2007-C Special Session

Summary of Legislation Passed

Compiled and Edited by
Office of the Senate Secretary

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CS/HB 13-C — Motor Vehicle Insurance

by Jobs and Entrepreneurship Council and Rep. Bogdanoff and others (CS/SB 40-C by Banking and Insurance Committee and Senators Posey and Margolis)

The bill (Chapter 2007-324, L.O.F.) reenacts and revises the Florida Motor Vehicle No-Fault Law (ss. 627.730-627.7405, F.S.) effective January 1, 2008. All motor vehicle owners must obtain personal injury protection (PIP) coverage by that date, and insurers must add PIP coverage to motor vehicle insurance policies in force on that date. Insurers are required to send notice to policyholders by November 15, 2007, that PIP coverage will be added to their policies on January 1, 2008, and the premium that is due. Insurers are to use the same rates and forms that they had in effect under the prior no-fault law in effect on September 30, 2007 (the day before it was repealed), unless the insurer makes new rate and form filings. Motor vehicle owners are not required to have PIP coverage from October 1, 2007, until January 1, 2008. The no-fault law tort restrictions (which prohibit recovery of non-economic damages for non-permanent injuries) will not apply to accidents occurring on October 1, 2007, through December 31, 2007, unless the plaintiff and defendant in an accident both have PIP coverage that meets the requirements of the no-fault law that was in effect on September 30, 2007. The bill also clarifies that the requirement that motor vehicle owners maintain property damage liability coverage continues to apply.

The bill revises the Florida Motor Vehicle No-Fault Law as follows, effective January 1, 2008:

Medical Benefits

Personal injury protection (PIP) coverage will continue to pay 80 percent of medical expenses up to $10,000. However, benefits are limited to services and care lawfully provided, supervised, ordered or prescribed by a licensed physician, osteopath, chiropractor or dentist; or provided by:

- A hospital or ambulatory surgical center;
- An ambulance or emergency medical technician that provided emergency transportation or treatment;
- An entity wholly owned by physicians, osteopaths, chiropractors, dentists, or such practitioners and their spouse, parent, child or sibling;
- An entity wholly owned by a hospital or hospitals;
- Licensed health care clinics that are accredited by a specified accrediting organization;

- Licensed health care clinics that:
    - Have a medical director that is a Florida licensed physician, osteopath, or chiropractor;
    - Have been continuously licensed for more than 3 years or are a publicly traded corporation; and
    - Provide at least four of the following medical specialties: general medicine, radiography, orthopedic medicine, physical medicine, physical therapy, physical rehabilitation, prescribing or dispensing outpatient prescription medication, or laboratory services.

Medical Fee Limits for PIP Reimbursement

The bill allows insurers to limit reimbursement for benefits payable from PIP coverage to 80 percent of the following schedule of maximum charges:

- For emergency transport and treatment (ambulance and emergency medical technicians), 200 percent of Medicare;
- For emergency services and care provided by a hospital, 75 percent of the hospital's usual and customary charges;
- For emergency services and care and related hospital inpatient services rendered by a physician or dentist, the usual and customary charges in the community;
- For hospital inpatient services, 200 percent of Medicare Part A;
- For hospital outpatient services, 200 percent of Medicare Part A;
- For all other medical services, supplies, and care, 200 percent of Medicare Part B, not to be lower than the 2007 Medicare fee schedule;
- For medical care not reimbursable under Medicare, 80 percent of the workers' compensation fee schedule. If the medical care is not reimbursable under either Medicare or workers' compensation then the insurer is not required to pay.

The insurer may not apply any utilization limits that apply under Medicare or workers' compensation. Also, the insurer must reimburse any health care provider rendering services under the scope of his or her license, regardless of any restriction under Medicare that restricts payments to certain types of health care providers for specified procedures. Medical providers are not allowed to bill the insured for any excess amount when an insurer limits payment as authorized in the fee schedule, except for amounts that are not covered due to the PIP coinsurance amount (the 20 percent co-payment) or for amounts that exceed maximum policy limits.

Priority of Payment for Physicians Rendering Care in a Hospital

The insurer must reserve $5,000 of PIP benefits for payment to licensed physicians, osteopaths, or dentists rendering emergency care or inpatient care at a hospital. The funds must be reserved for 30 days after the insurer receives notice of an accident that is potentially covered by PIP benefits, after which time the unclaimed amount of the reserve may be used to pay claims from other providers. The required time to pay claims to other providers is tolled to the extent that the PIP benefits not held in reserve are insufficient to pay the claim.

Demand Letter

The bill increases from 15 days to 30 days the time an insurer has to pay a claim (with interest and penalty) after a medical provider has sent a “demand letter” for late payment of a claim. A provider may not file suit and potentially collect attorney’s fees until the end of this 30-day period.

Mandatory Consolidation of PIP Claims

The bill requires that all PIP claims against an insurer related to the same health care provider for the same injured person must be brought together in a single lawsuit, unless good cause is shown why such claims should not be brought separately.

Unfair Trade Practices for Failure to Pay Valid Claims

An insurer that fails to pay valid PIP claims with such frequency that it indicates a general business practice violates the unfair and deceptive practice pursuant to the Insurance Code, subject to penalty pursuant to s. 626.9521, F.S. The Office of Insurance Regulation is authorized to investigate, impose fines, and enter a cease and desist order against such an insurer through exercising the powers and duties specified in ss. 626.9561-626.9601, F.S. The Department of Legal Affairs (Attorney General) may investigate and initiate actions for such violations, as specified in ch. 501, part II, F.S., The Florida Deceptive and Unfair Trade Practices Act.

Death Benefits

The bill clarifies current law that the PIP death benefit is $5,000, or the remainder of unused PIP benefits, whichever is less.

Property Damage Liability Mandate

The bill clarifies that property damage liability is mandatory and remains effective during any period that PIP coverage is not required.

The provisions were approved by the Governor and became effective October 11, 2007. However, the provisions of the bill reenacting and amending the Florida Motor Vehicle No-Fault Law, other than provisions regarding the no-fault law's application, are effective January 1, 2008.
Vote: Senate 37-0; House 105-4

CS/HB 15-C — Public Records/Motor Vehicle Insurance

by Jobs and Entrepreneurship Council and Rep. Bogdanoff (CS/SB 42-C by Banking and Insurance Committee and Senator Posey)

The bill (Chapter 2007-325, L.O.F.) requires the Department of Highway Safety and Motor Vehicles to hold, as confidential and exempt from the public records law, personal identifying information of an insured or former insured and insurance policy numbers regarding personal injury protection and property damage liability insurance policies. Such information held by the department is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution. The exemption applies to such information held by the department before, on, or after the effective date of this bill.

Upon written receipt by the department of a written request and copy of a crash report as specified, the department must release the policy number for a vehicle involved in a motor vehicle accident to any person involved in such accident, the attorney of any person involved in the accident, or a representative of the insurer of any person involved in the accident.

This new public records exemption in s. 324.242, F.S., as created by the bill, is similar to the public records exemption in s. 627.736(9), F.S., that was repealed on October 1, 2007, as part of the repeal of the Florida Motor Vehicle No-Fault Law. The new public records exemption is subject to the Open Government Sunset Review Act and shall stand repealed October 2, 2012, unless reviewed and reenacted by the Legislature.

These provisions became law upon approval by the Governor on October 11, 2007.
Vote: Senate 37-0; House 107-0

CS/SB 6-C — Adjustments to Education Appropriations

by Education Pre-K – 12 Appropriations Committee and Senator Wise

This bill revises several education Pre-K–12 statutory provisions to conform the statutes and the Special Appropriations Act for FY 2007-2008. The bill:

- Provides that if the appropriation for Class Size Reduction is reduced, the Commissioner of Education may recommend a reduction in the Class Size Reduction operating categorical transfer to fixed capital outlay of 10 percent.

- Provides flexibility to use specified categorical allocations for classroom instruction, and requires documentation and reporting when flexibility is used. This statutory modification expires on July 1, 2008.

- Provides that if the appropriation for the FEFP is reduced, the Legislature is to designate the percent of the decline in the unweighted FTE students to be funded for the Declining Enrollment Supplement.

- Provides expanded flexibility for a school district to use revenue from the 2 mill levy for capital outlay up to $25 per student to pay for certain motor vehicles and property and casualty insurance. Criteria for district eligibility are revised to remove audit compliance, district responsibility for charter school class size reduction compliance, and to add a certification that the district does not need all of its 2 mill revenue for capital outlay purposes. This statutory modification expires on July 1, 2008.

- Requires that funds for the Merit Award Program be released and distributed to eligible school districts on or before July 31, and distributed to eligible recipients by October 1 with documentation and refunds of undisbursed appropriations by November 1, pursuant to the provisions of s. 1012.225 (2) (a), F.S.

- Provides that if funds available for the Excellent Teaching Program are insufficient for all payments, the payments for mentoring and related services shall be prorated among the eligible recipients.

- Incorporates by reference the legislative calculations for the Florida Education Finance Program as adjusted for the appropriations and reductions to appropriations for FY 2007-2008.

- Provides legislative intent that expenditures for classroom instruction shall not be reduced as a result of the 2007-2008 Special Appropriations Act.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 111-2

CS/HB 1-C — Property Taxes

by Policy and Budget Council and Rep. Lopez-Cantera (SB 44-C by Senator Diaz de la Portilla)

The bill (Chapter 2007-323, L.O.F.) amends the definition of "municipality of special financial concern" in s. 200.185, F.S., so that a municipality must have been in a state of financial emergency pursuant to s. 218.503, F.S., since June 30, 2002 (instead of "since 2001"), in order to qualify as a municipality of special financial concern. It also provides that the maximum millage rate in FY 2008-2009 for a municipality that no longer qualifies as a municipality of special financial concern will be determined as if the municipality had never been a municipality of special financial concern.

These provisions were approved by the Governor and take effect November 1, 2007.
Vote: Senate 37-0; House 105-0

SB 2-C — Special Appropriations

by Fiscal Policy and Calendar Committee

The bill makes special appropriations and adjustments to FY 2007-2008 appropriations which are summarized as follows:

- Total recurring General Revenue appropriations for are reduced by $915.2 million while total recurring trust fund appropriations are reduced by $318.5 million.

- Additional non-recurring General Revenue appropriations of $168 million are provided for education programs, therefore, the net General Revenue reduction for FY 2007-2008 is $766.8 million.

- The net reductions to trust fund appropriations are $317.9 million after additional non-recurring trust fund appropriations of $23.2 million.

- The annualized General Revenue reduction for FY 2008-2009 will be $987.8 million.

Total General Revenue reductions for FY 2007-2008 by policy area are as follows:

- Pre-K–12 Education Appropriations - $415.0 million
- Higher Education - $140.0 million
- Health Appropriations - $201.1 million
- Criminal and Civil Justice Appropriations - $103.0 million
- General Government Appropriations - $26.4 million
- Transportation and Economic Development Appropriations -$19.1 million

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 23-9; House 72-39

SB 4-C — Implementing Special Appropriations

by Fiscal Policy and Calendar Committee

This bill provides provisions for implementing special appropriations and adjustments provided in SB 2-C relating to special appropriations for FY 2007-2008. A summary of the provisions are listed below:

- Requires agencies to submit a report by January 15, 2008, regarding revisions, additions, or deletions to approved performance measures and standards related to the implementation of reductions and other changes in appropriations.

- Requires the Office of the Inspector General in each department to review the assignment and use of motor vehicles by employees to determine compliance with current law relating to the limitation on use of motor vehicles and perquisites.

- Requires each department to update the Equipment Management Information System (EMIS) and submit a report by December 1, 2007.

- Requires each agency to adopt policies and procedures to maximize the efficient use of motor vehicle assignment, including policies and procedures for surplusing motor vehicles found to be unnecessary.

- Redefines “bioenergy” for the Farm-to-Fuel Grants Program.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 74-39

CS/SB 20-C — Research Funded by the Pari-mutuel Wagering Trust Fund

by General Government Appropriations Committee and Senator Alexander

This bill eliminates the requirement that funds from the Pari-mutuel Wagering Trust Fund within the Department of Business and Professional Regulation be used for university-administered and directed research and development programs at the University of Florida.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 113-0

CS/SB 22-C — Gift Certificates

by General Government Appropriations Committee and Senator Alexander

This bill clarifies the definition of "gift certificate" and exempts manufacturer or retailer discounts and coupons from the definition.

The bill allows all gift certificates provided as charitable contributions to expire after three years. Previously, such gift certificates could only expire if no consideration had been given to the issuer by the consumer.

For gift certificates provided as a benefit pursuant to an employee-incentive program, the bill eliminates the requirement that no consideration be given by the consumer in order for the gift certificate to expire after one year.

The bill permits a gift certificate to have an expiration date if it is provided to the recipient as part of a loyalty program or promotional program when the recipient does not pay a separate identifiable charge for the certificate or if it is provided in conjunction with a conference or vacation event.

The bill requires the Department of Agriculture and Consumer Services to enforce restrictions on gift certificates as provided in s. 501.142 (3), (4), and (5), F.S.

The provisions in the bill are to be retroactively applied to all gift certificates purchased and credit memos issued on or after June 28, 2007.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 114-0

CS/SB 24-C — Trust Funds

by General Government Appropriations Committee and Senator Alexander

This bill amends the distribution of documentary stamp tax revenues to certain trust funds within the Department of Environmental Protection. For the Conservation and Recreation Lands Trust Fund, the distribution percentage is reduced from 4.2 percent to 3.96 percent in FY 2007-2008. Beginning FY 2008-2009, the distribution percentage is further reduced to 3.52 percent. For the Invasive Plant Control Trust Fund, the statutory cap is reduced from $36.1 million to $34.1 million, beginning FY 2007-2008. For the Water Protection and Sustainability Program Trust Fund, the distribution of funds is reduced from $100 million to $80 million, beginning FY 2007-2008. The bill also amends the percentage distribution of Water Protection and Sustainability Program funds for activities relating to alternative water supply, Total Maximum Daily Loads, surface water improvement and management, and the Disadvantaged Small Community Wastewater Grant Program.

For FY 2007-2008, the bill provides a total of $27 million of documentary stamp revenue on a recurring basis to the General Revenue Fund. In FY 2008-2009, the bill provides an additional $10 million to the General Revenue Fund.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 22-11; House 71-42

HB 5007-C — Distribution of Excise Taxes on Fuel and Other Pollutants

by Policy and Budget Council and Rep. Mayfield

This bill provides an additional $3 million to be transferred from the Inland Protection Trust Fund to the Florida Coastal Protection Trust Fund within the Department of Environmental Protection.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 74-40

HB 5009-C — Appropriations to the Fish and Wildlife Conservation Commission

by Policy and Budget Council and Rep. Mayfield

This bill eliminates the requirement that the Legislature annually appropriate from the General Revenue Fund at the FY 1988-1989 level for activities specified in s. 372.5701(1), F.S. These activities include administration, education, law enforcement, marine research, and fishery enhancements.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 114-0

CS/SB 12-C — Healthcare

by Health and Human Services Appropriations Committee and Senator Peaden

- Allows for the authorization of additional hours of personal care assistance services above the current 180 hour per month limit for persons who have intensive physical, medical, or adaptive needs if such hours are essential for avoiding institutionalization.

- Amends proviso in Specific Appropriation 270 in ch. 2007-72, L.O.F., to allow for additional hours of personal care assistance above the current 180 hours per month limit for persons who have intensive physical, medical, or adaptive needs if such hours are essential for avoiding institutionalization.

- Eliminates the requirement that a nursing home provider receive a reimbursement rate that is equivalent to the previous owner's rate after a change of ownership; and limits Medicaid payments for nursing home Medicare Part A coinsurance to the Medicaid per diem rate less any amount paid by Medicare, but only up to the Medicare coinsurance amount.

- Requires Medicaid-eligible children who reside in AHCA area 10, with cases open for child welfare services in the HomeSafeNet system, to be exempt from the specialty prepaid plan upon the development of a service delivery mechanism within capitated managed care plans by July 1, 2008.

- Requires AHCA to give priority consideration in Medicaid managed care enrollment to certain managed care plans until the providers reach 15,000 members per month; and prohibits enrollment assignment under this priority consideration to a managed care plan that has an enrollment of 25,000 or more members statewide.

- Eliminates the equal assignment process between MediPass and managed care plans for Medicaid recipients in AHCA areas 1 and 6 who fail to choose a plan within the initial thirty day choice period, effective March 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 88-25

CS/SB 14-C — Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute

by Health and Human Services Appropriations Committee and Senator Peaden

This bill reduces the annual appropriation within the Department of Elder Affairs from $15 million to $13.5 million for the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, beginning in FY 2007-2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 27-6; House 97-15

CS/SB 8-C — Tuition and Fees for Higher Education

by Higher Education Appropriations Committee and Senator Lynn

This bill modifies statutes relating to student tuition and fees for higher education and provides related appropriations.

- The bill establishes a resident student tuition, effective January 1, 2008 for each of the following programs: workforce development education, advanced and professional education, associate in science degree, college preparatory programs, baccalaureate programs in community colleges, and lower level and upper level coursework in state universities.

- The tuition rates are 5 percent over the rates charged during the 2006-2007 school year. Beginning with FY 2008-2009, tuition will be indexed to the rate of inflation as determined by the Consumer Price Index, unless otherwise provided in the General Appropriations Act.

- The bill also requires each institution to develop plans to use a portion of the January 1 tuition increases for additional need-based financial aid.

- The bill provides nonrecurring appropriations from the General Revenue Fund to make up for tuition revenue decreases from the fall term due to the executive veto of a 5 percent tuition increase. These funds will be distributed to school districts, community colleges and state universities based on their respective share of student revenues.

- The bill authorizes, beginning with the 2009-2010 fall term, each university board of trustees to establish a technology fee of up to 5 percent of the per credit hour tuition to support instructional technology for students and faculty. This fee will not be included in any award under the Florida Bright Futures Scholarship Program.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 31-2; House 95-17

CS/SB 10-C — Higher Education

by Higher Education Appropriations Committee and Senator Lynn

This bill makes two changes to the Bright Futures Scholarship Program effective January 1, 2008:

- It requires a high school diploma, or its equivalent, to receive a Bright Futures scholarship. This removes eligibility for early admission high school students. Early admission students are already exempt from any requirement for payment of tuition and fees, including lab fees.

- It provides that the supplemental amount to be paid for “college-related expenses” for Academic Scholars awards shall be specified in law or the General Appropriations Act.

If approved by the Governor, these provisions take effect January 8, 2008.
Vote: Senate 33-0; House 113-0