

TALLAHASSEE WEEKLY REPORT

January 17-21, 2011

Federal Health Care Lawsuit

Earlier this week, six more states joined the Florida-led federal lawsuit against the recently passed federal health care reform bill. The six states, Iowa, Ohio, Kansas, Wyoming, Wisconsin, and Maine, mean that 26 states are now parties to the suit.

The crux of the suit rests on the requirement that health insurance be purchased by 2014, with penalties for not doing so. The suit also claims that a planned Medicaid expansion is also illegal.

Attorney General Pam Bondi made this lawsuit a central part of her campaign, and has taken the reins from her predecessor, Bill McCollum. Bondi, along with the National Federation of Independent Business, another party to the suit, hope that the courts view the majority of the states joining the suit as a sign that the law is unconstitutional.

Governor Scott Transition

Governor Rick Scott continued naming members to his administration this week by naming his secretaries for the Department of Children and Families (DCF) and the Department of Management Services (DMS).

David Wilkins, a retired executive previously with Accenture, was chosen to lead DCF. Wilkins, a member of the Scott transition team, lives in Tallahassee and currently serves as finance chairman for the Florida Baptist Children's Homes.

Jack Miles, a retired purchasing executive, was chosen to head DMS. Miles was most recently with health-insurer Cigna. DMS is responsible for most of the state's owned and leased offices, and has been much maligned recently over its involvement in the ornate courthouse which now houses the First District Court of Appeal, a building commonly known as the "Taj Mahal".

In other news related to the Governor's transition, the Cabinet this week confirmed the appointment of Herschel Vinyard as Secretary of Department of Environmental Protection (DEP).

Septic Tanks

Governor Scott allowed a bill to become law this week related to septic tanks, by letting the allotted time pass without acting on it. The bill, passed during the one day special session in November, delays a statewide inspection requirement for septic tanks. The requirement originally appeared in SB 550, which was signed into law by Governor Crist. The new legislation delays implementation from January 1 to July 1.

The newly passed bill, SB 2A, came as a result of an outcry from residents in the Panhandle and their legislators over concerns as to the cost of the inspections. The Department of Health estimated that inspections would cost between \$150-200 per tank, with the cost of replacement between \$5,000-7,000. The Department also estimated that approximately 10 percent of the state's nearly 3 million septic tanks are failing.

SB 130, filed by Senator Charlie Dean for consideration during the upcoming session, would remove the requirement altogether.

Unemployment

Florida's unemployment rate in December remained at 12 percent, the same as it was in November. Along with this rate, 17,900 jobs were lost from November to December.

Governor Scott said it was unacceptable that over one million Floridians are out of work, while reaffirming his commitment to make job creation his top priority.

Liberty County holds the lowest unemployment rate in the state at 7.7 percent. The highest rate belongs to both Hendry and Flagler counties at 15.7 percent. Miami-Dade County currently stands at 13.2 percent.

Bills of Interest Filed This Week

HB 223, Water and Wastewater Utilities, Rep. Hudson: Provides for recovery through surcharge of costs for water & wastewater system improvement projects; requires PSC approval of surcharge; limits surcharge amount; provides requirements for surcharge billing, reconciliation, & adjustment; provides project eligibility criteria; provides requirements for notice, maintenance, & availability of certain records.
http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=223

HB 237, Enforcement of Immigration Laws, Rep. Williams (similar to SB 136 by Sen. Bennett): Provides legislative intent; prohibits state or political subdivisions from limiting or restricting enforcement of immigration laws; requires law enforcement officer to request citizenship information; authorizes law enforcement agency to transport alien to federal facility; requires judicial authorization for transfer of alien outside state; allows governmental entities to share information regarding citizenship; authorizes citizens to sue state or political subdivision of state if state or subdivision is restricting enforcement of federal immigration laws; provides for recovery of attorney's fees; provides for criminal penalties; prohibits probation or release of alien who does not possess registration documents; requires act be implemented consistent with federal law; prohibits law enforcement officers from using race as determining factor in assessment under act.
http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=237

HB 239, Numeric Nutrient Water Quality Criteria, Rep. Williams: Prohibits implementation of certain federal numeric nutrient water quality criteria rules by DEP, water management districts, & local governmental entities; authorizes DEP to adopt numeric nutrient water quality criteria for surface waters; provides that certain total maximum daily loads & associated numeric interpretations constitute site specific numeric nutrient water quality criteria; provides for effect, governance, & challenge of such criteria.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=239

HB 241, Wage Protection, Rep. Goodson: Creates "Florida Wage Protection Law"; provides legislative findings & intent; preempts regulation of wage theft to state, except as otherwise provided by federal law, & supersedes any municipal or county ordinance or other local regulation on such subject.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=241

HB 247, Disabled Parking Permits, Rep. Julien: Provides for parking enforcement specialist or agency to validate compliance for disposition of citation issued for illegally parking in space provided for people who have disabilities; revises requirements for renewal or replacement of disabled parking permit; prohibits applying for new disabled parking permit for certain period of time upon second finding of guilt or plea of nolo contendere to unlawful use of such permit; requires DHSMV to audit disabled parking permit holders, verify certain information, & invalidate permit of deceased permit holder; directs department to implement means for reporting abuse of disabled parking permits; provides for department to conduct public awareness campaign.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=247

HB 257, Financial Responsibility for Medical Expenses of Pretrial Detainees or Sentenced Inmates, Rep. Hooper (similar to SB 490 by Sen. Jones, mentioned below): Provides that responsibility for paying for medical care, treatment, hospitalization, & transportation for person who is ill, wounded, or otherwise injured during or as result of arrest for violation of state law or county or municipal ordinance is responsibility of person receiving care or services; requires each in-custody pretrial detainee or sentenced inmate who receives medical care or other services to cooperate in seeking reimbursement for such expenses of facility; sets out order of resources from which third-party provider of medical services may seek reimbursement; requires each in-custody pretrial detainee or sentenced inmate who has health insurance, subscribes to health care corporation, or receives health care benefits from any other source to assign such benefits to health care provider.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=257

HB 265, Sexual Offenders and Predators, Rep. Harrell (similar to SB 494 by Sen. Fasano, mentioned below): Requires court considering whether to release

defendant on bail to determine whether defendant is subject to registration as sexual offender or predator &, if so, to hold defendant without bail until first appearance on case.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=265

HB 271, Enforcement of Immigration Laws, Rep. Pilon (similar to SB 230 by Sen. Detert): Designates act "Florida Security and Immigration Compliance Act"; prohibits agencies from entering into contract for services with contractors not registered & participating in federal work authorization program by specified date; provides for enforcement; provides schedule for phased compliance; requires Chief of Domestic Security to negotiate terms of memorandum of understanding between state & certain Federal Government entities concerning specified matters related to immigration; provides for establishment of law enforcement training standards & creation of training programs contingent upon federal funding; provides requirements & procedures with respect to determination of lawful immigration status of persons charged with crime & confined to county or municipal detention facility; requires agencies to verify lawful presence in U.S. of applicants for specified state, local, & federal public benefits; requires BOG to set forth policies regarding postsecondary education benefits; provides penalty for knowingly & willfully making false, fictitious, or fraudulent statement or representation in affidavit attesting to citizenship or permanent legal residency.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=271

HJR 273, Limitations on Annual Assessment Increases to Homestead and Nonhomestead Property, Rep. Costello: Proposes amendment to s. 4, Art. VII of State Constitution to prohibit annual increases in assessed value of homestead & nonhomestead property if just value of property decreases; limit annual assessment increases applicable to nonhomestead property to lower of specified percentage or percentage change in Consumer Price Index; & apply annual assessment increase limitations applicable to nonhomestead property to school district levies.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=273

HB 275, Ad Valorem Tax Exemptions for Real Property Used for Charitable Purposes, Rep. Caldwell: Authorizes partial ad valorem tax exemptions for nonexempt owners of real property leased or gratuitously provided to exempt entities for exclusive use for charitable purposes; authorizes nonexempt owners of real property to apply for ad valorem tax exemptions relating to real property leased or gratuitously provided for charitable purposes; provides criteria for determining eligibility for partial ad valorem tax exemptions relating to real property leased or gratuitously provided for charitable purposes; specifies exception to profit making prohibition applicable to claiming ad valorem tax exemptions for real property used for charitable purposes.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=275

HB 283, Seaport Security, Rep. Young (identical to SB 524 by Sen. Latvala, which is mentioned below and similar to SB 436 by Sen. Hill): Deletes provisions relating to statewide minimum standards for seaport security; deletes authorization to exempt all or part of seaport from specified requirements; revises provisions relating to seaport security plans; revises requirements for certain secure or restricted areas; deletes provisions requiring FDLE to administer statewide seaport access eligibility reporting system; deletes provisions requiring that persons seeking authorization to access secure & restricted areas of seaport execute affidavit; prohibits seaport from charging any fee for administration or production of access control credentials associated with fingerprint-based background check, in addition to fee for federal TWIC; provides for seaport-specific access credentials; deletes provisions requiring fingerprint-based criminal history checks; deletes authority for waivers from security requirements in certain circumstances; revises provisions relating to inspections; revises reporting requirements; revises parties that determine allocation of appropriated funds for security project needs; repeals Seaport Security Standards Advisory Council.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=283

HB 285, Public Meetings, Rep. Eisnaugle (identical to SB 310 by Sen. Negron): Provides right for members of public to be heard at meetings of certain governmental boards & commissions; prescribes conditions qualifying, & exceptions to, such right; provides for adoption of rules governing conduct of, & behavior at, such meetings.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=285

HB 303, Public Retirement Plans, Rep. Costello: Limits benefits available under public retirement systems or plans; revises definitions relating to compensation; limits factoring of overtime, unused leave, & other such compensation into pension benefit; reduces service credit prospectively; revises applicability of ch. 175, F.S., to firefighters who are eligible for FRS; revises applicability of ch. 185, F.S., to police officers who are eligible for FRS; provides membership requirements for special fire control district & municipality board of trustees; revises powers & duties of boards of trustees, special fire control districts, & municipalities; revises provisions relating to firefighter & police officer benefits; repeals provisions relating to presumption with respect to diseases of firefighters suffered in line of duty; repeals provisions relating to transfer to another state retirement system & payment of benefits; repeals provisions relating to presumption with respect to police officer disability in line of duty; provides declaration of important state interest.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=303

HB 311, Local Business Taxes, Rep. Roberson: Provides definition for term independent contractor; exempts individuals engaging in or managing business in individual capacity as employee from requirements related to local business taxes; specifies that independent contractor is not employee; prohibits local governing

authority from holding exempt employee liable for failure of principal or employer to comply with certain obligations related to local business tax or requiring exempt employee to take certain actions related to local business tax; prohibits local governing authority from requiring certain nonexempt persons to provide personal or contact information about exempt individuals in order to obtain local business tax receipt; deletes obsolete language; deletes requirement that DBPR provide certain professional regulation information to local officials who issue business tax receipts; deletes provision prohibiting local official who issues business tax receipts from renewing license under certain circumstances.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=311

SB 466, Tourist Development Tax, Sen. Negron (identical to HB 141 by Rep. Fresen): Provides additional bonding authority for a certain additional tourist development tax. Provides a limitation on tax revenues received from such tax and used for certain purposes. Limits the expenditure of ad valorem tax revenue for expansion of facilities by a county imposing a tourist development tax for certain purposes. Provides for nonapplication of a prohibition against levying such tax in certain cities and towns under certain conditions.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=466

SB 468, Community Redevelopment, Sen. Bullard: Expands the definition of the term "blighted area" to include land previously used as a military facility.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=468

SB 478, Property Taxation, Sen. Thrasher: Tolls the statute of limitations relating to proceedings involving tax lien certificates or tax deeds during the period of an intervening bankruptcy. Revises, updates, and consolidates provisions of ch. 197, F.S., relating to definitions, tax collectors, lien of taxes, returns and assessments, unpaid or omitted taxes, discounts, interest rates, Department of Revenue responsibilities, tax bills, judicial sales, prepayment of taxes.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=478

SB 490, Medical Expense/Pretrial Detainee/Sentenced Inmate, Sen. Jones: Provides that the responsibility for paying the expenses of medical care, treatment, hospitalization, and transportation for a person who is ill, wounded, or otherwise injured during or as a result of an arrest for a violation of a state law or a county or municipal ordinance is the responsibility of the person receiving the medical care, treatment, hospitalization, or transportation. Removes provisions establishing the order by which medical providers receive reimbursement for the expenses incurred in providing the medical services or transportation.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=490

SB 494, Sexual Offenders and Predators, Sen. Fasano: Requires a court considering whether to release a defendant on bail to determine whether the defendant is subject to registration as a sexual offender or predator and, if so, to hold the defendant without bail until the first appearance on the case.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=494

SB 506, Economic Development, Sen. Bogdanoff: Authorizes the board of county commissioners of a charter county to call and hold a referendum to determine whether to grant economic development ad valorem tax exemptions. Revises the language of ballot questions relating to the authority to grant economic development tax exemptions. Provides for application of a provision limiting the calling of another referendum within a certain time period.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=506

SB 518, Verification of Employment Eligibility, Sen. Hays: Requires every employer to use the Employment Authorization Program to verify the employment eligibility of each employee on or after a specified date. Prohibits an employer from employing an unauthorized alien. Requires every public employer to register with and participate in the E-Verify system for specified purposes. Provides guidelines for interpretation of the provisions of the act.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=518

SB 524, Seaport Security, Sen. Latvala: Deletes provisions relating to statewide minimum standards for seaport security. Deletes provisions authorizing the Department of Law Enforcement to exempt all or part of a seaport from specified requirements in certain circumstances. Prohibits a seaport from charging any fee for administration or production of access control credentials that require or are associated with a fingerprint-based background check, in addition to the fee for the federal TWIC.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2011&billnum=524