

## LEGISLATIVE RECAP

By Kari Hebrank

**\*State Budget---** The Legislature approved a \$65.5 billion plan, with \$7.3 billion from federal stimulus money and fee hikes to a myriad of services, including drivers' licenses, vehicle title fees, and court costs. Another \$800 million is expected to be generated from the \$1 per pack cigarette tax and the gaming deal to expand gambling is expected to net \$150 million first year.

The budget includes a \$55 per student increase in education spending, with a \$22 million increase for colleges & universities along with an 8% tuition hike. For health care needs, there are budget increases for the Agency for Health Care Administration, the Dept. of Health and Veteran's Affairs, and Medicaid grew by \$2.7 billion thanks to the federal stimulus dollars and the increased cigarette tax. Interestingly, the feds chip in \$7 for every \$3 the state spends and Florida's Medicaid program will serve 2.5 million people in coming year

State Employees were slated to receive a pay cut, but this line item was vetoed by the governor. The budget for the state's environmental land buying program did not include new bonds but Everglades restoration funding was included. The state transportation budget was cut 4.8%, with a \$120 million sweep of the trust fund and \$35 million generated from the feds for implementation of the new seat belt law which takes effect June 30, 2009.

Unemployment Compensation gets a boost from \$776 million in federal stimulus dollars providing higher weekly benefits for 20 more weeks for Florida's unemployed. State lawmakers turned down another \$444 million because they refused to expand the pool of eligible workers (part-time) that would have to be covered to accept the money. For employers, there will be a 3- year rise in unemployment compensation costs, an increase from \$7000-\$8500 for the base wage on which benefits are calculated.

As for the criminal justice budget, state attorneys, public defenders, and death penalty attorneys, did not experience cuts; however, the Dept. of Corrections drug treatment program was cut \$10 million and the Florida Dept. of Law Enforcement lost 109 investigative positions.

*The budget was signed by the Governor on May 27; effective date: July 1, 2009.*

### **\*Swimming Pool Resolution**

**SR 1334 by Detert (R-Venice)/HR 9055 by Nehr (R-Tarpon Springs)**

These resolutions recognize the importance of FSPA in educating pool contractors, building officials and consumers on swimming pool safety measures and designate April as "Swimming Pool Safety Month." Both the House and Senate resolutions and FSPA members were recognized on the floor of their respective chambers on April 16 and the resolutions were spread upon the House and Senate Journals.

### **\*Corporate Income Tax—SB 112 by Altman/Cannon**

- The bill corrects the bonus depreciation and Section 179 expensing provisions that were inadvertently omitted from last year's corporate income tax "piggyback bill" to comply with federal law.

- Requires taxpayers to add back to taxable income their “bonus depreciation” and then amortize the amount added back over seven years of reductions to taxable income.
- ***Signed by the Governor on March 17; effective retroactively to January 1, 2008.***

**\* Workers’ Compensation**

***HB 903 by Flores/ Richter***

- HB 903 address the limitation on attorney fees to correct a Supreme Court ruling in Murray vs. Mariner that overturned the 2003 workers compensation reform measures relative to “reasonable” attorney fees.
- Clarifies that attorney fee awards in workers’ compensation cases are calculated based solely upon the attorney fee schedule set forth in Chapter 440, F.S.
- The Office of Insurance Regulation (OIR) filed for rate reduction of 18.6%, saving employers \$172 million in insurance costs effective July 1.
- ***Signed by the Governor on June 1; effective date: July 1, 2009.***

**Many thanks to FSPA members who contacted their legislators to urge passage of HB 903!**

**\*Homeowner Warning Notice/Unlicensed Contractor Activity/DBPR**

***HB 425 by Plakon/ SB 1422 by Baker***

- A top priority for FSPA to curb unlicensed contractor activity, HB 425 strengthens the existing disclosure statement for any property owner who applies for a residential owner-builder building permit.
- The bill requires applicants to read and sign off on a multi-page form warning homeowners of the serious legal and financial liabilities they face when acting as their own home-improvement contractor.

Additionally, of note for the pool industry, HB 425 also:

- Removes the notarized application requirement in order to facilitate online form submission.
- Increases fee caps for construction contractor licenses to \$250.
- Removes the requirement that applicants for registered construction and electrical contractor licenses must provide a copy of a local occupational license.
- Corrects references to the occupational license with the business tax terminology.
- Removes the requirement that an applicant obtain a certificate of authority (QB license) for a business organization when the applicant proposes to engage in construction contracting under a business organization structure. However, it requires an applicant for a contractor’s license to apply to the DBPR to act as the qualifying agent of the business organization as part of the licensure requirement for registration or certification as a contractor.
- ***Signed by the Governor on June 16; effective date: October 1, 2009.***

**\* Affordable Housing**

***SB 360 by Bennett/Aubuchon (HB 161)***

- HB 161 was amended into SB 360—the growth management bill—as a way to stimulate affordable housing by authorizing counties to use tax revenues to provide workforce, affordable and employee housing.

- Expands the eligible uses of the homeless housing assistance grants to include the purchase of existing properties and allows the Florida Housing Finance Corporation (FHFC) to reserve up to \$5 million to fund a pool to finance loans with which local governments may purchase foreclosed properties for resale as affordable homes.
- *Approved by the Governor on June 1; effective date: upon becoming law.*

**\*Impact Fees**

***HB 227 by Aubuchon /Haridopolos***

- HB 227 clarifies the rules for deciding impact fee challenges and facilitates the fair and uniform resolution of impact fee challenges statewide;
- Provides that local governments have the burden of proving their rationale for the imposition of impact fees;
- Codifies existing case law relating to exactions by placing the burden of proof on government to show the imposition of an impact fee meets state legal precedent;
- Prohibits the courts from using any deferential standard in impact fee challenges;
- *Signed by the Governor on May 21; effective date: July 1, 2009.*

**\*Beach Water Contamination—Public Swimming Pools**

***HB 707 by Rep. Aubuchon /Bennett***

- HB 707 requires the Dept. of Health to notify the local government and the local office of the Dept. of Environmental Protection when it issues a health advisory against swimming in beach waters due to elevated levels of bacteria.
- By adding a definition for beach water under chapter 514, F.S., it also corrects a cross-reference for the public swimming pool definition under chapter 515, F.S.
- Directs the Dept. of Health to assign specific functions relating to the regulation of public swimming facilities to certain special districts that have qualified engineering personnel, a.k.a., Reedy Creek at Disney World.
- *Signed by the Governor on June 24; effective date: July 1, 2009.*

**\*Growth Management/Dept. of Community Affairs**

***SB 360 by Bennett/Hukill***

- SB 360 addresses a number of issues relating to planning and development including transportation concurrency, transportation concurrency exception areas, proportionate fair share, alternative review processes for local government comprehensive plans, and a streamlined plan amendment process.
- SB 360 also includes a provision to extend construction, building permits, development orders and environmental permits for a period of 2 years.
- *Signed by the Governor on June 1; effective date: upon becoming a law.*

**\*Construction Defects**

***SB 2064 by Altman/ Aubuchon***

- SB 2064 and its companion revise the construction defects law to clarify notice procedures and opportunity to repair construction defects and specify there are no construction lien rights for destructive testing.
- *Signed by the Governor on June 18; effective date: October 1, 2009.*

***\*Property Insurance***

***HB 1495 by Nelson/Richter***

- HB 1495 makes reforms to property insurance provisions and specifically requires a 10% rate increase for Citizen's property insurance holders to move the company to more of an actuarially-sound entity. Limits rate increases to 10% for a single policy.
- Makes numerous changes to property insurance law to reduce the state's exposure for property insurance losses, to make property insurance companies more reliant on the private reinsurance market rather than the state, to provide rate certainty for policyholders, and to prevent dramatic rate increases while moving towards actuarially-sound rates for Citizens.
- ***Signed by the Governor on May 27; effective date: upon becoming a law.***

***\*Public Construction Projects***

***HB 611 by Hukill/Haridopolos***

- Revises procedures for local governments that competitively bid public construction projects;
- Revises the threshold amounts where a local government must put a project out for competitive bid from \$200K to \$300K, except for electrical work, which is changed from \$50K to \$75K;
- Defines the term "repair" (restore) and "maintenance" (maintain) to clarify for purposes of the bill;
- Requires a 21-day public notice prior to a local government performing certain projects;
- ***Signed by the Governor on June 18; effective date: October 1, 2009.***

***\*Property Tax Limit/Additional Homestead Exemption***

***SJR 532 by Lynn/Domino***

- SJR 532 proposes a constitutional amendment to allow an additional homestead exemption on property tax for homebuyers who have not owned a principal home in the previous eight years.
- The bill also caps property tax increases on non-homestead and commercial property at 5% rather than the current 10% cap.
- ***Signed by the Governor on June 10; effective date: if approved by 60 percent of the voters at the 2010 general election, it takes effect January 1, 2011.***

***BILLS THAT DID NOT PASS***

***Mandating SVRS Devices***—Amendment to mandate SVRS devices on ALL pools failed to get traction thanks to a commitment by Sen. Bennett prior to Session. Another amendment to require VGB act on all pools owned by homeowners' and condominiums' associations also failed.

***Building Codes/Product Approval***

***SB 2100 by Bennett/HB7143 by Williams***

SB 2100 dealt with several building code and product approval issues. Among other provisions, the bill would have

- Reduced the time period for product approvals from the current 4 month process down to 10 days;
- Added equivalency of standards to the criteria for determining glitch amendments and added the International Association of Plumbing & Mechanical Officials to the list of approved product evaluation entities;
- Granted rule authority for the commission to establish voting requirements, such as super majority, for commission actions, authorize the commission to charge a fee for non-binding interpretations, and eliminate the archaic building code core course requirement for all licensees.

***Passed the House twice, but failed to be taken up on the Senate floor.***

***\*Construction Bonds/Lien Law***

***SB 560 by Bennett/ HB 299 by Tobia /SB 466 by Wise***

Made significant changes to construction bonds and lien law provisions, including payment bond, notice of commencement, warning to owner and lien process. Never received traction and DIED in committee.

***\*Automatic Service Contracts***

***SB 660 by Justice /HB 15 by McBurney***

Bills requiring anyone who sells services to consumers to clearly disclose automatic renewal provisions contained in service contracts for services sold or leased to consumers DIED in committee.

***\*Renewable Portfolio Standard-Energy***

***SB 1154 by Sen. King (R-Jacksonville)***

SB 1154 was intended to implement the Public Service Commission's (PSC) Renewable Portfolio Standard (RPS) which came out of the Governor's executive order for 20% renewable energy by the year 2020. SB 1154 strayed from the PSC's recommended rule by including nuclear energy in the mix of "renewables," allowing for a 25% allocation for nuclear, and reducing solar and wind energy allocations from 75% to 50%. SB 1154 passed the Senate 37-1 but the House refused to take up the measure.

***\*Cranes***

***SB 1654 by Altman/ HB 923 by Evers***

These bills preempted the regulation of "hoisting equipment" used in construction, demolition or excavation work to the state, consistent with OSHA requirements. These bills DIED in committee.

***\*Arbitration***

***SB 2192 by Ring / HB 1135 by Poppell***

These unfriendly bills provided that mandatory arbitration is void and unenforceable except as provided by federal law. Thanks to opposition by FSPA members, these bills DIED in committee.