



**Session Week 8: County Lobbyist Call
Monday, April 22, 2019**

Welcome & Opening Remarks

Susan Harbin Alford, FAC's Acting Director of Public Policy gave the following bill and calendar updates for Week 8 of legislative session.

PRIORITIES

- **HB 693 (Fischer) / SB 1000 (Hutson) – Communications Services/5G**

This year's small cell bill bells cleared their last committees on Thursday, April 18. HB 693 (Communication Services) by Rep. Fischer passed the House Commerce Committee, while SB 1000 (Communication Services) by Sen. Hutson passed the Senate Appropriations Committee with one dissenting vote.

As reported previously, while the bill makes several changes to current law, FAC remains focused on three primary issues. First, for those counties that have adopted an undergrounding ordinance, wireless service providers would be exempt from complying under, certain conditions. Second, counties would be unable to condition approval of a new pole by requiring the wireless service provider to demonstrate the collocation is not technically or legally feasible, under certain conditions. Finally, the bill places all new utility poles under the 60-day "shot clock", not just collocations.

FAC continues to work with stakeholders and legislators to make the legislation less onerous on counties.

- **SB 1140 (Hutson) / HB 829 (Sabatini) - Attorney Fees and Cost**

SB 1140 (Attorney Fees and Costs) by Sen. Hutson 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 will be heard in the Rules Committee, its final Senate committee, on Tuesday, April 23 at 2:00 p.m. As amended, the bill could 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 Costs) by Rep. Sabatini is on House Special Order Calendar for Wednesday, April 24. 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 7119 (Duran) - Use of Regulated Substances / HB 1299 (Roach) - Governmental Powers**
Language preempting counties and cities from regulating the marketing of tobacco and nicotine products as well as dispensing devices is now in two separate House bills, HB 1299 (Governmental Powers) by Rep. Roach and HB 7119 (Use of Regulated Substances) by Rep. Duran and the House Health & Human Services Committee.

Several counties and cities have ordinances that address marketing and product placement of tobacco/nicotine products. For example, an ordinance might prohibit nicotine marketing, such as Juul, near candy aisles. The majority of such ordinances are aimed at keeping products away from children and teens. The preemption language does not appear in any Senate bill at this time.

If your county has an ordinance that will be preempted, please reach out to your House delegation members encouraging them to stop this preemption and encourage your Senate delegation members to block any legislation containing the preemption.

HB 1299 passed its final committee of reference, House Commerce, on Thursday, April 18 with 15 votes in support and seven in opposition. HB 7119 has been placed on the special order calendar in the House.

- **SB 1112 (Gruters) - Taxation**
Revising the definition of the term "inventory," for purposes of ad valorem taxation, to include certain rented construction, earthmoving, or industrial equipment; providing that certain marketplace providers are subject to dealer requirements for the registration, collection, and remittance of sales taxes; providing sales tax exemptions on the sale of specified disaster preparedness supplies during a specified timeframe, etc. APPROPRIATION: \$70,072.00 Effective Date: Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.
- **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 76 (Simpson) / HB 107 (Toledo)- Texting While Driving**
Authorizing law enforcement officers, during a specified timeframe, to stop motor vehicles to issue verbal or written warnings to persons who are texting while driving; authorizing law enforcement officers, after a specified date, to stop motor vehicles and issue citations to persons who are texting while driving; authorizing participation in a distracted driving safety program in lieu of the specified penalties for first-time offenders; deleting a provision requiring that enforcement be accomplished only as a secondary action, etc.
- **SB 446 (Mayfield) - Coastal Management**
Revising the criteria the Department of Environmental Protection must consider in determining and assigning annual funding priorities for beach management and erosion control projects; revising the ranking criteria to be used by the department to establish certain funding priorities for certain inlet-caused beach erosion projects; revising requirements for the comprehensive long-term management plan; requiring the plan to include a strategic beach management plan, a critically eroded beaches report, and a statewide long-range budget plan, etc.
- **HB 311 (Fischer) - Autonomous Vehicles**
Exempts autonomous vehicles & operators from certain prohibitions; provides that human operator is not required to operate fully autonomous vehicle; authorizes fully autonomous vehicle to operate regardless of presence of human operator; provides that automated driving system is deemed operator of autonomous vehicle operating with system engaged; authorizes Florida Turnpike Enterprise to fund & operate test facilities; provides requirements for operation of on-demand autonomous vehicle networks; revises registration requirements for autonomous vehicles.
- **HB 49 (Jones) - Incarcerated Women**
Designates act "Dignity for Incarcerated Women Act"; requires state correctional facilities to provide incarcerated women with certain healthcare products; provides requirements for male correctional employees in certain circumstances; requires documentation of certain incidents involving male correctional employees; requires working group on standards for county & municipal detention facilities to adopt certain model standards for female prisoners.
- **SB 670 (Rader) - Assisted and Independent Living Task Force**
Creating the task force to evaluate proposals that incentivize building contractors and developers to create space for assisted living facilities and independent living communities within mixed-use developments; establishing the task force adjunct to the Agency for Persons with Disabilities; providing for duties, membership, and meetings of the task force, etc.

- **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 1616 (Baxley) - Local Government Financial Reporting**
 Requiring county and municipal budget officers, respectively, to submit certain information to the Office of Economic and Demographic Research within a specified timeframe; requiring adopted budget amendments and final budgets to remain posted on each entity's official website for a specified period of time, etc.
- **SB 302 (Brandes) - Nonemergency Medical Transportation Services**
 Authorizing Medicaid nonemergency transportation services to be provided to a Medicaid recipient by certain transportation network companies or transportation brokers, subject to compliance with certain requirements; requiring the Agency for Health Care Administration to update the Non-Emergency Transportation Services Coverage Policy by a specified date, etc.
- **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.
- **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 7071 (Higher Education & Career Readiness Sub) - Workforce Education**
 Revises provisions relating to preapprenticeship & apprenticeship programs, secondary & postsecondary workforce education, high school graduation requirements, & postsecondary education provisions, & school grades; creates SAIL to 60 Initiative; renames Higher Education

Coordinating Council as Florida Talent Development Council & revises councils membership & duties; & creates FLAG program.

Calendar: Week Of 4/22/19

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

Tuesday, April 23, 2019

10:00 a.m. Senate Session

- SB 76 (Simpson) - Texting While Driving
- SB 446 (Mayfield) - Coastal Management

12:30 p.m. House Session

- HB 311 (Fischer) - Autonomous Vehicles
- HB 107 (Toledo) - Texting While Driving
- HB 49 (Jones) - Incarcerated Women

2:00 p.m. Senate Rules

- SB 670 (Rader) - Assisted and Independent Living Task Force
- SB 1400 (Albritton) - Private Property Rights
- SB 1616 (Baxley) - Local Government Financial Reporting
- SB 302 (Brandes) - Nonemergency Medical Transportation Services
- SB 1140 (Hutson) - Attorney Fees and Costs
- SB 1730 (Lee) - Community Development and Housing

Wednesday, April 24, 2019

10:30 a.m. House Session

- HB 829 (Sabatini) - Attorney Fees and Costs
- HB 7103 (Commerce) - Property Development
- HB 441 (DuBose) - 911 Services
- HB 7071 (Higher Ed & Career Readiness Sub) - Workforce Education