



THE COMMERCE GROUP

2007 C Special Session Summary

Pamela Burch Fort, President

Banking and Insurance

HB 13C, Motor Vehicle Insurance

- Reenacts and revises the Florida Motor Vehicle No-Fault Law (ss. 627.730-627.7405, F.S.) effective January 1, 2008.
- Requires that 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.
- Specifies that 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and forms that they had in effect under the prior no-fault law in effect on September 30, 2007 (the day before it was repealed), unless the insurer makes new rate and form filings.
- Clarifies that motor vehicle owners are not required to have PIP coverage from October 1, 2007, until January 1, 2008.
- Explains that 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.
- Clarifies that the requirement that motor vehicle owners maintain property damage liability coverage continues to apply.
- States that personal injury protection (PIP) coverage will continue to pay 80 percent of medical expenses up to \$10,000.
- Limits benefits 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.
- Requires that the above mentioned facilities have a medical director that is a Florida licensed physician, osteopath, or chiropractor.
- Requires that licensed facilities have continuously been licensed for more than 3 years or are a publicly traded corporation.

- Requires that a facility 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.
- Allows insurers to limit reimbursement for benefits payable from PIP coverage to 80 percent of the following schedule of maximum charges.
- Explains that for emergency transport and treatment (ambulance and emergency medical technicians), the limit is 200 percent of Medicare.
- States that for emergency services and care provided by a hospital, the limit is 75 percent of the hospital's usual and customary charges.
- Provides that for emergency services and care and related hospital inpatient services rendered by a physician or dentist, the rates should be based on the usual and customary charges in the community.
- Explains that for hospital inpatient services, the limit is 200 percent of Medicare Part A.
- States that for hospital outpatient services, the limit is 200 percent of Medicare Part A.
- Provides that for all other medical services, supplies, and care, the limit is 200 percent of Medicare Part B, not to be lower than the 2007 Medicare fee schedule.
- States that for medical care not reimbursable under Medicare, 80 percent of the workers' compensation fee schedule.
- Specifies that if the medical care is not reimbursable under either Medicare or workers' compensation then the insurer is not required to pay.
- Clarifies that the insurer may not apply any utilization limits that apply under Medicare or workers' compensation.
- Requires the insurer to 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.
- Explains that 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.
- Requires the insurer to reserve \$5,000 of PIP benefits for payment to licensed physicians, osteopaths, or dentists rendering emergency care or inpatient care at a hospital.

- Specifies that 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.
- States that 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.
- 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.
- Explains that a provider may not file suit and potentially collect attorney’s fees until the end of this 30-day period.
- 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.
- Clarifies that 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.
- Authorizes the Office of Insurance Regulation 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.
- Allows the Department of Legal Affairs (Attorney General) to investigate and initiate actions for such violations, as specified in ch. 501, part II, F.S., The Florida Deceptive and Unfair Trade Practices Act.
- Clarifies current law that the PIP death benefit is \$5,000, or the remainder of unused PIP benefits, whichever is less.
- Clarifies that property damage liability is mandatory and remains effective during any period that PIP coverage is not required.
- Effective Date: 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.

HB 15C, Public Records/Motor Vehicle Insurance

- 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.

- Provides that 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.
- Explains that the exemption applies to such information held by the department before, on, or after the effective date of this bill.
- States that 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.
- Clarifies that 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.
- Provides that 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.
- Effective Date: October 11, 2007

Education Pre-K – 12 Appropriations

SB 6C, Adjustments to Education Appropriations

- Revises several education Pre-K–12 statutory provisions to conform the statutes and the Special Appropriations Act for FY 2007-2008.
- 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.
- Revises 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.
- Effective Date: Upon becoming law.

Finance and Tax

HB 1C, Property Taxes

- 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.
- 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.
- Effective Date: November 1, 2007

General Government Appropriations

SB 20C, Research Funded by the Pari-mutuel Wagering Trust Fund

- 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.
- Effective Date: Upon becoming law.

SB 22C, Gift Certificates

- Clarifies the definition of “gift certificate” and exempts manufacturer or retailer discounts and coupons from the definition.
- Allows all gift certificates provided as charitable contributions to expire after three years.
- Explains that previously, such gift certificates could only expire if no consideration had been given to the issuer by the consumer.
- States that 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.
- 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.
- 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.
- Explains that 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.
- Effective Date: Upon becoming law.

SB 24C, Trust Funds

- Amends the distribution of documentary stamp tax revenues to certain trust funds within the Department of Environmental Protection.
- Provides that 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.

- Explains that beginning FY 2008-2009, the distribution percentage is further reduced to 3.52 percent.
- States that for the Invasive Plant Control Trust Fund, the statutory cap is reduced from \$36.1 million to \$34.1 million, beginning FY 2007-2008.
- Provides that 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.
- 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.
- Provides a total of \$27 million of documentary stamp revenue on a recurring basis to the General Revenue Fund.
- Provides an additional \$10 million to the General Revenue Fund.
- Effective Date: Upon becoming law.

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

- 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.
- Effective Date: Upon becoming law.

HB 5009C, Appropriations to the Fish and Wildlife Conservation Commission

- 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.
- Explains that these activities include administration, education, law enforcement, marine research, and fishery enhancements.
- Effective Date: Upon becoming law.

Health and Human Services Appropriations

SB 12C, Healthcare

- 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.
- 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.
- Effective Date: Upon becoming law.

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

- 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.
- Effective Date: Upon becoming law.

Higher Education Appropriations

SB 8C, Tuition and Fees for Higher Education

- Modifies statutes relating to student tuition and fees for higher education and provides related appropriations.
- Establishes 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.
- Explains that the tuition rates are 5 percent over the rates charged during the 2006-2007 school year.
- States that 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.
- Requires each institution to develop plans to use a portion of the January 1 tuition increases for additional need-based financial aid.
- 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.
- Provides that these funds will be distributed to school districts, community colleges and state universities based on their respective share of student revenues.
- 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.
- Explains that this fee will not be included in any award under the Florida Bright Futures Scholarship Program.
- Effective Date: Upon becoming law.

SB 10C, Higher Education

- Requires a high school diploma, or its equivalent, to receive a Bright Futures scholarship.
- Removes eligibility for early admission high school students.

- Explains that early admission students are already exempt from any requirement for payment of tuition and fees, including lab fees.
- 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.
- Effective Date: January 8, 2008