



PBC LEGISLATIVE UPDATE

The latest updates from Tallahassee, Florida.



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CAPITOL HEADLINES

Initial Budgets Pass

The House and Senate passed their initial budgets this past week. The House passed its \$97 billion budget (which accounts a portion of federal relief) in a 104-14 vote. The Senate passed its \$95 billion budget (not accounting the same federal relief) unanimously. The state is also waiting on guidance on the anticipated \$10 billion coming directly from the American Rescue Plan. For now, however, the initial budgets are based on December 2020 estimates and not the revised estimates from this week. Please see our Week 4 update for more initial budget details.

Legislature Passes “E-fairness” Online Sales Tax Collection

The House voted 93-24 to pass SB 50 after amending the Senate bill to match the House. The change means that once the unemployment compensation trust fund reaches pre-pandemic levels of \$4.07 billion, the funding would be used to offset a 3.5% reduction in the commercial rent tax (from 5.5% to 2%). The Senate then passed the bill in a 27-12 vote.

It would require marketplace providers and out-of-state retailers to collect state sales tax on sales of taxable goods to Florida purchasers if the retailer makes a substantial number of sales into Florida. The bill defines “substantial number of sales” as any number of taxable remote sales in an amount that exceeds \$100,000 in the previous calendar year. It does not include online travel agents or delivery network services.

Gaming on the Senate Agenda

Additionally, the state appears to be closer in reaching a deal with the Seminole Tribe on a new gaming compact that would give sports betting and an enhanced banking role with parimutuels. The Senate released two PCBs that the Senate President said were key issues not part of the Compact. One would decouple live games at all parimutuels outside of thoroughbred racing. The other would establish an independent Gaming Control Commission under the Department of Legal Affairs.



HB 1 – Combatting Public Disorder

In a controversial move that upsets decades of Senate precedent, at the Senate President's direction, the Senate Appropriations took up HB 1 without the Senate bill ever being heard in a Senate committee. The committee took a full day of public testimony before voting the bill out of committee in an 11-9 vote. HB 1 is a priority of Governor DeSantis and Legislative Leadership.



The bill would create a number of new crimes and enhancements to crimes related to “rioting.”

- It defines the crimes of “rioting” and “inciting or encouraging a riot.”
- It creates new felony crimes for “aggravated rioting” and “aggravated inciting or encouraging a riot.”
- It reclassifies and enhances penalties for assault and battery for theft and burglary when committed in furtherance of a riot or facilitated by the conditions arising from a riot.
- It creates new felony crimes related to damaging, defacing, and destroying a memorial.
- It creates a new misdemeanor crime of “cyberintimidation by publication,” also known as doxxing, and a new misdemeanor crime of “mob intimidation.”
- It tightens statutes making it a pedestrian violation for obstructing a roadway.
- It provides an affirmative defense for a defendant in a civil action for personal injury, wrongful death, or property damage if the plaintiff's injuries were caused because he or she participated in a riot.

For municipalities-

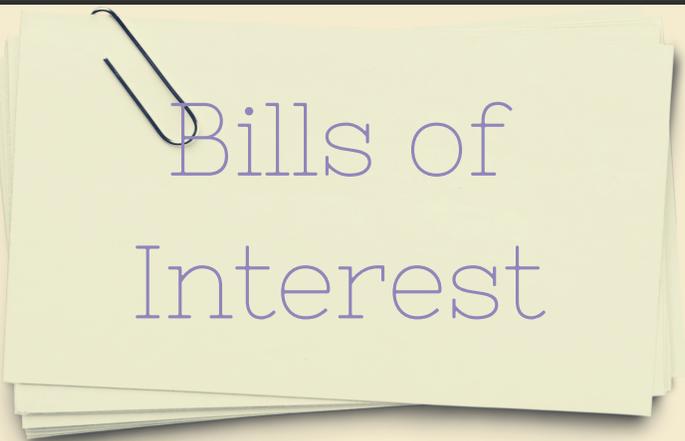
- The bill provides a duty for municipalities to allow law enforcement to respond “appropriately to protect persons and property during a riot or an unlawful assembly based on the availability of adequate equipment to its municipal law enforcement officers and relevant state and federal laws.” Municipalities would be civilly liable proximate to the breach of this duty if sued for any damages caused during the assembly with sovereign immunity limits waived.
- It provides an appeals process for police department budgets similar to that of a constitutional officer's budget. If a municipality's tentative budget contains a reduction in the law enforcement budget, the state attorney for the circuit in which the municipality is located or a member of the governing body that objects can file an appeal with the Administration Commission (Governor and Cabinet) within 30 days of the tentative budget being posted. The municipality must reply to the appeal within 5 days. The Executive Office of the Governor would hold a hearing on the appeal and make a recommendation to the Administration Commission. The Administration Commission may modify, amend, increase or reduce the municipal law enforcement agency's budget, which decision is final.

HB 1 has been placed on the Special Order calendar for a full Senate vote on Wednesday.

SB 90 / HB 7041 - Elections

House Appropriations voted 17-8 to advance HB 7041 while Senate Rules temporarily postponed SB 90 just before its scheduled hearing. SB 90 would outright ban mail-in ballot drop off boxes. HB 7041 allows for drop-off boxes so long as they are staffed with someone to check IDs or take written attestation forms in lieu of IDs. The location of drop-off boxes must be provided to the Division at least 30 days before an election and cannot be moved.

Designees whom the voter has designated via a written designation form may drop off ballots so long as the designation form is attached to the envelope. Immediate family members, including grandchildren, can be designees. A person may also be a designee for up to two people not in their immediate family. SB 90 prohibits anyone who is not the voter or the voter's immediate family from possessing the ballot. Both bills change the canvassing process, require voters to request mail-in ballots more frequently, and require signatures to match the ones on file. HB 7041 also prohibits private funding for official election-related business; expands the 150 foot prohibition on solicitation to include voter assistance solicitation and anything that could influence the voter; requires a full application for changing a voter's party registration or name; and requires County Commissioners to run in the next decennial election following redistricting. However, an amendment exempted charter counties from this provision (as their terms are provided in the Constitution), which would include Palm Beach County. SB 90 is scheduled to be heard in the Rules committee on Wednesday, with 7 amendments filed so far. HB 7041 passed the House Appropriations Committee and moves to the State Affairs committee.



SB 1788 / HB 1059 - Application for Issuance of Building Permits

The Senate Rules Committee unanimously advanced SB 1788. The bill would require local code enforcement to post applications for building permits online along with required attachments; accept applications, attachments, and payments electronically; post the status of applications online; and post the procedures for reviewing and processing applications online.

It would also require a reduction in permit fees when local enforcement fails to meet deadlines; require local enforcement to allow an applicant whose permit for a single-family home is denied 10 business days to correct their applications; and prohibits local governments from requiring a copy of a contractor's contract with owners, subcontractors, and suppliers for commercial properties the local government does not own or lease. If a local government fails to approve or deny a master building permit application within 120 days, they must reduce the building permit fee by 10 percent. The application would be denied if the applicant does not correct their applications within the 10 business days. SB 1788 moves to the Senate floor; HB 1059 has already passed the House, 113-0



SB 268 / HB 735 - Preemption of Local Occupational Licensure

The Senate Rules Committee also voted 11-5 to advance SB 268. The bills expressly prohibit licensure requirements for jobs that do not substantially correspond to those licensed by the Construction Industry Licensing Board. This includes jobs such as painting, flooring, cabinetry, driveway installation, stuccoing, decorative stone, tile, marble, etc. The bill expressly still allows local licensure for plumbing, pipe fitting, mechanical and HVAC systems, and alarms and electrical systems. Ordinances adopted before January 1, 2021 must expire in 2023. An amendment to grandfather in existing ordinances was offered and supported by the Florida Association of Counties, Lee, Broward, and Miami-Dade Counties. The amendment was ultimately withdrawn with commitment from the sponsor to work more on local government concerns. However, the sponsor also indicated that- if one county has an issue it is likely other counties also have an issue necessitating uniformity. Members in opposition expressed concerns on impacts to the quality of work. Members in support are persuaded by the burden their constituents face in obtaining and maintaining licenses in multiple jurisdictions and the impact on project timelines. SB 268 moves to the Senate floor for a full vote; HB 735 has already passed the House 82-32.

SB 496 / HB 59 - Growth Management

The House voted 82-32 and the Senate voted 38-0 to send HB 59 to the Governor. The bill would require local governments to update their comprehensive plans with a private property rights element. The bills were amended in previous stops to alleviate fiscal impacts by allowing local governments to adopt the element during their next plan amendment occurring after July 1, 2021 or during their regularly scheduled plan review, whichever is earlier.



The amended version also provides that a party may amend or cancel a development agreement without consent of other parcel owners subject to the agreement so long as it does not change the use the owners are entitled to. It would also allow agreements under existing DRIs that are classified as essentially built-out to be amended, including exchanging land uses. Opponents point claim the bill does nothing to increase private property rights, which are already enshrined in the Constitution and protected by laws such as the Bert Harris Act. Supporters claim that property rights are fundamental rights that are sometimes forgotten by local governments.

SB 400/HB 913 - Public Records

Senate Rules unanimously advanced SB 400. The legislation would prohibit an agency that receives a public records request from filing an action for declaratory relief against the requester to determine whether the information is confidential or exempt from public records laws. The intent of the bill is to ensure the burden of going to court should not be on the requester simply for making a public records request. The sponsors also offer that seeking an Attorney General opinion is a low cost, available method to determine whether the information is confidential and exempt.

SB 418 / HB 327 - Public Records- Persons Seeking Shelter

The Senate Governmental Oversight & Accountability Committee unanimously advanced SB 418 which exempts the address and phone number of persons who are provided shelter during an emergency. The individual's name is not included in the exemption. The legislation is a priority of county emergency departments and is supported by the Florida Association of Counties. SB 418 moves to the Rules Committee; HB 327 has already passed the House, 115-0.

SB 1824 / HB 1153 - Public Records- Emergency Management Planning

The Senate Governmental Oversight & Accountability also unanimously advanced SB 1824, which exempts assessment reports, after-action reports, and evaluation tools of DEM or a local emergency management agency from public records. SB 1824 moves to the Rules Committee; HB 1153 awaits its first hearing the Pandemics and Public Emergencies Committee.

SB 2006 / HB 7047 - Emergency Management

The Senate Rules Committee voted 12-5 to approve SB 2006, the Senate's emergency management package, after adopting in provisions from SB 1924. SB 2006 was amended to include language from SB 1924 limiting the duration of a local emergency order to 10 days. It prohibits the local government from passing a new emergency



order responding to the same emergency after the original is allowed to expire. It also requires local governments to post any order conspicuously on their website and to file the order with the recorder or clerk within 3 days of its issuance. The language also provides that the local government bears the burden of proving that the exercise of its police powers via an emergency order which is found to curtail rights or fundamental liberties is: narrowly tailored, serves a compelling governmental interest, and accomplishes its goal through the least intrusive means. It would also allow the Governor and Legislature, via concurrent resolution, to overrule any local government emergency order if they find it unnecessarily restricts rights and liberties. HB 945 limits the duration of local emergency orders to 7-days with extensions up to 42 days total with the allowance for extensions via virtual meetings.

The bill also requires the Department of Emergency Management to include health-related emergencies in the state comprehensive emergency management plan in consultation with AHCA as well as maintaining a supply of PPE. It requires DEM to contract with entities to provide services for individuals with special needs and requires planning for sheltering individuals. The bill also requires the Governor, if he or she closes schools or businesses, to state specific reasons why the schools or businesses need to close with regular review.

An amendment was offered to SB 2006, but withdrawn, that would have codified the Governor's emergency orders prohibiting vaccine passports and vaccine requirements by private businesses and public entities. However, the sponsor stated he was willing to accept the amendment and would work with the Senator on incorporating language. SB 2006 moves to the Senate floor for a vote; HB 7047 is in its final committee; Health & Human Services.

SB 1944 / HB 1567 - Redundant Utility & Communications Poles

The House State Administration and Technology Appropriations voted 12-2 to advance HB 1567 which would move telecommunications poles under the regulatory purview of the PSC, the same as electric utility poles, rather than the Federal Communications Commission. As electric utilities install new, hardened utility poles mandated by the PSC's resilience requirements, they have found they cannot remove the older "redundant" poles due to telecommunications providers not transferring their attachments to the new poles. This has led to a build-up of older, redundant poles causing public distress and posing a danger during intense storms while the utilities engage in drawn out disputes. The bill is intended to address this issue by moving jurisdiction to the PSC as is allowed by federal law. SB 1944 moves to the Appropriations Committee; HB 1567 moves to the Commerce Committee.

HB 217 - Conservation Area Designations

This bill officially designates the Southeast Florida Coral Reef Ecosystem Conservation Area as the Kristin Jacobs Coral Reef Ecosystem Conservation Area and directs the Department of Environmental Protection (DEP) to erect the appropriate markers. On Wednesday, the Senate passed SB 217 40-0 after substituting the bill for its identical House companion, SB 588. HB 217 is now ordered Enrolled.



SB 1954 / HB 7019 - Statewide Flooding and Sea Level Rise Resilience

This bill creates the Resilient Florida Grant Program, which includes a DEP administered grant fund to provide funding to local governments for the costs of resilience planning such as vulnerability assessment, new plans or policies, a DEP developed “Comprehensive Statewide Flood Vulnerability and Sea-Level Rise Data Set and Assessment” to be updated every three years, and Statewide Flooding and Sea Level Rise Resilience Plan identifying and ranking those local municipal projects (minimum local 50% match) that will address the issue via a scoring system.

Local governments will be authorized to enter into regional resiliency coalitions for the purposes of identifying shared vulnerabilities and project development. The bill also requires EDR to include an analysis of adverse economic effects due to flooding in its annual water resources and conservation land assessment. Lastly, the bill creates the Florida Flood Hub for Applied Research and Innovation, a state-sponsored clearinghouse to establish community-based programs to improve flood monitoring and prediction.

On Wednesday, the Senate took up CS/CS/SB 1954 on Second Reading and adopted one amendment to the bill that conforms it to its House companion, HB 7019. SB 1954 was passed out of the Senate, 40-0. On Thursday it was passed out again in the House after being substituted for HB 7019. SB 1954 is now ordered Enrolled and will be sent to the Governor.

SB 64 / HB 263 - Reclaimed Water

On Tuesday, the House State Affairs unanimously advanced an unamended HB 263. The bill requires domestic wastewater utilities that dispose of effluent, reclaimed, or reuse water by surface water discharge to submit a 5-year plan to completely eliminate non-beneficial surface water discharge to DEP by November 1, 2021. HB 263 is now on the House Calendar. SB 64 is currently in Messages.

SB 2516 - Water Storage North of Lake Okeechobee

This bill directs the South Florida Water Management District (SFWMD) to request that the United States Army Corps of Engineers (Corps) seek congressional approval of a project implementation report for the Lake Okeechobee Watershed Restoration Project (LOWRP) by a specified date.

Further, it requires the SFWMD to seek a partnership agreement with the Corps and expedite implementation of the LOWRP. The bill also expressly requires the SFWMD and the Corps to use a phased approach that confirms feasibility and site suitability and addresses uncertainties identified in the ASR Science Plan.

Lastly, the bill appropriates \$50 million from the SFWMD to the LOWRP.

On Wednesday, the Senate passed SB 2516, 40-0, and sent it to the House, along with a message that the House pass the bill in its current form or submit the bill to Budget Conference. The House elected to adopt a delete-all amendment and accede to a conference to discuss the amount appropriated by the bill.

SB 2512 / HB 5401 - Documentary Stamp Tax Distributions

The bill, the Senate companion to HB 5401, revises documentary stamp tax distributions as follows:

- Reduces the distributions paid into the State Housing Trust Fund and Local Government Housing Trust Fund from a combined 24.17 percent to a combined 6.84519 percent and removes the required \$75 million annual transfer to the State Economic Enhancement and Development Trust Fund (this appropriation is recreated elsewhere in the bill);
- Creates a distribution of 6.84519 percent to be paid into the Resilient Florida Trust Fund to be used for lawful purposes of the trust fund, including planning and project grants;
- Creates a distribution of 6.84519 percent to be paid into the Water Protection and Sustainability Program Trust Fund to be used for wastewater grants;
- Creates a direct distribution of \$75 million to the State Economic Enhancement and Development Trust Fund; and
- Revises the distribution to the State Transportation Trust Fund by eliminating the required \$75 million transfer to the General Revenue Fund and recalculating the minimum distribution levels to the State Transportation Trust Fund to reflect the elimination of the transfer.



The bill prohibits the funds distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund from being transferred to the General Revenue Fund in the General Appropriations Act. The bill also reenacts statutes related to the housing distributions to incorporate the changes to the documentary stamp tax distributions provided in the bill. The bill also expands the use of the Water Protection and Sustainability Program



Trust Fund to include the wastewater grant program authorized in section 403.0673, Florida Statutes.

Under the new proposal in 2021, \$200 million would be guaranteed to go towards affordable housing, \$111 million would go to fund the Resilient Florida Trust Fund which would fund the Resilient Florida Grant Fund to assist with local flooding and sea level rise adaptation projects and the final \$111 million would go to the Water Protection and Sustainability Program Trust Fund to be used for wastewater grants.

The effective date of the bill is contingent upon House Bill 7019, relating to statewide flooding and sea level rise resilience, and House Bill 7021, relating to the Resilient Florida Trust Fund/the Department of Environmental Protection (DEP), or similar legislation taking effect. SB 2512 was then sent to the House, where it was substituted for its House companion, HB 5401, and passed (78-38). The bill is now ordered Enrolled.



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