



METZ, HUSBAND & DAUGHTON, PA

DOUGLAS S. BELL
JAMES R. DAUGHTON, JR.
PATRICIA B. GREENE*
WARREN H. HUSBAND
ALLISON LIBY-SCHOONOVER*
AIMEE DIAZ LYON
STEPHEN W. METZ**
ANDREW T. PALMER*
PIERCE SCHUESSLER*

**Governmental Consultant-
Not a Member of the Florida Bar
**Of Counsel*

REPLY TO:

Post Office Box 10909
Tallahassee, Florida 32302-2909

119 South Monroe Street, Suite 200
Tallahassee, Florida 32301-1591

Telephone: (850) 205-9000
Facsimile: (850) 205-9001

MEMORANDUM

TO: Lawrence E. Sellers, Chair
The Florida Bar Legislation Committee

FROM: Jim Daughton
Aimee Diaz Lyon

DATE: January 17, 2020

SUBJECT: Legislative Update – Week One

The 2020 Legislative Session commenced this week. Judging by the remarks of our state leaders and the pace of the first week of the legislative session, legislators are making up for a relatively slow interim committee process.

Senate President Bill Galvano, R-Bradenton, spoke to the Senate on Tuesday to open the 2020 Legislative Session. He emphasized the need to put aside personality and politics for good policy, urging Senators to prioritize the big picture for Florida instead of their personal agendas. He stressed that the Senate had the opportunity to set the bar for the 2020's through debating and exchanging ideas while maintaining civility and decorum.

House Speaker Jose Oliva, R-Miami Lakes, was more policy-focused in his remarks to the House. He emphasized fiscal restraint, stressing that "spending is not caring, solving is caring." He aims to pass a budget with reduced per-capita spending, a robust tax break, and a stronger commitment to reserve balances.

Speaker Oliva identified healthcare as his top priority and the chief challenge facing the state. He referred to the "Healthcare Industrial Complex," made up of hospitals, medical device manufacturers and pharmaceutical companies, as the "Great Robber-Barons of our time," a term defined by "government manipulation, monopolizing industry and price gouging." The Speaker identified stand-alone ERs, exorbitant drug prices, an insufficient

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supply of primary care physicians, and scope of practice as issues within Florida's healthcare space. He explicitly stated his support for allowing advanced nurse practitioners to practice independently, honoring a nurse practitioner instead of a physician before his remarks – a striking gesture that disrupts the tradition of the legislature.

Governor Ron DeSantis kicked off his second legislative session with the official "State of the State" speech themed around a "season of opportunity." Governor DeSantis called for fiscal rectitude, saying, "Florida needs to tax lightly, spend wisely and regulate reasonably" and proposing a \$91.4-billion budget – a 0.4% increase from last year. Despite the flat second budget recommendation, the Governor looks to push forward several initiatives.

Governor DeSantis began by calling for more legislative action on water quality issues. He advanced a number of proposals, including \$300 million for the Everglades, more money for water quality improvements (\$200 million over four years), \$100 million for the Florida Forever land acquisition program, \$280 million for water storage, and \$50 million for beach restoration.

In what he has called "The Year of the Teacher," the Governor is holding to his proposal to raise teachers' salaries to \$47,500, despite resistance from the House and education unions. This would make Florida number two in the nation for public school teachers' salaries. Governor DeSantis also proposed replacing the Best and Brightest teacher bonus program with a new initiative and said that the replacement of Common Core would be released in the coming days.

In order to strengthen the economy, the Governor highlighted the importance of "workforce education" and called for the streamlining of occupational licensing requirements. Additionally, he stressed E-Verify reform as a way to protect against foreigners taking American jobs.

The Governor also cited several accomplishments from 2019, including appointing 3 Supreme Court justices, passing bills on drug importation and a patient savings plan, and providing effective hurricane recovery grants in the wake of Hurricanes Michael, Irma, Matthew, and Hermine.

With the direction set by Florida's leaders, the legislature spent the remainder of the week digging into these policy issues and hundreds more. It's going to be a hectic nine weeks!

Legislation of Interest to The Florida Bar

Legislation of interest to The Florida Bar is tagged and tracked as bills are filed. Following is a summary of key information and issues in Florida government which impact The Florida Bar.

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Judicial Nominating Commissions

SB 86 by Senator Perry Thurston (D-Fort Lauderdale) and **HB 379** by Rep. Al Jacquet (D-Lantana) reinstate the composition of the judicial nominating commissions as it existed in § 20(5), Fla. Const. and § 43.29, Fla. Stat. (2000). Currently, the governor appoints nine members to each of the 26 JNCs. Three of those members are from a list recommended from The Florida Bar. Under the legislation, the governor would only appoint three members to each nine-member nominating commission. Three other members would be appointed by The Florida Bar, and then the six members of each JNC panel would select the remaining three members.

Link to SB 86: <http://www.flsenate.gov/Session/Bill/2020/86>

Link to HB 379: <http://www.flsenate.gov/Session/Bill/2020/379>

Public Records Exemptions for County Attorneys & Assistant County Attorneys/ Judicial Assistants

HB 63 by Rep. Randy Maggard (R-Dade City) and **SB 248** by Senator Ed Hooper (R-Clearwater) provide an exemption from the public records requirements for personal identifying and location information of current and former county attorneys and assistant county attorneys and their spouses & children. **There was no movement on the legislation this week.**

Link to HB 63: <http://www.flsenate.gov/Session/Bill/2020/63>

Link to SB 248: <http://www.flsenate.gov/Session/Bill/2020/248>

SB 128 by Senator Tom Wright (R-New Smyrna Beach) and **HB 479** by Rep. Elizabeth Fetterhoff (R-DeLand) provide an exemption from the public records requirements for certain identifying and location information of current and former judicial assistants and their spouses and children. **SB 128 has passed the Judiciary and Governmental Oversight and Accountability Committees. The Senate bill was amended to provide for the retroactive application of the exemption. On December 12th, HB 479 passed the Civil Justice Subcommittee by a vote of 12 to 0.**

Link to SB 128: <http://www.flsenate.gov/Session/Bill/2020/128>

Link to HB 479: <http://www.flsenate.gov/Session/Bill/2020/479>

Constitution Revision Commission Proposals – *House Proposals Advance*

SJR 176 by Senator Jose Javier Rodriguez (D-Miami) limits any amendment to the Constitution proposed by the Constitution Revision Commission to “one subject and matter connected therewith.” Under current law, each proposal of the Commission may embrace multiple subjects, and the Commission may even propose a singular revision of the entire

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Constitution. The Senate joint resolution would be voted on by the voters in 2020 and, if approved, would apply to the next CRC which is slated to meet in 2037, in advance of placing measures on the 2038 ballot. **On November 5th, SJR 176 passed the Judiciary Committee by a vote of 6 to 0.**

SJR 142 by Senator Jeff Brandes (R-St. Petersburg) and **HJR 301** by Rep. Brad Drake (R-Eucheeanna) would abolish the CRC entirely and remove any statutory references to the Commission. The proposals would require a change to the Florida Constitution approved by the voters. **After unanimously passing both the Judiciary and the Governmental Oversight and Accountability Committees, SJR 142 has one final hearing remaining in the Rules Committee. On January 16th, HJR 301 passed the Judiciary Committee by a vote of 16 to 2 and is now on the calendar of bills ready for consideration by the full House chamber. Rep. Dee Hart (D-Tampa) offered an unsuccessful amendment to revise the membership selection and composition, authority, and duties of the Commission. The amendment would have allowed the Supreme Court's Chief Justice to select 12 of the CRC's members, rather than three, and provided that no statewide elected officers, state legislators, or elected or appointed county constitutional officers could be appointed to serve on the CRC within six years of their terms of office:**

<http://www.flsenate.gov/Session/Bill/2020/301/Amendment/207093/PDF>

HB 303 filed separately by Rep. Drake would repeal all statutory references to the Constitution Revision Commission once any constitutional amendment abolishing the CRC is passed by voters. **On January 16th, HB 303 passed the Judiciary Committee by a vote of 14 to 2. Both HJR 301 and HB 303 are scheduled to be heard in the House chamber on January 22nd.**

Additionally, a parallel constitutional initiative effort is underway to collect enough voter petition signatures in order to appear on the November 2020 ballot. The Keep Our Constitution Clean political committee is seeking to make it harder to amend Florida's Constitution by having voters approve constitutional amendments twice in two elections, instead of one election, in order for them to officially take effect. The committee needs to submit 766,200 valid signatures by a February deadline in order to be placed on the 2020 ballot for approval. As of January 16th, the state Division of Elections has tallied **626,424** signatures for the proposal. The political committee will also need Florida Supreme Court approval of the proposed ballot wording.

Link to SJR 176: <http://www.flsenate.gov/Session/Bill/2020/176>

Link to SB 142: <http://www.flsenate.gov/Session/Bill/2020/142>

Link to HB 301: <http://www.flsenate.gov/Session/Bill/2020/301>

Link to HB 303: <http://www.flsenate.gov/Session/Bill/2020/303>

Link to Amendment 19-08: <https://dos.elections.myflorida.com/initiatives/>

Court Jurisdiction

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SB 1510 by Senator Jeff Brandes (R-St. Petersburg) revises the jurisdiction of circuit courts and the authority of county court judges temporarily designated to preside over circuit court cases. The bill also transfers jurisdiction for appeals of final administrative orders of local government code enforcement boards from the circuit court to the district court of appeal. **SB 1510 is scheduled to be heard in the Judiciary Committee on January 21st. A House companion bill has not been filed to-date.**

Another bill, **SB 1740** by Senator Kelli Stargel (R-Lakeland), requires the Clerk of the Florida Supreme Court to use a blind, random selection process to determine the venue for constitutional challenges of a statute or a legislative action within the circuit courts and district courts of appeal. The bill also specifies the venue for any appeal of an order or a judgment for these actions will be the First District Court of Appeal, regardless of which judicial circuit was the venue for the action. The bill stipulates the intent of the legislation is to ensure that a single trial court does not effectively have a monopoly over cases raising issues of statewide, constitutional importance. A House companion bill has not been filed to-date.

Link to SB 1510: <http://www.flsenate.gov/Session/Bill/2020/1510>

Link to SB 1740: <http://www.flsenate.gov/Session/Bill/2020/1740>

Statewide Council on Prosecutorial Misconduct

SB 262 by Senator Randolph Bracy (D-Orlando) creates the Statewide Council on Prosecutorial Misconduct within the Department of Legal Affairs. The council will provide recommendations and findings relating to prosecutorial misconduct to the Department of Lawyer Regulation within The Florida Bar and to the Supreme Court's Chief Justice. The council's membership includes four prosecutors, four public defenders or assistant public defenders, a district court of appeal judge, and two county or circuit court judges. By January 14th of each year, the council is required to submit an annual report to the Governor, Legislature, and Chief Justice summarizing the council's recommendations and findings during the previous calendar year. A House companion bill has not been filed to-date.

Link to SB 262: <http://www.flsenate.gov/Session/Bill/2020/262>

Legal Notices

HB 7 by Rep. Randy Fine (R-Palm Bay) and **SB 1340** by Senator Joe Gruters (R-Sarasota) provide for the website publication of legal notices, provide criteria for such publication, authorize fiscally constrained counties to use publicly accessible websites to publish the legally required advertisements and public notices, and require governmental agencies to provide specified notice to residents concerning the alternative methods of receiving legal

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notices. On January 15th, HB 7 passed the Local, Federal and Veterans Affairs Subcommittee by a party line vote of 7 to 5. Technical amendments were adopted to the bill which clarify that the publication requirement only applies to a governmental entity who uses a website to publish notices and that the notice of proposals for any public-private partnership still has to be published in the Florida Administrative Register and in the local county in which the project would be located.

Link to HB 7: <http://www.flsenate.gov/Session/Bill/2020/7>

Link to SB 1340: <http://www.flsenate.gov/Session/Bill/2020/1340>

Legal Advertising

The legislature is also considering certain restrictions of legal advertising. While generally in the purview of the Florida Supreme Court, some state legislatures across the country have passed certain restrictions on legal advertising, typically under unfair and deceptive practices statutes. Senator Tom Wright (R-New Smyrna Beach) filed **SB 1288** pertaining to the solicitation of legal services. Specifically, the bill focuses on advertisements featuring “medical alerts” or “consumer alerts” using the names or logos of a regulatory agency.

Also on January 16th, the House Subcommittee on Civil Justice held a workshop on legal advertising. The Florida Bar’s Ethics Counsel, Elizabeth Tarbert, participated in the workshop and discussed the role of the Bar in lawyer advertising and served as an excellent resource to the committee members and staff.

Link to SB 1288: <http://www.flsenate.gov/Session/Bill/2020/1288>

Personal Representatives

HB 1421 by Rep. Anika Omphroy (D-Lauderdale Lakes) revises the types of nonresidents who qualify as a personal representative to include members in good standing of The Florida Bar. A Senate companion has not been filed to-date.

Link to HB 1421: <http://www.flsenate.gov/Session/Bill/2020/1421>

Trial Court Security – *House Bill Gets First Hearing*

HB 131 by Rep. Stan McClain (R- Ocala) and **SB 118** by Senator Joe Gruters (R-Sarasota) require each county sheriff to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive security plan for trial court facilities. The sheriff retains authority over the implementation of security, and the chief judge retains decision-making authority to protect due process rights. The legislation also clarifies that sheriffs and their deputies, employees, and contractors are officers of the

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court when providing security for court facilities. **On January 15th, HB 131 passed the Criminal Justice Subcommittee by a vote of 13 to 0.**

Jury Service

SB 738 by Senator Gayle Harrell (R-Stuart) and **HB 393** by Rep. Charlie Stone (R-Ocala) require students between 18 and 21 years of age who are actively enrolled as a full-time student in high school or at any state university, private postsecondary educational institution, Florida College System institution, or career center to be excused from jury service upon request. **SB 738 previously passed the Judiciary Committee by a unanimous vote, but there was no movement on the legislation this week.**

Link to SB 738: <http://www.flsenate.gov/Session/Bill/2020/738>

Link to HB 393: <http://www.flsenate.gov/Session/Bill/2020/393>

Early Childhood Courts

SB 236 by Senator Lauren Book and **HB 449** by Rep. Amber Mariano (R-Port Richey) create a new problem-solving court to support an Early Childhood Court (ECC) program for cases involving children under the age of three and uses specialized dockets, multidisciplinary teams, evidence-based treatment and a non-adversarial approach. Currently, there are 22 ECC sites throughout Florida serving 350 children aged 0-3. The legislation expands ECC access while standardizing procedures for the court throughout the state. **SB 236 previously passed the Children, Families, and Elder Affairs Committee by a vote of 6 to 0, but there was no movement on the legislation this week.**

Link to SB 236: <http://www.flsenate.gov/Session/Bill/2020/236>

Link to HB 449: <http://www.flsenate.gov/Session/Bill/2020/449>

Judicial Travel Reimbursement – *Senate Bill Scheduled for Hearing*

SB 1392 by Senator David Simmons (R-Altamonte Springs) revises the provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court, authorizes district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters, specifies the eligibility for subsistence and travel reimbursement, subject to the availability of funds, and provides that a county is not required to provide space for a judge in a county courthouse. **SB 1392 is scheduled to be heard in the Judiciary Committee on January 21st. A House companion measure has not been filed to-date.**

Link to SB 1392: <http://www.flsenate.gov/Session/Bill/2020/1392>

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Legislative Session Communication

The preceding bills and any other newly-filed bills are tracked each week and are available to monitor on The Florida Bar Legislation Committee's website:

<https://www.floridabar.org/member/legact/legact001/>

Moreover, each week during the legislative session each member of the Board of Governors will receive a brief legislative update which will also be posted to the Legislation Committee's website.

Florida Bar Legislative Reception

Reminder, The Florida Bar's Annual Legislative Reception will be held on **Wednesday, January 29th from 5:00-7:30pm** in the Historic Capitol's Senate Chamber and Upper Rotunda. We look forward to seeing you that day in Tallahassee that week.

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We hope this summary is helpful. We look forward to a productive 2020 Legislative Session. Please contact us if you have any questions.