



MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # 166-2010

LETTER TO COMMISSION

TO: Mayor Matti Herrera Bower and Members of the City Commission


FROM: Jorge M. Gonzalez, City Manager

DATE: June 1, 2010

SUBJECT: **Final Legislative Report on the 2010 Session of the Florida Legislature.**

The purpose of this LTC is to transmit to the Mayor and City Commission the attached report from the City's lobbyists regarding the 2010 Regular Session of the Florida Legislature. This report includes information on the status and outcomes of issues on the City's 2010 State Legislative Agenda, as well as information on other key developments of the Session.

The lobbying team, along with the Miami Beach Legislative Delegation, will make a presentation on the Session at the June 9, 2010 City Commission meeting. In the meantime, if you have any questions or comments, please do not hesitate to contact me.


JMG/HF/kc

Attachment

c: Jose Smith, City Attorney
Executive Staff

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MEMORANDUM

TO: Mayor Matti Bower
City Commissioners and City Manager Gonzalez
City of Miami Beach

VIA: E-mail to Kevin Crowder

FROM: Gary Rutledge
Fausto Gomez
Bob Levy
Margie Menduni
Manny Reyes
Jon Costello

DATE: June 1, 2010

SUBJECT: **Final Legislative Report - 2010 Regular Session**

Introduction

The 2010 Legislative Session was particularly difficult from both a fiscal and political perspective. Preparation for the 2010-2011 state budget began with a projected deficit of \$3.2 billion. Politics were heightened by the resignation of former Speaker Ray Sansom after ethics hearings by his peers. Accusations of corruption surrounded the Governor-backed Executive Director of the state Republican Party which resulted in his resignation and replacement by a sitting State Senator. The rivalry between Republican Governor Crist and former Republican House Speaker Marco Rubio for Mel Martinez' (now George Lemieux) U.S. Senate seat exploded over the Governor's veto of Senate Bill 6, an education policy bill. Strong reaction to the veto led Governor Crist to abandon the Republican Party and announce his intention to run as a "no party" candidate for the U.S. Senate seat.

With all the intrigue, the 2010 Legislature managed to pass 311 bills. The following reflects issues from the City's legislative agenda and other issues of interest to Miami Beach.

Condominium Reform/Elevator Safety and Sprinklers

SB 1196 Relating to Community Associations - PASSED

SB 1196 by Fasano and Ring and HB 561 by Bogdanoff, Hudson and Sachs, were the two major condominium bills that moved through the process during the 2010 Session. Originally, Senator Fasano, Senator Ring, Representative Bogdanoff and Representative Sachs all had separate bills addressing condominium issues, but early in Session the Senate bills were combined, as were the House bills, and all of the sponsors focused on passing one comprehensive condominium reform bill. On April 28, 2010, SB 1196 passed the House with a vote of 107-4 after being passed unanimously by the Senate. The bill was approved by the Governor.

As you will remember, after the Legislature passed a condominium reform bill in 2009 Governor Crist chose to veto the bill, citing public safety concerns with the bill's provision that would have allowed condominiums to opt out of retrofitting common areas with sprinkler systems. This year's condominium reform package has a similar provision. We have diligently worked with the Executive Office of the Governor and the Office of the Chief Financial Officer (the CFO serves as the state's Fire Marshal). In our meetings with the Governor and CFO's staff, they expressed some lingering public safety concern regarding the sprinkler retrofit language. However, the bill sponsors are extremely confident that Governor Crist will sign SB 1196 into law.

SB 1196 contains numerous changes to existing condominium law. Among some of the more significant changes that will save condominium associations a great deal of money during the current economic downturn are the following:

- Delaying the date by which a condominium must retrofit its elevators for Phase Two Firefighter Services until July 1, 2013;
- Providing a condominium association the ability to opt out of retrofitting common areas with sprinklers with a majority vote of the voting interests of the condominium;
- Changes the amount of money banks owe to a condominium association in the case of a foreclosure from 6 months of a unit's unpaid common expenses and regular periodic assessments or 1% of the original mortgage debt, whichever is lower, to 12 months of a unit's unpaid common expenses and regular periodic assessments or 1% of the original mortgage debt, whichever is lower.

HB 1035 Relating to Elevator Safety - PASSED

HB 1035 by Representative Frishe passed the Legislature on April 29. The bill will provide condominium associations relief from retrofitting for Phase II Firefighter Service by giving them until July 1, 2013 to complete the retrofit. This language that passed as part of HB 1035 also passed as part of the large condominium package, SB 1196. The bill was approved by the Governor.

HB 663 Relating to Building Safety - PASSED

SB 648 by Senator Bennett passed the Legislature on the final day of Session. The bill would allow condominiums until July 1, 2015, or until the elevator is replaced or requires major modification, to retrofit for Phase Two Firefighter Services. Provided that both SB 1196 and/or HB 1035 and HB 663 are enacted into law, the longer retrofit window provided by HB 663 should be the prevailing law. The bill was approved by the Governor.

SB 846 Relating to Residential Fire Sprinkler Requirements - PASSED

SB 846 by Senator Bennett passed the full Legislature on April 29. The bill, if enacted, will prohibit the incorporation into the Florida Building Code of certain mandatory residential fire sprinkler provisions of the International Residential Code, specifically requiring new homes to be outfitted with sprinkler systems. The bill was approved by the Governor.

Bert Harris

There were no direct attacks this Session on the sovereign immunity provisions of the Bert Harris Act.

Growth Management

Senate Bill 1752, Economic Development by Gaetz, passed the Legislature on April 30, 2010. Among the many provisions of this bill, section 46 stipulates that a development order issued by a local government, local government building permits and permits issued by the Department of Environmental Protection or a Water Management District pursuant to Part IV of Chapter 373, Florida Statutes, which have an expiration date from September 1, 2008 to January 1, 2012, are extended for a period of two years after their previously scheduled dates of expiration. The two year extension also applies to build-out dates. The bill stipulates that this extension is in addition to the two year permit extension provided under section 14 of Chapter 2009-96, Laws of Florida, which was Senate Bill 360. The bill provides exceptions to the extensions which include permits issued by the Army Corps of Engineers. It also requires that if a permittee is in significant non-compliance after a warning letter or other formal enforcement, then the extension does not apply. The extension does not apply if it would delay or prevent compliance with a court order. An extension has to comply with rules that were in effect at the time the permit was issued. Finally, section 46 states that it does not impair the authority of a county or municipality to require the owner of a property receiving an extension to maintain property in a safe and sanitary manner. The bill was approved by the Governor.

Expansion of Gambling

Although the Legislature ratified and the Governor signed a casino gambling agreement with the Seminole Indian Tribe, no efforts were successful in authorizing casino gambling outside of the current pari-mutuel facilities.

Defibrillator Requirements for Public Buildings

Senate Bill 2556 by Altman and House Bill 1355 by Steinberg would require the owner, operator or administrator responsible for a place of public assembly to notify the local emergency medical services director of the location of an automatic external defibrillator. The local emergency medical services director would be responsible for maintaining a registry of those defibrillator locations. It defines a place of public assembly as an educational facility used as an emergency shelter or a location that has a seating capacity of at least 1,000 people such as a stadium, ballpark, gymnasium, field house, arena, civic center, concert hall, recital hall, theatre, indoor/outdoor amphitheatre and other auditoriums. The bill specifically states that no local government is prohibited from enacting or enforcing a local ordinance that expands that requirement. The Senate Bill passed that Chamber. The House Bill died in committee.

Online Hotel Tax Collections

Efforts to require online internet travel firms to pay sales and tourist related taxes on the full price of rooms they reserve for customers were nearly overturned by House Bill 1231 by Patronis and Senate Bill 2436 by Gaetz. The House Bill passed that Chamber but died in Messages to the Senate. These bills would have defined an internet reservation service provider as an unrelated person not required to remit the local taxes. Three bills were filed which would have required the payment of local taxes by internet providers. Senate Bills 996 and 156 were never heard in committee. House Bill 335 by Long, was heard but temporarily postponed in its first committee.

Energy Economic Zone

The team has been working with the City and Department of Community Affairs on the Energy Economic Zone Pilot Program. During Session, the other pilot community, Sarasota County, wanted to pursue legislation which would provide some incentives to pilot communities before the pilot project barely got started. The Department of Community Affairs and Miami Beach Economic Development staff were opposed to the language as filed. Miami Beach Economic Development Director Kevin Crowder worked with Sarasota County on language in their bill, House Bill 1461 by Fitzgerald, and Senate Bill 2644 by Bennett. Eventually, the City was comfortable with Sarasota's language. We met with Representative Fitzgerald and Representative Steinberg on the original bill. We also kept Senator Gelber and Representative Garcia apprised of the City's position on the bill. The bills were not heard in committee. A condensed version of the bill was amended onto House Bill 7229 which passed that Chamber but died in the Senate.

Red Light Cameras

House Bill 425 by Reagan passed the Legislature and has been signed by the Governor. This bill preempts to the state the use of cameras to enforce traffic laws. It authorizes counties and municipalities to use traffic infraction detectors to identify motor vehicles that fail to stop at a

traffic control signal steady red light. The bill requires traffic infraction devices to meet specifications established by the Florida Department of Transportation. However, it does have a grandfather clause for equipment purchased or leased before the implementation of the bill. Section 12 of the bill sets out the monetary penalties allowed and their disposition which varies according to which officers, state or local, enforce the act.

Film Incentives

The Florida film industry's desire to change the industry's financial incentives program to a corporate income tax and sales and use tax credit to qualified entities rather than reimbursement from appropriations passed in Senate Bill 1752, Economic Development by Gaetz. Tax credits may not be applied prior to 2011.

Local Revenue Restrictions/TABOR

Senator Haridopolos filed Senate Joint Resolution 2420 which would have limited state and local government revenue. There was no House companion. When the bill was heard in its first committee, it was amended to only limit state, not local government revenue. It was only heard in one committee.

Early Responder Service Fees

There was no legislation that would have prohibited the City from charging fees or seeking reimbursement for use of early responder services.

Sexual Predators and Offenders

House Bill 119 by Glorioso passed the Legislature on April 30. This bill sets a 300 foot parameter around places where children congregate within which a sex offender cannot loiter or prowl. It prohibits sexual offenders from being on real property comprising a child care facility or kindergarten through grade 12 school without notice and supervision. The bill defines temporary and transient residences relative to required registration. Language in the bill which would have provided that the Legislature intended to establish a statewide residency restriction distance was removed from the bill. The bill was approved by the.

The team worked with Senator Gardiner and Representative Horner to place an amendment into House Bill 1271. The amendment would prevent camping under the Julia Tuttle Bridge. The bill must be acted upon by the Governor by June 5, 2010.

Anchoring and Mooring of Vessels

Representative Steinberg filed House Bill 1361 and Senator Gelber filed its companion, Senate Bill 2506. These bills would have removed restrictions on county and municipal regulation of

vessels not in navigation. The House Bill was heard in one committee with a lot of opposition and was temporarily postponed and died in that committee. The Senate Bill was never heard.

We participated in a conference call relating to anchoring with Senator Gelber, constituents and the Florida Fish and Wildlife Conservation Committee staff. We have been working with the Senator and FWCC staff to have Miami Beach become a pilot community in cooperation with the City of Miami to work on more flexible regulation of vessel mooring.

Sale of Alcohol

There are a number of coalitions opposed to authorizing local governments' regulation and prohibition of the sale of single cans of alcohol. No legislation was filed in this regard.

Plastic Bags

A state law was passed two years ago which prevented local governments from regulating the distribution and use of plastic bags by retail establishments until the state Legislature acted on that regulation. The Legislature did not act on that regulation this year so the restriction stays in place.

Erosion of Local Authority

Senate Bill 2060 which has already been signed by the Governor increases the current waiver of liability limits for the state and its agencies and subdivisions to \$200,000 for individual claims and \$300,000 per aggregate claims. The current liability is \$100,000 for individual claims and \$200,000 per aggregate claims. The bill becomes effective October 1, 2011.

House Bill 1157 related to Prompt Payment by local governments passed this Session. This bill which has been worked over several years by local governments and amends Florida Statute 218.735, Timely Payment for Purchases of Construction Services, requires contractors to send the local government an overdue notice for payment. If the notice is not rejected by the local government within four business days after delivery, the payment request or invoice is deemed accepted except for any portion of the request that is fraudulent or misleading. The local government must identify a single employee or facility or office to which the contractor would submit its payment request or invoice. If a payment request or invoice does not meet the contract requirements, the local governmental entity must reject the payment request within twenty days after receipt. The construction contract has to provide for the development of a single list of items required to render the project complete. The bill sets out a timeline for developing that list. The bill becomes effective October 1, 2010.

Budget Issues

We worked diligently with Representative Rivera, Chairman of the House Appropriations Committee, and the staff at Beach and Shore Preservation Society on beach renourishment

funding. The statewide renourishment is allocated at \$15 million. Proviso language dedicates \$6.7 million to Miami-Dade County. Most of the funds will be used to move sand from the last remaining offshore site and to conduct truck haul nourishment of eroded sections in Miami Beach. The \$6.7 million is matched by \$11 million in federal funds and \$7.6 million in local funds.

Historic Preservation Grants were funded at \$768,250 statewide. The City had applied for two historic preservation grants; one for MiMo Public Awareness through a grant program which receives only federal funding. The other project was Fulford-by-the-Sea Monument which was very far down the priority list totaling \$2.3 million.

The budget appropriates \$297,200 for art grants; \$2 million for cultural and museum grants and \$360,000 for Florida Endowment for the Humanities.

Funding for Workforce Development includes the following items for Miami-Dade County.

- Adults with disability funds \$1.7 million
- Public schools work force education performance based incentives \$945,149
- Public schools work force education program funds \$91.8 million

Affordable housing statewide received the following allocations:

- CDBG \$33 million
- Housing and Urban Development Disaster Grants \$63.6 million
- First Time Home Buyer Down Payment Assistance \$37.5 million
- Weatherization Grants \$9.7 million

Housing Trust Fund Sweeps to General Revenue included:

- Local Government Housing Trust Fund \$148.4 million
- State Housing Trust Fund \$25.9 million

No substantive legislation passed on affordable housing.

Transportation funding of interest to the Beach include the following:

- SR 934/NE 79 Street over the Intercostals Waterway Bridge \$2.9 million
- SR A1A/McArthur Causeway and West Avenue to Collins Avenue \$2.3 million

Desalination

In regard to funding for desalination, House Bill 7207 extends the duties of the Water Pollution Control Financing Corporation which is currently responsible for the Clean Water Revolving Loan Fund to also include responsibility for the Drinking Water Revolving Loan Fund which currently is run by the Department of Environmental Protection. This allows the Corporation to now authorize bonds for the Drinking Water Revolving Loan Fund as well as the Clean Water Revolving Loan Fund. The stand alone bill did not pass. However, the language is in the enrolled version of Senate Bill 550.

Agency Issues

During Session, it was our pleasure to arrange a meeting between Mayor Bower, City Manager Gonzalez, Commissioner Libbin and Kevin Crowder with FDOT Secretary Kopelousos and her staff to address the City's concerns related to the Port of Miami Tunnel Project.

We worked with the Florida Department of Health to address concerns raised by the County Health Department related to the South Point Fountain. Intervention on that issue is ongoing.

During Session, we arranged for City staff to have a conference call with DEP Deputy Secretary Ballard with regard to regulatory issues related to the Bay Walk Project. Work on that issue is ongoing.

Before and during Session, we met with the Department of Community Affairs representatives and City staff on the Energy Economic Zone Pilot Program.

It was our pleasure to intervene with the Department of Community Affairs on behalf of the City to secure funds for the Neighborhood Stabilization Program. We have also kept Senator Gelber and his staff apprised of the progress in this program.

During Session, we participated in both a meeting and a conference call between the City and the Fish and Wildlife Commission to secure designation as one of the locations for the Anchor and Mooring Pilot Program. The issue is ongoing.

Education Issues

Section 25 in House Bill 5101 which passed this Session requires that a school district allocate 80% of funds received from IB bonus FTE funding to the school program whose students generate the funds and to school programs that prepare prospective students to enroll in IB courses. The language of the bill further stipulates that funds are to be expended solely for the payment of allowable costs associated with the IB program. This should prove to be very helpful to the City's IB initiatives.

The base student allocation was only increased by \$6.86.

A revision to the class size requirement for public schools passed in Senate Joint Resolution 2. The resolution allows for calculation of class sizes as a school average. For example, a third grade class could have 19 students so long as another third grade class in the same school enrolled no more than 17 students. It places limits on averaging to prevent any K-3 classrooms from having more than three more students or 4-12 classrooms from having any more than 5 additional students. It will go before Florida voters in November 2010.

Senator Garcia filed Senate Bill 2086 and Representative Rivera filed House Bill 1451 which would have required the Department of Education to contact an out-of-state post-secondary education institution to conduct a study to analyze Florida's district cost differential. Both bills died in committee. However, Representatives Rivera and Flores did get such language into the budget. Line Item 123 in proviso requires that an out-of-state entity study the Florida Education Finance Program. The study is to review the funding distribution formula and make recommendations for improvements that would better reflect the varying characteristics of each of the 67 school districts and report to the Legislature and Governor by January 1, 2011. An appropriation of \$100,000 is provided for the study.

Taxes

Senate Bill 2024 by Alexander reduces the rate of communication services tax from 6.8% to 6.65%. It also increases the gross receipts tax on communication services from 2.37% to 2.52%. This allows the state to bond the gross receipts tax on communication services. The reduction in communication services tax will cost local governments \$2.3 million in 2010-11 and \$2.5 million on a recurring basis. The bill was approved by the Governor.

House Bill 5801 directs the Department of Revenue to develop and implement an amnesty program for taxpayers subject to state and local taxes. The amnesty program is to be in effect for a three month period beginning July 1, 2010 and ending on September 30, 2010 and shall apply only to tax liabilities due prior to July 1, 2010. The Revenue Estimating Conference estimates that new revenue to local governments in fiscal year 2010-2011 is estimated to be \$7.1 million of which \$1.9 million will be recurring. The bill was approved by the Governor.

Workforce Boards

Senator Fasano filed Senate Bill 1646 which had no House companion. This bill prohibited board members and their relatives from contracting with or having financial interests in a contract with the Regional Workforce Board on which the member serves. Language appears in the budget implementing bill, House Bill 5003, Section 49. In the language, board members are directed not to pay for meals, food or beverages for board members, staff or employees. It directs Workforce Florida to develop statewide fiscal policies for the boards to address ethics problems.

Qualified Target Industries

House Bill 7109, extends the QTI Program which was due to expire until July 30, 2020. The bill creates a definition of "return on investment" for QTI projects. It allows leased employees to be included in the qualifying count, and requires a review of targeted industry lists every three years. It extends renewable energy economic development projects from the requirement that qualified target industries must be independent of Florida resources and markets. The bill has not gone to the Governor. QTI language is also present in Senate Bill 1752 relating to Economic Development by Gaetz.

Transportation

Senate Bill 1842 directs the Department of Transportation to notify property owners and local government entities of certain proposed projects before finalizing the design of those projects. It provides a time frame for this notification. It also requires the Department to hold public hearings and receive public input regarding the effects of the project on local businesses. The bill passed. The Governor must act on this bill by June 5, 2010.

The state Transportation Trust Fund was swept of \$160 million which went into General Revenue. This is Section 129 of the budget. The funds are to be transferred in October and December of 2010 and in January and April of 2011.

Recycling

House Bill 7243 which passed the Legislature directs counties to achieve a 40% recycling rate by December 31, 2012, 50% by December 31, 2014, 60% by December 31, 2016, 70% by December 31, 2018 and 75% by December 31, 2020. Counties and municipalities are encouraged to form cooperative arrangements for implementing the recycling program. If the recycling rates are not attained, then DEP may direct the county to develop a plan to expand recycling to existing commercial and multi-family dwellings, including apartment complexes. The bill was approved by the Governor.

It has been our pleasure to represent the City of Miami Beach in the 2010 Legislative Session. We will continue to advise the City of action by the Governor and will keep you abreast of interim studies as they are announced and continue our work with the City on various Executive Branch issues.