



**Session Week 7: County Lobbyist Call
Monday, April 15, 2019**

Welcome & Opening Remarks

Susan Harbin Alford, FAC's Acting Director of Public Policy gave the following bill and calendar updates for Week 7 of legislative session.

PRIORITIES

- **HB 693 (Fischer) / SB 1000 (Hutson) – Communications Services/5G**
Small cell legislation had a minor setback last week. While SB 1000 (Communications Services) by Sen. Hutson passed the Finance and Tax Committee on Tuesday, April 9, the House companion, HB 693 (Communication Services) by Rep. Fischer, was temporarily postponed in the House Commerce Committee. Postponement of the bill was in response to concerns by FAC and the Florida League of Cities (FLC) that insufficient time was given to the organizations to review a proposed strike-all amendment to be heard on April 10.

In the interim, FAC and the FLC have been negotiating changes to the bill that would allow local governments to retain appropriate regulatory control over the siting of new utility poles, as well as collocations. Perhaps the most significant issue that remains to be negotiated is a provision that allows all "utility poles" to receive the benefit of streamlined review process under the so-called "shot clock" time frame.

HB 693 will be heard in House Commerce this week and SB 1000 will heard in Senate Appropriations.

- **SB 1140 (Hutson) / HB 829 (Sabatini) - Attorney Fees and Cost**
The bill would mandate that courts award attorneys' fees and damages in actions where an aggrieved party has brought an action against a local government alleging that a proposed or adopted local government ordinance is expressly preempted by state law. Fees and damages could also be sought in cases brought against existing ordinances. The bill does not enumerate statutes that constitute express preemptions for purposes of awarding fees and damages. As amended, only the prevailing party may be granted fees and damages. If the local government "withdraws" an ordinance from consideration or repeals the ordinance within 21 days from a court determining it was preempted, attorneys' fees cannot be granted.

This bill passed favorably through its second of three committees, Community Affairs, on Tuesday, April 2 and is currently in Rules. It was amended again to allow prevailing challengers to recover fees and damages if an ordinance is determined to be preempted by s. 553.79(20),

which prohibits local governments from imposing certain requirements on the signage advertising the retail price of gasoline or that conflict with or impair a corporate trademark or corporate branding identity. Aside from this exception, growth management ordinance challenges would not entitle parties to fees.

HB 829 (Attorney Fees and Cost) by Rep. Sabatini passed favorably through its second of three committees, House Local Affairs, on Tuesday, March 26 and is currently in the House Judiciary Committee. As amended, HB 829 only grants attorneys' fees and damages against local governments, and would not allow the local government to recover fees and damages if it is the prevailing party.

- **HB 987 (J. Grant) / SB 824 (Diaz) - Vacation Rentals/Private Property Rights of Homeowners**
It appears that this year's Vacation Rental legislation is dead. SB 824 (Private Property Rights of Homeowners) by Sen. Diaz was scheduled to be heard in the Senate Innovation, Industry, and Technology Committee on Wednesday, April 10 but was temporarily postponed by the Committee's Vice Chair. This committee is not expected to meet again this legislative session, hopefully killing the bill for this year.

This action follows what was an unusual meeting in the House Commerce Committee that same day. HB 987 (Vacation Rentals) was presented by Rep. Grant and followed by 30 minutes of public testimony, most of which opposed the legislation. Following public comments, the Chairman of the Committee, Rep. LaRosa, recessed the meeting for approximately 45 minutes so amendments could be drafted. When the committee reconvened, it approved four out eight hastily hand-written amendments. HB 987 eventually passed by a measure of 13 to 11.

- **HB 3 (M. Grant) - Preemption of Local Professional and Occupations Regulations and Licensing**
Last action April 11, 2019 - Read Third Time; Passed (Vote: 88 Yeas / 24 Nays). The bill was heard in House Commerce Committee, its final committee stop, on Thursday, March 21. An adopted amendment deleted much of the language concerning preemption of business regulations and the bill no longer includes any requirements for a reauthorization process for business regulations or the extensive economic analysis. However, the bill as amended includes a broad preemption of any local government licensing requirements that are not expressly authorized by law and most special licenses.
- **HB 5 (DiCeglie) - Discretionary Sales Surtaxes**
HB 5 (Discretionary Sales Surtaxes) by Rep. DiCeglie passed off the House floor on Thursday, April 11. This bill increases the thresholds to adopt local option surtaxes authorized under 212.055. For those levies required to be adopted by referendum, the bill would require a two-thirds vote of the county governing body to place the surtax on the ballot, the referenda could only be on the general election ballot, and would be required to be approved by 2/3 (66.66%) of the electors voting on the question.

An amendment to the bill adopted by the committee would make procedural changes to the performance audit requirement adopted in 2018. These changes would require the county or school board to notify OPPAGA of the pending referendum at least 180 days before the referendum is held. As amended, the bill would render any referendum that does not comply with the performance audit requirements invalid. The 2018 law was silent as to a notification

timeline and penalty for non-compliance. The bill as amended also creates a process for citizen-initiated referenda to undergo the performance audit and be placed on the ballot.

The new provisions related to the performance audit would apply to referenda held after January 1, 2020. The remaining portions of the bill take effect upon becoming law (10 days from approval by the Governor).

It's Senate companion, SB 336 (Local Tax Referenda) by Sen. Brandes, would allow local tax referenda be held only at a general election. This bill has been amended to allow referenda currently scheduled to be held prior to July 1, 2019. FAC is working to extend this date to allow all currently scheduled referenda to proceed in 2019. This bill was heard in Senate Finance & Tax, its second of three committees, on March 20.

- **HB 15 (Burton) - Local Government Fiscal Transparency**
Last action April 11, 2019 - Read Third Time; Passed (Vote: 111 Yeas / 3 Nays). The bill would require significant additional notice requirements for consideration of tax increases and issuance of tax-supported debt. The bill also requires local government to maintain a 5-year voting record of every vote on an action that would result in a tax increase or new debt; and requires additional notices must be provided on the web. The bill includes additional public hearing requirements. A preliminary public hearing must be held 14 days prior to the public hearing to vote on a tax increase or issuance of new debt and the public hearing to take the action must be noticed by a quarter page ad in a newspaper of general circulation with a newly created notice inconsistent with the existing notice requirements for ordinances. It creates a "debt affordability ratio" that must be calculated and included in notices.

WATCHING CLOSELY

- **SB 1400 (Albritton) – Trees/Private Property Rights**
This bill prohibits local governments from requiring a permit for tree trimming and removal under certain circumstances and would encourage residents to trim and remove trees before, during and after a storm, creating dangerous debris and possibly putting people in harm's way. The bill would make it impossible for local governments to protect their tree canopies and preserve heritage trees, which could have significant consequences. Trees are a key resilience strategy, they help with floodplain management, fight urban heat island effect, and provide critical habitat for resident and migrating birds.
- **SB 1720 (Lee) – Property Rights/Bert Harris**
Would require local government to treat similar property in the same way for settlements of Bert Harris claims. Would have to offer 'similarly situated' residential property within the same political subdivision the same terms. Shortens timeframe under which the claimant must notify government from 150 days to 90 days. Allows factfinder to consider business damages. Changes process for attorney's fees awards by making it easier for claimants to receive fees and removing ability for government to receive fees.
- **HB 1399 (Byrd) / SB 1636 (Perry) – Workers' Compensation**

Increases temporary total disability benefits and partial disability benefits from 104 weeks to 260 weeks; retains statutory fee schedule for attorney fees paid by an employer to claimant's attorney. Allows alternative minimum attorney fee cap on medical-only claims to \$150/hour not to exceed \$1500 in all medical only claims rather than only once per accident. Limits appellate fees to \$150/hour in certain circumstances.

- **HB 441 (DuBose) / SB 536 (Brandes) - E911 Systems**

Requires each county to develop a plan to implement countywide text-to-911 service and, by January 1, 2022, to enact a system that allows for text-to-911 service. All Florida counties have either fully implemented text-to-911 service or expect to implement text-to-911 service by the deadline outlined in the bill. The Energy & Utilities Subcommittee adopted three amendments to the bill and passed the bill as a committee substitute. The bill as amended provides that an important state interest is served by ensuring that text-to-911 service is available in all 67 counties and requires the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP's normal service area.

- **HB 1135 (M. Grant) / SB 1552 (Gruters)– Florida Red Tide Mitigation and Technology Development Initiative**

Creates the Florida Red Tide Mitigation and Technology Development Initiative and establishes a Technical Advisory Council for the Initiative. The council will be made up of: a private sector appointee by the Gov; a University appointee by the Senate President; a marine environmental stakeholder appointed by the Speaker; DEP; and FWC. The bill contains a \$3M appropriation to FWC to be awarded to Mote to fund the initiative.

- **SB 596 (Albritton) / HB 671 (Clemons) - Regional Rural Development Grants**

SB 596 (Regional Rural Development Grants) by Sen. Albritton was placed on the Special Order Calendar for a second reading in the Senate on Wednesday, April 10. It has one more hearing by the Senate before being sent to the House to consider.

The bill would increase the annual grant awards for regional economic development organizations, which are defined in the bill to be those economic organizations located within a designated rural area of opportunity. It would also reduce the local match requirement. The bill would increase the maximum allowable expenditure from the Regional Rural Development Grant Program from \$750,000 to \$1 million. The bill would have no fiscal impact on state funds, however, because the appropriation for the Rural Community Development Revolving Loan Fund, which funds the grant program, remains unchanged. The bill would also increase the percentage of the project costs that could be covered by the Rural Infrastructure Fund and clarifies that eligible infrastructure projects include access to broadband internet service. Finally, the bill would require contracts associated with funding from both programs include certain provisions and be posted online at least 14 days prior to execution.

The House companion, HB 671 (Regional Rural Development Grants) by Reps. Clemons and Polsky, is still in the House Transportation & Tourism Appropriations Subcommittee.

- **HB 639 (Perez) – Security in Trial Court Facilities**

Requires each sheriff to coordinate with specified entities to develop a comprehensive plan for security of trial court facilities; specifies that sheriffs & chief judges retain certain authority;

specifies that sheriffs & their deputies, employees, & contractors are officers of court under specified circumstances. The bill also requires each county sheriff to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive security plan for trial court facilities. The sheriff retains authority over the implementation and provision of law enforcement services under the plan. The chief judge retains decision making authority to protect due process rights, such as in the scheduling and conduct of judicial proceedings. The bill explains that sheriffs and their deputies, employees, and contractors are officers of the court when providing security for court facilities.

- **HB 7103 (Fischer) / SB 1730 (Lee) - Property Development**

The bill prohibits local governments from implementing any form of “inclusionary zoning” to address affordable housing. Specially, the bill prohibits a local government from: (1) mandating or establishing a maximum sales price or lease rental for privately produced dwelling units; (2) requiring the allocation or designation, whether directly or indirectly, of privately produced dwelling units for sale or rental to any particular class or group of purchasers or tenants; (3) requiring the provision of any on-site or off-site workforce or affordable housing units or a contribution of land or money for such housing, including, but not limited to, the payment of any flat or percentage-based fee, whether calculated on the basis of the number of approved dwelling units, the amount of approved square footage, or otherwise.

- **SB 542 (Brandes) / HB 453 (Toledo) - Micromobility Devices and Motorized Scooters**

HB 453 (Micromobility Devices) by Rep. Toledo passed its final committee this week. The bill would preempt regulation of micromobility devices (scooters), except that local governments would be able to regulate the operation of such devices provided that the regulations are not more restrictive than the local governments’ regulation of traditional bicycles.

HB 453 affords counties and cities far less regulatory authority than the companion bill, SB 542 (Mobility Devices and Motorized Scooters) by Sen. Brandes, which was amended to strip the preemption language at its last stop. SB 542 has one final committee stop in Senate Appropriations.

- **SB 1610 (Montford) - Emergency Mitigation and Response/Hurricane Michael**

SB 1610 (Emergency Mitigation and Response) by Sen. Montford is scheduled to be heard in its second committee of reference, the Appropriations Subcommittee on Transportation, Tourism, and Economic Development, on Tuesday, April 16. The bill provides a plan for the response to and recovery from Hurricane Michael. Specifically:

Section 1: creates Hurricane Michael Recovery Task Force to make recommendations on response, recovery, and mitigation of effects of Hurricane Michael. Shall review local, state, and federal activities and resources provided, effectiveness of such efforts, and any additional assistance necessary. Membership is a member from each of the following: business community, agricultural interests, fishing industry, emergency response, and housing interests. Findings to be reported to Senate President, House Speaker, and Governor by Dec. 15, 2019.

Section 2: DEM to prepare after-action report on shelter operations to be reported to the Speaker, President, and Governor by December 15, 2019.

Section 3: DEO to include a program to retrofit or repair hurricane evacuation shelters in any action plan submitted to HUD under Grant Number B-18-DP-12-0002.

Section 4: \$200,000 appropriated to DEM to procure a consultant to conduct a study of facilities used as emergency operations centers. Should look at operations and also whether there should be multi-county operations centers or upgrades to existing centers.

Section 5: (1) Hurricane Housing Recovery Program is created to be administered by FHC similar to SHIP. Resources shall be allocated to local governments according to a need-based formula that reflects housing damage estimates and population effects resulting from hurricanes. (2) creates Rental Recovery Loan Program to provide funds to build additional housing due to impacts to the affordable housing stock and changes to population resulting from hurricanes similar to State Apartment Incentive Loan Program.

Section 6: DEO to include program to repairs, renovate, or replace single-family housing in any action plan submitted to HUB for use of the grant funds appropriated in response to Hurricane Michael.

Section 7: Florida Building Commission to review effects of Hurricane Michael and make recommendations to strengthen and enhance the design, construction, and life safety provisions of Florida Building Code.

Section 8 and 9: For 2019-2020 FY \$300 million is appropriated to create the Public Facilities Hurricane Restoration Cash Flow Loan Program created for counties, cities, and school boards to be able to make timely payments to contractors and suppliers.

Section 10 and 11: Appropriates \$15 million in nonrecurring funds for the Agricultural Economic Development Program disaster loan and grant program and expands the program to allow timber producers to be eligible.

Section 12: For school boards in affected counties, waives standardized assessments for certain students, requires school grades to be released for informational purposes only.

- **HB 171 (Jones) - Infectious Disease Elimination Programs**

The bill is heading to the House floor after successfully moving through its three committees of reference. Its last stop was Health & Human Services on Tuesday, April 9.

The bill allows county commissions to establish sterile needle and syringe exchange programs through the adoption of a county ordinance and satisfaction of the specified program requirements. Exchange programs must cooperate with the Department of Health (DOH) and the local county health department.

The Senate companion, SB 366 (Infectious Disease Elimination Programs) by Sen. Braynon successfully passed in the Senate on Wednesday, April 3.

Calendar: Week Of 4/15/19

FAC will be attending and monitoring the following committee meetings and bills this week.

Tuesday, April 16, 2019

9:00 a.m. Senate Approps Sub on Criminal and Civil Justice

- SB 762 (Gruters) - Duties and Obligations of Sheriffs
- SB 328 (Brandes) – Courts

9:00 a.m. Senate Approps Sub on Education

- SB 522 (Diaz) - Apprenticeship Programs

10:00 a.m. House Appropriations Committee

- HB 7119 (HHS Committee) - Use of Regulated Substances

1:00 p.m. Senate Approps Sub on Transportation, Tourism and Economic Development

- SB 1610 (Montford) - Emergency Mitigation and Response

1:30 p.m. House Judiciary

- HB 49 (Jones) - Incarcerated Women
- HB 829 (Sabatini) - Attorneys Fees and Costs
- HB 1383 (J. Grant) - Private Property Rights Protection
- HB 7125 (Renner) - Public Safety

Wednesday, April 17, 2019

10:00 a.m. Senate Session

- SB 596 (Albritton) - Regional Rural Development Grants

11:30 a.m. House Session

- HB 325 (LaMarca) - Coastal Management

Thursday, April 18, 2019

8:00 a.m. House Commerce

- HB 693 (Fischer) - Communications Services

8:00 a.m. House State Affairs

- HB 1159 (La Rosa) - Private Property Rights

9:00 a.m. Senate Appropriations

- SB 1000 (Hutson) - Communications Services

5:00 p.m. House Rules

- SB 76 (Simpson) - Texting While Driving
- SB 336 (Brandes) - Local Tax Referenda