

2015 Legislative Session Weekly Briefing



An Organization of Retirement Housing and Long-Term Care Communities

Week Three of 2015 Session

Week ending: March 20

Governor Scott released his recommended budget. The “KEEP FLORIDA WORKING” budget totals \$77.0 billion, just a fraction less than last year’s \$77.1 billion budget, and includes \$673 million in tax reductions. (Eliminates sales tax on college textbooks, reduces tax on cell phone and cable TV service, eliminates tax on new machinery and equipment, and increases the corporate income tax exemption.)

More specifically, of some interest to LeadingAge Florida members is the recommendation to sweep \$165.3 million from the Local Government Housing Trust Fund, but also infuse \$100.8 million into affordable housing in the State Apartment Incentive Loan and State Housing Initiative programs. The recommended budget does not reduce the recurring level of documentary stamp tax revenues dedicated to affordable housing. Three new State Veterans Nursing Homes are proposed: one in St. Lucie County, and the location of the other two to be decided at a later date.

Governor Scott proposes additional funding of \$2 million for enrolling an additional 196 individuals in the Alzheimer’s Disease Initiative program, and another \$2.7 million to reduce the Community Care for the Elderly Program waiting list by 406 individuals.

Most other housing and health and human services programs relevant to LeadingAge Florida members are held at current funding levels. The budget fully funds the estimated nursing home caseload and price level increase (approximately 1%). Until we are able to look at the relevant work papers and related conforming and implementing bills, we will not be able to provide more specific information.

One additional proposal dedicates \$500,000 for the development of Resource Utilization Groups (RUGs) for nursing homes. This additional funding would allow AHCA to hire consultants to assist in the development of the RUGs reimbursement model. When the Legislature takes up this issue, LeadingAge Florida will be requesting that the study and revision of the current property reimbursement be included in this effort and that LeadingAge Florida members/staff be involved. Traditionally, AHCA would form a workgroup and extend an invitation to participate to interested parties, including LeadingAge Florida. Last year, the Legislature considered, but did not pass, this recommendation. However, a similar issue for hospital inpatient services has already passed the Legislature and is being implemented.

House and Senate Appropriation Committees will be reviewing the Governor’s budget and will be crafting their own versions. The two final Appropriations Bills will be reconciled during a series of budget conferences during the last two weeks of Session.

Week 3 Update: The House released its proposed timeframe for the budget process:

- On 3/17/2015 the Appropriations Subcommittee on Health Care released the “Chair’s Budget.” This is a preliminary budget for items within the purview of this committee. The highlights of this budget are as follows:
 - \$8.3 billion total appropriations
 - No cuts in programs or dollars for Medicaid services
 - 1% inflation adjustment for institutional programs
 - 413 additional Long-Term Care Waiver slots
 - 406 additional CCE slots
 - 167 additional Alzheimer’s Initiative slots
 - 150 new PACE slots in Palm Beach County
 - Continued funding of the 7th veterans nursing home in St. Lucie County
 - \$500,000 funding for a nursing home prospective reimbursement study
- 3/20/2015 General Appropriations and related bills will be available for review and amendments.
- 3/25/2015 General Appropriations and related bills will be considered by the full Appropriations Committee.
- 3/27/2015 Amended General Appropriations and related bills will be published.
- 3/31/2015 Amended General Appropriations and related bills will be considered by the House.
- 4/1/2015 Amended General Appropriations and related bills will be read the second time.
- 4/1/2015 Amended General Appropriations and related bills will be read the third time. All of these bills will be passed at this time.
- At a later date, the House and Senate General Appropriations and related bills will be reconciled in a series of budget conferences.

<i>Affordable Housing Bills</i>

SB 586 Relating to Implementation of the Water & Land Conservation Constitutional Amendment (Sen. Charles Dean R-Inverness), **SB 584** Relating to Implementation of the Water and Land Conservation Constitutional Amendment – 2015 (Sen. Charlie Dean R-Inverness), and **HB 1291** Relating to Implementation of Water and Land Conservation Constitutional Amendment – 2015 (Rep. Jim Boyd R-Bradenton)

Affordable Housing advocates are speaking out against Senate Bill 586, one of a series of bills intended to implement an amendment to the Florida Constitution passed in November 2014.

Amendment 1 designates a third of the excise tax the state collects on documents when real estate is sold for the purchasing, restoring, improving and managing of conservation lands. Some estimates put the amount at \$10 billion over the 20-year life of the measure, though such estimates are difficult to make because the annual amount will fluctuate with the economy. It also prohibits the state from directing any of that money into the state’s general fund for other purposes. Doc stamps are also the source of funding for the Affordable Housing Trust Funds.

Housing advocates support the implementation of Amendment 1, but find that SB 586, which specifically addresses the distribution of documentary stamp tax revenues,

unnecessarily hurts affordable housing. Florida Housing Coalition (FHC) President Jaimie Ross believes the bill as filed will do significant and permanent harm to affordable housing. According to Ross "If this legislation passes as is, monies coming into the Housing Trust Funds will drop from \$266.87 million to approximately \$154.14 million for fiscal year 2015-2016. The changes this bill proposes will be permanent, substantially reducing the doc stamps distributed to the state and local housing trust funds every year, in excess of \$100 million per year. The voters of Florida were repeatedly assured by proponents of Amendment 1 that Amendment 1 would not hurt affordable housing. When 75 percent of Floridians voted for Amendment 1, I don't think they meant to hurt the Sadowski Act, which provides funding for Florida's most vulnerable citizens, persons with disabilities, the elderly and veterans."

Week 1 Update: SB 586 (now CS/CS/SB 586) was referred to Environmental Preservation and Conservation; Appropriations Subcommittee on General Government; and Appropriations. It was passed as a committee substitute by its first committee of reference, the Senate Environmental Preservation and Conservation Committee. Next stop: Senate Appropriations Committee on General Government. HB 1291 was referred to Referred to Agriculture & Natural Resources Appropriations Subcommittee; and Appropriations Committee. SB 584 was referred to Environmental Preservation and Conservation; Appropriations Subcommittee on General Government; and Appropriations. It was passed by the Environmental Preservation and Conservation Committee.

Week 2 Update: CS/SB 586 and SB 584 (now CS/SB 584) both were passed as committee substitutes by the Senate Appropriations Subcommittee on General Government. HB 1291 (now CS/HB 1291) was passed as a committee substitute by the House Agriculture & Natural Resources Appropriations Subcommittee.

Week 3 Update: There was no action this week on CS/HB 1291. CS/SB 584 and CS/SB 586 will be heard in the Appropriations Committee on 3/18/2015.

HB 839 Relating to Property Prepared for Tax-Exempt Use – 2015 (Rep. Colleen Burton R-Lakeland), **SB 924** (Sen. Alan Hays R-Umatilla)

HB 839 consolidates provisions relating to tax exemptions on property owned by certain tax-exempt organizations. Additionally, the bill authorizes the property appraiser to serve notice of tax lien on certain otherwise exempt properties under certain circumstances. It specifies entities to whom the lien attaches. It also deletes provisions rendered obsolete due to the consolidation of these provisions. The bill has an effective date of July 1, 2015.

Week 1 Update: HB 839 was referred to Finance & Tax Committee; Local & Federal Affairs Committee; and Appropriations Committee, but has not yet been put on the agenda for its first committee of reference. SB 924 was referred to Community Affairs; Finance and Tax; and Appropriations.

Week 2 Update: SB 924 (now CS/SB 924) was passed as a committee substitute by the Senate Community Affairs Committee on 3/10/2015. There was no action on HB 839.

Week 3 Update: There was no action on CS/SB 924 and HB 839 this week.

Assisted Living Facilities Bills

HB 1001 (Rep. Larry Ahern R-Seminole), **SB 382** Relating to Assisted Living Facilities (Sen. Eleanor Sobel D-Hollywood)

Senate Bill 382 largely mirrors where the 2014 legislative session left off. The bill would create a consumer website and a monitored comment page for consumers to post comments on their experiences, allow ALFs to perform additional services that are currently available only in ALFs with a limited nursing or extended congregate care license, require AHCA to develop an ALF rating system by March 1, 2016, and modify the calculation of fines so they are based on facility size. The bill also creates a provisional license for new extended congregate care (ECC) providers. We support the consumer website but oppose a consumer comment page and fines based on bed size. Although we support the idea of a provisional license for new ECC providers, we oppose a provision in the bill that would render the license void for failure to admit an ECC resident within three months. Rep. Larry Ahern (R-Seminole) recently filed HB 1001, the assisted living facilities legislation, in the House. The bill is significantly different from the Senate bill. It does not include the fine structure, nor the comment blog on the AHCA website and does not render a provisional license void for failure to admit an ECC resident within the first three months.

Week 1 Update: SB 382 (now CS/SB 382) was referred to Health Policy; Appropriations Subcommittee on Health and Human Services; and Appropriations. It passed as a committee substitute by the Senate Health Policy Committee. The next step is the Senate Health and Human Services Appropriations Committee. HB 1001 has not yet been assigned to a committee.

Week 2 Update: HB 1001 was referred to Health Innovation Subcommittee; Health Care Appropriations Subcommittee; Health & Human Services Committee. HB 1001 was passed by the Health Innovation Subcommittee on 3/10/2015. There was no action of CS/SB 382 this week.

Week 3 Update: There was no action on HB 1001 and CS/SB 382 this week.

Continuing Retirement Care Communities Bills

HB 749 Continuing care communities (Rep. Charles Van Zant R-Palatka), **SB 1126** (Sen. Thad Altman R-Indian River)

HB 749 makes the following changes to Ch. 651:

- *For traditional contracts, requires a continuing care retirement community (CCRC) to make entrance fee refunds within 90 days after the contract is terminated and the unit is vacated vs. current law which requires the refund to be made no later than 120 days after the resident gives notice of intent to cancel.*
- *Codifies into law the practice of some CCRCs/to enter into contracts approved by the Office of Insurance Regulation (OIR) that tie entrance fee refunds to the next entrance fee received for the unit that is vacated or a like or similar unit, whichever is applicable.*
- *Phases out contracts that tie a refund to the unit that is vacated by specifying that they will not be approved by OIR after October 1, 2015; and those that have been approved prior to that date may not be used after October 1, 2016.*
- *Effective January 1, 2016, requires CCRCs/with contracts that tie entrance fee refunds*

to the next entrance fee received for a “like or similar unit” to include a maximum time frame to be set by the provider for making a refund when the contract is not voluntarily terminated.

- Defines “like or similar unit.”
- For contracts issued on or after October 1, 2015 that are voluntarily terminated and tie the refund to the receipt of the next entrance fee for a like or similar unit, the refund must be made within 30 days of receipt of the next entrance fee for whatever unit or unit type is specified in the contract.
- Clarifies that CCRCS/must be accredited without stipulations or conditions for OIR to waive equivalent requirements in rule or law.
- Adds bankruptcy to language in law related to preferred claims for liquidation and receivership.
- Requires a representative of the provider to give a copy of the final examination report and corrective action plan, if one is required by OIR, to the governing body of the provider within 60 days of the issuance of the report.
- Clarifies and strengthens the role of a residents’ council.
- Requires a facility that files for chapter 11 bankruptcy to include the name and contact information of a designated resident selected by the residents’ council for consideration by the court to serve on the Creditors’ Committee.
- Provides that a board of directors or governing board of the licensed provider may at its discretion allow a resident of the facility to be a voting member of the board or governing body of the facility. Provides guidance on how this may be achieved.
- Requires every CCRC to provide a copy of the most recent third-party financial audit to the president or chair of the residents’ council within 30 days after filing the annual report with OIR.

Week 1 Update: HB 749 has been referred to the Health Innovation Subcommittee; Insurance and Banking Subcommittee; and Health & Human Services Committee. SB 1126 has been referred to Banking and Insurance; Appropriations Subcommittee on General Government; and Fiscal Policy. Neither bill has yet been put on the agenda for its first committee of reference.

Week 2 Update: HB 749 was passed by the House Health Innovation Subcommittee on 3/10/2015. SB 1126 (now CS/SB 1126) was passed as a committee substitute by the Senate Banking and Insurance Committee. Don Wilson, CEO of Westminster Oaks Retirement Community, LeadingAge Florida consultant Beth Vecchioli, and FLiCRA lobbyist Eric Thorn testified in support of these two bills.

Week 3 Update: HB 749 was passed by the Insurance and Banking Subcommittee on 3/18/2015. Our sponsor, Representative Van Zant offered two technical amendments. The first replaced a reference to “bankruptcy” since that term is defined only in federal statutes. The second amendment clarified residents’ council governance documents will be approved by its members. Both amendments passed. Bennett Napier, representing FLiCRA, Beth Vecchioli and Bobby Bernal, representing LeadingAge Florida spoke in support of the bill. The bill with the two amendments attached now goes to the Health and Human Services Committee. There was no action on CS/SB1126 1126 this week.

Gold Seal Requirements for CCRC-based Nursing Homes

The FLiCRA/LeadingAge Ch. 651 Task Force approved language in its legislative proposal that would allow a CCRC to submit to the Gold Seal Panel an audit for the CCRC rather than just the nursing home as proof of the nursing home’s financial

strength. However, staff believes it is too risky to include it in the CCRC bill for fear of the bill becoming a train for nursing home amendments. We will look for opportunities to amend the proposed change to another bill during Session. AHCA is okay with the language.

Week 1 Update: No action on this issue yet.

Week 2 Update: No action on this issue yet.

Week 3 Update: No action on this issue yet.

Home and Community-Based Services Bills

HB 111 Relating to Transitional Living Facilities (Rep. MaryLynn Magar R-Hobe Sound), **SB 682** (Sen. Denise Grimsley R- Sebring)

Week 1 Update: HB 111 (now CS/HB 111) Referred to Health Innovation Subcommittee; Health Care Appropriations Subcommittee; and Health & Human Services Committee. It passed out of the Health Innovation Subcommittee as a committee substitute. SB 682 Referred to Children, Families, and Elder Affairs; Appropriations Subcommittee on Health and Human Services; and Appropriations.

Week 2 Update: CS/HB 111 was passed by the Health & Human Services Committee on 03/12/15. There was no action on SB 682 this week.

Week 3 Update: There was no action on CS/HB 111 this week. SB 682 will be heard by the Senate Appropriations Subcommittee on Health and Human Services on 03/19/15.

HB 167 Relating to Hospices (Rep. David Santiago R-Deltona), **SB 190** (Sen. Aaron Bean R-Jacksonville/Sen. Alan Hays R-Umatilla),

Week 1 Update: SB 190 was referred to Health Policy; Appropriations Subcommittee on Health and Human Services; and Appropriations. It was temporarily postponed at the Health Policy Committee hearing. HB 167 was withdrawn prior to introduction.

Week 2 Update: No action on HB 167 and SB 190 this week.

Week 3 Update: No action on HB 167 and SB 190 this week.

No bill was filed on adult day services that nursing homes and ALFs may provide through the licensure exemption in section 429.905, F.S.

Section 429.905, FS, (adult care centers licensure law) allows nursing homes and assisted living facilities to provide adult day services without obtaining a separate adult day care center license. The law requires AHCA to monitor adult day service programs during the regular licensure survey of nursing homes and ALFs that offer these services to ensure that staffing and square footage requirements are adjusted to accommodate

the additional clients. No problems have arisen as a result of the licensure exemption that has been in effect for more than 20 years. Qualified highly regulated providers should be encouraged to offer adult day services to families that are struggling to keep loved ones at home without the burden of additional regulation. After LeadingAge Florida staff contacted the legislator who considered filing a bill, the bill will not be filed.

Nursing Homes Bills

HB 293 Relating to State Ombudsman Program – 2015 (Rep. Kenneth Roberson R-Port Charlotte, Rep. Sharon Pritchett D-Miramar)

HB 293 revises the operating structure and internal procedures of the Long Term Care Ombudsman Program, to reflect current practices, maximize operational and program efficiencies and conform to the Older American Act. The bill establishes local Ombudsman districts to replace the current council structure and outlines district membership, duties and responsibilities. The bill has a number of “related bills, such as SB 654 and SB 718; there are no identical bills.

Week 1 Update: HB 293 (now CS/HB 293) was referred to Children, Families & Seniors Subcommittee; Health Care Appropriations Subcommittee; and Health & Human Services Committee. On its first stop it was passed as a committee substitute by the Children, Families & Seniors Subcommittee;

Week 2 Update: CS/HB 293 was passed by the Health and Human Services Committee on 3/12/2015.

Week 3 Update: No action on CS/HB 293 this week.

HB 411 (Rep. Mike Miller R-Orlando/Rep. Charlie Stone R-Ocala), **SB 332** Pneumococcal Vaccination (Sen. Denise Grimsley R-Sebring)

SB 332 requires a resident of a licensed facility to be assessed for eligibility for pneumococcal vaccination or revaccination by a specified date and, if indicated, to be vaccinated or revaccinated by a specified date. Removes specific reference to "polysaccharide vaccine" and in place requires any pneumococcal vaccination that is recommended by the CDC.

Week 1 Update: HB 411 was referred to Health Innovation Subcommittee; Health Care Appropriations Subcommittee; and Health & Human Services Committee. HB 411 was passed out of the Health Care Appropriations Subcommittee on 3/3/2015. SB 332 Referred to Health Policy; Appropriations Subcommittee on Health and Human Services; Appropriations. SB 332 was passed by the Appropriations Subcommittee on Health and Human Services on 3/3/2015.

Week 2 Update: HB 411 was passed by the Health & Human Services Committee on 03/12/15 and placed on the House Calendar for second reading on 3/14/2015. There was no action on SB 332 this week.

Week 3 Update: No action on HB 411 this week. SB 332 is on the Appropriations Committee agenda for 03/18/15.

HB 863 (Rep. Shawn Harrison R-Tampa), **SB 784** Relating to Health Care (Sen. Don Gaetz R-Destin)

SB 784 Creates the "Right Medicine, Right Time Act." The bill establishes the Clinical Practices Review Commission within the Department of Health. The commission will review prior authorization, step therapy, or other protocols, submitted by health maintenance organizations, insurers, or Medicaid managed care plans, that limit access to covered services at the point of service to determine if the limitation is supported by sufficient clinical evidence which proves that the limitation does not inhibit timely diagnosis or effective treatment of the specific illness or condition of the covered patient.

This bill may provide health care providers with a greater number of drugs and treatments to meet the unique medical needs of their patients in a timelier manner and Health care providers may experience less administrative costs associated with prior authorization protocols and formularies.

Week 1 Update: HB 863 was referred to Banking and Insurance; Health Policy; and Appropriations. SB 784 was referred to Banking and Insurance; Health Policy; and Appropriations. SB 784 (now CS/SB 784) was passed as a committee substitute by the Senate Banking and Insurance Committee on 3/4/2015. The next stop is Health Policy.

Week 2 Update: No action on CS/SB 784 and HB 863 this week.

Week 3 Update: No action on CS/SB 784 and HB 863 this week.

HB 573 (Rep. Evan Jenne D-Hollywood), **SB 854** Relating to Domestic Partners (Sen. Eleanor Sobel D-Hollywood),

HB 573 and SB 854 require nursing homes to give a domestic partner access to his or her partner who is a resident and requires that the domestic partner be allowed to meet with the families of other residents; adds the term "domestic partner" to the definition of "patient representative" as it relates to Electronic Health Records Exchange Act; requires that assisted living facilities allow domestic partners to share a room under specified circumstances; provides that a domestic partner may serve as a health care proxy.

Week 1 Update: SB 854 was referred to Judiciary; Community Affairs; and Appropriations. HB 573 was referred to Civil Justice Subcommittee; Children, Families & Seniors Subcommittee; Appropriations Committee; and Judiciary Committee.

Week 2 Update: There was no action on SB 854 and HB 573 this week.

Week 3 Update: There was no action on SB 854 and HB 573 this week.

HB 1061 (Rep. Dwight Dudley D-St. Petersburg), **SB 862** Relating to Nursing Home Guides

(Sen. Darren Soto D-Kissimmee),

SB 862 requires the Agency for Health Care Administration to publish Gold Seal designated facilities in the Nursing Home Guide; requires each nursing home facility to post a sign on every facility entrance which indicates the Gold Seal designation of the facility; requires a nursing home facility on the Nursing Home Guide Watch List to notify the primary family contact for each resident of the licensure status.

Week 1 Update: SB 862 was referred to Health Policy; Children, Families, and Elder Affairs; and Fiscal Policy. We are watching this bill as a possible vehicle for our amendment regarding Gold Seal financial requirements for CCRC-based nursing homes. HB 1061 was referred to Health Policy; Children, Families, and Elder Affairs; and Fiscal Policy.

Week 2 Update: There was no action on HB 1061 and SB 862 this week.

Week 3 Update: There was no action on HB 1061 and SB 862 this week.

Bills of Interest – All Members

HB 309 Patient Admission Status (Rep. Shawn Harrison R-Tampa), **SB 768** Patient Observation Status (Sen. Don Gaetz R-Destin), **SB 820** Patient Admission Status (Sen. Renee Garcia R-Hialeah)

Each of these bills requires hospitals to notify patients orally and in writing and include a written notice in the patient's record when a Medicare beneficiary is placed on observation status rather than being admitted to the hospital. Senator Garcia filed SB 820 at the request of LeadingAge Florida

The Florida Hospital Association is not supportive of a mandated disclosure, particularly if it requires a patient's signature. AARP will support legislation on this topic if it is at least as strong as laws passed in four other states. FLICRA is also supportive.

Week 1 Update: SB 768 was referred to Health Policy; Children, Families, and Elder Affairs; and Fiscal Policy. SB 820 was referred to Health Policy; Children, Families, and Elder Affairs; Rules. HB 309 was referred to Health Innovation Subcommittee; Health Care Appropriations Subcommittee; and Health & Human Services Committee. HB 309 was passed by the Health Innovation Committee on 3/3/2015.

Week 2 Update: SB 768 (now CS/SB 768) was heard in the Senate Health Policy Committee. There was an amendment offered by Senator Gaetz, the bill's sponsor. The amendment removes all existing language that the initial bill offered regarding observation status notification and instead requires hospitals to document observations status related information in the patient's discharge documents. The revised bill will ensure that nursing homes will know prior to admission whether a potential resident is eligible for Medicare or other insurance coverage. This was a compromise agreed to by the Florida Hospital Association. Bobby Bernal, LeadingAge Florida Director of Business Development and Public Policy testified in support of the bill. Representatives of FHCA and AARP also supported the bill. The bill as amended passed as a committee substitute and now moves to its next committee of reference, the Children, Families, and Elder Affairs Committee. SB 820 may be withdrawn. HB 309 saw no action this week.

Week 3 Update: There was no action on HB 309, CS/SB 768, and SB 820 this week. On March 17, 2015, however, the U.S. House unanimously passed HR 876 that will require hospitals to notify their patients placed in observation status within 36 hours of such status. The bill requires virtually the same notification as the LeadingAge Florida proposed bill (SB 820) filed in the Senate by Senator Garcia.

SB 110 Relating to Taxes – 2015 (Sen. Dorothy Hukill R-Port Orange)

SB 110 reduces the state portion of the communications services tax (CST) rate from 6.65 percent to 3.05 percent, and the tax rate on direct-to-home satellite services, from 10.8 percent to 7.2 percent and makes conforming changes to the CST rates when billing for various communications services is combined. LeadingAge Florida is responsible for the existing exemption from this tax available for 501 (c) (3) nonprofit organizations.

Week 1 Update: SB 110 (now CS/SB 110) was referred to Communications, Energy, and Public Utilities; Finance and Tax; and Appropriations. CS/SB 110 was passed by its first committee of reference as a committee substitute.

Week 2 Update: No action on CS/SB 110 this week.

Week 3 Update: CS/SB 110 (now CS/CS/SB 110) was passed by the Finance and Tax Committee as a committee substitute on 3/16/2015.

For a copy of the bills listed in this bulletin, please call Legislative Information at (800) 342-1827 or use the Florida “Online Sunshine” website on the Internet at <http://www.leg.state.fl.us>. Hard copies of bills are available through House Documents (850) 488-7097 or Senate Documents (850) 487-5915.

LeadingAge Florida

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