

Legislative Report:

**BREAKING NEWS: SPECIAL SESSION COLLAPSES** August 21, 2015

A special legislative session to redraw congressional districts collapsed Friday as the House and Senate could not reach agreement on a map. The Senate sought to extend the session until 6 p.m. Tuesday to negotiate, but the House declined to go along. The special session started Aug. 10 and was scheduled to last until noon Friday. The Senate adjourned at 11:59 a.m., and the House followed two minutes later. The collapse likely means that a court will decide the shape of congressional districts.

**MISMATCHING MAPS**

In April, a number of senators were downright indignant when the House ended its regular legislative session more than three days ahead of schedule.

The Senate even got a majority of the Florida Supreme Court to declare that House leaders violated the state constitution when they called it quits early because of an impasse over the budget. On Friday, it was the Senate's turn to pull the walkout routine. Led by Senate Redistricting Chairman Bill Galvano, a group of senators stood up and exited a committee meeting, leaving Galvano's counterpart, House Redistricting Chairman Jose Oliva, in the lurch just hours before the two-week special session's noon deadline. For most of the week, the Senate had refused to budge from an amendment prodded by Sen. Tom Lee, R-Brandon. The proposal would have altered the staff-drawn base map (HB 1B) by consolidating eastern Hillsborough County into a single congressional district. House members expressed concern that the "parochial nature" of the proposed Hillsborough County lines, and the impact the change would have on districts in and around Orange County, would violate the anti-gerrymandering "Fair Districts" constitutional requirements approved by voters in 2010. On Friday, Oliva --- who characterized the current state of the Legislature as "dysfunctional" just before Galvano and his entourage exited --- argued that the Senate map wouldn't meet Supreme Court muster. "These amendments have put upon us an insurmountable obstacle," Oliva, R-Miami Lakes, said. "My concern is the interpretation of the court. The court has shown its tendency to use circumstantial evidence and place the burden upon this Legislature. And that is what I'm trying to free us of." The special session was called when the court tossed eight of the state's congressional districts, saying they violated the new constitutional requirements. Galvano maintained that the Senate has followed the dictates of the court in its amended map. "That's why we recorded our meetings," Galvano, R-Bradenton, said. "That's why we had open discussion in committee. That's why we made sure that everything we did along the process was corroborated and so the genesis of ideas and amendments was known." Oliva then resisted Galvano's request to have the two chambers "conference" over the issue, something usually reserved for budget negotiations. "Chairman, I think at this point I'm going to respectfully reiterate the Senate's request for conference and leave it at that. Thank you," Galvano said. Before Oliva could reply, Galvano and his cohorts were on their way out. "Well, certainly, members of the House, I think that probably speaks a little bit to the nature that this has taken," Oliva said. "Up until now, these meetings were held in a very courteous fashion. What you see here is probably what should concern all of you, and certainly anybody out in the public, about the function of their government." The House later rejected two attempts by the Senate to extend the session until Tuesday evening. The matter will now probably have to be resolved by the Supreme Court, which House Speaker Steve Crisafulli said will

have to decide "whether or not they want to redraw a map, take a plaintiff map or take one of the maps produced here through the House or Senate." Lawmakers are scheduled to return in October to redraw Senate districts. At least the weather should be a tad less hot.

### **SENATE WILL RETURN FOR TWO DAYS IN SEPTEMBER**

With the 2016 legislative session starting earlier than usual, the Senate plans to spend two days in September holding committee meetings, according to a schedule posted on the Senate website. Legislative leaders had previously announced that committee meetings would be held in the middle of September. But the schedule posted on the Senate website indicates senators will hold up to 10 committee meetings on Sept. 16 and will follow with as many as 11 meetings throughout the day on Sept. 17. Lawmakers also are expected to hold committee meetings the week of Oct. 5, the week of Oct. 19, the week of Nov. 2, the week of Nov. 16 and the week of Nov. 30. The annual legislative session will start Jan. 12, which is almost two months earlier than normal.

### **LAWMAKER SEEKS TO BAN CONFEDERATE FLAGS AT GOVERNMENT SITES**

A Democratic lawmaker this week filed a proposal that would ban the display of Confederate flags on state and local government property in Florida. Under the bill, filed Wednesday by state Sen. Geraldine Thompson, D-Orlando, any flags now flying would have to come down. The bill says the ban would apply to "the flag or emblem of the Confederate States of America or any flag or emblem used by the Confederate States of America or its military or naval forces at any time within the years 1860 to 1865." The flag issue has been heavily debated since a racially motivated massacre of nine black churchgoers in June in Charleston, S.C. With the flag continuing to fly at some local-government sites in Florida, Thompson said it's time for lawmakers to act. "We haven't seen the county level move to remove the flag," she said. But House Local & Federal Affairs Chairman Dennis Baxley, R-Ocala, said the bill will die if it comes to the committee he leads. "It's unfortunate that we've gotten tied up in this discussion of cultural cleansing," Baxley said. "The problem is once you start moving on this, then it goes to monuments, then it goes to roads, then it goes to disturbing graves." The bill (SB 154) is filed for the 2016 legislative session, which starts in January.

### **BATTLE CONTINUES OVER DOCTOR-PATIENT GUN LAW**

Raising concerns about First Amendment rights and public health, opponents of a controversial Florida law aimed at restricting doctors from asking questions about patients' gun ownership have asked a full federal appeals court to take up the issue. A three-judge panel of the 11th U.S. Circuit Court of Appeals last month upheld the constitutionality of the 2011 law, which has drawn heavy attention and was dubbed the "docs vs. glocks" law. The 2-1 ruling was a victory for gun-rights supporters such as the National Rifle Association and a defeat for medical groups. Attorneys for opponents filed documents Tuesday asking the full appeals court to hear the case, a move known as seeking an "en banc" hearing. The documents also make clear that opponents plan to go to the U.S. Supreme Court if they continue to

be unsuccessful at the Atlanta-based appeals court. "The (appeals-court panel) majority's decision breaks with established precedent and will invite other attempts to silence professional speech because of its message," one of the documents said. "(The law), on its face, restricts professional speech on the basis of its content, and disagreement with a particular viewpoint is what spurred its passage." The law includes a series of restrictions on doctors and other health providers. For example, it seeks to prevent physicians from entering information about gun ownership into medical records if the physicians know the information is not "relevant" to patients' medical care or safety or to the safety of other people. Also, the law says doctors should refrain from asking about gun ownership by patients or family members unless the doctors believe in "good faith" that the information is relevant to medical care or safety. Also, the law seeks to prevent doctors from discriminating against patients or "harassing" them because of owning firearms.

### **COURT CLEARS INSURER FROM CLAIM IN SHOOTING**

An appeals court Wednesday said a homeowner's insurance company cannot be required to defend or pay a claim stemming from a family shooting incident in South Florida. The 4th District Court of Appeal upheld a Broward County circuit judge's ruling in favor of Universal Property & Casualty Insurance Co. The case involved a Universal customer, Harvey Stein, who loaned a gun to his sister, Cheryl Hepner. She was alleged to have then used the gun to shoot her son-in-law, Salvatore Miglino, who was in the midst of divorce proceedings with Hepner's daughter, according to Wednesday's ruling. Miglino filed a personal-injury lawsuit against Stein and Hepner. Universal argued that it did not have a duty to defend Stein and potentially pay a claim because of a coverage exclusion in the homeowner's policy. The exclusion did not specifically address intentional shooting incidents but applied to incidents of "physical abuse," according to the ruling. Miglino argued that the "physical abuse" wording should not justify a coverage exclusion in the case, but the appeals court disagreed. "He specifically likens the definition of physical and mental abuse to torture or actions meant to humiliate or demean," said the ruling, written by Chief Judge Cory Ciklin and joined by judges Burton Conner and Ted Booras. "We must disagree, as the plain meaning of the words 'physical abuse' includes an instance such as the subject shooting." The court noted that it is leaving "for another day, however, the question of which other types of occurrences may reasonably be excluded within the framework of the policy exclusion."

### **STATE SEEKS TO CLEAR WAY FOR DOCTOR-PATIENT GUN LAW**

Attorney General Pam Bondi's office argued this week that a potential challenge at the U.S. Supreme Court should not prevent the state from carrying out a law aimed at restricting doctors from asking questions about patients' gun ownership. A three-judge panel of the 11th U.S. Circuit Court of Appeals in July upheld the controversial law --- dubbed the "docs vs. glocks" law. Opponents last month asked the full appeals court to hear the case. If that request is rejected, the opponents indicated they will take the issue to the U.S. Supreme Court. The 2011 law has effectively remained on hold during the lengthy legal battle. If the case ultimately goes to the U.S. Supreme Court, opponents contend the law should remain on hold. But in a filing Monday with the appeals court, Bondi's office rejected that argument, saying a legal stay should be lifted. "(Opponents) argue only that denying a stay would 'impair the

doctor-patient relationship,' and would 'eliminate --- or at the very least sharply limit—doctors' standard practice of preventive medicine,' " the filing said. "But they offer only speculation that this would occur." The law includes a series of restrictions on doctors and other health providers. For example, it seeks to prevent physicians from entering information about gun ownership into medical records if the physicians know the information is not "relevant" to patients' medical care or safety or to the safety of other people. Also, the law says doctors should refrain from asking about gun ownership by patients or family members unless the doctors believe in "good faith" that the information is relevant to medical care or safety. Also, the law seeks to prevent doctors from discriminating against patients or "harassing" them because of owning firearms.

### **HOUSE PLANS THREE DAYS OF SEPTEMBER MEETINGS**

Starting to gear up for the 2016 legislative session, the House has released a schedule outlining plans for three days of committee meetings in mid-September. The schedule lists as many as 12 subcommittees that would meet Sept. 16. That would be followed by as many as 16 committees and subcommittees on Sept. 17 and five committees on Sept. 18. The House and Senate previously announced that the first in a series of committee weeks would be held in mid-September. The Senate last week posted a schedule indicating it will hold committee meetings Sept. 16 and Sept. 17. Preparations for the 2016 session are happening earlier than usual because the session will start in January. Ordinarily, annual legislative sessions start in March.

### **PROPOSAL WOULD RESTORE FELONS' VOTING RIGHTS**

A South Florida Democrat on Thursday proposed a constitutional amendment aimed at automatically restoring the voting rights of many convicted felons. Sen. Jeff Clemens, D-Lake Worth, filed the proposal (SJR 192) for consideration during the 2016 legislative session, which starts in January. If approved by the Legislature, the proposal would go on the November 2016 ballot. The measure seeks to restore the voting rights of felons who have completed their sentences. People with restored rights also would be eligible to hold public office. Automatic restoration would not apply to felons convicted of sexual offense or Homicide.

### **SENATE EASES BACK INTO COMMITTEES**

While lawmakers will return to Tallahassee next week for the first round of committee meetings before the 2016 legislative session, the majority of Senate committees will remain idle. The Senate is scheduled to hold seven committee meetings, while 14 other panels will not meet, according to a calendar published Wednesday. Also, the Joint Legislative Budget Commission, which includes senators and House members, will meet. Probably the heaviest debates next week will focus on bills in the House and Senate that would allow people with concealed-weapons licenses to carry guns on college and university campuses. The Senate Criminal Justice Committee is scheduled to take up the proposal (SB 68), filed by Chairman Greg Evers, R-Baker, at 9 a.m. next Wednesday. That will be followed at 10:30 a.m. by the House Criminal Justice Subcommittee considering the House version (HB 4001), filed by Rep. Greg Steube, R-Sarasota. The 2016 session will start in January.

## **HOUSE BALKS AT ANOTHER REDISTRICTING SESSION**

House Speaker Steve Crisafulli on Tuesday all but ruled out a special session to take another stab at drawing new districts for Florida's congressional delegation, making it increasingly likely that the task will fall to the courts. In a memo sent to state House members, Crisafulli indicated he would not back off a demand that lawmakers approve a "base map" aimed at satisfying a July Supreme Court ruling, which found that existing congressional districts violate the anti-gerrymandering "Fair Districts" standards approved by voters in 2010. During a special session last month, several senators tried to amend the base map, but House leaders said that could cause the courts to strike down districts yet again. The session imploded after the House and Senate failed to reach agreement.

## **STATE LEADERS EXPECTED TO HAVE \$600M SURPLUS**

Gov. Rick Scott and lawmakers will have more than \$600 million in extra money as they craft budget proposals for next year, according to a draft report issued Tuesday by economic forecasters. The projection included in the Long-Range Financial Outlook, which will be considered by a legislative committee next week, marks the first official estimate of the state's surplus after accounting for continuing expenses and other spending decisions lawmakers generally make each year. For the 2016-2017 budget year that begins July 1, there will be an estimated \$635.4 million left, after normal spending and \$1 billion in reserves --- meant to help cushion the state against unexpected expenses --- are taken care of. However, about \$426.8 million of that surplus would come from one-time money. The surplus is expected to decline after the 2016-2017 budget year, with the state having \$583.7 million the next year and \$222.2 million the year after that, with all of the leftovers being one-time money. Part of that is due to the continuing cost of recent tax cuts supported by Scott and Republican lawmakers.

## **LAWMAKER SEEKS TO REPLACE STATUE OF CONFEDERATE GENERAL**

The bronze statue of Confederate Gen. Edmund Kirby Smith, which has stood in the U.S. Capitol since 1922, would be replaced by a statue more representative of Florida, under a bill filed Tuesday by a Republican state lawmaker. Rep. Jose Felix Diaz said he's been considering the proposal (HB 141) for several years, and the bill comes as people across the country have reconsidered Confederate symbols after the racially motivated slaying in June of nine black church members in South Carolina. "I think that the shooting in South Carolina created an awareness that wasn't there before," Diaz, who represents parts of Miami-Dade County, said. "When I first started asking questions about Gen. Kirby (Smith), the political appetite wasn't there for this conversation to be had. People were not intrigued by him or Statuary Hall." The Smith statue in the National Statuary Hall Collection is in the Capitol Visitor Center. The Florida Senate is considering similar legislation, Katie Betta, a spokeswoman for Senate President Andy Gardiner, R-Orlando, said in an email.

## **CORCORAN GETS SPEAKER NOD NEXT WEEK**

House Appropriations Chairman Richard Corcoran, R-Land O'Lakes, is scheduled to be formally designated as the next House speaker during a Sept. 16 ceremony. The House Republican Conference will meet and choose Corcoran to serve as speaker for a two-year term starting after the 2016 elections. Republicans are able to make the choice because they hold a massive majority in the House. Corcoran, who was elected to the House in 2010, has long been in line to become speaker. He will succeed Speaker Steve Crisafulli, a Merritt Island Republican who began his two-year term after the 2014 elections

## AMA

On Sept. 10, two motorcycling-related amendments were approved by the Subcommittee on Research and Technology of the U.S. House Science, Space and Technology Committee as part of the "Surface Transportation Research and Development Act of 2015." The bill – as part of the broader surface transportation authorization bill – prioritizes research and development activities within the U.S. Dept. of Transportation. It passed by voice vote.

The two motorcycle-related amendments were introduced by U.S. Rep. Randy Hultgren on behalf of U.S. Rep. Jim Sensenbrenner.

Amendment No. 036 would require the DOT engage the National Academy of Sciences to conduct a study on the most effective means of preventing motorcycle crashes. While this study is being conducted, no federal funding would be provided to states to conduct motorcycle-only checkpoints. The Senate version does include language to prohibit federal funding for motorcycle-only checkpoints. The federal dollars from this program should be used exclusively for proven highway safety strategies and not sporadic, discriminatory checkpoints.

The amendment was approved by voice vote.

Amendment No. 037 would prohibit the DOT from lobbying for any activity on any pending federal, state or local legislation. This is commonly known as the "NHTSA Lobby Ban." Sensenbrenner included similar language in the Surface Transportation Research and Development Act of 1997.

It was approved by a vote of 7 – 6.

The American Motorcyclist Association applauds these amendments and will work to include them in the next highway bill. On Sept. 17, the U.S. House Transportation and Infrastructure Committee is tentatively scheduled to consider the highway bill.

To ensure these amendments are included, urge your representative today to include these amendments as part of a six-year highway bill.

Now, more than ever, it is crucial that you and your riding friends become members of the AMA to help us protect our riding freedoms. More members means more clout against the opponents of motorcycling, and your support will help the AMA fight for your rights – on the road, trail, racetrack, and in the halls of government. To join, go to [AmericanMotorcyclist.com/membership/join](http://AmericanMotorcyclist.com/membership/join).

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