



This issue is the last weekly Capitol Perceptions for 2016. As bills are being finalized and voted upon this week, we will focus mainly of information regarding the budget negotiations. The Post - Legislative AFC *Current* will include a *Capitol Perceptions* insert that will provide a comprehensive review of the Florida College System budget and all related bills that have passed.

And In the Backstretch...

The week many of us who lobby in Tallahassee look forward to is finally upon us and is described in five words – “The last week of Session.” Today is Day 56 of the 2016 Legislative Session, but it seems like day 356. The Florida lawmakers have been in an almost nonstop session since March of last year. If you include the 2015 regular and special sessions, and the earlier than usual fall interim committee weeks due to the January start this year, it has been almost like one giant unending legislative session. With only 5 days remaining in the 60 day scheduled to end on Friday, we wait with baited breath the results of our legislative toils.

State Budget closure is imminent

This week portends to bring closure to a relatively acrimonious budget conference that began two weekends ago. The acrimony is not so much a disagreement between the Senate and the House although there has been some, but mainly between the Legislature as a whole and the Governor. The appropriations chairs have given the Governor very little respect for his request for an \$80 billion state budget which included \$1 billion in tax breaks for businesses and \$250 million in business “incubator” funds for Enterprise Florida. The chambers have kicked the business incubator funds to the curb, and only agreed to \$400 million in tax breaks. Part of the rationale is the fact that they were not going to get anywhere close to funding the whole request anyway. Additionally, revised revenue estimates for the state have come in about \$400 million below what was originally estimated prior to session. Vetoes of some proposed budget items are expected. Whether or not the Legislature chooses to override some of the vetoes remains to be seen.

FCS Budget

Although it is still unresolved as of this morning, the FCS is looking a bit better than in previous years. On the table are an increase in new performance funds (\$10 million) and some additional sums for funding level equity and compression (\$22.5 million). It is estimated that total system funding will be about \$2.2 billion including tuition and fees. Additionally, 23 colleges are in line to receive \$176 million in construction funding for new construction and remodeling and renovation projects.

Understanding Florida Higher Education Funding

Florida has a two-part public higher education system made up of 12 universities and 28 colleges. There are also 31 private independent (nonprofit) colleges and universities that can benefit from academic contracts and state grant programs.

The State University System (SUS) consists of the 12 universities. The Board of Governors and the chancellor of the SUS have authority over the institutions. It oversees a system that includes more than 300,000 students. The Florida College System (FCS) is comprised of the 28 colleges, 69 campuses and over 800,000 students. The FCS falls under the jurisdiction of the State Board of Education, which governs all education programs outside of the SUS. The chancellor of the FCS reports to the Education Commissioner who reports to the State Board of Education. Independent Colleges & Universities of Florida is an association of 31 private institutions with a combined enrollment of about 150,000.

Higher education in the state is funded mainly by General Revenue (primarily sales tax money), federal student loans, the lottery, and student fees. The universities also benefit from research grants; however, that money is heavily tilted toward the University of Florida, University of South Florida and Florida State University. Private institutions are mainly funded through student tuition and fees, federal loans, and scholarships from the Florida Independent College Fund and the Florida Resident Access Grant (FRAG).

A separate fund, the Public Education Capital Outlay, pays for construction and maintenance for public education buildings. The fund has encountered a reduction in revenue due to a decline in taxes collected from natural and manufactured gas, electricity and communications services, the downturn in state revenues from the Great Recession, and much of the remaining revenue is being used to pay down debt from previously issued bonds.

Performance Funding Is Here to Stay

Legislative leadership has been adding measures across the education system aimed at preparing students to join the workforce and increasing accountability at the institutions. [HB 7029](#) has become what we refer to as a “train” bill. A train bill comes together at the end of session and comprises parts of numerous other bills. In this case, about 10 other bills have been embedded into this one education “train”. Among the provisions in the bill are performance funding metrics that effect colleges, universities, and to a certain extent charter schools. Performance funds are an incentive being used for higher education. The performance model will reward excellence or improvement annually in key areas such as graduation rates and financial efficiency. But it can harm universities and colleges with performances that fail to reach the metrics. [HB 7020](#) specifically states the following regarding FCS performance measures:

A Florida College System Performance-Based Incentive shall be awarded to Florida College System institutions using performance-based metrics adopted by the State Board of Education. The performance-based metrics must include retention rates; program completion and graduation rates; post-graduation employment, salaries, and continuing education for workforce education and baccalaureate programs, with wage thresholds that reflect the added value of the certificate or degree; and outcome measures appropriate for associate of arts degree recipients. The state board shall adopt benchmarks to evaluate each institution’s performance on the metrics to measure the institution’s achievement of institutional excellence or need for improvement and minimum requirements for eligibility to receive performance funding.

PECO Projects Get a Fresh Start

The House and Senate agreed to a list of school construction and maintenance projects Sunday afternoon as the budget talks near the end.

The Public Education Capital Outlay fund would provide \$678 million and the university capital improvement fee would increase total capital outlay funding to \$713 million. The Legislature did not distinguish between how much of that was cash from the fund and how much came from bonds, but the last projection from state economists had the fund at \$368.9 million cash without bonding.

Universities would get \$158 million and \$61.8 million for construction projects and maintenance, respectively. Colleges would receive \$176 million and \$36 million. Charter schools and public schools would each get \$75 million for maintenance and another \$75 million would go to special projects in several counties.

But the real question is if the projects will survive the governor's veto pen. Last year he vetoed \$55 million from the PECO list and has generally not been interested in the practice of bonding.

Gambling Compact On Life Support

A proposed \$3 billion deal negotiated between Gov. Rick Scott and the Seminole Tribe of Florida that would have expanded gambling across the state collapsed Friday after it was rejected by state legislators.

The deal died after the Florida House failed to consider a major gambling bill that would allow the tribe to add craps and roulette at their existing casinos. The bill would have also allowed slot machines to be added at existing dog and horse tracks across the state. House leaders did not take up the legislation because a companion measure had stalled in the Senate and top GOP legislators in that chamber said they had no plans to consider it. The session ends Friday and backers of the legislation said they would abandon any efforts to pass the bill.

This was the first time in six years that a gambling bill had gotten traction in the Republican-controlled House, which had rejected past attempts to bring new casinos to South Florida. But the legislation stumbled in the Senate as various interests — including the owners of existing tracks that compete against the Seminoles — pushed for changes that were not part of the initial deal approved by tribal officials.

The demise of the deal could scuttle a promise by the tribe to add thousands of new jobs and a \$1.8 billion expansion of its casinos at Tampa and Hollywood. Seminole Gaming CEO James Allen last month said the tribe needs the certainty of the proposed compact to move forward. A tribe spokesman on Friday said they would not comment on the legislative decision to reject the compact.

Scott and the tribe late last year worked out a deal allowing the tribe to add roulette and craps and keep blackjack tables at its casinos in exchange for \$3 billion over seven years. That deal also allowed slot machines to be added to a track in Palm Beach County and allowed a new casino to open in Miami-Dade. But others in the gambling industry heavily lobbied the Legislature to make substantial changes to the deal.

The bills that began moving had added provisions that would have also allowed slot machines in tracks in north Florida as well as in Brevard and Lee counties. Top Senate Republicans said all the changes pushed by gambling lobbyists made it harder to support the proposal. The failure of the Legislature to

approve the deal means that the future of gambling in the state could be decided by the courts. The Seminoles and the state of Florida have both filed federal lawsuits because a previous 2010 deal allowing blackjack tables expired last year. The Florida Supreme Court also has agreed to consider a lawsuit that argues slot machines should be allowed at an existing track 25 miles west of Tallahassee.

Pell Changes Proposed by Obama Administration

In February, President Obama released the Administration's fiscal year (FY) 2017 budget request. Included in the budget are federal funding recommendations, as well as federal policy proposals. While virtually the President's entire budget requires Congressional approval, it does set a fiscal marker for the upcoming Congressional budget and appropriations process.

The budget request outlines a number of proposed reforms to the Pell Grant program, as well as information on the current state of the program. For community college students, the Federal Pell Grant program remains by far the most important student aid program. Pell Grants assist more than 8 million postsecondary students each year, and approximately one-third of these students attend community colleges. The Department of Education's (ED) FY 2017 budget request justifications for the Pell Grant program (<http://1.usa.gov/1LxtZ7Y>) recommend policy changes and funding levels, but also take a closer look at program data and trends. The data show that applications for the program have fallen over the past several academic years, with program costs also decreasing. In academic year (AY) 2012 – 2013, nearly 9 million students received a Pell Grant. The budget projects that for AY 2016 – 2017 the number will be closer to 7.7 million students. For AY 2014 – 2015, the budget shows that 2.88 million students at public two-year colleges receive a Pell Grant, equating to a total of over \$10 billion.

The Department of Education proposes reinstating year-round Pell Grants for full-time students who accelerate their completion, as defined by the parameters discussed below. The proposal is entitled 'Pell for Accelerated Completion' and, according to the Department of Education, would provide nearly 700,000 students in award year 2017-18 with an additional \$1,915. Under the proposal, recipients who have completed 24 credit hours in an academic year, who have exhausted their eligibility for the award year, and who wish to enroll in additional coursework would qualify for up to 150 percent of their regular Pell Grant award. This proposal would not include part-time students or students who have varied enrollment status.

The Department of Education is also proposing an additional \$300 On-Track Pell Bonus to students who take 15 credits per semester. This change would effectively increase the Pell Grant maximum award to \$6,235 for recipients who take 15 credit hours per semester in an academic year. The Department of Education has publically stated that the On-Track Pell Bonus combined with the Pell for Accelerated Completion proposal would cost \$2 billion in the next fiscal year. The budget also recommends permanently indexing the Pell Grant maximum award to inflation. Currently, inflationary increases to the maximum grant award are expected to cease after FY 2017. The Administration proposes extending these increases.

The budget estimates the Pell Grant maximum will increase to \$5,935 in award year 2017–2018. The maximum award for the upcoming school year is \$5,815. An additional proposal for the Pell Grant program includes establishing a Second-Chance Pell program, which proposes to reinstate access to Pell Grant aid for eligible incarcerated students in Federal and State penal institutions. The Department of Education is currently implementing a pilot version of this program. The budget also recommends preventing additional Pell disbursements to recipients who repeatedly enroll and obtain aid but do not earn any academic credits. The budget request once again delves into strengthening Pell Grant satisfactory academic progress (SAP) requirements. This has been included in past budget proposals, but the Administration has not included specific recommendations. For FY 2017 the budget does state that SAP should be reformed to support on-time completion, but does not offer any further explanation.

FROM THE NEWS SERVICE OF FLORIDA WIRE...

Nothing is ever dead until the final day of the legislative session, but the bills that likely will and won't make it across the finish line this year became increasingly clear over the last week.

A gaming agreement with the Seminole Tribe and a related rewrite of the state's gambling laws? Almost certainly dead. An overhaul of death-penalty sentencing after a major U.S. Supreme Court ruling? Quickly sent to Gov. Rick Scott. An expansion of the state's nascent medical marijuana industry? Looks like it will get done.

Meanwhile, the House and Senate continued to keep staff members, lobbyists and reporters in the Capitol after hours as they hammered out the final details of the state's \$80 billion (or so) budget for the fiscal year beginning July 1. With one weekend of spending negotiations already in the books, another was on tap.

All the while, advocates began preparing for Hail Mary passes on a variety of long-shot initiatives, and massive legislative "trains" on education, transportation and health care started to take shape. To borrow from Shakespeare (and not from Sherlock Holmes, as some would have you believe), the game's afoot.

But the winners and losers are already coming into focus.

GAME OVER

Calling the efforts to push gambling changes through the Legislature a "heavy lift" had become something of a joke in Tallahassee, simply because the phrase was overused. The reason it was overused was because it was accurate, and the weight of the project came crashing down this week.

Things started out somewhat promising. The House Finance & Tax Committee on Monday crafted what it called a "love note" to the Senate, passing a sweeping bill that would ratify a proposed \$3 billion agreement with the Seminole Tribe and allow pari-mutuels in at least five counties to add slot machines.

The measure ([HB 7109](#)) could also have done away with dog racing and most horse racing, while allowing tracks to keep operating more lucrative betting operations, such as card rooms and slot machines, a process known as "decoupling."

Committee Chairman Matt Gaetz said the "elegance" of the legislation was that it would provide an opportunity for the Seminoles to work with pari-mutuels to resolve their differences, because none of the elements of the bill would go into effect without the tribe's approval.

"Nobody gets anything if there is not mutual accord and consent and agreement," Gaetz, R-Fort Walton Beach, said. "I imagine that ... you would very likely see a negotiation between the tribe and the pari-mutuel facilities who benefit under the bill. And, if there is an inequity ... that inequity can be cured by contract."

Elegant or not, gambling legislation wasn't able to make it through the Senate. That chamber's Appropriations Committee was supposed to hear its version of the bill Tuesday, but Senate Regulated Industries Chairman Rob Bradley, R-Fleming Island, asked that the measure ([SB 7202](#)) be postponed.

Senate leaders blamed the demise of the legislation on the pari-mutuel industry. Both plans would have allowed slot machines in at least five additional counties where voters approved the machines in referendums, and the bills also included other perks for dog and horse tracks and jai alai operators.

"The bill had a lot of ornaments added to it, and the tree eventually gets too many ornaments and it falls over," Bradley said Tuesday.

There were few good options left for the Legislature. Come back for a special session on the Seminole compact? Not something that would appeal to dozens of members running for re-election. Another run at the compact next year? The negotiations might have to start all over again.

The Legislature could also do nothing, while two lawsuits play out in court. One of those lawsuits involves the expiration of part of a 2010 deal between the Seminoles and the state, while the other involves whether a small horse track in Gadsden County should be allowed to offer slot machines.

WHEN THE LIGHTS GO DOWN

There is one bill the Legislature must approve every year: the budget that kicks in on July 1. After Monday closed out the first phase of negotiations with a good deal of the work done, the House and Senate budget chiefs took over the talks. They didn't meet again until Thursday, but quickly knocked off two areas of the budget, reaching agreement on funding for environmental programs and health care.

"If you're someone who cares about agriculture and natural resources in Florida, it's a great budget," said House Appropriations Chairman Richard Corcoran, R-Land O' Lakes. "If you're someone who cares about health care in quality and funding, I think it did very well."

The deal has to be done by Tuesday if lawmakers want to go home on time. And the most difficult work still remained. Almost the entire education budget is unresolved. And lawmakers are considering issuing bonds for education construction projects, something that would set up an even bigger clash with Gov. Rick Scott, who's already unhappy with the direction negotiations have taken. That unhappiness stems in no small part from the fate of Scott's call for \$1 billion in tax cuts. As far as the kinds of reductions that the governor asked for, by Thursday the package had been whittled down to \$129.1 million.

Lawmakers are also holding local education property tax cuts steady by spending an extra \$290 million in state money on public schools --- but Scott didn't ask for that and has pushed back on the idea that it's needed. "Unfortunately, the practical impact of rising property values is higher property taxes," Senate President Andy Gardiner, R-Orlando, said in a prepared statement about the revised tax package. "This year, the Legislature is taking important steps to mitigate that impact, by reducing local millage rates and using only state tax dollars to pay for a \$478 million increase in education funding."

The biggest part of the revised package ([HB 7099](#)), approved Thursday by the Senate Appropriations Committee, would permanently eliminate a tax on manufacturing equipment, which has been temporarily suspended but is set to return in 2017. Scott has made a priority of eliminating the tax. For many Floridians, the biggest part of the package will be a sales-tax "holiday" for back-to-school shoppers. However, the holiday will only last three days in August, rather than the 10 days proposed by Scott and the House.

ON THE MOVE

Other legislation was making its way through the House and the Senate in the usual final-days scramble to get everything done. A hard-fought battle on overhauling the state's alimony system seemed to be on track. The proposal, approved by the Senate in a 24-14 vote Friday, would establish formulas for alimony payments and includes a controversial provision dealing with how much time children should spend with their divorced parents.

Sen. Kelli Stargel, a Lakeland Republican who sponsored the measure, said she wanted to provide predictability for couples, who in the past have used the process of divorce to punish each other. "Going through a divorce is heart-wrenching for all the parties," said Stargel, who said she has been married since she was 17 years old and has never been divorced. "The parents get so angry and so mad at each other. ... The children are the ones that suffer."

The House could vote on the legislation early next week. Lawmakers in that chamber have already signed off on an expansion of medical marijuana in Florida. The plan ([HB 307](#) and [HB 1313](#)) would give terminally ill patients access to full-strength pot while revamping a 2014 law meant to allow some patients to use a milder form of marijuana. The earlier law has been bogged down in legal challenges over the selection of nurseries to get potentially lucrative contracts.

"The focus in our debate and the media has been largely focused on who gets to grow it, who gets to make money, who gets to lobby, who gets to invest," said Rep. Katie Edwards, a Plantation Democrat who has been heavily involved on the medical-marijuana issue. "The hell with them --- who gets to benefit is the patients. That has been largely lost in our debate."

But Rep. Dennis Baxley, R-Ocala, said he doesn't think the bill is good policy. "We're feeding an avalanche that I think will ultimately lead to a tremendous amount of substance abuse in this state," Baxley said.

Social conservatives like Baxley, though, won a victory when the Legislature signed off on a controversial bill ([HB 43](#)) aimed at protecting clergy members who object to performing wedding ceremonies for gay and lesbian couples. The measure comes in the wake of a U.S. Supreme Court ruling last year that legalized gay marriage nationwide. "The bill is a shield. It is not a sword," said Sen. Aaron Bean, R-Fernandina Beach. "Pastors have asked for protection because they're fearful of being discriminated against."

But in the House and Senate, opponents contended that the First Amendment already protects pastors who refuse to perform same-sex weddings. They challenged supporters to show that any religious organizations have been punished for discriminating against same-sex couples. And they raised the specter that the bill would open the door for pastors to refuse to marry interracial couples or divorced people.

"I'm afraid it might turn the clock back," said Senate Minority Leader Arthenia Joyner, a Tampa Democrat and veteran of the civil-rights movement. "I've been there, and I don't want to relive history."

STORY OF THE WEEK: Negotiations continued on the roughly \$80 billion state budget, as lawmakers worked to bring the session to a successful conclusion after last year's session imploded in a health-care fight.

QUOTE OF THE WEEK: "The most repugnant thing is that we're using the guise of helping these kids for a special interest food fight to expand the people that can offer this, that can make money on it. We got somebody who got left out so this bill takes care of them. ... This is about making money, as much or more as it's about helping sick people. And that's my moral imperative to vote no."---Sen. Jack Latvala, R-Clearwater, talking about a Senate bill dealing with the medical marijuana fight.