



Session 2017 Report

Week 3—March 20-24, 2017

Following is a summary of the priority issues impacting BioFlorida. This update accompanies the detailed BioFlorida legislative tracking report that includes over 100 bills impacting the life sciences industry.

Throughout the next 60 days we will continue to keep you updated on these important issues.

Policy Issues

Economic Development

In order to make Florida more competitive with other states, BioFlorida supports the infusion of funds and creation of tax incentives to support existing companies and to attract more life sciences companies to the state. This includes the Institute for Commercialization of Public Research, which funds start-ups and helps investors and entrepreneurs identify new investment opportunities based on technologies developed through publicly-funded research. [HB 7005](#) passed off of the House floor on March 10, 2017. This bill eliminates economic development and incentive programs— including programs such as Enterprise Florida, The Institute for Commercialization of Public Research, and approximately 20 other incentive programs totaling \$289 million. The final vote was 87-28, on the chamber floor; during debate, Representative Lori Berman (D—Lantana) cited the direct connection between incentives and growth of the biotech industry. This bill has now been sent to the Senate for consideration. There is no direct companion bill in the Senate, however, there are a couple of proposed Senate bills that address accountability and transparency in incentive programs such as [SB 1076 “Government Support Organizations”](#) by Senator Passidomo and [SB 1110 “Economic Development”](#) by Senator Jeff Brandes. Both of these bills have been introduced and referred but not yet put on a committee agenda.

Biomedical Research

BioFlorida supports the state’s investment in biomedical research that can lead to breakthrough treatments and expand the industry and Florida’s economy. During the second week of session, each appropriations subcommittee chairman presented to the full appropriations committee a recommendation on the budget cut exercises. Chair Jason Brodeur (R—Sanford) gave his remarks to the committee which did not include any cuts to the current biomedical research programs. This is an initial report and may be used as

a starting point when Chair Carlos Trujillo (R—Miami) and the full appropriations committee roll out a full budget by the end of week 4 of Session.

Patient Access

There are several bills BioFlorida is monitoring that address patient access issues, BioFlorida is monitoring these bills as potential vehicles to establish drug price controls or burdensome “drug price transparency” reporting requirements for manufacturers.

- “Prescription Drug Price Transparency” [SB 888](#) by Senator Aaron Bean and [HB 589](#) by Representative Clay Yarborough: the bill requires the Department of Health and the Attorney General’s office to post the cost of the top 300 drugs at pharmacies in order to allow consumers to engage in their healthcare purchases. SB 888 was heard and passed unanimously in the Health Policy committee on March 14. The bill now has two additional committee hearings. On March 16, HB 589 unanimously passed the second and final committee of reference, and is now on the House floor calendar.
- “Consumer Protection from Nonmedical Changes to Prescription Drug Formularies” [HB 95](#) by Representative Ralph Massullo and [SB 182](#) by Senator Debbie Mayfield: this bill provides additional consumer protections by prohibiting an insurer or a health maintenance organization (HMO) from removing a covered prescription drug from its formulary except during open enrollment with some limited exceptions. HB 95 passed unanimously from the first of three committees; and SB 182 has passed two committees unanimously and has two remaining committees.
- “Health Insurer Authorization” [HB 877](#) by Representative Shawn Harrison and [SB 530](#) by Senator Greg Steube: this “step therapy” legislation requires a utilization review entity or health insurer to make current prior authorization requirements, restrictions, and forms accessible in a specified manner. The bill specifies the requirements for a utilization review entity or health insurer that implements a new prior authorization requirement or that amends an existing requirement or restriction and requires a plan to publish on the plan’s website and provide to an insured a written procedure for requesting a protocol exception. HB 877 has been filed and referred to committees, but not yet placed on an agenda. SB 530 is on the Banking and Insurance agenda for Monday, March 27.

Tax Incentives

One of the potential tax reductions BioFlorida is following is the proposal to reduce the tax on commercial leases. On March 21, the Senate Finance and Tax Committee passed [SB 378](#), which repeals the insurance premium tax credit and replaces it with a reduction in the sales tax on commercial leases. Governor Scott has recommended a reduction in the commercial lease tax as part of his \$618 million tax cut package proposal. Lowering the tax on commercial leases is just one of a multitude of tax incentive proposals filed, over the next several weeks; state economists will “score” these bills for a fiscal impact. Then these individual proposals will begin to move through the committee process and then some will ultimately folded into each chamber’s “tax package” proposal. Traditionally, the presiding officers will make an agreement on the

total amount of funding allocated for the tax package, and then the various proposals will be considered for inclusion.

Medical Marijuana

On March 22nd, the Senate's Health Policy Committee held a workshop on [SB 406](#) filed by Senator Rob Bradley (R-Fleming Island), as well as the other Senate bills which have been filed this session to implement Constitutional Amendment 2 relating to the use of marijuana for debilitating medical conditions. No votes were taken on any of the bills. At the workshop, Senator Bradley urged the committee's members to approve his legislation which sets up a stricter system to regulate the new medical marijuana industry. SB 406 creates a set of laws and regulations to implement the constitutional amendment which was overwhelmingly approved by voters last November by 71 percent. SB 406 prohibits the smoking of medical marijuana, limits its use to Florida residents only, places caps on the number of marijuana dispensaries, and expands the number of businesses by five when the state has 250,000 patients, 350,000 patients, 400,000 patients and then every 100,000 patients thereafter. Senator Bradley's bill would also ultimately cap the number of companies at 20 that could provide medical marijuana to patients once the registry reaches 500,000 patients.

The Senate workshop also considered other bills which have been filed on the issue. Some of these proposals setup a more loosely regulated system, while others propose scrapping the currently regulatory system entirely. Other measures are stricter and less "free market," and require independent labs to test medical marijuana before it is released into the marketplace. Other House and Senate bills which have been filed are:

- [SB 614](#) by Senator Jeff Brandes (R-St. Petersburg) called the "Florida Medical Marijuana Act" overhauls the medical marijuana industry, changing statutory caps on Medical Marijuana Treatment Centers and expanding the medical marijuana marketplace. Essentially, Senator Brandes' bill opens the market to hundreds of licensees at every level from grower to producer to distributor to seller.
- [SB 1388](#) by Senator Frank Artiles (R-Miami) authorizes physicians to issue physician certifications for medical cannabis or cannabis delivery devices, instead of ordering low-THC cannabis, for patients suffering from a debilitating medical condition. The bill also deletes the provisions requiring successful completion of a specified course and examination by a physician who orders low-THC cannabis and by a medical director of a dispensing organization and requires DOH to register medical marijuana treatment centers, rather than to authorize the establishment of dispensing organizations. The bill has not been heard in committee.
- [SB 1666](#) by Senate Democratic Leader Oscar Braynon (D-Miami Gardens) authorizes physicians to issue physician certifications to specified patients for the provision of marijuana and marijuana delivery devices. The bill also requires physicians to meet certain conditions to be authorized to issue and make determinations in physician certifications and requires DOH to register caregivers on the compassionate use registry and to issue them a caregiver identification card

if the caregiver meets certain requirements. The bill has not been heard in committee.

- [SB 1758](#) by Senator Denise Grimsley (R-Sebring) implements the medical marijuana amendment and would, among other things, limit this business to those already approved and licensed under the state's current limited medical marijuana law. Specifically, the bill authorizes physicians to issue physician certifications to specified patients for the provision of marijuana and marijuana delivery devices, reduces the number of hours of coursework required of physicians who issue physician certifications, and requires DOH to register caregivers on the compassionate use registry and to issue them a caregiver identification card if the caregiver meets certain requirements.
- [HB 1397](#) filed by Rep. Ray Rodrigues (R-Estero) provides a sales tax exemption for marijuana used for medical purposes, provides the qualifying medical conditions for patients to be eligible to receive marijuana, provides the requirements for designating qualified physicians, provides the criteria for certification of patients for medical marijuana treatment by qualified physicians, requires DOH to establish a medical marijuana use registry, requires DOH to issue licenses to medical marijuana treatment centers and conduct periodic inspections and provides for the establishment of medical marijuana testing laboratories. The bill requires a \$9.158 million appropriation to implement. The bill has not been heard in committee.

Budget Update

The budget process plays a significant role in many of BioFlorida's priorities. During the second week of Session, the state economists met to update the budget forecast for the 2017-18 fiscal year. There is a projected increase of \$115 million, but the vast majority of that increase is one-time funding that lawmakers cannot rely on in future years. This increase amounts to less than 0.2 percent of the state's current budget. State economists project a budget shortfall of \$1.3 billion the following year, and an additional \$1.9 billion shortfall the year after that.

While Governor Scott's budget recommendations were released in January, the legislature has just begun budget drafts at the subcommittee level. Week 3 saw a little budget discussion in the silos (healthcare, government operations, education, criminal justice, etc) those respective chairs are beginning to make their recommendations to the full Appropriations Committees, headed by Chair Jack Latvala (R—Clearwater) in the Senate and Chair Carlos Trujillo (R—Miami) in the House. Following the full Appropriations Committee budgets, each chamber will pass their own General Appropriations Act. Traditionally, the budget conference process will move forward and the two chambers will begin to negotiate. At this point in the Session, these milestones in the budget process are happening on time, there are no concrete indications for an extended or special session. We will continue to keep BioFlorida members updated on the priorities as the budget process moves forward.

In addition to these issues and budget items, BioFlorida is monitoring approximately 100 pieces of legislation on behalf of its members. More information will be forthcoming on budget-related issues as the budgeting process begins in the few weeks. The 2017 BioFlorida Government Affairs Priorities can be [found here](#), and a complete legislative tracking list is attached.

If there is anyone who is interested in joining the BioFlorida Government Relations Committee please email admin@bioflorida.com. The Government Relations Committee helps address the legislative priorities and goals of BioFlorida and also formulates advocacy positions in support or opposition of proposed legislation.

We hope this brief legislative update is helpful. If you have any questions about specific bills or the budget process, please email Alli Liby-Schoonover at Allison.LibySchoonover@metzlaw.com.