Gus Barreiro. He now faces Jose Javier Rodriguez, mentioned below. This is an open seat.
- **House District 112, Republican Primary:** Jose Javier Rodriguez defeated Alex Dominguez and will face Alex Diaz de la Portilla in the general election.
- **House District 113, Democratic Primary:** David Richardson was elected to this open seat. His election is significant because he is the first openly gay member of the Florida House. He defeated Waldo Faura, Adam Kravitz and Mark Weithorn. Richardson is elected to the seat as there is no general election opposition.
- **House District 114, Republican Primary:** Representative Erik Fresen defeated Amory Bodin in his bid for a third term in the Florida House. Representative Fresen now faces Democrat Ross Hancock in the general election.

- **House District 115, Republican Primary:** Representative Mike Bileca defeated Eugenio Perez in his bid for a second term in the Florida House. Representative Bileca now faces Democrat Jeffery Solomon in the general election.
- **House District 116, Republican Primary:** In this newly drawn seat that featured two incumbents, Representative Jose Felix Diaz defeated Representative Ana Rivas Logan, both of whom were seeking their second term in the House. Representative Diaz now faces a write-in candidate in the general election.
- **House District 117, Democratic Primary:** In this open seat, Kionne McGhee defeated Harold Ford and Carmen Morris. McGhee faces a write-in candidate in the general election.
- **House District 119, Republican Primary:** Representative Jeanette Nunez defeated Libby Perez in her bid for a second House term. She faces a write-in candidate in the general election.
- **House District 120, Republican Primary:** In this open seat, which also includes Monroe County, Holly Raschein defeated Morgan McPherson. Raschein has spent the past several years serving as the legislative aid in this seat, first under Representative Ken Sorenson, and most recently under Representative Ron Saunders. She faces Ian Whitney in the general election.

Tallahassee Weekly Report

August 20-24, 2012

Elections

The state filed a motion with the United States District Court in Washington this week, asking the court to approve a plan to provide eight days of early voting. Last week, the three judges from this court refused to clear the change in early-voting procedures in five Florida counties covered by the Voting Rights Act of 1965.

Florida Secretary of State Ken Detzner says the state has an agreement with four of the five counties (Collier, Hardee, Hendry and Hillsborough), with Monroe County being the lone holdout, to join in the court's direction that they might consider pre-clearing the counties if they agree to 96 hours. The supervisor of elections in Monroe County says reducing the number of early-voting days may be discriminatory, but also said he will abide by the court's ruling.

The changes to the early voting hours came as a result of legislation that became law in 2011. Of the 80 provisions found in the bill, 79 have been pre-cleared, with the early voting hours being the lone exception.

Public Service Commission

Incumbent Lisa Edgar and three others were selected as finalists for a vacancy on the Public Service Commission (PSC). A nominating council picked finalists Wednesday during a meeting in Orlando. Governor Scott is expected to make an appointment by the end of September.

Edgar, who joined the PSC in 2005, and once served as chair, is its longest serving member. The other three nominees are Aventura Commissioner Luz Weinberg; Donald Polmann, the engineering and science director for Tampa Bay Water; and former state representative Ken Littlefield.

Education

An administrative law judge says a Florida teacher evaluation rule is invalid. Judge John Van Landingham found that the State Board of Education and the Florida Department of Education failed to follow rulemaking procedures. The Florida Education Association challenged the rule designed to implement evaluation criteria required by a new state law passed last year.

State education officials must now begin the rulemaking process from scratch, or they can ask the First District Court of Appeal to overrule Van Landingham. Union officials say the decision does not invalidate other evaluation systems approved by the state in connection with a \$700 million federal Race to the Top grant.

Solicitor General

Attorney General Pam Bondi chose Timothy Osterhaus to serve as Florida's new solicitor general. Osterhaus had been deputy solicitor general since 2007, and replaces Scott Makar, who was appointed to the First District Court of Appeal by Governor Rick Scott.

The solicitor general represents the state before the United States Supreme Court, the United State Courts of Appeals, and before state appellate courts. The solicitor also decides whether the state has an interest in cases filed before the Florida Supreme Court.

In connection with his appointment, Osterhaus will also hold the Richard W. Ervin Eminent Scholar Chair and serve as a visiting professor at Florida State University's law school.

Real Estate

Sales of existing single-family homes in Florida rose 9.8 percent last month compared with July 2011, according to a report from Florida Realtors. Prices followed, rising 7.8 percent in the year-over-year comparison up to a median sale price of \$148,000. Condo sales had a smaller boost of 2.8 percent in July, but the median sale price increased 10.9 percent over one year ago to \$102,000.

State economists, however, cautioned on developing forecasts because of a brief delay in foreclosure starts on behalf of banks caught up in the robo-signing scandal in late 2010, and because Florida's average foreclosure takes more than two years to get through the system and back onto the market, another wave of foreclosures could hit in 2013.

Amy Baker, the chief economist for the Legislature's Office of Economic and Demographic Research, predicts that after a 5.6 percent increase in the median sale price of homes for the current fiscal year, the growth rate will drop to 1.2 percent, to \$147, 508, in the 2013-2014 fiscal year.

Constitutional Amendments

In preparation for the proposed amendments to the state Constitution that will appear on the November ballot, below please find a summary of the issues:

- **Amendment 1** – This amendment would allow the state to pull out of the federal Patient Protection and Affordable Care Act. It would also specifically prohibit laws forcing individuals or employers to buy or provide health care coverage.
- **Amendment 2** – This amendment would expand a special homestead property exemption to include combat disabled veterans who were not Florida residents when they entered the military. The discount would be based on a percentage equal to that of the veteran's permanent, service-related disability.
- **Amendment 3** – This amendment would replace the existing state revenue limitation, which is currently based on Florida personal income growth. The cap would be based on inflation and population changes. Revenues collected in excess of the limitation would be deposited into the budget stabilization fund.
- **Amendment 4** – This amendment would prevent increases in the assessed value of homestead properties and some non-homestead properties when the market values for those properties decrease. It would also reduce the annual growth assessment cap on non-homestead properties from 10 percent to 5 percent. In addition, it would provide first-time homesteaders with an additional exemption equal to 50 percent of the home's market value.
- **Amendment 5** – This amendment would require Supreme Court justices appointed by the Governor to also be confirmed by the Senate before taking office. It would also allow the Legislature to repeal a court rule with a simple majority instead of the current two-thirds majority that is in place.
- **Amendment 6** – This amendment would block the use of public funds for any abortion or for health benefits that cover abortion. The amendment would not apply to expenditures required by federal law for cases in which a woman has a physical disorder, injury, or illness that would place her in danger of death unless she has an abortion, or cases of rape or incest.
- **Amendment 7** – This amendment was removed.
- **Amendment 8** – This amendment would overturn a part of the Constitution that blocks taxpayer funds from being spent on religious institutions, including any churches, sects and religious denominations.
- **Amendment 9** – This amendment would give a homestead property tax exemption to the surviving spouse of a military veteran or first responder killed in the line of duty. The provision would allow the Legislature to totally or partially exempt a surviving spouse's homestead property from being taxed.
- **Amendment 10** – This amendment applies to businesses and would allow for an enhancement of the tangible personal property tax exemption. The exemption would apply to property, such as equipment or furniture, with an assessed value that runs up to \$50,000.
- **Amendment 11** – This amendment would authorize the Legislature to let counties and municipalities grant an additional homestead tax exemption for low-income seniors. The exemption would be equal to the assessed value of a homestead property if the market value is less than \$250,000, the owner has

maintained permanent residence there for at least 25 years, the owner is at least 65, and the owner has a low household income under law.

- **Amendment 12** – This amendment would create a new council made up of student body presidents from the State University System.

TALLAHASSEE WEEKLY REPORT

August 27-31, 2012

Medicaid

The Low Income Pool Council (LIP) met this week in Tallahassee, and decided to hold seven subsequent meetings to discuss Florida's efforts to reform Medicaid. For background, LIP is a federal/state program consisting of local tax dollars matched by the federal government. For every \$42 the state contributes to the pool, Washington sends another \$58. The lump sum from Washington is distributed to hospitals that treat high percentages of uninsured and Medicaid patients. This fiscal year, there is over \$1 billion in the LIP fund.

Hospitals that participate in LIP are concerned about two initiatives that appear to redistribute Medicaid dollars. Florida will state shifting Medicaid patients into privatized managed-care programs in January. Also, this past December, the federal government extended through June 2014 a Medicaid waiver for a managed-care pilot program in five counties contingent on two requirements, that the state allocate an additional \$50 million for new or enhanced LIP programs and that at least 85 percent of LIP money is spent on patient care.

Hospital executives are not satisfied with the 85 percent requirement, stating that it is an arbitrary figure attached to providing medical care. If they do not meet that target, they can lose 3.5 percent of their LIP funding.

Pension Lawsuit

Officials with the Florida Nurses Association and the American Federation of State, County and Municipal Employees (AFSCME) stated this week that they had not decided what their next step would be after circuit judge refused to reopen a lawsuit challenging Florida's plan to privatize prison health care. Circuit Judge Kevin Carroll refused to rule because the budget provision in question expired on July 1.

The Department of Corrections (DOC) is proceeding with the privatization, contending that it has other legal authority to outsource health services.

Consumer Confidence

A survey released this week by the University of Florida shows that Floridians' consumer confidence remains unchanged from a month ago. Two of the five components making up the index declined from July, but still remained above the June

index. Consumer confidence for August received a score of 77, the same number as July, and 16 points above the index for August 2011.

Although consumer confidence is one point below the post-recession high of 78 (May 2012), it is far below what was considered normal prior to the Great Recession. Since 1985, more than two-thirds of the surveys had consumer confidence above 90, with a drop below 80 occurring only twice (1991 and 1992).

Foreclosure Settlement

Over 23,000 Florida homeowners victimized by suspicious foreclosure practices have received \$1.7 billion in assistance so far as part of a settlement between the country's five largest banks and state attorneys general, based on a report released this week by federal regulators. The report, which also includes information submitted by the banks that hasn't been audited by Joseph Smith, the national mortgage settlement monitor, shows that \$10.56 billion has gone to consumer relief nationwide.

Florida's \$1.7 billion in assistance includes primary and secondary lien principal forgiveness, refinancing and deficiency waivers.

In a statement, Attorney General Pam Bondi said, "I am pleased to see that progress is being made under the settlement as the mortgage servicers begin to implement procedures designed to fulfill their obligations to Florida's homeowners. I will continue to work with the monitor to ensure that the mortgage servicers fulfill their obligations under the settlement agreement"

Trade Mission to Colombia

Governor Scott will be leading a trade mission to Colombia in December, with a goal of capitalizing on the new U.S.-Colombia free trade agreement and increasing commerce between the two governments. Officials with Enterprise Florida, which serves as the state's economic development agency, expect as many as 150 business people, many from South Florida, to join the governor in the mission. Colombia imports almost \$3 billion worth of goods from Florida annually.

2013 State Legislative Agenda

OIA has begun meeting with the various county departments in order to begin crafting the 2013 State Legislative Agenda. Once completed, the agenda will go before the Board of County Commissioners for discussion and approval. Our office's goal is to have this process completed prior to November 20, which is the date of the state's Organizational Session.

Transportation Funding

Florida groups supporting recreational trails are urging Florida transportation officials not to pass on about \$2.6 million in trails funding from the federal government. Funding for recreational trails emerged as an issue during the legislative session this year when the Legislature passed SB 268 allowing companies to sponsor state recreation trails.

Money for paved recreational trails has been provided by the federal government for decades. However, the transportation bill signed by the President in July allows the states to put the money towards other uses by opting out.

Trail groups criticized the reallocation, predicting sharp declines in funding for trails. Democrats framed the new bill as providing flexibility for local communities.

States face a September 1 deadline to opt-out of the trails funding. The Rails-to-Trails Conservancy has been told that Governor Rick Scott intends for Florida to opt-out, according to the group's senior vice president for federal relations. The money in the past has been used to support trails in the Withlacoochee State Forest and Apalachicola National Forest, as well as other local projects scattered across the state.

The \$2.6 million for trails projects in Florida would be put in a larger pot called "transportation alternatives" where its use is subject similar to those governing the federal highway system.