



2017 Legislative Session Update: Week 3

Sponsored Bills:

CS/SB 660: Bankruptcy Matters in Foreclosure Proceedings

I presented SB 660 to the Senate Judiciary committee on Wednesday afternoon. CS/SB 660 allows for the certain documents filed in a bankruptcy case to be used in a mortgage foreclosure proceeding. Oftentimes, a debtor subject to foreclosure will file for bankruptcy as a means of obtaining an automatic stay of the foreclosure action plus a discharge of the mortgage debt. In bankruptcy, a debtor must file a statement under penalty of perjury of his or her intent to retain, redeem, or surrender any property securing a debt. The debtor is supposed to act on that decision as a condition of obtaining a discharge of his or her debts. In some cases, debtors have stated an intention to surrender real property in bankruptcy proceedings to their lender but then later have actively contested the completion of foreclosure proceedings in state court. This bill provides that a lender in a mortgage foreclosure case may use any document filed under penalty of perjury in bankruptcy court as an admission by the defendant. The bill provides that a document evidencing surrender in the bankruptcy case creates a rebuttable presumption that the debtor has agreed to surrender the real property and that the debtor has waived all defenses to the foreclosure action. The bill also allows the court to take judicial notice of the final order in a bankruptcy case. The bill further provides that a debtor who has agreed to surrender the property may still use a defense based on actions of the lienholder that occurred subsequent to the debtor's filing of the statement of intention to surrender the mortgaged property. The bill was voted favorably in committee.

SB 954: Canvassing of Vote-by-mail Ballots

On Wednesday, I presented my bill, SB 954, to the Senate Judiciary committee. This was the bill's second committee stop after passing favorably in the Ethics and Elections committee. This bill creates a process to remedy and count a vote-by-mail ballot where the ballot signature submitted by the voter does not match the signature on file in the registration book/precinct register. The bill was voted favorably in committee.

SB 1224: Public Records and Public Meetings/Responses to Acts of Terrorism

I presented SB 1224 in the Senate Veterans and Military Affairs Committee this week. The House sponsor of the bill is Rep. Rommel. The bill creates an exemption from public record and public meeting requirements for information associated with campus emergency response of a public postsecondary educational institution. "Campus emergency

response” is defined as a public postsecondary education institution’s response to or plan for responding to an act of terrorism, public safety crisis, or emergency.

Specifically, the information exempted includes:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof.
- Threat assessments conducted by any agency or private entity.
- Threat response plans.
- Emergency evacuation plans.
- Sheltering arrangements.
- Manuals for security personnel, emergency equipment, or security training.
- Security systems or plans.
- Vulnerability analyses.
- Post-disaster activities, including provisions for emergency power, communications, food, and water.
- Post-disaster transportation.
- Supplies, including drug caches.
- Staffing.
- Emergency equipment.
- Individual identification of students, faculty, and staff; the transfer of records; and methods of responding to family inquiries.

I am very pleased that the committee voted favorably on the bill.

My Committees:

Ethics and Elections

The Ethics and Elections committee met on Wednesday to hold a confirmation hearing for select executive appointments and review bills sponsored by Senators Steube and Lee.

The Committee appointed the following citizens per recommendation from the Governor:

Cherette S. McCarter (Jacksonville) – Board of Clinical Laboratory Personnel

Lynda Bell (Homestead) – Florida Communities Trust

William Brian Cathey (Port St. Joe) – Construction Industry Licensing Board

Stuart I. Kaplan (Ft. Myers) – Board of Optometry

Cristy Conolly (Palm Harbor) – Florida Real Estate Appraisal Board

After the approval of the Governors appointees, Senator Steube presented his bill SB 278 titled Local Tax Referenda. This bill requires local governments to hold a referendum during a general election to adopt or amend local option discretionary sales surtaxes under s. 212.055, F.S. In order to become law, the referendum must receive approval of a majority of the votes cast on that ballot question. For purposes of this bill, the term general election is defined in s. 17.021(16), F.S., means: an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law. The committee voted favorably on this bill. Following Senator Steube's bill presentation, Senator Lee presented his bills SB 422 and SB 862. SB 422, regarding Municipal Conversion of Independent Special Districts, adds a minimum population standard to the existing criteria for converting an independent special district into a municipality. In order to qualify to commence a municipal conversion proceeding, the district must have a total population in the area proposed of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 persons in counties with a population of more than 75,000. The committee voted favorably on this bill. SB 862 regarding Public Records/Voters and Voter Registration makes confidential and exempt from public inspection and copying requirements all information concerning 16 and 17-year-olds who preregister to vote while they are minors. Once they become adults, their non-exempt information will become available to the same degree as any other adult voter registrant or voter. The committee voted favorably on the bill.

Health and Human Services Appropriations

On Tuesday afternoon, the Health and Human Services Appropriations committee met to review a number of bills. Senator Lee presented SB 240 Direct Primary care. SB 240 amends the Florida Insurance Code (code) to provide that a direct primary care agreement is not insurance and is not subject to regulation under the code. Direct primary care (DPC) is a primary care medical practice model that eliminates third party payers from the primary care provider-patient relationship. The bill also defines and establishes DPC agreements in chapter 456, Florida Statutes, relating to general provisions for health care practitioners. The bill passed favorably in committee. Senator Bean then presented his two bills, SB 430 and SB 670 to the committee. SB 430 amends part II of Ch. 636 of Florida Statute, relating to Discount Medical Plan organization. The complete list of changes can be found on the Florida Senate website. The committee voted favorable on the bill. SB 670 prohibits a Medicaid managed care plan from excluding any pharmacy from its provider network if the pharmacy meets the credentialing requirements, complies with the Agency for Health Care Administration (agency) standards, and accepts the terms of the plan. The bill requires the managed care plan to offer the same rate of reimbursement to all pharmacies in the plan's network. The bill also authorizes the agency to adopt rules necessary to administer the provisions of the bill, including rules establishing credentialing requirements and quality standards for pharmacies. This bill will allow Medicaid enrollees to access additional pharmacies.

Health Policy

On Wednesday, the Health Policy Committee met to hear presentations from the Medical community and then participate in a workshop on SB 406 and other filed Senate bills to implement Amendment 2 on Medical Marijuana. First, we heard presentations by Lori E.H. Killinger and Brence Sell, M.D., Anesthesiologist on Physician Supervision of Certified Registered Nurse Anesthesiologists (CRNA). They explained what CRNAs do, their importance in our health care system, and argued that the Florida Legislature should "remove barriers from the law that keep CRNAs from practicing to the full extent of their education and training." Following their presentations, we heard presentations on the Florida Trauma System from Cindy Dick of the Department of Health, Robert J. Winchell, M.D., FACS, American College of Surgeons and David Ceisla, M.D., Trauma Surgeon, Tampa General Hospital. In these presentations we learned about the current trauma system that treats more than 44,000 trauma patients each year. We also learned about their verification process, barriers and challenges to their operations, and their goals for the upcoming year. We spent the remainder of the meeting participating in a work hop regarding Amendment 2 so that

The committee has a full understanding of the issues at hand as we move forward on crafting legislation to implement Amendment 2.

On The Floor

Senate Bill 352

CS/SB 352 provides clarity to courts and candidates when redistricting challenges are unresolved and elections are approaching. If a redistricting challenge is pending 71 days before a primary election, the district boundaries in place on the 71st day before the primary election will control for the upcoming election cycle. If revisions are ordered after that point, the revised district boundaries will control beginning with future primary and general elections. If congressional district boundaries are revised after federal qualifying ends on the 116th day before a primary election, then a congressional candidate must requalify in accordance with the revised districts during the qualifying period for state candidates that runs between the 71st and 67th days before the primary election. Additionally, courts are encouraged to follow certain enumerated procedures to maintain public oversight when drafting a remedial redistricting plan. The bill states that its provisions do not supersede or impair the State Constitutional provisions governing the judicial review of apportionment.

A similar House bill has not yet had a hearing in the House.

Senate Bill 7004

SB 7004 continues existing public records and public meetings exemptions for: Biomedical research grant applications provided to a peer review panel for the James and Esther King Biomedical Research Program (King Program) and the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program); Records generated by a peer review panel relating to the review of a biomedical research grant application; and That portion of a meeting of a peer review panel in which biomedical research grant applications are discussed.

A similar bill has been placed on the calendar for a second reading in the Florida House.

Senate Bill 60

CS/SB 60 by Senator Bean expands the program that provides motor vehicle insurance and driver licenses to children in out-of-home care (foster care) who are in relative and non-relative placements. It also provides assistance to children who have reached permanency or turned 18 under certain circumstances. The program is authorized to pay for a child in out-of-home care to complete a driver education program and obtain a driver license or the related costs of licensure under certain circumstances. The bill continues the program beyond the 3-year pilot period.

The bill requires the child’s transition plan and the court to address the issue of a child in care being able to obtain a driver license. The bill also provides that a guardian ad litem authorized by a minor’s caregiver may sign for the minor’s learner’s driver license and not assume any obligation or liability for damages caused by the minor.

A similar bill has been scheduled for a second reading in the Florida House.

Senate Bill 106

CS/CS/SB 106 amends a law dating back to Prohibition and provides a four year phased repeal of the package store restrictions for businesses that are located more than 1,000 feet from a school. The bill staggers the repeal of the law over five years, prohibits new package stores from being licensed within 1,000 feet of schools and requires that bottles of 6.8 ounces or less be displayed only behind a counter. The bill also requires checkout clerks under the age of 18 to be supervised by someone 18 or older when alcohol is being purchased and prohibits the state from issuing liquor licenses to gas stations that are not linked with locations providing more than 10,000 square-feet of retail space. For more information on this bill: <http://www.flsenate.gov/Session/Bill/2017/00106>

A similar bill in the House was last heard in the Commerce Committee.

Senate Bill 436

SB 436 by Senator Baxley creates the “Florida Student and School Personnel Religious Liberties Act,” protecting K-12 public school students, their parents, and school personnel from discrimination based on their religious belief and expression.

The bill protects students from discrimination based on their religion in several ways. Regarding coursework, the bill requires that students’ work be graded according to the expected academic standards, without regard for any religious content. In addition, if students in a given school setting are permitted to wear clothing, jewelry, or accessories that display a secular message or symbol, then students may also wear items displaying religious messages or symbols. Moreover, the bill authorizes students to express themselves in a religious manner, and to engage in and organize religious activities to the same extent as secular expressions and activities are permitted.

The bill protects school personnel from discrimination in several ways. First, school districts may not discriminate against their employees on religious grounds. Also, school personnel may not be barred from joining in certain types of student-initiated religious activities. This protection includes several caveats, including that the activity must be on school grounds, occur at reasonable times before or after school, be voluntary, and not conflict with the duties of the employee joining the student-initiated activity.

The bill protects religious groups from discrimination by requiring school districts to permit these groups access to the same facilities for assembly that it permits such access to secular groups.

The bill requires school districts to adopt a policy establishing a “limited public forum” for student speakers at certain school events. This policy must include certain elements set forth in the bill. Also, the policy must include or be comprised entirely of the model limited public forum policy that the bill requires the Florida Department of Education to develop and publish.

A similar bill in the House was placed on the second reading calendar.

Elsewhere In The Florida Senate

Legislation to Notify Public of Pollution Contamination Passes Second Senate Committee

The Senate Appropriations Subcommittee on Environment and Natural Resources passed Senate Bill 532, Public Notification of Pollution. The “Spill Bill” would hold both the government and businesses to a higher standard, while ensuring the public is notified in a timely manner when a potentially health threatening contamination occurs.

Florida's aquifers are one of the state's most important resources, providing millions of people with clean drinking water. We trust that these sources are safe, but they could be vulnerable to pollution caused by chemical spills. These spills happen in many ways, but the results are often the same: potentially harmful contaminants seeping into our drinking water. Florida's families deserve to know once the contamination has occurred.

Senate Bill 532 requires the operator to notify the Department of Environmental Protection in the first 24 hours after a spill occurs, providing pertinent information such as the location and cause of the release, as well as other facts important to determining the extent of risk to the public. Within 24 hours of receiving the notice of the spill, the Department of Environmental Protection must publish a notification on its public website and alert the media and public about the spill.

Within 48 hours, the public would learn when their health is potentially threatened by chemical contamination. This will give Florida's families peace of mind, knowing they will receive the information they need to keep themselves and their loved ones safe.

The Florida Constitution Revision Commission Holds Opening Meeting in Senate Chamber

Every 20 years the Constitution Revision Commission (CRC) is formed to review the Florida Constitution, hold public hearings, and possibly recommend changes to the Constitution for voter consideration. The Governor appoints 15 members, the Senate President and House Speaker each appoint nine members, the Chief Justice of the Supreme Court appoints three members, and the Attorney General is an automatic member. The 37-member panel held its opening meeting in the Florida Senate Chamber. The CRC will meet for approximately one year, traveling the state for a series of public hearings and gathering input from citizens. Any proposed changes to the Florida Constitution will be on the ballot in 2018 for voter decision.