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March 22, 2021 - Week 3



# PBC 2021 Legislative Update



## Week 3 Update

As we look back on Week 3 of the Legislative Session, we will focus on some of the week's Capitol Headlines, Bills of interest to the County, and the status of Palm Beach County Local Bills.

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# Capitol Headlines

## **Capitol Lockdown Will Continue**

The Florida Capitol is expected to remain largely closed to the public for the rest of the legislative session because of the COVID-19 pandemic, even as lawmakers get more comfortable meeting face to face. Despite new COVID-19 cases trending down from late fall and early winter and the federal government increasing vaccine supplies to the state, Senate President Wilton Simpson doesn't anticipate lifting health precautions before the scheduled April 30 end of the session.

## **Gaming Bill on the Horizon?**

Florida legislators are "getting close" to a new gambling deal with the Seminole Tribe of Florida, DeSantis and Senate President Wilton Simpson told 20 top officials of Florida's casinos, poker rooms, horse tracks, and jai-alai facilities on Thursday, according to some of the men in attendance at the closed-door meeting in the Capitol. Simpson, DeSantis, and House Speaker Chris Sprowls have been in behind-the-scenes talks with the Tribe over a new gambling compact for several months as part of an ambitious plan to draft a proposal for this Legislative Session.

## **COVID Dollars to Unemployment Fix**

Gov. Ron DeSantis announced plans Tuesday to shore up his state's emergency management system, as well as give \$1,000 bonus checks to the state's cadre of first responders under a spending proposal to disburse some \$10 billion Florida is expected to reap under the latest federal COVID-19 relief bill. The governor said the money would also go to bulk up infrastructure, bolster efforts to fight rising sea levels, and fix the state's unemployment system.

## **Constitutional Review Commission to end?**

The Senate is set to vote on a proposal asking voters whether to abolish the Constitution Revision Commission. Senators gave their initial approval ahead of a full vote expected on the measure (SJR 204), to repeal one of five methods to amend the Florida Constitution. If the Legislature approves the resolution, the question would appear before voters on the 2022 ballot. The public would need to approve it by a 60% vote. The CRC, created in 1968, meets every 20 years to make changes to the Florida Constitution. The commission met for the first time from 1977 to 1978. It met most recently from 2017 to 2018.

# Bills of Interest Statewide

## SB 90 / PIE 5 – Election Administration

The House unveiled its proposal to build on Florida's election laws after what most called a successful 2020 cycle. The proposed committee bill touches on ballot security, maintaining accessibility for voters, and voting process transparency. Unlike the Senate version (SB 90), the House PCB would keep the existing ballot drop box legislation while adding monitoring requirements. Voting sites could only keep boxes available to the public during voting hours, and boxes must always be monitored, whether by a Supervisor of Elections personnel, a law enforcement officer, or a security camera. PIE 5 will be heard in the House Public Integrity & Elections Committee on Monday.

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

Businesses, nursing homes, and other healthcare providers in the state would gain some protection from coronavirus-related lawsuits if they made an effort to follow guidelines to prevent the spread of COVID-19 under SB 72, passed by the Senate on a 24-15 vote on Thursday. The House has passed a similar, but narrower, bill in HB 7, but legislative leaders who made the issue a priority said a deal has been worked out to have the House accept the broader Senate bill, which could lead to the final passage as early as this week.

## SB 2004 – Broadband Internet

The Senate is spearheading an effort to ensure Florida's rural areas are not left behind as society's crucial functions like education, employment, and health care move increasingly online. The Department of Economic Opportunity's Broadband office would have to develop short-term and long-term goals for increasing the availability of broadband Internet service in Florida and identify available federal funding for the expansion or improvement of the service under a measure approved unanimously Monday by the Senate Commerce and Tourism Committee. According to the FCC, while Florida's urban areas have broadband coverage rates of 98%, in rural areas, the coverage rate is under 80%. SB 2004 passed its first committee on Monday.

## SB 334 / HB 239 – Regulation of Smoking in Public Places

Local governments may soon be able to decide whether cigarette smoking will be permitted at beaches and public parks within their jurisdiction. On Monday, the Senate Environment and Natural Resources Committee advanced a bill (SB 334) to empower municipalities to take the lead on smoking regulations with a 5-0 vote. The Senate bill moves to Rues; the House bill awaits its second of three committees.

# Bills of Interest Statewide

## SB 1954 / HB 7019 – Statewide Flooding and Sea Level Resilience

The Senate Environment and Natural Resources Committee is advancing a measure setting up a grant program to help prepare for flooding and sea-level rise. SB 1954 is a companion measure to a bill put forward by the House Environment, Agriculture and Flooding Subcommittee (HB 7019) to establish the Resilient Florida Grant Program, allowing the Department of Environmental Protection to issue grants to local governments to prep for flooding and sea-level rise. The DEP would also have to every three years conduct a flood vulnerability and sea-level rise assessment to identify communities vulnerable to flooding and sea-level rise.

On Monday, the Senate Environment and Natural Resources Committee adopted two amendments to SB 1954. One amendment makes a technical change, while the second requires the DEP to notify the Legislature when scientific sources or standards specifically referenced in the Resilient Florida Grant Program statutes are updated or replaced. SB 1954 was passed (6-0) and has one more committee reference, Appropriations. The House companion bill, HB 7019, has one last committee reference as well: State Affairs.

## HB 1379 / SC 1186 – Property Assessments for Elevated Properties

A bill that would provide tax breaks to homeowners who voluntarily elevate their properties has cleared its first committee hearing. The joint resolution (HJR 1377), along with the bill (HB 1379), received unanimous approval from the House Environment, Agriculture and Flooding Subcommittee Monday. If approved by voters, the joint resolution would amend the state constitution to prevent home improvements for flood mitigation from impacting the value of the property for tax purposes. The House bill is tied to the resolution passage; if the joint resolution passes and is approved by voters in the 2022 election, this bill would take effect Jan. 1, 2023. HB 1379 has two more committee references, its next being the Ways and Means Committee. SB 1186 is currently in Finance and Tax, its second-to-last committee of reference.

## SB 86 – Student Financial Aid (Bright Futures)

Following a rewrite and uproar from dozens of students and parents, the Senate on Tuesday advanced legislation that could reduce amounts covered under the state's popular Bright Futures college scholarship program. The bill was pulled from the Senate Education Committee agenda a week ago to give its sponsor more time to adjust some of the more contentious items. Many of the key policy ideas in Senate Bill 86 were left untouched. But a new, longer version now requires state education officials to put together a list of degrees that don't lead directly to jobs, and that list is tied to Bright Futures scholarship amounts. SB 86 barely passed the Education Committee 5-4 and moves to the Appropriations Subcommittee on Education.

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

Orders imposed by local officials after hurricanes, pandemic outbreaks, or other emergencies could be overturned by the Governor or Legislature, under this measure approved along party lines by Senate Community Affairs Committee. The bill would limit to 10 days locally issued emergency orders, which could be invalidated by the Governor or the Legislature. The proposal would still allow local officials to enact such orders, but after 10 days those orders would have to be approved by a local legislative body such as a city council or county commission to be allowed to remain in place. Currently, local states of emergency can be ordered for seven days and extended indefinitely in seven-day increments as needed.

# Bills of Interest Statewide

Originally, the Senate bill only provided that a local government emergency order that deprives citizens of rights must be narrowly tailored to serve compelling public health or safety interest and must be limited in duration and scope to the greatest extent possible. The amended version 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. Similar to the House version, the Senate amendment also limited the duration of local emergency orders. The amended Senate version limits orders to 10 days unless extended by a majority vote of the governing body. While it doesn't put a total time limit on the extension, it does prohibit the local area from passing a new emergency order responding to the same emergency after the original is allowed to expire.

Both the Senate and House bills await to be agendaed in their next committee.

## SB 2006 – Emergency Management

Senate Military and Veterans Affairs, Space and Domestic Security voted 5-2 to approve SB 2006. The bill 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.

During questions, members asked about the portion of legislative intent which documents the reasoning and necessity for this policy. Members also expressed concern about the lack of opportunity for input from local elected officials including school boards and cities in terms of executive orders and guidance put out from the Governor. The bill sponsor expressed an openness to working with members about concerns but emphasized this is not to look back, it is an attempt to assess what happened and how to improve going forward.

SB 2006 moves to the Senate Appropriations Committee. There is no current House companion bill.

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

House State Affairs unanimously approved HB 327 which exempts the address and phone number of persons who are provided shelter during an emergency. The committee adopted an amendment that removed the individual's name from the exemption. The legislation is a priority of county emergency departments and is supported by the Florida Association of Counties. The House bill moves to the State Affairs Committee. The Senate bill is in the Governmental Oversight and Accountability Committee.

## SB 1294 / HB 663 - Cottage Food Operations

This bill would revise the regulations on (home-based) cottage food operations and cottage food sales. The bills allow individual cottage food operations to sell, offer for sale, and accept payment for cottage food products as a business entity. The bills also allow cottage food products to be sold, offered for sale, and paid for by mail order, and permits cottage food products to be delivered by mail. The bill increases the permitting exemption for cottage food operations to maximum allowable gross sales of \$250,000, from the \$50,000 limit currently in statute. SB 1294 is scheduled to be heard on Monday in Senate Commerce and Tourism. HB 663 is ready for the House floor but has not yet been scheduled for second reading.

# Bills of Interest Statewide

## SB 628 / HB 1013 - Urban Agriculture

SB 628, creating a definition of "urban agriculture" in the statutes and exempting urban agriculture equipment from a law that requires farm equipment be kept 50 feet away from public roads, was approved unanimously by the Senate Community Affairs Committee on Tuesday. The measure had already been approved by the Senate Agriculture Committee and now just needs approval from the Rules Committee before it can go to the Senate floor. The bill is intended to make it easier for people to engage in agricultural businesses in urban areas, in part as a way to combat lack of access to fresh food in some areas. Agriculture in urban and suburban areas has grown in the last several years as a potential solution to that lack of access and as a tool for community development. Several other states have passed legislation in recent years seeking to boost urban agriculture. SB 628 moves to the Rules Committee. The House counterpart has yet to be agendaed in the first of its 3 committee references.

## 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 amendment this week in the House Local Admin. & Veteran Affairs Subcommittee narrowed the scope of the bill, but the 3% increase cap remains in the Senate bill. FAC and League of Cities spoke in opposition, noting concerns over definitions in the bill that would exclude uses of impact fees to fund infrastructure projects and public safety measures.

The House bill passed 13-5 and moves to the Ways and Means Committee. SB 337 will be heard in its first committee of reference on Wednesday.

## SB 402 / HB 35 – Legal Notices

The full House voted 85-34 to approve HB 35, which would stop requiring governmental agencies in an internet age to publish public notices in print newspapers. The bill passed the House last year, but was held back in the Senate. This year, the bill would also give residents the option to have public notices mailed to them free-of-charge. The local government must publish one notice annually in a newspaper of general circulation or publication mailed and delivered to all residents informing them of the option and maintain a registry of those who request the direct mail option. The local government must post public notices on a free website in a searchable format. The sponsor argues the bill is providing access to public notices free-of-charge for the first time ever while allowing local governments to shift dollars away from propping up a dying industry. The Senate bill will be heard in its first committee on Monday.

## 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 a local tourism promotion for destinations across the state. When it was noted that a 5-year referendum may not be enough to bond and used the example of flood mitigation projects, the sponsor committed to working on clarifying this provision, noting that it is not meant to apply to currently bonded projects and is being presented as a way to ensure funding is in place for needed projects

HB 1429 passed the House Environment, Ag. & Flooding Subcommittee 17-0. It will be heard in the House Ways and Means Committee on Monday. SB 2008 awaits its first committee of reference.

# Preemption

## SB 856 / HB 839 - Express Preemption of Fuel Retailers and Related Transportation Infrastructure

Narrowing this bill to be mainly a prohibition on cities banning gas stations, Sen. Travis Hutson was able to drive his once-controversial local energy regulation bill through a Senate committee Tuesday. SB 856 had become a bit of a partisan flashpoint, as one of several proposals that could have rolled back cities' and counties' authority to adopt clean-energy plans and ordinances. On Tuesday, a strike-all amendment was passed that narrowed the bill's concern to making sure cities don't try to outlaw gas stations "and their related infrastructure." With that, the Senate Community Affairs Committee approved the measure, 6-3. CS/CS/SB 856 moves to the Rules Committee. Its House companion, HB 83, has two more committee references.

## SB 1128 / HB 919 - Preemption Over Restriction of Utility Service

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. It effectively voids any existing ordinance to that effect as of July 1, 2021. The bill also 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 Tuesday, the Senate Rules Committee passed a committee substitute for SB 1128 (9-0). The CS expands the list of utilities covered by the bill's provisions to include electric utilities formed by interlocal agreement under s. 163.01 and Cat. III petroleum gas cylinder exchange operators under s. 527.01, F.S. It also clarifies the bills do not expand or alter the jurisdiction of the PSC. SB 1128 has no more committee references. The House companion, HB 919 by Tomkow, has two more committee references.

## SB 268 / HB 735 - Preemption of Local Occupational Licensing

A bill to prohibit local governments from requiring licenses or fees for certain trades was approved Tuesday by the House Commerce Committee after a debate about the need or lack thereof for local regulations of trade workers and whether state or local government is in a better position to regulate, sending the bill to the House. Backers of the legislation said local governments are using licenses to raise revenue, charging workers for credentials that don't require much to get other than to pay the fee. Local governments would still be able to license journeyman and that ability would be codified, as well as clarifying that those licenses could transfer between municipalities.

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, pipefitting, mechanical and HVAC systems, and alarms and electrical systems.

"The reason we preempt things ... things are better done in the Legislature," said Rep. Blaise Ingoglia. But lawmakers are also "trying to stop municipalities, counties, and cities from gouging the people they say they're trying to serve," he said. The bill was approved on a 19-5 vote and is now on the House calendar for floor consideration. Meanwhile, a similar bill in the Senate was approved Tuesday in the first of three assigned committees, Senate Regulated Industries, on a 7-1 vote.

# Growth Management

## SB 496 / HB 59 – Growth Management

This 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 its 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).

On Monday, the Senate Judiciary Committee passed CS/SB 496 (11-0) after adopting one amendment. The amendment removes a provision requiring the DOT to offer the right of first refusal to the previous owner of a parcel of land they are trying to dispose of. CS/CS/SB 496 has one more committee reference: Rules. Its House companion, CS/CS/CS/HB 59, is currently on Second Reading in the House chamber.

## SB 284 / HB 55 – Building Design

This 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.

The sponsor had previously explained examples of local governments’ requirements around the state that he felt drives up housing costs, such as pavement for certain space driveway takes up so much space, requiring residential roofs with reflective coverings, and requiring EV charging infrastructure. He argues all of these requirements are driving up the cost of housing. Supporters of the bill stated that local governments cannot have it both ways- they cannot place requirements that drive up housing costs and still ask for affordable housing. Opponents argue the bill is overly broad and should be more targeted to problem areas.

On Tuesday, the Senate Community Affairs Committee passed a delete-all version of SB 284 (6-3), which makes the same changes as were made to the House version (CS/CS/HB 55) last week, allowing local governments to apply building design restrictions in planned unit developments or master-planned communities created by local ordinance enacted on or before July 1, 2021. CS/SB 284 has two more committee references; the next one is the (S) Regulated Industries Committee. CS/CS/HB 55 is currently on second reading in the House chamber.



# Growth Management

## SB 1076 – HB 53 – Public Works Projects

CS/SB 1076 prohibits a state college, county, municipality, school district, or other political subdivision of the state from using certain preferences in competitive solicitations for construction services when any state-appropriated funds or locally-appropriated funds are to be used to fund the project. Current law provides that for a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon:

(1) the contractor’s maintaining an office or place of business within a particular local jurisdiction; (2) the contractor’s hiring employees or subcontractors from within a particular local jurisdiction; or  
(3) the contractor’s prior payment of local taxes, assessments, or duties within a particular local jurisdiction. The bill removes the 50 percent or more threshold and applies the prohibition on local preference to all solicitations that will be paid for with funding that is state-appropriated or locally appropriated.

The state or any political subdivision that contracts for a public works project may not grant a preference or impose a penalty during the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residence of the employees of such contractor, subcontractor, or material supplier or carrier. Additionally, the bill prohibits a state or political subdivision that contracts for a public works project from requiring a contractor, subcontractor, or material supplier or carrier engaged in such project to train employees in designated programs with restricted curriculum or from a single source.

HB 53 passed its first committee in February sits in the Public Integrity and Elections Committee. SB 1076 awaits its second committee hearing. Our contract lobby team continues to negotiate with the proponents of this bill to mitigate the impact on local government.

## SB 266 / HB 403 – Home-Based Businesses

This bill creates a new section of the 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 a civil action against local government regulation, with the prevailing party able to recover attorney’s fees and costs.

A late-filed amendment to SB 266 being heard today in the Senate Commerce and Tourism Committee removes language from the bill that stated, “As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property.” There will be local government opposition to that amendment.

# Local Bills

## HB 1185 – Indian Trails Improvement District

In consideration of converting the District to a municipality, this bill provides a procedure to study the feasibility of incorporation. In order for this bill to be heard, an amendment was approved by the delegation narrowing the scope of the bill to eliminate the defining boundaries of ITID, and removing the right to petition portion. In this amended bill, ITID may spend funds to do a feasibility study and to draft a charter.

HB 1185 will be heard in the Local Administration & Veterans Affairs Committee on Tuesday at 12:45 pm, it's first of three committee stops.

## HB 915 – Port of Palm Beach

This local bill updates the port's director title, election dates, and Port Commissioner salaries. There was an amendment passed by the delegation that set the Commission salary at \$12,500 and removes the ability for a future commission to raise the commissioners' salary.

This bill has not been placed on the agenda in any of its two assigned House Committees.

## HB 973 – Town of Lake Clarke Shores

This bill would expand their town boundaries to include a neighborhood that is currently part of unincorporated Palm Beach County.

This bill has not been placed on the agenda in any of its three assigned House Committees.

## HB 979 – Village of Wellington

This bill would permit the local regulation of fireworks within the Equestrian Preserve Area of Wellington.

HB 979 passed the House Local Administration & Veterans Affairs Subcommittee on March 11, and has two more assigned House Committees.

## HB 1035 – Loxahatchee River Environmental Control District

This bill updates and revises the district's enabling act.

HB 1035 passed the House Local Administration & Veterans Affairs Subcommittee on March 11, and has the Ways and Means Committee on 3/22, and has one more assigned House Committee.