

Legislative Tracking Report

Prepared by Jennifer Hatfield, FSPA Director of Government and Public Affairs

March 5, 2009

SB 1910 by Sen. Gardiner (R-Orlando) and HB 1011 by Rep. Precourt (R-Winter Garden), relating to public swimming and bathing facilities, have been filed. These bills direct the Department of Health to assign specific functions relating to the regulation of swimming facilities to certain special districts that have qualified engineering personnel.

SB 2384 by Sen. Fasano (R-New Port Richey) and HB 1157 by Rep. Bogdanoff (R-Ft. Lauderdale), relating to property insurance, have been filed. These bills provide that under the Florida Hurricane Protection Program no coverage will be provided for swimming pool enclosures.

SB 1296 by Sen. Bennett (R-Bradenton) and HB 707 by Rep. Aubuchon (R-Cape Coral), relating to beach water contamination, have been filed. These bills require the Department of Health to notify the local government and the local office of the Department 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.

SB 1422 by Sen. Baker (R-Eustis) and HB 1327 by Rep. Gonzalez (R-Hialeah Gardens), relating to exemptions from construction contracting requirements, has been filed. These bills were spearheaded by the Florida Swimming Pool Association, as part of a Construction Coalition initiative. The bills strengthen the existing disclosure statement for any property owner who applies for a residential owner-builder building permit. They require the applicant to read and sign off on a multi-page form warning the homeowner of the serious legal and financial liabilities they face when acting as their own home-improvement contractor. The bill will help curb the rise in unlicensed contractor activity.

SB 2576 by Sen. Lynn (R-Daytona Beach) and HB 1163 by Rep. Hukill (R-Port Orange), relating to the review of exemptions and exclusions from the tax on sales, use, and other transactions, have been filed. These bills would require the Joint Legislative Sunset Committee to periodically review existing sales and use tax exemptions.

A number of homeowner and condo association bills are also being monitored: **SB 2604 by Sen. Gardiner (R-Orlando), HB 27 by Rep. Ambler (R-Tampa), SB 2302 by Sen. Garcia (R-Hialeah), and HB 1397 by Rep. Robaina (R-Miami).**

In upcoming reports additional bills that affect the construction industry and small businesses will be included.

Legislative Update

Prepared by Kari Hebrank, FSPA Lobbyist

March 5, 2009

Session Kicks Off with Less Pomp & Circumstance

Recognizing the challenging economic times, lawmakers were more reserved on the opening day of the Session, no doubt stressed about how to fill an estimated \$5 billion to \$8 billion hole in the state budget. Adding to the dismal mood was the reading of former Speaker Ray Sansom's resignation letter. Sansom was forced to step down after an investigation was launched on his accepting a \$110K a year post with the North Florida Community College last year after funneling millions to the college in last year's appropriations package. Former Speaker Pro Tempore, Rep. Larry Cretul (R-Ocala) was sworn in as the new Speaker and Rep. Ron Reagan (R-Bradenton) assumed the post of Speaker Pro Tempore, turning the reigns of Majority Whip over to Rep. Carlos Lopez Cantera (R-Miami). Speaker Cretul gave few opening day remarks stating "Unless you have been out of the country and out of your district, you know the challenges we face."

In the Senate, Senate President Jeff Atwater (R-Palm Beach) told fellow senators that they will be reviewing the tax structure and that "everything is on the table;" however, he stressed that he will work to prevent further education budget cuts. Atwater remarked, "Florida does not have a dollar or day to waste," and "if it doesn't house, feed, teach, heal, protect or create a job for a Floridian, this is the time to end it."

Governor Crist gave a shortened State of the State address to the joint body, outlining briefly his proposed \$66.5 billion budget, of which \$4.7 billion is tied to the federal stimulus package. Ever optimistic, Crist recognized that these are "challenging times" but commented that "the determination of Florida's people is stronger than ever."

Corporate Tax Glitch Fix Poised for Final Passage

Legislation aimed at correcting the corporate income tax glitch passed the full Senate on March 2, the first official day of the 2009 Regular Session. **SB 1112 by Rep. Altman** (R-Melbourne) 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. As amended, the bill 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. Interestingly, the Senate waived their rules in order to hear and vote on SB 1112 on the same date and immediately certified the bill to the House for final passage. The vote on the bill was 39-1, with Sen. Bullard (D-Miami) dissenting. The House took up the companion bill, **HB 459 by Rep. Cannon** (R-Winter Park) on March 5, substituted SB 1112 for HB 459 and passed the bill 116-0. The Governor is expected to sign the bill upon receipt.

Impact Fee Measure Passes Two Committees

SB 580 by Sen. Haridopolos (R-Melbourne) and HB 227 by Rep. Aubuchon (R-Cape Coral) both passed their first committee of reference. The bills correct the unfair misapplication by trial courts in impact fee challenges of a lenient appellate review standard known as “fairly debatable. In essence, the bills level the playing field by changing the burden of proof from “fairly debatable”—a standard whereby the local government ALWAYS wins---to a preponderance of the evidence standard. FSPA testified before both committees citing examples of misuse by local governments in assessing impact fees and the inability to legally challenge. The League of Cities and the Association of Counties raised objections to the bills. **SB 580 passed the S. Community Affairs Committee on March 3 and HB 227 passed the H. Military & Local Affairs Committee on March 4. SB 580 travels next to S. Judiciary and HB 227 goes to Civil Justice & Courts Policy Committee.** On a side note, interestingly, several lawmakers announced support for a moratorium on impact fees as a means of economic stimulus.

Sales Tax Exemption Review

Under the leadership of Rep. Bogdanoff (R-Fort Lauderdale), the H. Finance & Tax Council began reviewing a list of current items that are exempt from state sales tax, everything from charter fishing boats, to certain aircraft, to fill dirt, to bottled water and contact lenses. The Council will hear testimony on the specific exemptions and then decide which ones should be eliminated in hopes of filling some of the massive budget hole. At the same time, FSPA will be running defense to ensure that there is not a new service tax on construction or contracting services, or a new tax on construction materials or the transportation of building materials as was once suggested under former Senate President McKay’s tenure.

New Florida Building Code & 2009 Supplement Took Effect on March 1, 2009

Curious as to where you can find the 2007 Florida Building Code? Or, wondering what exactly the 2009 Supplement is and how you may locate it? Don’t worry: you may find the 2007 Florida Building Code and the 2009 Supplement at the following web page link:

<http://www.floridabuilding.org/BCISOld/bc/default.asp>

The 2009 Supplement to the 2007 Florida Building Code incorporates changes made during the glitch code change process. The glitch code change process followed the code amendment process that produced the 2007 Florida Building Code. A number of terms used during the code change process such as glitch, and revision, etc. refer to the same document, the 2009 Supplement. The 2009 Supplement contains changes made to the 2007 Florida Building Code going into effect along with the 2007 Florida Building Code. Both the 2007 Florida Building Code and the 2009 Supplement became effective March 1, 2009.