



# PBC 2021 Legislative Update

## Department of Legislative Affairs

March 15, 2021 - Week 2

This past week saw plenty of substantive policy bills. Unlike in years past, when the subcommittees were overflowing with individual member appropriations bills, this year those bills are heard via a consent calendar, which frees up valuable committee time for policy bills. As noted in the Week 1 update, these member appropriations bills passing out of committee simply means they are “in play” for budget discussions. First for building the House budget and then later for budget negotiations with the Senate.

The second week of Session came to an end without any public statements regarding budget workshops. There were rumors earlier in the week that budget workshops will be pushed to Week 4, which is not unusual during such budget upheaval. As there are many more member projects to be agendaed, it appears now that neither the Senate nor House is proceeding with budget until Week 4.

Wednesday, March 17 is the Florida Association of Counties Legislative Day in Tallahassee. Broward County is celebrating a virtual Broward County Day with virtual calls all day today, March 15.

# Bills of Interest Statewide

## **SB 72 / HB 7 – Civil Liability for Damages Relating to COVID-19**

### **SB 74 / HB 7005 – COVID Related Claims against Health Care Providers**

Two of the most-watched bills of the legislative session, measures to provide immunity from lawsuits related to COVID-19, were merged Thursday into one bill in the Senate. The single immunity bill (SB 72), now providing some protections from liability to businesses as well as health care providers, including nursing homes, was approved on a 10-5 party-line vote, with Democrats opposed, in the Senate Rules Committee after approval of an amendment absorbing the health care provider provisions from SB 74.

HB 7 passed the full House on March 5.

### **SB 50 / HB 15 – Sales and Use Tax**

A House committee on Thursday approved legislation to require online sellers to collect Florida sales taxes. The House Ways and Means Committee voted 16-2 in favor of the bill (HB 15) which could generate nearly \$1 billion in revenue this year for the state. The proposal is now also part of a broader plan to bolster the state's unemployment compensation trust fund, depleted by COVID-19-related jobless claims. Under that plan, touted by legislative leaders this week, the new revenue from the previously uncollected sales taxes on online purchases would go to shore up the unemployment system, preventing an unemployment tax increase for employers. The new plan for how to use the revenue from the move to collect online sales tax held up the Senate version of the bill on Thursday. The Senate bill (SB 50) was on the calendar for consideration by the full Senate, but the measure was postponed to allow the sponsor to draft an amendment to include the unemployment compensation trust fund proposal.

### **SB 426 / HB 267 – State Preemption of Seaport Regulations**

The Senate Transportation Committee backed a revised bill (SB 426) that initially sought to block local governments from enacting rules on port operations statewide. The revised bill approved Thursday in a 6-2 vote would limit a state "preemption" of local regulations to cruise ship operations only in municipal-run ports in Pensacola, Panama City, Key West and St. Petersburg. Currently, only Key West has cruise ship operations. The bill would also nullify past referendums.

### **SB 778 / HB 675 – Florida Tourism Marketing**

Members of the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development voted unanimously for a bill (SB 778) removing VISIT FLORIDA's 2023 sunset clause.

### **SB 2008 / HB 1429 – Tourist and Convention Development Taxes**

HB 1429/SB 2008 would expand the permissible uses of Tourist Development Taxes TDTs to include the financing of flood mitigation projects or improvements. Additionally, a provision within the legislation would require local tourism promotion organizations to go to a referendum every five years which could result in the demise of local tourism promotion for destinations across the state.

There is also a provision that focuses on those Counties who are "HIGH TOURISM IMPACT" counties and collecting a 6th Cent which might remove some of the additional percentages levied from the purview of the TDCs. For example, the additional 1% that high-impact tourism counties are permitted to levy if adopted would not be under the purview of the TDC. This means a TDC would not be allowed to consider these dollars as part of their budget. HB 1429 will be heard in the Environment, Ag. and Flooding Subcommittee on Monday afternoon. The Senate bill has yet to be heard in Committee.

# Preemptions

## **SB 552 / HB 219 – Vacation Rentals**

A Senate proposal dealing with vacation rentals (SB 522) was amended on Thursday with the bill sponsor stripping out a provision that would have blocked local governments' ability to continue to license and inspect the properties. The amendment deleted provisions preempting regulations to the state while leaving in provisions that would make platforms responsible for collecting and remitting taxes to the state and ensuring rental properties are licensed. The amendment would allow current local laws governing vacation rentals to stay as they are, with the option to change them to be less restrictive in the future if a locality chooses.

HB 219 awaits a hearing in the Ways and Means Committee. We will see if a similar amendment is filed in the House.

## **SB 1924 / HB 945 – Emergency Management Powers of Political Subdivisions**

HB 945, which preempts emergency powers of local governments, was approved in the House Pandemics and Public Emergencies Committee Tuesday on a party-line 12-6 vote with Republicans in favor. The measure is a response to local governments that put strict COVID-19 pandemic emergency orders in place as Gov. Ron DeSantis and other Republican leaders were trying to prevent strict safety measures to keep the economy from being hit too hard. The bill doesn't yet have a Senate companion measure. The legislation takes the wind out of local governments' emergency powers by placing a sunset provision on emergency orders of seven days with the option to extend after that. It would also create a time frame for "significant emergency orders," a new term created by the bill that would expire after 30 days. Under that scenario, local governments would have the option to extend the order once for 60 days but only through a referendum approved by a majority of the city or county's electorate.

SB 1924 will be heard in Community Affairs on Tuesday morning at 9 am.

## **SB 334 – Regulation of Smoking in Public Places**

This bill would authorize counties and municipalities to further restrict smoking within the boundaries of public beaches and public parks under certain circumstances. It also prohibits smoking within the boundaries of a state park. An amendment offered on Friday to this bill would exempt cigar and pipe tobacco smoking from this bill. SB 334 will be heard in the Environment and Natural Resources Committee on Monday afternoon.

HB 239 will be heard in the Professions and Public Health Committee on Tuesday morning.

# Agriculture and Environment

## **SB 88 – Farming Operations**

On Thursday, SB 88 was taken up on the Special Order Calendar. The bill amends the Right to Farm Act, adding “agritourism” and the generation of “particle emissions” to the statutory definition of “farm operations” covered by the Act. Specifically, the bill raises the burden of proof for civil nuisance claims against agriculture operators to one of clear and convincing evidence. The bill prohibits nuisance actions from being filed against farm operations unless specified conditions are met. Additionally, the bill provides that plaintiffs who bring nuisance actions against farm operations are liable for certain costs and expenses and adds limitations on damages.

The Senate bill is now on Third Reading. A similar House Companion, HB 1601, has been recently filed and referred to three committees.

## **CS/SB 64 & CS/HB 263 – Reclaimed Water**

CS/SB 64 requires certain domestic wastewater utilities to submit to the Department of Environmental Protection by a specified date a plan for eliminating nonbeneficial surface water discharge within a specified timeframe. It further requires domestic wastewater utilities applying for permits for new or expanded surface water discharges to prepare a specified plan for eliminating nonbeneficial discharges as part of its permit application. The bill provides for potable reuse as an alternative water supply and projects relating to such reuse are eligible for alternative water supply funding. The bill also requires counties, municipalities, and special districts to authorize graywater technologies under certain circumstances and to provide incentives for the implementation of such technologies.

CS/HB 64 was taken up in its last committee of reference, the Senate Appropriations Committee, on Thursday and passed unanimously (18-0).

CS/HB 263 has two more committee references. CS/HB 263 contains additional provisions requiring the density/intensity bonuses awarded to developers who implement graywater technology be set at 15% and made available to any proposed or existing development where at least 75% of the development has graywater systems installed. The bill also clarifies that the bonus is in addition to any bonus currently being provided by local governments/special districts as of July 1, 2021.

## **SB 588 / HB 217 – Conservation Area Designations**

HB 217 was heard in House State Affairs Committee, its third and last committee of reference. The 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 markers. On Wednesday, the bill passed unanimously (24-0) and moves to House State Affairs Committee. The companion bill, SB 588, is in Appropriations, its last committee of reference.

## **SB 1058 / HB 773 – Sanitary Sewer Laterals**

A sanitary sewer lateral is the portion of the sewer network connecting individual private properties to the public sewer system. In 2020, the Legislature passed House Bill 1091, which encouraged each county and municipality to establish an evaluation and rehabilitation program for sanitary sewer laterals.

This bill authorizes local governments that have established a program to develop specifications and standards for the repair/replacement of any damaged laterals on properties. By July 1, 2023, local governments will be able to access private properties to repair and replace the laterals, with 14 days-notice given to the property owners.

# Agriculture and Environment

HB 773 was voted favorably (15-0) Monday in the (H) Environment, Agriculture & Flooding Subcommittee. The bill's Senate companion, SB 1058 by Danny Burges (Sanitary Sewer Lateral Inspection Programs), is currently scheduled to be heard Monday in the Environment and Natural Resources Committee.

## **SB 7019 (EAF1) & SB 7021 (EAF2) – Statewide Flooding and Sea Level Rise Resilience**

This PCB creates the Resilient Florida Grant Program, a DEP administered grant fund that will provide funding to local governments to cover the costs of community resilience planning in order to combat the effects of sea-level rise and chronic flooding.

The first phase will involve local governments conducting vulnerability assessments with the aid of grant funds, followed by the DEP completing a comprehensive statewide flood vulnerability report by July 1, 2023, to be updated every 3 years thereafter. The DEP must also by the end of 2021 and every three years thereafter develop a three-year Statewide Flooding and Sea Level Rise Resilience Plan identifying and ranking those projects that will address the issue via the scoring system. Each local government project submitted must provide a minimum 50% cost share. 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.

On Monday, the Environment, Agriculture & Flooding Subcommittee voted favorably for EAF1 (now HB 7019) and its funding bill, EAF2, (now HB 7021). The bills were passed again unanimously through their first committee, the Agriculture & Natural Resources Subcommittee, on Thursday. The two bills have one more committee of reference: (H) State Affairs. A similar measure, SB 1954, had been filed and is scheduled to be heard on Monday in the Environment and Natural Resources Committee.

Legislative Staff with the counties comprising the South Florida Climate Compact met virtually with DEP Director Valenstein and House Leadership staff last week to review concerns about the bill.

## **CS/HB 839 & CS/SB 856 – State Preemption of Energy Infrastructure Regulation**

On Tuesday, HB 839 was taken up in the Tourism, Infrastructure & Energy Subcommittee for the first time. The committee passed a PCS by a vote of (12-6). The PCS prohibits local governments from regulating transportation energy infrastructure, specifically preempting such regulation to the state. The bill defines “energy infrastructure” as the infrastructure used to support the production, import, storage, and distribution of natural gas, petroleum, electricity, biomass, renewable fuels, hydrogen, solar, wind, or geothermal energy. The bill prohibits a local government from implementing or enforcing any policy, resolution, or ordinance that has the effect of prohibiting, restricting, or requiring the construction of new or the expansion, upgrade, or repair of existing energy infrastructure. It also prohibits local governments from amending their comprehensive plans, land use maps, zoning districts, or land development. Lastly, it prohibits local governments from imposing requirements that are more stringent than state law.

CS/SB 856 was passed by the (S) Regulated Industries that same day (7-2) with a delete-all containing the same provisions. The Senate bill is scheduled to be heard Tuesday of next week in the Community Affairs Committee. An amendment was filed to SB 856 to narrow the scope further and we hope to see a similar amendment in the House.

# Agriculture and Environment

## **CS/SB 1128 & CS/HB 919 – Preemption On Restriction of Utility Services**

The bill prohibits local governments and special districts from passing or enforcing any law that prohibits or has the effect of prohibiting a resident from selecting their own energy utility service. The bill would effectively void any existing ordinance to that effect after July 1, 2021.

On Tuesday, the (S) Community Affairs Committee took up SB 1128 and passed it (8-1) with one amendment that prohibits local subdivisions of the state from enacting or enforcing laws that restrict or prohibit what types of fuels or fuel sources may be used by a public utility, municipal electric utility, natural gas utility, natural gas transmission company, a category I liquefied petroleum gas dealer, or a category II liquefied petroleum gas dispenser. On Thursday, the (H) Tourism, Infrastructure & Energy Subcommittee passed HB 919 (16-1) with a single amendment to the same effect as the one made to SB 1128. This was the first committee of reference for the House bill; it has four more scheduled.

## **CS/SB 1186 – Property Assessments for Elevated Properties**

SB 1186 was heard in its first committee, Community Affairs. The bill provides that the elevation or rebuilding of residential property in order to bring it into compliance with the requirements of the National Flood Insurance Program and the Florida Building Code shall not increase the property's assessed value for tax purposes under certain circumstances. The bill goes into effect upon approval of SJR 1182 or another similar constitutional measure via a referendum, either on November 2, 2022, or at a sooner date should a special election be held and applies retroactively to all properties destroyed by Hurricane Michael. SB 1186 was passed Wednesday (9-0), in the (S) Community Affairs Committee, with one technical amendment. CS/SB 1186 has two more committee references.

A similar House companion, HB 1377, has been filed and assigned to three committees.

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A similar House companion, HB 1377, has been filed and assigned to three committees.

# Growth Management

## **SB 750 / HB 337 – Impact Fees**

HB 337 provides limitations on impact fee increases imposed by a local government, school district, or special district. An impact fee may increase only pursuant to a plan for the imposition, collection, and use of the increased impact fees that complies with the provisions in the bill. An impact fee may not be increased retroactively for a previous or current fiscal or calendar year. Additionally, the bill limits impact fee increases as follows:

- An increase to a current impact fee rate of not more than 25 percent of the current rate must be
- implemented in two equal annual increments beginning with the date on which the increased fee is adopted;
- If the increased rate is between 25 and 50 percent of the current rate, the increase must be
- implemented in four equal installments;
- No impact fee increase may exceed 50 percent of the current impact fee rate; and
- An impact fee may not be increased more than once every four years.

The bill provides an exception to these four specific requirements if a local government, school district, or special district increases an impact fee rate by first establishing the need for the increase pursuant to the rational nexus test.

HB 337 will be heard in the Local Admin. & Veteran Affairs Subcommittee on Tuesday at 9:30 am. A PCS for that bill was filed as an amendment on Friday which narrowed the scope of the bill, slightly. SB 337 has yet to be heard in a committee.

# Growth Management

## **CS/CS/CS/HB 59 – Growth Management**

CS/CS/HB 59 was heard in its last referenced committee, (H) State Affairs. The bill is a comprehensive growth management bill relating to comprehensive plans, pre-existing development orders, local government development agreements, disposal of real property by the Department of Transportation (DOT), and developments of regional impact. Most notably this bill requires the inclusion of a new Private Property Rights Element in a local government's Comprehensive Plan.

Each local government must adopt a property rights element into their comprehensive plan either as part of its next proposed plan amendment after July 1, 2021, or during the next scheduled evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191 (whichever occurs sooner). Any comprehensive plan for a newly incorporated municipality effective as of January 1, 2016 (instead of January 1, 2019) must:

- Incorporate development orders existing before the comprehensive plan's effective date;
- May not impair the completion of development in an existing development order; and
- Must vest the density and intensity approved by such development order.

On Wednesday, the (H) State Affairs Committee adopted a committee substitute for CS/CS/HB 59 (20-3) that makes the House bill identical to the Senate bill (described above).

CS/SB 496 by Perry is currently in the Senate Judiciary Committee and is scheduled to be heard Monday of next week.

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HB 337 will be heard in the Local Admin. & Veteran Affairs Subcommittee on Tuesday at 9:30am. A PCS for that bill was filed as an amendment on Friday which narrowed the scope of the bill, slightly. SB 337 has yet to be heard in a committee.



# Growth Management

## **CS/HB 403 & CS/SB 266 – Home-Based Businesses**

This bill creates a new section of law prohibiting local governments from regulating home-based businesses in a manner different from other businesses in their jurisdictions and prescribes requirements the business must meet to qualify as such. Home-based businesses may only be taxed by the county and municipality in which they are physically located and any adversely affected current or prospective home business may also bring civil action against a local government regulation, with the prevailing party able to recover attorney's fees and costs.

HB 403 was voted out favorably by the committee on Tuesday by a vote of (14-8) with one late-filed amendment that provides that the bill's provisions do not supersede declarations or covenants formed by certain homeowner or condominium associations. The House bill has no more committee references.

A similar Senate bill, SB 266 by Perry, was taken up Wednesday in the (S) Community Affairs Committee and passed (6-3) with one late-filed amendment that changes the metrics by which a "home-based" business is established. The effect of the change is to ensure the home-based businesses do not impact surrounding properties and keep the dwelling unit in conformance with the residential character of dwelling. It also provides that the bill's provisions do not supersede declarations or covenants formed by certain homeowner or condominium associations. This amendment language was very helpful in narrowing the scope of this bill and we hope to see similar language in the House.

## **SB 284 / HB 55 – Building Design**

CS/HB 55 was heard in its third and last committee of reference. The bill prohibits local governments from adopting regulations requiring specific design elements for single/two-family dwellings, except under certain conditions, including historic properties, implementation of National Flood Insurance Program, in compliance with Florida Building Code or dwellings located in community redevelopment areas. The bill further defines "building design elements" as exterior color, type, or style of exterior cladding, style or material of roof structures or porches, exterior nonstructural architectural ornamentation, location or styling of windows or doors, location and orientation of garage, and number and layout of rooms. It does not include setback, height, bulk, orientation, location of zoning plot, or buffering and screening.

On Tuesday, CS/HB 55 passed favorably (18-5) in the (H) Commerce Committee with one amendment. The amendment provides that local governments may apply building design restrictions in planned unit developments or master planned communities created by local ordinance enacted on or before July 1, 2021.

A similar bill, SB 284 - Building Design by Senator Perry, has been assigned three committee references, its first being the Community Affairs Committee Tuesday morning at 9am.

# Appropriations

We continue working to get our County priority appropriations projects heard in their House subcommittees, to get them eligible for inclusion in the state budget. Projects currently in the Appropriations have been passed in their subcommittee of reference. Others are waiting to be agendaed.

<b>Transportation and Economic Development</b>					
<b>Bill Number</b>	<b>Project Title</b>	<b>Request</b>		<b>Senate and House Sponsors</b>	<b>Current House Committee</b>
1215 HB 2871	Everglades Workforce Training Program	\$1,700,000		Polsky Skidmore	Inf & Tourism
1333 HB 3125	Peanut Island Restoration	\$1,500,000		Powell Caruso	House Appropriations Committee
1381 HB 2723	Central PBC Infrastructure	\$3,000,000		Berman Sillers	House Appropriations Committee
1468 HB 2497	Transportation Disadvantaged	\$2,000,000		Powell Casello	Inf & Tourism
<b>Public Safety</b>					
1236 HB 3471	RESTORE: ReEntry	\$500,000		Berman Willhite	House Appropriations Committee
1334 HB 3465	PBC Bunker Gear Contamination Project	\$800,000		Powell Willhite	House Appropriations Committee
1255 HB 3463	PBC Firefighter Cancer Emission Reduction Project	\$800,000		Powell Willhite	House Appropriations Committee
<b>Health and Human Services</b>					
1465 HB 3263	Glades Homeless Resource Center	\$1,000,000		Polsky Skidmore	Health Care
1231 HB 3241	HRC 2	\$1,000,000		Berman Sillers	Health Care
<b>Education/DCF</b>					
1253 HB 3459	Highridge Family Center Improvements	S \$1,500,000 H \$1,000,000		Polsky Willhite	Health Care
<b>Natural Resources</b>					
Loxahatchee River Preservation Initiative					
1702 HB 2943	LRPI - (1) Sawfish Island Restoration Project – PBC ERM	\$500,000		Harrell Snyder	House Appropriations Committee

# Appropriations

1702 HB 3989	LRPI - (2) Seminole Avenue Stormwater Basin Improvements – Town of Jupiter	\$870,000		Harrell Hardy	Ag & Nat Resources
1702 HB 3419	LRPI - (3) Pennock Industrial Park Stormwater Improvements – ToJ	\$ 231,855		Harrell Hardy	House Appropriations Committee
1702 HB 3073	LRPI - (4) Jupiter Lighthouse Outstanding Natural Area (JILONA) Living Shoreline – JID	\$ 323,250		Harrell Roth	House Appropriations Committee
1702 HB 3071	LRPI - (5) Loxahatchee River Mile 6 Gap Closure and Oxbow Restoration Maintenance – JID	\$ 377,500		Harrell Roth	House Appropriations Committee
1702 HB 3067	LRPI - (6) Sims Creek Preserve Hydrologic Restoration – ToJ	\$100,000		Harrell Roth	House Appropriations Committee
1702 HB 3077	LRPI - (7) Section 7 Drainage Improvement Project - South Indian River Water Control District	\$353,650		Harrell Roth	House Appropriations Committee
1702 HB 3421	LRPI - (8) Loxahatchee River Sediment Study - JID	\$55,104		Harrell Hardy	House Appropriations Committee
Lake Worth Lagoon Initiative					
1237 HB 2757	LWL - (1) Lake Worth Lagoon CAP Section 1135 Project – PBC ERM	\$1,000,000		Berman Caruso	Ag & Nat Resources
1237 HB 2759	LWL - (2) Lake Worth Lagoon Monitoring – PBC ERM	\$247,530		Berman Caruso	Ag & Nat Resources
1237 HB 3127	LWL - (3) Singer Island Submerged Lands Acquisition – PBC ERM	\$250,000		Berman Caruso	House Appropriations Committee
1237 HB 3377	LWL - (4) Lake Shore Drive Drainage Improvements – Town of Lake Park	\$700,000		Berman Caruso	Ag & Nat Resources
Glades Area Projects					
1141 HB 2867	Palm Beach County Glades Region Infrastructure Improvements	\$3,000,000		Polsky Skidmore	Ag & Nat Resources
1140 HB 3105	Palm Beach County Lake Okeechobee Shoreline Restoration	\$1,600,000		Polsky Skidmore	Ag & Nat Resources