

# PBC Legislative Update



APRIL 15TH, 2019

## **FEDERAL ISSUES**

*1. This Week in Washington*

## **STATE ISSUES**

*1. Florida Session Week 7*

## **FEDERAL ISSUES**

### **This Week in Washington**

*By: Thorn Run Partners*

Both chambers of Congress have left Washington for a two-week district work period. Lawmakers will resume legislative business Monday, April 29th.

## **STATE ISSUES**

### **Florida Session Week 7:**

*By: Thorn Run Partners, Ericks Consulting, Anfield Consulting, & County Staff*

### **Florida Senate**

*Public Safety Package/ Florida "First step Act"*

The Senate created its own public safety train as a companion to the House committee bill filed last week. The "train" was created in Senate Civil & Criminal Justice Appropriations and then advanced through Senate Appropriations in the same week in a unanimous vote. Meanwhile, House Appropriations voted unanimously to advance its package to the floor. The legislation is a combination of several criminal justice reform and public safety bills, including legislation on: mandatory direct file, juvenile justice, court-ordered treatment programs, theft thresholds, drivers license suspension. It increases penalties and ability to report crimes involving contraband in county facilities, lewd and lascivious acts, cyberstalking and animal welfare. It Senate bill also provides persons who hold or held active certifications from the Criminal Justice Standards & Training Commission as a correctional and law enforcement officer meet the definition of "qualified law enforcement officers" subject to Federal requirements. The reform elements are modeled after the Federal "First Step Act." The bill would allow judges to depart from mandatory minimums on minor drug offenses, improve reentry programs, create the Prison Entrepreneurship Program, and require inmates to be incarcerated at a facility nearer to their home and families. The Senate bill was significantly expanded and is more progressive in some provisions, such as retroactively ameliorating hydrocodone trafficking minimums, modernizing "intent" on transmission of HIV to encourage more people to know their own status, and requiring FDLE to commission a racial impact study for any criminal justice legislation. Both the House and Senate bills further the state's criminal justice data transparency initiatives by changing reporting requirements for agencies, correctional facilities, and law enforcement. This initiative has been applauded

nationally for accountability and measuring of the impact of reforms. The legislation is supported by criminal justice reform advocates that argue the measure will improve recidivism rates, save taxpayer dollars, and reduce racial inequality.

The House and Senate bill are now ready to be considered by their full Chambers, but will need to negotiate their differences in order to pass. Many of the provisions are also in several moving vehicles (such as SB 7072, also passed unanimously by Senate Appropriations this week.)

[HB 7125](#)

[SB 642](#)

[Analysis to pre-amended PCS \(SB 642\)](#)

[SB 7072](#)

### **Senate Appropriations Committee**

#### *Small Cell Preemption*

Legislation to preempt local authority over the use of right-of-ways by communications services providers advanced through Senate Appropriations in a 18-1 vote and House Commerce in a 21-1 vote. The committees adopted amendments that gave only minor concessions to local governments. With the state of negotiations, the current version of the legislation is not likely to change much prior to passage. It jeopardizes undergrounding efforts as well as any ordinances. Among other things, the bill would prohibit permits and fees for upgrading, maintaining, repairing, etc. aerial or underground wireline communications facilities; prohibit moratoriums or regulation of collocation; suspend local ordinances related to communications facilities in the right-of-way not sent to the Department of State; and would create a cause of action for violations that would award attorneys fees to the prevailing side. Under the bill, local governments could request updates from communications services companies during the five year registration period. One change adopted clarified that franchise fees are not included in the prohibition on what could be charged. The bills are now before their respective Chambers and are likely to pass, based upon their support. Local government advocates believe we will back in another two years due to the Legislature refusing to accept even changes that clarify the language to their benefit.

[SB 1000](#)

[HB 693](#)

#### *C-51 Reservoir*

Senate Appropriations unanimously passed C-51 reservoir project legislation which advances an alternative water source for local governments in Palm Beach and Broward. The bill instructs the South Florida Water Management District (SFWMD) to acquire any portion of the reservoir not committed to utilities and any available land needed for the project. It authorizes SFWMD to enter into capacity allocation agreements with a water supply entity and allows water from Lake Okeechobee to be used to support consumptive use permits. It also requires that water from the project be made available for natural systems in addition to amounts permitted for water supply. The bill is now ready for the full Senate. The

House unanimously passed the bill out of its Chamber last month.

[SB 92](#)

[HB 95](#)

#### *Biosolids*

Senate Appropriations unanimously approved legislation sponsored by Treasure Coast representatives that implements the recommendations for improvement of biosolid management made by the Biosolids Technical Advisory Committee. Directs DEP to develop rules that include nutrient standards for water quality protection and site permits. The bill specifically clarifies that local government moratoriums and ordinances may remain in effect and that local governments may enact future moratoriums and ordinances. The legislation is supported by environmentalists and water advocates. The bill is ready to go before the full Senate. The House bill was not scheduled in its final committee of reference but could be adopted onto another vehicle.

[SB 1278](#)

[HB 405](#)

#### *Micromobility Devices and Motorized Scooters*

Senate Appropriations unanimously advanced a bill that would define motorized scooters and micromobility devices and place them under the same road requirements as a bicycle. The bills are intended to allow the mobility devices to get off of sidewalks while preventing their prohibition. The Senate language allows local governments to retain full regulatory authority over roads and sidewalks. The House bill was amended to allow local governments to restrict scooter operations in certain areas and on sidewalks less than 5 ft. in width. The House bill would require local governments to allow for staged parking at each city block and provide insurance requirements. Both bills would require persons offering the devices to secure them during a storm. The House and Senate bills are now before the full Chambers, but differences must be negotiated in order for it to pass.

[SB 542](#)

[HB 453](#)

#### *Autonomous Vehicles*

Senate Appropriations unanimously advanced a bill that updates statutes to embrace developments in autonomous vehicle technology and continue to make Florida one of the leading states in the country. This bill removes some of the barriers that were implemented when autonomous vehicles were not even fathomed. It establishes minimum driving conditions for the use of any automatic driving systems and changes long range planning consideration from “autonomous technology” to “automated driving systems.” The bill also clarifies minimum insurance thresholds, prohibits the levying of fines or fees by local entities for on-demand autonomous vehicle networks. Airports and seaports may still charge reasonable fees to on-demand networks for passenger services. The bills are now before the full House and Senate.

[HB 311](#)

## [SB 932](#)

### *Department of Transportation Package*

Senate Appropriations unanimously approved a transportation package regulating that prohibits local governments from adopting standards for permissible aggregates and reclaimed asphalt pavement contrary to DOT standards. It prohibits the same firm from being used for design and construction if the project receives any state funding. It requires contractors bidding for projects over \$50 million to have successfully completed two previous contracts for \$15 million (amended from \$25 million). It also increases the threshold for claims going before the State Arbitration Board. The committee adopted an amendment that removed minimum standards for FDOT Secretary. We also successfully amended the bill to exempt special districts from requirements in order to protect seaports. Unfortunately, the committee was running out of time when they took the bill up and decided to forgo all amendments, meaning that airports were not exempted from the requirements. We are looking for another potential package to amend the exemption into should the Senate decide to take the House version or pass unamended.

## [HB 905](#)

### *K-12 Education*

Senate Appropriations voted 11-8 to advance a bill that implements many of the priorities announced by the Senate and Governor earlier this Session on school choice on the premise that access to a high-quality education should not be based on zip code. The bill creates the Family Empowerment Tax Credit program that expands publicly funded (through business tax credits) vouchers for children to attend private schools. Children currently enrolled in charter schools or in the school for the Deaf & Blind are not eligible for the vouchers. It also expands and funds wrap around services for kids in after school care. The Senate adopted amendments that added in some House components as well as removing barriers for school districts to prioritize certain construction projects and allowing a governing charter to require charter schools to reimburse the school district for any costs incurred in a charter school violation of Civil Rights or Equal Employment Opportunity. Amendments were withdrawn that would have required charter schools to identify locations that were near the population it is intended to serve. The amendment sponsor stated he wants to prevent what he calls a “bait and switch” that he has witnessed of charters purporting to serve a specific population in their applications and then opening in a completely different location. He stated he was withdrawing the language in order to work on a solution the sponsor would accept. Amendments were also withdrawn that would have created a new .5 mill surtax levy specifically for school hardening. The House bill allows schools of hope to be operated in Opportunity Zones. It permits schools of hope funding to be used for directors and other outreach prior to operating. It allows hope scholarship students to be able to exchange for a transportation scholarship. The bill removes what had become a perverse incentive to report incidents of bullying. It also allows expansion of charter schools on land that is owned or by a library, church, etc. without rezoning or special land use changes or charges. The bills are now before the full House and Senate and differences must be ironed out before final passage.

## [SB 7070](#)

[HB 7095](#)

**Senate Finance & Tax Committee**

*Local Tax Referenda*

Senate Finance & Tax voted 11-5 to advance one version of a preemption on local tax referenda elections. However, it was not noticed for what may be the final Senate Rules committee next week, and the only other Senate vehicle was also not placed on the agenda for the final Senate Appropriations meeting. The House voted 69-44 last week to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election, be passed by 2/3rds of voters and requires local governments and school districts that adopt a surtax referendum after January 1, 2020 must submit the referendum to OPPAGA at least 180 days before the referendum is held. The Senate versions companion did not contain the 2/3rds requirement.

[SB 336](#)

[HB 5](#)

**Senate Rules Committee**

*Expired Building permits*

Senate Rules unanimously approved a bill that requires local governments provide at least 30 days prior written notice to contractors and owners, via email or mail, that a permit is set to expire. It also provides that local governments may only charge one search fee for identifying permits associated with one unit or sub-units. The committee adopted an amendment that also clarified a procedure for opening expired permits through a contractor and adds flexibility for local enforcement agencies in closing permits. The bill is now ready for the floor in the House and Senate.

[HB 447](#)

[SB 902](#)

*Federal Immigration Enforcement*

Senate Rules voted 9-8 and House Judiciary voted 12-6 to approve a bill that would ban “sanctuary” jurisdictions and require state and local entities to comply with federal immigration detainers. The House bill is not as softened as the Senate bill and still includes a civil cause of action for wrongful deaths or injuries attributable to a sanctuary policy and financial penalties for sanctuary jurisdictions that include fines and prohibitions in receiving state funds. Amendments on accountability for local officials were also filed to the House bill on Friday (to be taken up on the floor of the House in the next two weeks.) A requirement law enforcement investigate immigration status of arrestees is still removed. The bill requires local jurisdictions to cooperate with ICE if certain federal detainer documentation is provided and for county correctional facilities to enter into agreements with a federal immigration agency on reimbursement for costs of holding detainees. The criteria for what constitutes a sanctuary jurisdiction and whether any currently exist in the state is a subject of disagreement. Proponents of the bill believe it is necessary to ensure jurisdictions are following the rule of law. Opponents argue the bill is unnecessary, a burden on local resources, stigmatizes immigrants, and prevents the immigrant community from engaging with law enforcement to report

crimes or seek needed assistance. The bill is now before the full House and Senate.

[HB 527](#)

[SB 168](#)

*Drones*

Senate Rules unanimously passed a bill that would prohibit drones from flying in close proximity to a county detention facility in addition to other correctional and residential facilities, including county facilities. It is now before the full Senate. The bill passed unanimously out of the House last week.

[SB 7046 \(HB 7057\)](#)

*Texting While Driving passes Final Senate Committee*

Senate Rules Committee unanimously approved the Senate “Texting While Driving” Ban after adopting an amendment that brought it back to its original “hands-free” stance. The bill had been watered down in its prior committee to allow talking on handheld devices with public opposition pointing to Georgia and other states that have successfully gone “hands-free.” However, the House must accept this change for the “hands free” position to pass. Despite the differences, there is a general agreement between the Chambers for making texting while driving a primary offense and for recording the race/ethnicity of the operator issued a violation. This is the closest Florida has ever come to passing a primary texting while driving ban since it changed its law to make it a secondary offense in 2013.

[SB 76](#)

*Dredge and Fill Permitting program*

On Wednesday, the House passed CS/HB 799. The bill is now in Messages. The bill contains a memorial urging Congress to direct the EPA to issue a memorandum of agreement so Florida may complete the assumption of the Sec. 404 program under the CWA.

[HB 799](#)

**Senate Subcommittee on Criminal & Civil Justice Appropriations**

*Security in Trial Court Facilities*

Senate Subcommittee on Criminal & Civil Justice Appropriations unanimously approved a bill that requires sheriffs to coordinate a plan for court security with the Board of County Commissioners and the chief judge of the judicial circuit court. The bill reflects compromise language arrived at last year through negotiations that on proposals that would have given sheriffs full authority over court security after a judge ruled that a sheriff needed to provide security to a courthouse that was not in use. It also provides that sheriffs, officers and contracted employees are officers of the court. The Senate bill still has one of four committees remaining unless it is able to be “pulled” from that reference. The House bill is before the full House.

[HB 639](#)

[SB 762](#)

### *County Court Filings*

Senate Subcommittee on Criminal & Civil Justice Appropriations and House

Judiciary voted unanimously to raise jurisdictional thresholds for civil cases in county courts from \$15,000 to \$30,000 in 2019 and \$50,000 in 2020, while adjusting filing fees to ensure clerks remain solvent. It also allows Supreme Court Justices to live outside of Leon County. The Senate bill still has one of four committees remaining unless it is able to be “pulled” from that reference. The House bill is before the full House. The language is now in several moving vehicles.

[SB 328](#)

[HB 337](#)

### **Florida House of Representatives**

#### *Single-Use & Sunscreen Bans*

While House and Senate bills to impose moratoriums on plastic straw and sunscreen ordinances died by not being heard in their committees of reference, the Florida Retail Federation was hard at work finding other vehicles to advance in the House. House Commerce advanced HB 1299, which includes a straight preemption on plastic straw and sunscreen ordinances among other things (see below). House State Affairs adopted an amendment to impose a moratorium until 2024 onto an already agreed upon recycling bill that was a compromise between local governments and the industry. The moratorium does not provide for the DEP study as the other bills had been amended to do nor does it provide for the \$25,000 penalties. 1299 does not have a true Senate companion. The recycling bills (see below) are now both before their respective Chambers, however the Senate bill does not yet contain this language. The inclusion of the language may have jeopardized its chances to pass if the Senate does not agree to it.

[SB 588](#)

[HB 603](#)

#### *Towing and Immobilizations*

The House voted 83-31 to pass a bill that would preempt towing & wrecking ordinances, impacting consumer protection models of local government ordinances. However, its Senate companion was not placed on the agenda for what may be the last Senate Rules meeting. It sets licensure and notice requirements, and it prohibits ordinances or rules that impose a fee on wrecker operators and immobilization of vehicles or vessels. It also prohibited local governments from addressing attorneys fees or court costs related to towing on private property. It would also prohibit local governments from requiring a towing company accept checks as a form of payment. It carves out Palm Beach and Broward County ordinances, causing some to vote for the bill despite their objections.

[SB 1792](#)

[HB 1237](#)

### *Community Redevelopment Agencies*

CRA reform passed the House in a 70-47 vote and unanimously advanced through its final Senate committee. The legislation includes a phase out of CRAs with no outstanding bond obligations by 2039 or by the date adopted in its charter by October 1 2019, whichever is earlier. A creating local government can extend the life of the CRA by a majority vote. The bill also includes ethics training for CRA commissioners; procedures for board appointments and procurement; and reporting requirements. It requires CRAs to stick to an annual adopted budget and requires CRAs created by a municipality to send adopted budgets and amendments to the County within 10 days of adoption. It also authorizes a creating local government to establish the amount of Tax Increment Financing (between 50-95% of the increment) available to the CRA and removes a three-year limit on rollover funding for adopted projects. The House bill would controversially require a countywide referendum passed by 2/3rds of eligible voters to create new CRAs. However, the Senate bill does not.

#### [HB 9 & SB 1054](#)

##### *Financial Disclosures*

The House unanimously passed a bill that would establish a state electronic filing system for Form 1 and Form 6 financial disclosures and alter reporting requirements. The Senate bill is close to a final vote in the Senate.

#### [HB 7021](#)

##### *Local Government Financial Reporting*

The House voted 116-1 to require local governments provide a report to the Office of Economic and Demographic Research (EDR) that includes: Government spending per resident (for the past five years), government debt per resident (for the past five years), median income of residents, salaries of government employees, and number of special taxing district within local boundaries. The bill is scheduled to be heard in its final committee in the Senate next week.

#### [HB 861 & SB 1616](#)

##### *Firefighter Cancer Benefits*

In a major turn of events, the Speaker of the House reversed course on the House firefighter cancer benefit proposal after pressure from members in both Chambers and the press. The Senate had been pushing hard for the bill all Session, with press conferences and touching committee testimony from family members of firefighters who are battling cancer or lost that battle. However, the House refused to hear the bill in even one committee. The Speaker had stated the House's issue was the unfunded mandate on local governments. Many suspected this was not the case, and rumors spread that the bill had been held up, despite having over 80 cosponsors, due to political retribution for firefighters not backing a particular candidate. The Speaker stated these rumors were "untrue" and damaging to the process by taking the conversation off of policy. The press pointed to the firefighter bill and the Competitive Workforce Act (LGBT+ protections) as two bills that called into question the Speaker's promise of having a "member driven" instead of leadership driven Chamber. Both bills have a high amount of bipartisan House cosponsors yet were never heard in their first committee. The Speaker

issued a statement and the House State Affairs committee filed a committee bill. unanimously approved a bill that would grant disability and death benefits to firefighters diagnosed with specific cancers. Several studies have shown that firefighters are much more likely to be diagnosed with cancer. The committee heard from firefighters and families of firefighters who have cancer or have lost to cancer. Upon initial diagnosis of cancer, firefighters would be provided cancer treatment at no cost and a one-time cash payout of \$25,000. Diagnosis and treatment of cancer would be presumed to have been contracted in the line of duty. To be eligible for benefits, firefighters must be full-time, must have been employed by the same employer for at least five years, must have not used any tobacco products in the preceding five years, and cannot have previous employment that has a higher risk of cancer. Employers must provide coverage through an employer-sponsored health plan or group insurance plan. Firefighters cannot be required to pay co-pays, deductibles, or co-insurance or a local government must timely reimburse these out-of-pocket costs. The committee adopted an amendment that would raise FRS contributions to the Special Risk Class by .08% in order to fund benefits. The Florida League of Cities spoke in opposition due to the uncertainty in budget planning. Another amendment is pending that would prohibit employers from requiring employee increases to the FRS in order to fund the benefit.

#### [SB 426](#)

##### *Coastal Management*

The House unanimously passed beach management legislation supported by advocates for beach preservation, tourism and coastal communities. The Senate bill also advanced through its final Senate committee. The legislation would require DEP to create three-year Comprehensive Long-Term Beach Management Plan that lays out a long-term strategy for beach renourishment and inlet management projects. The plan must include a critically eroded beaches report. The bill requires DEP to create a four-tiered scoring system for evaluating and prioritizing beach management projects, including economic importance, storm damage and sand management. The bill also revises criteria for DEP to rank inlet management projects, allows for DEP to fund up to 75% of a large inlet project. Supporters believe the bill would provide stability and continuity similar to the FDOT work program for Florida's beaches.

#### [HB 325](#)

#### [SB 446](#)

##### *Opioid Lawsuit*

Legislation to authorize the Attorney General to have indirect access to the Prescription Drug Monitoring Program for use in pending controlled substances criminal and civil litigation hit a snag when it was not scheduled for its final Senate committee and temporarily postponed on the House floor. Concern is over whether the bill adequately protects identities of those in the database. Under the bill, each patient in the database would be given a unique identification number and data collected is limited to only what is relevant to case discovery. The unique identifier is a combination of birthdate and zip code. Privacy groups believe this is not enough to ensure anonymity should the information fall into the wrong hands.

AGs office filed a lawsuit in May that alleges opioid manufacturers, distributors, and sellers (including Purdue Pharma, CVS and Walgreens) pushed sales of opioids despite knowledge of the dangers and of increasing demand that clearly showed addiction and abuse. The lawsuits alleges they engaged in a deceptive marketing campaign, which included funding ostensibly neutral physicians and organizations, and continuously allowed diversion of their products and filled suspicious prescriptions despite alarmingly high numbers. Without the legislation, the Attorney General believes it could take years and millions of dollars to build a case.

#### [HB 1253](#)

##### *Alcohol & Drug Related Overdoses*

The House unanimously passed a bill to expand the Good Samaritan Act to give immunity from arrest, charge, prosecution, or penalties for a persons who, in good faith, seek help for themselves or other individuals believed to be in need of medical attention while experiencing an alcohol or drug related overdose. The bill is intended to prevent the loss of life in situations where people do not seek needed help due to fear of being charged with underage drinking and drug possession. In order to qualify for immunity from charges related to providing alcohol to minors, the individual is required to stay with the minor until medical assistance arrives and to cooperate with law enforcement. The bill includes immunity from charges related to possession of paraphernalia and possession of drugs below a certain amount. The legislation encourages people to call for help before the consequences are irreversible. The Senate bill includes both alcohol and drug related overdoses, while the House bill focuses solely on alcohol. The Senate bill is before the full Senate.

#### [HB 595](#)

#### [SB 530](#)

##### *Carrying of Firearms by Tactical Medical Professionals*

The House passed a bill 111-2 to allow certain physicians and paramedics embedded in law enforcement SWAT teams to carry firearms while in active support of a tactical operation. In his introduction, the bill sponsor clarified that this does not allow firefighters to carry firearms any time they want, he clarified that it only for when they are engaged in SWAT operations. The medics have advanced life-saving skills and respond to calls with SWAT teams in order to quickly address medical emergencies and save the lives of victims, law enforcement, and even perpetrators. Current law would force these medics to train to become sworn officers in order to carry during an operation, which is cost prohibitive in both funding and manpower. The bill is supported by the Florida Sheriffs Association, Florida Fire Chiefs Association, Broward Sheriff's Office, Broward Police Chiefs Association, Fort Lauderdale Police Department, Plantation Police Department, Coral Springs Fire Department. The bill is now before the full House. Its Senate companion is scheduled to be heard next Tuesday in its final committee of reference.

#### [SB 722](#)

#### [HB 487](#)

### *MDX Bill*

The House voted 80-33 to pass a transportation package targeted to Miami-Dade, Miami-Dade TPO and the Miami-Dade Expressway Authority. Meanwhile, Senate Appropriations unanimously advanced its Senate companion through its final committee of reference. The House adopted several amendments on the floor, none of which expanded into other counties. The bill overhauls the Expressway Authority, alters TPO membership and structure, and restricts the County's ability to direct transportation surtax funds. The bill shows a frustration of the Miami-Dade Delegation with its local transportation agencies and their treatment of past legislative directives to reduce tolls and oversight of funding. The bill also incentivizes P3 projects and requires financial disclosures for transportation authority officials. The bill is now before the full Senate.

[HB 385](#)

[SB 898](#)

### *Growth Management*

On Wednesday, the House took up CS/CS/HB 291 on Second Reading and adopted one amendment. The amendment provides that, instead of July 1, 2020, a local government must adopt a private property rights element within its comprehensive plan the earlier of July 1, 2022 or the next time it amends its plan. E1/HB 291 was then rolled to Third Reading and passed out of the House.

CS/SB 428 is currently in the Senate Judiciary Committee, which will not meet again. This bill requires both the state and local governments' comprehensive plans to include a private property element. It provides a statewide model form for acknowledging private property rights but does allow local governments to create their own forms as long as they do not conflict with the statewide model. In either case, local governments must adopt this property rights element into their comprehensive plans by July 1, 2020.

In accordance with the proposed statewide form, the private property element must, at minimum, include consideration of the following:

- Physical possession and control of the property owner's interests in the property, including easements, leases, or mineral rights;
- Quiet enjoyment of the property, to the exclusion of all others;
- Use, maintenance, development, and improvement of the property for personal use or the use of any other person, subject to state law and local ordinances;
- Privacy and exclusion of others from the property to protect the owner's possessions and property; and
- Disposal of the property owner's property through sale or gift.

Lastly, all comprehensive plans effective as of 2019 must recognize and refrain from impairing the completion of any developments subject to an existing development order. Notwithstanding any future amendments to the development order, the plan must vest the density and intensity approved by the order.

[HB 291](#)

[SB 428](#)

*Police, Fire, and Search and Rescue Dogs and Police Horses*

SB 96 had its third reading in the House. The bill was passed 116-0. The bill increases the penalty for intentionally and knowingly causing great bodily harm, permanent disability, or death to, or using a deadly weapon upon, police canines or horses, fire canines, or SAR canines, etc. The effective date for the bill would be October 1, 2019.

### [SB 96](#)

#### **House Appropriations Committee**

House Appropriations voted 27-2 to pass a bill that raises the minimum age to purchase tobacco products (including e-cigarettes) to 21 and preempts regulations of marketing practices. Local governments can still require a license for sale of tobacco products. The bill is now ready for the full House after only the one committee. The Senate bill also contains provisions that decriminalizes giving minors a cigar and possession of tobacco by minors. Similar provisions are found in the House public safety package. The Senate bill is scheduled for its final House committee on April 23rd.

### [HB 7119](#)

### [SB 1618](#)

#### *Tax Package*

House Appropriations voted along party lines to advance an over \$102 million (over \$114 million recurring) tax package. The package among other things, includes a further reduction to the tax on commercial leases, a back-to-school and disaster preparedness sales tax holiday, a requirement for school districts to share millage levied through a referendum with charter schools (language dear to the Speaker after Miami-Dade County chose to not share its recent millage increase with charter schools), a restriction property tax exemptions enjoyed by nonprofit hospitals by requiring hospitals to subtract only the value of charity care provided, expand tax credits for private school scholarships, and address property tax assessments and refunds in hurricane affected counties. The committee adopted clarifying language and added in telehealth credits. School districts in South Florida expressed concerns about the retroactive nature of the levy language. The bill is now before the full House.

Meanwhile, Senate Finance & Tax unanimously advanced its package. It would require online retailers to collect sales tax as allowed by the recent *Wayfair* court decision (estimated to bring in an additional \$700 million dollars for the state budget recurring.) It would also increase the charitable property tax exemptions for affordable housing passed in 2017, add intellectual property developed by companies with large investments to qualify for the Capital Investment Tax, and exempts ad valorem for heavy equipment held by a dealer. The House is unlikely to accept the Wayfair policy. It also contains the telehealth credits and reduction to the commercial lease tax. The Senate bill was not placed on the agenda for its final Senate committee, and it is unclear if it will continue to advance. Other Senate vehicles are still alive. The Senate advanced a vehicle closing Corporate Income Tax base expansions that were exemptions removed by the Federal Tax Cuts & Jobs Act and another vehicle addressing sales tax holidays were expanded to include some of the provisions (such as commercial lease reduction).

[HB 7123](#)

[SB 1112](#)

### **House Judiciary**

#### *Attorney Fees in Challenges to Local Ordinances*

House Judiciary voted 12-6 to approve a bill that awards attorneys fees to prevailing parties in cases against local governments that challenge ordinances that are preempted to the state and Federal government. The bill allows local governments to avoid paying attorneys fees if ordinance is repealed within 21 days of written notice that it violates a state or Federal preemption. It exempts challenges against growth management ordinances not preempted by statutes regarding Florida Building Code permits and inspections. It is now before the full House. Its Senate companion is scheduled for its final committee next week.

[HB 829](#)

#### *Bert Harris*

House Judiciary voted 15-3 to tip the scales further to property owners in Bert Harris claims. The bill allows property owners to file a Bert Harris claim as soon as they are asked to comply with an inordinate burden, would only need to give 90-days notice to a local government, have a court instead of jury determine damages, allow a factfinder to consider business damages, be awarded attorneys fees incurred from the time the notice is filed if they prevail regardless of settlement. The bill would also provide a presumption that all similarly situated residential parcels are inordinately burdened and entitled to the same settlement or judicial determination. Local governments would be blocked from being awarded attorneys fees and would be encouraged to settle within the 90 day notice timeframe. It provides that the presumption of inordinate burden on similarly situated parcels is rebuttable.

[HB 1383](#)

#### *Human Trafficking*

House Judiciary unanimously approved a bill that establishes and requires training for public lodging establishments on identifying, reporting and addressing trafficking activity to deter the use of public lodging by human traffickers. The bill was amended to also place requirements for training and signage for licensed medical practices (everything from massage therapists, physical therapists, podiatrists, optometrists, etc.) Unlike previous iterations of this legislation, this bill would not provide a cause of action or liability for public lodging establishments where human trafficking takes place. It requires the Board of Massage Therapy and Division of Hotels & Restaurants to discipline bad actors. The bill would establish a Direct Support Organization to foster private and community funding and partnerships to address human trafficking issues in the state. It would create the Soliciting for Prostitution registry for “johns” and “pimps” to deter demand, which law enforcement testified as the most effective method to combat human trafficking. The bill would require the Florida Department of Law Enforcement to develop and implement a training program for law enforcement. Finally, it would allow victims of human trafficking to petition for expungement of kidnapping

charges that occurred due to being forced to participate in a human trafficking scheme. Law enforcement and local governments supported the bill. Victims advocates and sex industry workers appeared split on the bill despite repeated confirmation that the registry will not include victims. The bill is now before the full House, however it was not placed on the agenda for its final Senate committee.

[HB 851](#)

[SB 54](#)

#### *Emotional Support Animals*

House Judiciary unanimously advanced a bill that provides individuals with disabilities that have emotional support animals full access to housing accommodations and may not be required to pay extra to have the animal. Housing accommodations may request documentation from a health care provider that verifies the disability. Emotional support animals provide value to the disabled by virtue of their presence rather than particular training. Animals that pose a danger or risk to public safety and health would not be required to be accommodated and the bill also provides penalties for fraudulent documentation verifying the disability. The committee adopted an amendment that permitted documentation from licensed out-of-state health care providers and permitted housing providers to deny ESAs only if another reasonable accommodation could not mitigate the danger to safety and health. The legislation is now ready for a vote by the full Senate and House.

[SB 1128](#)

#### *Public Nuisance*

House Judiciary unanimously approved legislation providing additional activities and properties subject to be enjoined as a public nuisance. The bill would deem a property a public nuisance if gang-related activity occurs once, rather than two or more times, and if any of the following occurs more than twice within six months: dealing in stolen property, assault and battery, burglary, theft, and robbery by sudden snatching. It extends and strengthens notice requirements to abate the nuisance and limits liability to owners of rental properties provided they rehabilitate the property within 30 days. The bill is now ready for the full House. However, its Senate companion was not scheduled for its final committee of reference.

[HB 551](#)

[SB 668](#)

#### **House Commerce Committee**

##### *Major Preemption Package*

House Commerce voted 15-7 to advance a major preemption package that includes a preemption on single-use plastic straws, sunscreen, alternate generated power (including emergency power ordinances for nursing homes), age limits on nicotine products and more. It prohibits local governments from purchasing or annexing property within another jurisdiction without express permission from that jurisdiction, imposing additional requirements for maximum fuel supply or temperature for nursing homes and assisted living communities in emergency

management plans, and levying excise taxes on nicotine products. It also limits tolling of permits provisions to only “natural” states of emergencies. The bill is now before the full House. It does not have a true Senate companion.

[HB 1299](#)

*Public Utility Storm Protection Plans*

House Commerce unanimously approved a bill that focuses on resiliency, planning and a long-term approach to restoring power after a storm. The bill permits charges for hardening outside of the base rate, allowing the PSC to be able to review the charge on an annual basis. Under the bill, utility companies will be submitting costs to the PSC for approval after completion of the work of hardening. It would also address concerns of the Public Service Commission (PSC) including consumer protections to ensure power companies do not double-dip in charging customers. As in past committees, an organization called Florida Industrial Power Users opposed the bill due to “unfair” cost baring claiming their users draw directly from the transmitting lines and would not benefit from the focus on the “last mile” for hardening which is the intention of the bill. However, they refused to name their membership, which some news outlets have reported include some of the largest corporations in the State. AARP expressed concerns about the potential for destabilizing of rates because of the annual review of these rates. The bill is now before the full Senate and House.

[HB 797](#)

[SB 796](#)

*E-911 Systems*

House Commerce & Senate Appropriations unanimously passed legislation to require the Department of Management Services to develop a plan to upgrade 911 public safety answering points to transfer emergency calls to other responding law enforcement agencies by February 1, 2020 and allow direct communication between 911 radio systems. The committees adopted amendments clarifying only certain communications functions were required if the first responder agency can appropriately receive calls for that particular area. The amendments also provided legislative intent that it fulfills an important state interest. The bill also requires counties to develop and implement plans for text-to-911 systems by January 1, 2022. The bill reflects a compromise between the police chiefs and the sheriffs on deferring to local entities to determine what works best for their own communities. The bill is now before the full House and Senate.

[HB 441](#)

**House State Affairs Committee**

*Tree Trimming Preemption*

House State Affairs voted 19-4 to advance the House version of vegetation removal preemption after adopting an amendment that exempts mangroves and expands the professionals that may certify trees for removal. It prohibits local governments from requiring a permit for pruning, trimming, and removal of vegetation and trees that are damaged, diseased, pest infested, or presents a danger. Permits could not be required if the tree is certified to meet these conditions by the International

Society of Arboriculture or if it is a storm/hurricane watch or warning. Local governments also could not require the trees to be replanted if removed according to these conditions. The bill also allows a property owner year-round to request an electric utility to maintain vegetation in property adjacent to the electric utility's right-of-way without notice or permission from the local government. This would only apply to situations when it is necessary for power restoration or when the vegetation is threatening to cause a power outage. Finally, it requires a Property Owners Bill of Rights posted on the Property Appraiser website. It is now before the full House.

Meanwhile, the more palatable Senate bill was placed on the agenda for its final committee of reference next week. It would prohibit local governments from requiring a permit for the trimming, pruning, or removal of a tree under certain circumstances. The provisions of the bill only apply March 1<sup>st</sup> - June 1<sup>st</sup> to residential property owners would have documentation by an arborist that the tree creates a dangerous condition and is not an endangered species. It would protect heritage, patriarch and specimen trees and entirely exempts mangroves from the permit reprieve. It was also amended to allow local governments the ability to require certain trees be replanted. It contains the year-round electric utility language as well.

[HB 1159](#)

[SB 1400](#)

#### *Vegetable Garden Preemption*

House State Affairs voted 20-3 to pass a bill banning local governments from regulating vegetable gardens on residential property. The ban does not apply to general regulations that are not specific to vegetable gardens, such as ordinances regulating fertilizer, water use and invasive species. The bill originates out of a Miami Shores ordinance. The Senate voted 35-5 to pass the legislation through its Chamber last month.

[SB 82](#)

#### *Recycling*

House State Affairs voted 18-6 to advance a bill from last year that requires local governments to address contamination in their contracts with waste companies and processing facilities. However, as stated earlier, the committee adopted an amendment to add in language imposing a moratorium on plastic straw ordinances until 2024 with no DEP study. Senate Appropriations unanimously advanced the original underlying bill without such amendment. In the underlying bill, contracts executed or renewed after July 1, 2019 must: define "contaminated recyclable material" in a manner that is appropriate for the local community; include strategies by both parties to reduce contamination; include procedures for identifying, documenting and handling contamination; authorize actions in addressing contamination; and provide for education and enforcement measures. The sponsor stated the bill does not restrict type of materials being recycled and does not mandate how local governments should structure their contracts. Rather, the intent is to ensure more material gets recycled. The League of Cities supports the bill as a compromise. Supporters say recycling is a broken system and it is

increasingly difficult for haulers to make a profit with the added cost and burden of contaminated materials being rerouted to landfills. Supporters also state the importance of educating the public on how to recycle properly and that it enables waste companies to work with local governments in this effort. The bill also includes an expansion of an exemption from environmental regulation permits (ERP) for reconstruction or repair of docks that are within five feet of the original dock and do not cause additional adverse impacts. The bills are now ready to go before their full Chambers. It's unclear if the Senate will accept the moratorium language or if the difference will kill the bill.

[HB 771](#)

[SB 816](#)

#### *Anchoring & Mooring*

House State Affairs unanimously advanced to the Senate floor legislation that would: direct the Florida Fish & Wildlife Commission to study impacts of long term storage of vessels anchored and moored outside of mooring fields; create “no-discharge zones” for sewage dumping near certain water bodies near rural areas; require boater safety identification cards for boats 10 horsepower and above; and designate a portion of registration fees collected by counties for the Marine Resources Conservation Trust Fund. The bill has one more committee in the House.

[SB 1666](#)

[HB 1221](#)

#### *Water Quality Improvements*

On Thursday, the House State Affairs Committee adopted a PCS for CS/CS/HB 973, which now matches it up with CS/CS/SB 1758, and, for the biosolids piece, with CS/SB 1278. The PCS contains additional provisions that:

- Require DEP and DOH to submit recommendations to the Governor and the Legislature by December 1, 2019 regarding the transfer of the onsite sewage program;
- Specify that a hardship exists under certain criteria when evaluating a lot size for an OSTDS subject to certain prohibitions;
- Require a BMAP for a nutrient TMDL to include a wastewater treatment plan and an OSTDS remediation plan and for DEP to submit a report identifying the costs and funding associated with specified projects;
- Create a clean water grant program, subject to appropriation, and require DEP to submit recommended processes for the prioritization of projects and allocation of funds;
- Require specified sewage spill notification for domestic wastewater facilities that unlawfully discharge sewage;
- Require advanced wastewater treatment for domestic wastewater discharges into the Indian River Lagoon and require DEP to submit a progress report by July 1, 2020;
- Prohibit the land application of biosolids under certain conditions; and
- Require the DEP to implement the findings of the Biosolids TAC by rule and create the Biosolids Alternative Management TAC to investigate further alternative methods for biosolids management and submit its findings to the Legislature and governor.

CS/CS/CS/HB 973 has no more committee references. CS/SB 1278 passed Senate Appropriations on Thursday without amendment. CS/CS/SB 1758 is in Senate Appropriations, which is not scheduled to meet again.

[HB 973](#)

[SB 1278](#)

### **House Health & Human Services Committee**

#### *Homelessness*

House Health & Human Services unanimously approved homelessness legislation. It adopts the federal definition of homelessness, reduces required matching funds for challenge grants from 100% to 25%, increases allowable Continuum of Care lead agency's administrative cost to 10%, and prioritizes CoC agencies that have proven success in moving families out of homelessness. It also encourages Rapid Rehousing and removes background checks and substance abuse treatment barriers to Housing First policies. It also appoints a member of the Florida Housing Coalition and designee of the Department of Elder Affairs to the Council on Homelessness. The bill is now before the full House. However, its Senate companion was not scheduled for its final Senate committee.

[HB 1353](#)

[SB 1218](#)

