



Board of Directors Meeting

June 9, 2011

Legislative Report – End of Session Report

Item V.B.

Information Item: Capitol Connection



Final Week - May 17, 2011

END OF SESSION REPORT

Just over one week ago, both House and Senate members found themselves at odds with each other over previously agreed upon, priority legislation. As a result, both chambers were forced to extend session minutes before midnight. Members of both chambers also objected to the inclusion of major policy changes within 40 budget conforming bills which had not been previously vetted. Ultimately, the Legislature approved a \$69.7 billion budget for the 2011-2012 fiscal year, which will begin July 1.

The final budget (approximately \$700 million less than last year's budget) contained in [SB 2000](#) swept various trust funds and made deep cuts in state government (eliminating nearly 5,000 state jobs), public education (\$1.3 billion for school operations) and health care, with hospitals taking some of the largest cuts. The budget also raids transportation trust funds, cutting money for road building, requires all public employees enrolled in the state's pension plan to contribute 3 percent of their salaries to cover pension costs, and also provides for college tuition hikes.

Attention now shifts to Gov. Rick Scott as he reviews the budget and makes decisions about the use of his line item veto pen. Gov. Scott said that the one thing that will guide him on both legislation and the budget is whether or not it harms or helps the state's economy.

A sweeping overhaul of Florida's Medicaid program topped the list of major reform bills passed this session. If signed into law by Gov. Scott, the proposal would shift hundreds of thousands of beneficiaries into HMOs and other managed-care plans - a move the Governor has supported. The plan would also divide the state into 11 regions with managed-care plans competing for contracts in each area. To fully implement all parts of the massive revamp, Florida would first need to receive a Medicaid waiver from the federal government.

THE CHILDREN'S BUDGET

Some "Saves"

Although some painful cuts were experienced, child advocates did an exceptional job of communicating to lawmakers the importance of programs that impact children and families. They were instrumental in lessening budget cuts and preserving and restoring funding for several programs, including Children's Medical Services (CMS) and children's mental health. Additionally, during budget negotiations, the Senate and House agreed on a budget infusion of \$7.8 million to allow Early Steps, a program which helps children at risk of developmental delays become self-sufficient, productive citizens, to continue in Florida.

In particular, Senator Nan Rich (D-Weston), Senator Joe Negron (R-Palm City), Senator Andy Gardiner (R-Orlando), Representative Matt Hudson (R-Naples), and Representative Denise Grimsley (R-Sebring) provided strong support in their respective chambers. Also, thanks in large part to Sen. Rich, the proposed cut to Healthy Families was restored. After sustaining a 34 percent cut last year, the legislature agreed that the program (proven to be 98 percent effective in eliminating abuse and neglect among the high-risk families it serves) should not be cut further.

Additional restorations:

- KidCare will receive an 8 percent funding increase which will provide funds for approximately 20,000 additional children.
- 20 of the 30 positions from the Department of Children and Families (DCF) child care licensure program will be restored.
- The proposed \$2.5 million cut to the Guardian ad Litem program was greatly lessened to ensure total funds of \$31.5 million.
- Most of the front end of the juvenile justice system was held harmless with funding for proven prevention programs, such as Children and Families in Need of Services (CINS/FINS), Intensive Delinquency Diversion Services (IDDS) and Juvenile Assessment Centers (JACs), fully restored.

Painful Cuts

Unfortunately, not all programs fared well. Both VPK and School Readiness saw reductions in funding, and funding for the Healthy Start program was lessened by \$5.4 million, although a new provision in the Medicaid reform law will provide for a "MomCare" program in the future.

VPK - Funding the program at \$384.6 million means a \$30 million cut to VPK, with a reduction in the School Year Base Student Allocation (amount per student) from \$2,553 to \$2,383, and an increase in student-teacher ratios to 1:11 and 2:20 from 1:10 and 2:18, respectively. This means more children and fewer teachers in the VPK classroom. VPK administration and program support (quality assurance, provider certification, eligibility determination) was reduced from 4.5 percent to 4 percent, which will result in longer wait times to register children for the program, and potential scaled-back quality improvement efforts.

School Readiness (subsidized child care for working families in poverty) - The final school readiness allocation does not restore the non-recurring \$38 million in stimulus funds, with a potential additional loss of \$32 million in federal funds if the TANF supplemental funds are not received from the federal government. This will impact approximately 15,000 children statewide who will lose services (more than 4,000 of them from working families in poverty in Miami-Dade/Monroe counties alone).

Healthy Start (prenatal services to low-income women to reduce pre-term deliveries and improve birth outcomes) - Healthy Start funding was cut by \$5.4 million, which could total as much as \$9 million, including the loss of the federal match. The Healthy Start Coalitions are currently analyzing the impacts of this funding cut, including the new MomCare provisions in the Medicaid reform bill which is designed to assist expecting mothers with prenatal care once this legislation goes into effect.

EARLY LEARNING/CHILD CARE

Office of Early Learning Transfer (OEL) Transfer

The omnibus reorganization bill spearheaded by Sen. Don Gaetz (R-Destin) and Rep. John Legg (R-Port Richey), SB 2156 relating to government reorganization, creates the new Department of Economic Opportunity. Imbedded in this 839 page legislation is a transfer of the Office of Early Learning to the Department of Education (DOE). The OEL will be administratively housed within DOE, but will serve as a separate budget entity and will not be subject to the control, supervision, or direction of DOE or the State Board of Education. The office director will be appointed by the Governor and confirmed by the Senate. Additionally, the Auditor General will conduct a financial and performance audit of the Office of Early Learning Services' program and related delivery systems by December 31, 2011.

VPK

A comprehensive school accountability bill CS/CS/HB 1255 by Rep. Janet Adkins (R-Fernandina Beach) was approved. Among other things, this:

- requires the State Board of Education (SBE) to periodically review and revise performance standards for statewide Kindergarten screening and align them with the standards for student performance on statewide assessments;
- authorizes non-public schools to administer the Kindergarten readiness screening to each Kindergarten student enrolled in VPK;
- requires a VPK provider to be placed on probation if it fails to meet the minimum Kindergarten readiness rate established by the (SBE). Previously, a provider had to fail to meet the standards for two consecutive years;
- requires that the calculation of a VPK provider's readiness rate must include the percentage of students who meet all state readiness measures, and the DOE must adopt procedures for annually reporting the percentage of students who meet all Kindergarten readiness measures. Thus, readiness rates would no longer be tied to the number of VPK providers that fail to meet them. Instead, the SBE will set the rate based on its determination of readiness;
- and amends the criteria the SBE may use to grant good cause exemptions for public and private VPK providers by eliminating the exemption for providers serving at least twice the statewide percentage of children with disabilities or those identified as limited English proficient. Instead, good cause will be determined by learning gains through a VPK enrollment screening and the statewide kindergarten screening.

Child Care Licensing and Inspections

HB 139 by Rep. Larry Ahern (R-St. Petersburg) relating to child care facilities, was unanimously approved with an amendment that removed harmful language opposed by DCF and many child advocates that would have increased the allowable square footage used in calculating the number of children permitted in child care facilities. The bill was later substituted for SB 364 by Sen. Jack Latvala (R-St. Petersburg) and passed by the Senate unanimously on May 3.

This bill revises criteria for a child care facility, large family child care home, or family day care home to obtain and maintain its designation as a Gold Seal Quality Care provider; provides for certain household children to be included in calculations regarding capacity of licensed family day care homes and large family child care homes; provides conditions for the supervision of household children on the premises of family day care homes and large family child care homes; and revises advertising requirements applicable to child care facilities.

Child Care Facilities

Sen. Maria Sachs' (D-Delray) bill (SB 1140), which would require vehicles owned by child care facilities and large family child care homes to be equipped with an alarm system that prompts the driver to inspect the vehicle for children before exiting, passed the Senate unanimously. Unfortunately, the bill died in messages to the House on the last day of session.

HEALTHY CHILDREN

KidCare

Budget

Highlights of the KidCare budget according to the Florida Healthy Kids (HK) Corporation include:

- Funds approximately 19,932 children for 2011-2012 - 8 percent growth
- Continues the health plan rate freeze for Healthy Kids in 2011-2012 (\$10.37 million total savings)
- Healthy Kids: Average per member per month rate shall not exceed \$108.97 (Health Plan)
- HK dental rate remains at \$11.99 per member per month for 2011-2012; 10 percent fee increase for Medicaid dental services for children
- Rate freezes proposed in Medicaid will also impact the Medikids program (\$2.47 million total savings)

Legislation Impacting the Florida KidCare Program

Unfortunately, KidCare legislation originally filed by Sen. Eleanor Sobel (D-Hollywood) and Rep. Ana Rivas Logan (R-Miami) was incorporated into a Medicaid reform bill and ultimately did not survive the final negotiated Medicaid reform bill package. A provision requiring the application for the free and reduced lunch program to also be an application for Florida KidCare, (as well as include information about the Florida KidCare program including contact information or a link to the online Florida KidCare application) would have expanded the opportunity to receive health coverage to an estimated 40,000 uninsured Florida children.

In addition, Sen. Rich offered, then withdrew, an amendment to the appropriations implementing bill due to lack of support to expand subsidized coverage to dependants of state employees. Sen. Rich has committed to raising the issue again next year.

Medicaid

If federal health officials approve the Medicaid reform plan in the coming year (July 2012) the state will officially begin accepting HMOs and provider-service networks (PSNs) under eleven regions to enroll Medicaid recipients beginning in October 2013. Children's Medical Services (CMS), which provides care for chronically ill children, was designated as a statewide PSN. However, healthy children as well as pregnant women won't be required to enter a managed care organization or PSN until 2014, although they can enroll sooner if they want. The specifics of the plan are found in SB 7107 and SB 7109 which created a managed care system with capitated reimbursement for all services rendered.

Other provisions of the bill affecting children include:

- PSNs - At least one PSN must be authorized in each managed care region. The PSNs are to continue to receive fee for service for two years or until 2014 before they go to a capitated rate.
- Developmental Disabilities Population - The developmental disabilities population was not included under the Medicaid managed care system.
- EPSDT - Provides for the continuation of Early Periodic Screening Diagnosis and Treatment (EPSDT) in Medicaid plans.
- Medical Homes - Provides that "preference shall be given to plans that ... have well-defined programs for recognizing patient-centered medical homes and providing for increased compensation for recognized medical homes...."
- Pregnant Women - Provides for "MOMCARE NETWORK" which includes all of the Healthy Start Coalitions.
- Medical Loss Ratio (MLR) - The MLR was not created but, in its place, there was created a "savings rebate system" which allows an HMO to keep 5 percent and 50 percent of income

between 5 percent and 10 percent.

- Wellness - Requirement that all plans establish programs to encourage and reward healthy behaviors.
- Dental, Hearing and Optical Services - These are mandated benefits.
- Psychotropic Drugs for Children - Prohibits the prescribing of psychotropic medication for children without the express and informed consent of the parent or legal guardian or a court order.
- Statewide Essential Providers - Regional perinatal intensive care centers and specialty children's hospitals are deemed as statewide and included in all plans.
- Newborn Enrollment - Newborns are automatically enrolled in their mother's program.

Despite the most troubling provisions of the bill being removed such as the pursuit of a state-driven program without federal funds, and the addition of many good provisions above, some advocates continue to be concerned about moving forward on a statewide basis in view of some of the outcomes of the pilot programs.

Department of Health and Agency for Health Care Administration Reorganization

Legislators did not give any serious consideration to the consolidation of health-related agencies such as the Department of Health and the Agency for Health Care Administration this session.

Booster Seats

Although passed in the Senate as stand-alone legislation (SB 238 by Sen. Altman), the Senate added the booster seat language contained in SB 238 to the three major Senate Transportation Bills including CS/CS/SB 1150, thanks to Sen. Jack Latvala (R-St. Petersburg). However, the House would not grant a hearing to HB 1 by Rep. Steinberg despite having over 70 co-sponsors, and when it took up the House's companion Transportation Bill, HB 1353, it did so without adding in the booster seat amendment.

Florida is one of only three states that does not have this important piece of child safety legislation. This important legislation will create child-restraint requirements for children ages four through seven who are less than four feet, nine inches in height, and better ensures the safety of small children who are traveling in vehicles.

School Nutrition

SB 1312 by Sen. Gary Siplin (D-Orlando) entitled the "Healthy Schools for Healthy Lives Act" transfers the administration of school food and nutrition programs, including the U.S. Department of Agriculture child food and nutrition programs, from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACs), and creates the "Healthy Schools for Healthy Lives Council" within DACs.

Firearms

On May 5, the Senate passed and sent to the Governor CS/CS/CS/HB 155 entitled, "Medical privacy concerning firearms" by Sen. Greg Evers (R-Crestview). Now amended to address numerous concerns raised by the health care industry, the bill prohibits health care providers from intentionally entering disclosed information concerning firearm ownership into a patient's medical record if the provider knows that the information is not relevant to the patient's medical care or safety. Additionally, the bill provides that a health care provider or health care facility should refrain from inquiring about ownership of a firearm or ammunition by the patient or a family member of the patient or the presence of a firearm in a home or domicile of the patient or a family member of the patient, unless the provider or facility believes in good faith that the information is relevant to the patient's medical care or safety.

Pediatricians continue to have grave concerns with this legislation citing that their ability to properly inform parents of firearm safety will be impeded, and that children will be accidentally harmed.

CHILD WELFARE

Budget

According to The *Florida Coalition for Children (FCC)*, this year, the legislature provided for Community-Based Care (Core Services, Maintenance Adoption Subsidies and Independent Living Program) in the sum of \$756.9 million compared to \$740.8 million last year. (Specifics of this budget will be posted on the FCSC website at a later date).

Road to Independence Program

A proposed \$9 million cut to the Road to Independence program was taken off the table towards the end of session. This program, which provides support for young adults aging out of Florida's foster care system, will remain available to eligible recipients until age 23. A measure to limit participation to age 21 was shelved. Rep. Denise Grimsley (R-Sebring) was instrumental in maintaining this appropriation.

Certification of Child Welfare Personnel

HB 279 by Rep. Daniel Davis (R-Jacksonville) provides that the Department of Children and Families (DCF) work in collaboration with child welfare stakeholders to ensure that child welfare staff have the knowledge and skills to competently provide child welfare services. The bill also eliminates DCF's child welfare training program established in s. 402.40, F.S., and provides that third-party credentialing entities approved by the department provide child welfare personnel certification.

Community Based Care Funding

An amendment by Senate Budget Chair J.D. Alexander (R-Lake Wales) to a late night conforming bill, SB 2146 will substantially redistribute funding for Community Based Care agencies in Florida. A new funding formula, ostensibly designed to achieve "equity," will take a percentage of core funding from CBC agencies deemed "above equity" and distribute it, along with other additional funding to those CBC's deemed "below equity."

The reallocation was made on the basis of four factors listed below, and affected only Core Service funding, not funds for independent living, maintenance adoption subsidies, protective investigations training, nonrecurring funds, mental health wrap-around or special projects.

The equity allocation was calculated based on the following weights:

1. Children in poverty - 30 percent
2. Child abuse hotline - 30 percent
3. Children in care - 30 percent
4. Reduction in out-of-home care - 10 percent

Beginning this coming fiscal year 75 percent of recurring funding will be based on the prior year, and 25 percent on equity allocation model. If the Gov. signs SB 2146, and this re-distribution takes place, it will have a significant impact on child welfare in many parts of the state, including many high performing agencies.

Limited Liability/Sovereign Immunity for CBCs

Efforts to reduce economic damages for children harmed in Florida's child welfare system failed. Proponents, including several community-based care organizations and their subcontractors, argued the proposed legislation was needed to reduce the growing number of "frivolous" lawsuits against agencies contracted to provide foster care and adoption services, address rising insurance costs, and maximize resources for services. The issue attracted testimony from advocates who urged members not to reduce accountability and cap damages awarded to victims.

Extended Foster Care/Education

SB 1902 by Sen. Nan Rich (D-Weston) failed to pass the House after being approved by a 39-0 margin in the Senate. The bill would have tightened oversight of funds for young people aging out of foster care, provided them with education advocates to ensure their money is well-spent and attempt to keep youth in their original schools when at all possible. It would guarantee that credits would transfer with high school students if it becomes necessary for them to move schools. Furthermore, this bill proposed that youth turning 18 be given the option to stay in "extended foster care" until the age of 21. Sen. Rich and Rep. Glorioso (R-Plant City) have both promised to keep this bill on their agendas for next year.

JUVENILE JUSTICE

Budget

Funding was held harmless for proven prevention programs such as Children and Families in Need of Services (CINS/FINS), Intensive Delinquency Diversion Services (IDDS) and Juvenile Assessment Centers (JACs). However, advocates would have liked to have seen more of the savings obtained from cuts to residential and detention programs remain in the DJJ budget and re-invested in front-end/prevention programs.

Juvenile Civil Citations

HB 997 by Rep. Pilon (R-Sarasota) requires DJJ to encourage and assist in the implementation and improvement of civil citation and similar diversion programs to be established at the local level. The bill limits the civil citation program to first-time misdemeanor offenders unless approved by the state attorney. The bill becomes effective July 1.

Transition to Adulthood - DJJ

SB 404 by Sen. Steve Wise (R-Jacksonville) provides legislative intent concerning transition-to-adulthood services for youth in the custody of the Department of Juvenile Justice (DJJ). The bill provides for eligibility for services for youth served by the DJJ who are legally in the custody of the Department of Children and Family Services (DCFS), and provides that an adjudication of delinquency does not disqualify a youth in foster care from certain services from the DCFS. In addition, the bill creates the College-Preparatory Boarding Academy Pilot Program for dependent or at-risk students. The bill becomes effective July 1.

Juvenile Detention Facilities

The Conference Committee Amendment for SB 2112 allows counties to operate their own detention facility if they cover the financial cost of detention care for pre-adjudicated juveniles, provided that the county is in compliance with specific provisions:

1. Counties must fund the entire cost for pre-adjudication detention for juveniles;
2. Counties must authorize the county sheriff, any other county jail operator, or contract provider that is located inside or outside of the county to operate the facility;
3. County sheriffs or other county jail operators must be accredited by the Florida Corrections Accreditation Commission or the American Correctional Association;
4. Detention facilities must be inspected annually and meet the Florida Model Jail Standards;
5. Counties or county sheriffs may form regional detention facilities through interlocal agreements in order to meet the requirements of this section;
6. County sheriffs or other county jail operators must follow the federal regulations requiring sight and sound separation of juvenile inmates from adult inmates;
7. If counties or county sheriffs comply with the provisions of this new subsection, they will not be subject to any additional training, procedures, or inspections required in Chapter 985, Florida Statutes.

Juvenile Justice Community Based Care and Placement

HB 333 by Rep. Richard Corcoran (R-New Port Richey) and its companion SB 554 by Sen. Mike Fasano (R-New Port Richey) both died in committee. Although an attempt was made to add juvenile justice community based care language to a budget conference bill, SB 2114, the language was ultimately not approved. SB 2114, among other things, does prohibit a court from committing certain youth at a restrictiveness level other than minimum-risk nonresidential, and authorizes a court to commit certain youth to a low-risk or moderate-risk residential placement.

STATE AND LOCAL REVENUES/GOVERNMENTS

TABOR/Smart Caps

The Legislature passed CS/SJR 958 by Sen. Ellyn Bogdanoff (R-West Palm Beach), one of President Haridopolos' priority issues for the 2011 Session. Local governments were removed from the bill in its final form which now only directly impacts state revenues. The constitutional amendment replaces the existing state revenue limitation currently based on Florida personal income growth with a new standard based on inflation and population change. The amendment requires that state revenues collected in excess of the revenue limitation must be deposited into the budget stabilization fund until the fund reaches its maximum balance. Excess revenues will then be used to

reduce the required local effort for funding public schools, or if the required local effort is no longer required, returned to taxpayers. The legislature may increase the state revenue limitation through legislation approved by a super majority vote of each chamber or submit a proposed increase in the state revenue limitation to the voters. If the constitutional proposal is passed by the voters, it will apply to the 2014-1015 state fiscal year.

Property Tax

Affecting local governments and special taxing districts is [CS/CS/CS HJR 381](#) (and its implementing bill [CS/CS/CS HB 1163](#)) by Rep. Chris Dorworth (R-Lake Mary) which passed the Legislature and awaits action by the Governor. Following that, the measure will proceed to the November 2012 ballot to ask voters to approve a constitutional amendment to lower property tax assessment caps on commercial property, and prevent assessments on homestead property from going up when market values fall in any given year. The bill would also reduce the cap on property tax assessment increases on commercial property from 10 percent a year to 5 percent.

The proposal would also provide buyers who have not owned a home in Florida within the last three years an additional exemption that would be phased out over time. The discount would equal 50 percent of the home's assessed value, not to exceed 50 percent of the median home price in that county.

Retirement

[SB 2100](#) will require employees in the Florida Retirement System to pay 3 percent of their salaries into their retirement accounts; new employees will face higher retirement ages, and their retirement accounts will no longer collect a cost-of-living-adjustment starting July 1. [SB 1128](#) will require local government employees to impose new limits on sick leave and overtime calculations.

OTHER ISSUES

Background Screening

As a result of legislation enacted last year, anyone who wishes to work or volunteer with certain vulnerable populations must first undergo a federal background check. Implementation of the new screening requirements has led to duplication of efforts among employers and non-profits, and increased costs due to a lack of standardization in the process. Rep. Doug Holder's (R-Sarasota) glitch bill ([HB 7233](#)) and the companion bill, [CS/SB 1992](#) addresses many problems that arose for employers, employees and volunteers. Most importantly - because many issues remain - the bill creates a multi-agency workgroup charged with recommending a streamlined background screening system in Florida that will address the issues unresolved in the bill. The workgroup must submit its implementation plan for the new system by November 1, 2011. This expedited process will allow for implementation early next year, as the Legislature begins meeting in January due to reapportionment in 2012.

Welfare Recipients

[HB 353](#) requires all adult recipients of Temporary Assistance for Needy Families (TANF) to pay for drug tests. If they fail the first time, they lose their benefits for one year. Failure a second time leaves them ineligible for three years. Parents who test positive would designate another adult to receive benefits on behalf of their children. Recipients who test negative would be reimbursed for the cost of the test. Individuals will be advised that the drug test may be avoided if they do not apply for TANF benefits.

Office of Program Policy Analysis and Government Accountability (OPPAGA) Budget

Direct funding for OPPAGA, the independent auditing and review agency was eliminated and its budget has been placed into a discretionary legislative account. This follows last year's cut of more than \$2 million of the agency's \$8 million in the 2010 budget, leading some lawmakers to question its ability to continue to function independently.

FEDERAL NEWS

New Head Federal ACF

Former Florida child welfare chief George Sheldon has been appointed as head of the Administration for Children and Families. Health and Human Services Secretary Kathleen Sebelius announced Monday that "he will serve as Senior Advisor to David Hansell until David's departure on June 17th when he will become the Principal Deputy Assistant Secretary and Acting Assistant Secretary at ACF." Sebelius also added "During his time in Florida, George oversaw the state's child welfare programs, fostering a 36 percent reduction in children in out-of-home care, focusing closely on integrating mental health and domestic violence services throughout the Department. He also helped the state dramatically reduce their [food stamp payment] error rate to become a national leader."

George Sheldon when asked by The News Service of Florida what important things he learned at DCF that he'll take to Washington, D.C. said one would be to listen to the people on the front line, who do the job, and "We designed the whole child welfare system in this country and we never talked to kids." "Listen to the kids," he said. **LISTEN TO THE KIDS!**