



March 19 2021

FAC ST. PATRICK'S LEGISLATIVE DAY

MARCH 17, 2021 A HYBRID HIT!



FAC had such a wonderful week, welcoming all counties to the 2021 Legislative Day on St. Patrick's Day! On Wednesday, county commissioners and staff traveled to Tallahassee to get a first hand look into what has been going down this Session. Those in attendance heard from Florida's Attorney General, Ashley Moody, Senator Bobby Powell, and Florida Department of Agriculture Commissioner, Nikki Fried, as they addressed a few of their top priorities this Session and in the state of Florida.

Additionally, FAC heard from leaders of Florida's state agencies including Secretary of State Laurel Lee, Secretary of the Florida Department of Transportation Kevin Thibault, Secretary of Commerce Jamal Sowell, and Executive Director of the Florida Department of Economic Opportunity Dane Eagle. Secretary Sowell and Executive Director Eagle discussed the challenging implications of COVID-19 on Florida's economy and also highlighted the resiliency within the business community. Attendees got a sneak peek into the future of transportation, including the increase of electric vehicles on Florida roads and what that means for the future of transportation funding and local government revenues, and how the Department of Economic Opportunity is addressing broadband access and funding within its new Office of Broadband. Whether in-person or virtual, attendees were able to engage with speakers and stay updated on legislation affecting counties this year.

Despite the hybrid version, Legislative Day was nothing short of successful and we are so thankful for the strong FAC community. Thank you to everyone who came to this year's Legislative Day, and we are looking forward seeing everyone at our next big event, Annual Conference in Orange County on June 29-July 2!



NEW RESOURCE CENTER ON THE **AMERICAN RESCUE PLAN**

A COMPREHENSIVE BREAKDOWN OF COVID-19 RELIEF



The American Rescue Plan Resource Webpage is officially launched on the FAC website!

Here you will be able to access all things “American Rescue Plan” such as details of the plan, NACo’s county-by-county allocation estimates, and questions sent by NACo to the U.S. Treasury. You can even share how your county plans to use the federal relief funding in your communities! The website will be updated as new information comes forth about the implementation of funds from the U.S. Department of Treasury.

Round 1 Matchup 28 of 32

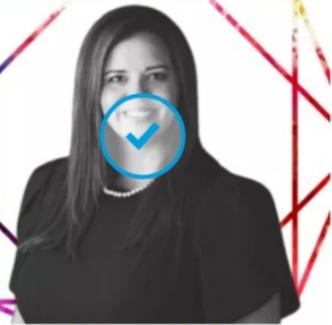
Congratulations Eddy Labrador!

FAC’s very own Senior Legislative Counsel, Eddy Labrador, was nominated in FL Politics’ TallyMadness 2021 for “Top in-House Lobbyist.” Eddy is lucky #28 in the lineup.





Edward Labrador 

Stephanie Smith 

VOTE EDWARD LABRADOR

TALLYMADNESS 2021



IN A HURRY?

Click [here](#) to listen to this week's FAC-ish Podcast: Legislative Update - all of the same legislative announcements, faster and easier than ever before!



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Follow us on Twitter to catch your legislative updates, preemption news, and bill alerts in real-time.

COVID-19 AD HOC

COVID-19 Liability Protections Bill Passes on Senate Floor

[CS/SB 72- Civil Liability for Damages Relating to COVID-19](#) by Sen. Brandes passed (24-15) in the Senate on Thursday. A combination of SB 72 and SB 74, CS/SB 72 now provides heightened liability protections against COVID-19-related claims due to the threat of unknown and potentially unbounded liability claims that may arise as a result of the pandemic. The protections are extended vastly to all persons, businesses, or other entities, including healthcare providers.

The bill defines a COVID-19-related claim, against a person, business, or other entity, but generally not a health care provider, as a claim that arises from or is related to COVID-19. For claims against a person other than a health care provider, the bill establishes preliminary requirements that a plaintiff must complete before the case can proceed. A court must determine whether:

The complaint was pled with particularity.

A physician's affidavit was simultaneously submitted stating that, within a reasonable degree of medical certainty, the physician believed that the defendant caused, through acts or omissions, the plaintiff's damages, injury, or death. If the plaintiff did not meet these requirements, the court must dismiss the action, but the plaintiff is not barred from correcting the deficiencies and refileing the claim.

The defendant made a "good faith" effort to substantially comply with authoritative or controlling health standards when the action accrued. If the court determines that the defendant made the requisite good faith effort, the defendant is immune from civil liability.

Liability Protections for Health Care Providers

The liability protections for COVID-19-related claims against a health care provider primarily focuses on claims:

- Arising from the diagnosis or treatment of a person for COVID-19
- The provision of an experimental COVID-19 treatment
- The transmission of COVID-19
- The delay or cancellation of a medical procedure

A claim by a person other than a patient or resident stating that the health care provider caused the person to contract COVID-19 may be pursued under the provisions of the bill that primarily relate to claims against persons other than a health care provider.

A COVID-19-related lawsuit against any defendant must be brought within 1 year after a cause of action arises unless the cause of action occurred before the effective date of the bill. However, if a cause

arises before the effective date of the bill, the plaintiff has 1 year from the effective date of the act to bring the claim. The bill takes effect upon becoming a law and applies retroactively. However, the bill does not apply in a civil action against a particular defendant if the suit is filed before the bill's effective date. The House is expected to take up the Senate's version of the legislation next week.

COVID-19 Fraud Safeguard Bill Flies Through Senate Committee

[CS/SB 1608 - Protecting Consumers Against Pandemic-related Fraud](#) was heard in Senate Criminal Justice on Tuesday. SB 1608 protects the public from fraudulent activity, or false misleading information relating to the availability and effectiveness of personal protective equipment (PPE) and fraudulent activity against COVID-19 vaccination availability and access. The legislation will prevent the creation of websites, social media, emails, phone calls with false information with the intent to steal personal identification or to receive money. The bill will make these actions a third-degree felony. The bill passed unanimously and has one last stop, Rules Committee. During the first week of Session, House companion, CS/ HB 9- Protecting Consumers Against Pandemic-related Fraud by Rep. Zika passed on the House Floor (113-0).

FAC Contact:

For additional information, please contact Tonnelle Graham at tgraham@flcounties.com.



HEALTH, SAFETY, & JUSTICE



ACTION NEEDED ON SB 1924: Bill Limiting Local Emergency Order Powers Advances in First Senate Committee

[CS/SB 1924- Limitations on Emergency Powers of Political Subdivisions](#) by Sen. Diaz was heard the first time in Senate Community Affairs. The bill requires that emergency measures issued by a political subdivision be narrowly tailored to a compelling public safety or public health emergency and specifies additional requirements for local emergency measures.

The bill has three crucial provisions:

- Provides the Governor and/or legislature (by concurrent resolution) with the power and **AUTHORITY TO INVALIDATE** an order, an ordinance, a proclamation, a rule, or any other measure issued by a political subdivision to address a purported emergency if they determine that such order unnecessarily restricts a constitutional right, fundamental liberty, or statutory right of a citizen.
- Provides that all local emergency orders would expire after 10 days, however the order could be extended before its expiration by a majority vote of a governing body. Upon expiration of the order, a substantially similar order **CANNOT** be adopted during the same emergency.
- Provide that the **BURDEN OF PROOF LIES WITH THE POLITICAL SUBDIVISION** (local government) that a local emergency order (in addressing a purported emergency) that deprives any person of a constitutional right, fundamental liberty, or statutory right, or property. 1) serves a compelling governmental interest. 2) is narrowly tailored. 3) accomplishes the intended goal through the use of at least intrusive means.

This legislation is a direct attack on home rule (by allowing the Legislature or the Governor to invalidate local emergency orders) and develops a potentially harmful legislative precedent that could be implemented beyond the scope of local emergency management. This legislation could potentially expose local governments to significantly increased litigation.

SB 1924 passed favorably (6-3) and moves to its next committee stop, Senate Military and Veterans Affairs, Space, and Domestic Security. The House companion, [CS/HB 945- Emergency Management Powers of Political Subdivisions](#) by Rep. Rommel passed its first committee last week.

Please reach out to the following:

Senate Sponsor: Sen. Manny Diaz (District 36 – Miami-Dade County)
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Vice Chair: Sen. Gayle Harrell (District 25 – Martin, Palm Beach, St. Lucie Counties)
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Next Committee Stop - Senate Military and Veterans Affairs, Space, and Domestic Security
Chair: Sen. Tom Wright (District 14 – Brevard County, Volusia County)
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[Senate Military and Veterans Affairs, Space, and Domestic Security Committee Members](#)
Your Local Senate Delegation.

Smoking Ban in Public Beaches and Parks Bills Advance in Both Chambers

Both bills allow counties and cities to further restrict smoking on beaches and parks within their jurisdictions. Cities may also restrict smoking in county beaches and in city parks as long as it would not conflict with a county ordinance. Additionally, smoking will be prohibited within the boundaries of a state park. FAC waived in support for both bills this week.

[CS/SB 334- Regulation of Smoking in Public Places](#) by Sen. Gruters was heard in its second committee, Senate Environment and Natural Resources. An amendment was adopted that continues to prohibit smoking, except for smoking cigars or pipe tobacco, within the boundaries of public beaches and public parks. This exception applies to cities restricting smoking and state parks. The bill passed unanimously (5-0) and moves to its final committee stop, Senate Rules.

[HB 239 - Regulation of Smoking by Counties and Municipalities](#) by Rep. Altman was heard for the first time in House Professions & Public Health Subcommittee. HB 239 passed favorably (15-2) and now moves to House Environment, Agriculture, & Flooding Subcommittee.

Pedestrian Safety Legislation Passes First House Committee

[HB 1113-Traffic and Pedestrian Safety](#) by Rep. Fine was heard in House Tourism, Infrastructure & Energy Subcommittee on Tuesday. The bill requires state and local governments to convert flashing signals at crosswalks not located at intersections to traffic signals before 2024. By October 1, 2022, DOT must seek approval from the federal government to allow red rectangular rapid flash beacon (RRFB) instead of yellow RRFBs. If approved by the federal government, all entities with jurisdiction over mid-block crosswalks must replace yellow RRFBs with red RRFBs within a year. If the request is denied by the federal government, all entities with jurisdiction over mid-block crosswalks must remove all yellow RRFBs or retrofit with acceptable equipment. Furthermore, a traffic engineering study must be conducted that recommends the installation of a mid-block crosswalk. HB 1113 passed favorably (15-2) and is now in Houses Infrastructure & Tourism Appropriations Subcommittee. The Senate companion, [SB 1412-Traffic and Pedestrian Safety](#) by Sen. Perry has not yet been heard.

Public Records Exemptions in Emergencies Ready for the House Floor

[CS/CS/HB 327- Public Records/ Disaster Response](#) by Rep. Rommel was heard for its last committee in House State Affairs. The bill creates a public records exemption of the address and phone number of a person held by an agency impacted during an emergency. The public records exemptions will protect sensitive information of people impacted by a disaster. The bill specifies a public records exception for individuals provided public emergency shelter during a storm or other disaster. FAC supports a public records exemption for information obtained by a local government while providing emergency management services. A strike-all amendment was adopted to not exempt an individual's name from public record, in case another individual is looking for the specific person, such as a family member, during an emergency. HB 327 passed unanimously and is ready for the House Floor. The companion bill, [SB 418-Public Records/Persons Seeking Shelter](#) by Sen. Burgess passed its first committee meeting and awaits to be heard in Senate Government Oversight and Accountability.

Emergency Management Legislation Moves Through Senate Committee

[SB 2006-Emergency Management](#) by Sen. Burgess was heard in Senate Military and Veterans Affairs, Space, and Domestic Security. The bill amends the State Emergency Management Act to address the threat posed by a future pandemic or other public health emergency. More specifically, the bill specifies that the State Emergency Management Act applies to pandemics and other public health emergencies; requires the Division of Emergency Management (division) to include in the state comprehensive emergency management plan provisions addressing public-health-emergency preparedness, response, recovery, and mitigation. Additionally, the division must develop the provisions in consultation with the Department of Health and the Agency for Health Care Administration and maintain an inventory of state-owned personal protective equipment. The bill passed (5-2) and heads to the Senate Appropriations Committee next.

FAC Contact:

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COMMUNITY & URBAN AFFAIRS

Growth Management Bill Passes Second Senate Committee

[CS/CS/SB 496- Growth Management](#) by Sen. Perry was heard in Senate Judiciary on Monday. SB 496 amends various sections of Florida law concerning growth management. The bill makes the following changes to current law:

- Provides that a comprehensive plan for a newly incorporated municipality which becomes effective after January 1, 2016, must incorporate development orders existing before the plan's effective date. The plan may not impair the completion of a development with such a development order and must vest the density and intensity approved by the development order.
- Requires a local comprehensive plan to have a property rights element, which requires the local government to consider certain private property rights in its decision-making process. Local governments must adopt this element during the next proposed plan amendment initiated after July 1, 2021, or the next scheduled evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191, F.S.
- Specifies that a party, or its successor in interest, may amend or cancel a development agreement without securing the consent of other parcel owners whose property was originally subject to the development agreement, as long as the amendment or cancellation does not directly modify the allowable uses or entitlements of such parcel owner's property.
- Allows agreements pertaining to existing developments of regional impact that are classified as essentially built out, and were valid on or before April 6, 2018, to be amended, including amendments exchanging land uses under certain circumstances.

SB 496 passed unanimously. Before approving the bill, the Committee adopted an amendment to remove a provision requiring the Florida Department of Transportation, when disposing of real property, to offer a right of first refusal to the previous owner from whom the department obtained the property. The companion measure, [CS/CS/CS/HB 59-Growth Management](#) by Rep. McClain is awaiting House Floor action.

Building Design Legislation Moves in First Senate Committee

[CS/SB 284-Building Design](#) by Sen. Perry was heard for the first time in Senate Community Affairs, relating to building design.

The Committee adopted a strike-all amendment to prohibit local governments from adopting land development regulations that require specific building design elements for single- and two- family dwellings, except when:

- The dwelling is a historic property or located in a historic district;
- The regulations are adopted in order to implement the National Flood Insurance Program;
- The regulations are adopted in accordance and compliance with the procedures for adopting local amendments to the Florida Building Code;
- The dwelling is located in a community redevelopment area; or
- The dwelling is located in planned unit development or a master planned community created by a local government ordinance that is enacted on or before July 1, 2021.

The bill defines the term "building design elements" to mean exterior color, type or style of exterior cladding, style or material of roof structures or porches, exterior nonstructural architectural ornamentation, location or architectural styling of windows or doors, location and orientation of the garage, and number, type, and layout of rooms. However, the term does not include setback including the height, bulk, orientation, location on a zoning lot, or the use of buffering or screening to minimize potential adverse physical or visual impacts or protect the privacy of neighbors.

The bill further defines the term "planned unit development" and "master planned community" as an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots.

SB 284 passed favorably (6-3), as a committee substitute and next goes to Senate Regulated Industries Committee. The companion measure, [CS/CS/HB 55- Building Design](#) by Rep. Overdorf is awaiting action

on the House Floor.

Preempting Local Occupational Licensing Legislation Advances in Both Chambers

[CS/SB 268-Preemption of Local Occupational Licensing](#) by Sen. Perry was heard in Senate Regulated Industries and [HB 735- Preemption of Local Occupational Licensing](#) by Rep. Harding in House Commerce on Tuesday.

The measure expressly preempts the licensing of occupations to the state and supersedes any local government occupational licensing, with the exception of local licensing authorized by general law. The bills save local occupational license requirements enacted before January 1, 2021, but only until July 1, 2023, when all local occupational licensing expires. During this two-year period, however, a local government may not increase or modify the licensing requirements.

Local governments may not require a person to obtain a license whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board. More specifically, the bill precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, handyman services, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, and canvas awning and ornamental iron installation. Finally, the bill authorizes counties and cities to issue journeyman licenses in the plumbing, pipe fitting, mechanical, and HVAC trades, as well as the electrical and alarm system trades. Local journeyman licensing is excepted from the state preemption of local licensing since it would be authorized under general law.

In the Senate, an amendment was adopted that changed the date for grandfathered local licensing programs from July 1, 2021 to January 1, 2021 and to include handyman services within the group of preempted occupations for which local licensing would no longer be allowed.

SB 268 passed favorably (7-1) and heads to its second committee stop, Senate Community Affairs. HB 735 passed favorably (19-5) and is ready for the House Floor.

Bill Expanding the Scope of Bert J. Harris Private Property Rights Protection Act Passes

[HB 1101- Relief From Burdens on Real Property Rights](#) by Rep. Persons-Mulicka was heard in the House Civil Justice and Property Rights Subcommittee on Friday, relating to the relief of burdens on real property rights. The bill modifies the definition of:

“Action of a governmental entity” under the Bert Harris Act to include adopting or enforcing any ordinance, resolution, regulation, rule, or policy.

“Real property” under the Bert Harris Act to include any legal interest in land, including surface, subsurface, and mineral estates and any other relevant land interest held by a property owner.

“Land” or “real property” under the Florida Land Use and Environmental Dispute Resolution Act (FLUEDRA) to have the same meaning as “real property” under the Bert Harris Act.

The bill also reenacts the definition of “real property” under the governmental exactions statute to incorporate the amendments made to the Bert Harris Act. By modifying these definitions, the bill expands the scope of the Bert Harris Act and claims that may be resolved under FLUEDRA.

HB 1101 passed favorably (11-5) and is now in House Local Administration and Veterans Affairs Subcommittee. The Senate companion, [SB 1380- Relief from Burdens on Real Property Rights](#) by Sen. Rodrigues will be heard in the Senate Judiciary Committee on Monday afternoon.

FAC Contact:

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WATER & ENVIRONMENTAL SUSTAINABILITY

Energy Preemption Pared Back to Fuel Retailers Clears Second Senate Committee

[CS/CS/SB 856- Express Preemption of Fuel Retailers and Related Transportation Infrastructure](#) by Sen. Hutson was heard in Senate Community Affairs on Tuesday. Originally, the bill preempted local government from restricting the construction of new transportation energy or that expands, repairs, or updates existing transportation energy infrastructure. A committee substitute was adopted that applies these preemptions only to “fuel retailers” and changes the effective date to upon becoming law. The bill prohibits local governments from adopting a law, ordinance, regulation, policy, or resolution that prohibits

the siting, development, redevelopment of a fuel retailer or the related transportation infrastructure that is necessary to provide fuel to a fuel retailer within a local government's jurisdiction. The House companion, [CS/HB 839- State Preemption of Transportation Energy Infrastructure](#) by Rep. Fabricio still maintains the broad restrictions on local governments for the regulation of transportation energy infrastructure.

Bill Honoring Former Commissioner/Representative Kristin Jacobs Passes on the House Floor

[HB 217-Conservation Area Designations](#) by Rep. Hunschofsky passed (119-0) on the House Floor on Thursday Afternoon. All 120 House members signed on to co-sponsor the bill honoring the former Representative and Commissioner. The legislation renames the Southeast Florida Coral Reef Ecosystem Area to honor former Broward County Commissioner Kristin Jacobs. In 2018, Jacobs passed the legislation creating the Southeast Florida Coral Reef Ecosystem Area which runs from Martin County to Biscayne Bay. FAC proudly supports the bill. The Senate companion, [SB 588- Conservations Area Designations/Kristin Jacobs Coral Reef Ecosystem Conservation Area](#) by Sen. Book is in its third committee of reference.

Bills Preempting Utility Services Moves Through Senate Committee

[CS/CS/SB 1128-Preemption on Restriction of Utility Services](#) by Sen. Hutson was heard in its second committee stop in Senate Community Affairs. SB 1128 prevents counties, municipalities, special districts, or other political subdivisions from enforcing a resolution, ordinance, or code restricting or prohibiting the types of fuel sources of energy that can be used, delivered, converted, or supplied by a public utility. The bill passed unanimously and now heads to its last committee stop, Senate Rules. The House companion, [CS/HB 919 - Preemption Over Restriction of Utility Services](#) by Rep. Tomkow passed its first committee last week and is in its second committee, House Local Administration & Veterans Affairs Subcommittee.

A Governor Priority, Establishing the Resilient Florida Grant Program, Passes Senate Committee

[CS/SB 1954-Statewide Flooding and Sea-level Rise Resilience](#) by Sen. Ray Rodrigues was heard in Senate Environment and Natural Resources on Monday. The bill creates the Resilient Florida Grant Program within the Department of Environmental Protection to provide \$100 million in grant funding to local governments to fund resiliency planning. Funding will support vulnerability assessments and mitigation plans to prepare for the threats of flooding and sea level rises. The bill authorizes counties to enter into agreements to form regional resilience coalitions for the purpose of planning for the resilience needs of communities and coordinating intergovernmental solutions. By July 1, 2022, the DEP must complete the development of a comprehensive statewide flood vulnerability and sea level rise data set. By July 1, 2023, the DEP will use the data to complete a comprehensive statewide flood vulnerability and sea level rise assessment. The bill creates the Florida Flood Hub for Applied Research and Innovation within the University of South Florida College of Marine Science. The hub must organize existing data needs, coordinate research funds, establish community-based programs to improve flood monitoring and prediction, and develop opportunities to partner with other flood and sea level rise research and innovation leaders. SB 1954 passed unanimously and is now in its last committee stop, Senate Appropriations.

Biosolids Rule Ratification Passes First Committee in Both Chambers

Two bills ratifying proposed administrative rules on biosolids were heard in both chambers. The bills ratify DEP's proposed rules on biosolids and exempts the biosolids rules from review and approval by the Environmental Regulation Commission.

[SB 7060- Biosolids](#) by Senator Brodner was heard for the first time during the Senate Environment and Natural Resources Committee SB 7060 passed favorably (4-1) and waits for its second committee, Senate Appropriations Subcommittee on Agriculture, Environment, and General Government.

[HB 1309 - Ratification of Department of Environmental Protection Rules](#) by Representative Payne was heard for the first time during the House Environment, Agriculture & Flooding Subcommittee. HB 1309 passed unanimously and is now in House State Affairs.

Sewer Lateral Program Legislation Clears First Senate Committee

[CS/SB 1058 – Sanitary Sewer Lateral Inspection Programs](#) by Sen. Burgess was heard in Senate Environment and Natural Resources. Last session, the Legislature passed HB 1091 which encouraged counties to establish a voluntary sanitary sewer lateral inspection program. A sanitary sewer lateral is the portion of the sewer network connecting individual private properties to the public sewer system. SB 1058 requires local governments, who set up the voluntary program, to repair/replace the defective, damaged, or deteriorated pipes to eliminate extraneous flow on residential and commercial properties. The bill establishes: A property owner notice process; Shifts costs to the county for any repair work and indemnifies property owner; Sets prescriptive requirements for the repair of the sanitary sewer lateral

system; and Authorizes counties to access state funds for water quality improvements. House companion, HB 773- Sanitary Sewer Laterals by Representative McClure passed unanimously last week and is in its second committee, House Local Administration & Veterans Affairs Subcommittee

Private Waste Companies House Legislation Advances to Next Committee

[CS/HB 331-Displacement of Private Waste Companies](#) by Rep. McClure was heard in House Regulatory Subcommittee on Wednesday. The bill would eliminate the option of a local government to pay a displaced waste company in lieu of providing a three-year notice period. Also, the bill increases the payment for displacing a private waste company to an amount equal to the company's preceding 18 months' gross receipts (currently 15 months) and provide for the three-year notice period. An amendment was adopted that the bill does not apply if a local government provided the 3-years' notice of displacement to a private company on or before December 31, 2020. FAC is currently surveying the potential impacts of the proposed legislation. HB 331 passed unanimously and moves to its last committee, House State Affairs. The Senate companion, [SB 694-Displacement of Private Waste Companies](#) by Sen. Ray Rodrigues is in its second committee of reference.

FAC Contact:

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AGRICULTURE & RURAL AFFAIRS

Agritourism and Farmer Liability Protections Advances in Both Chambers

[CS/HB 1601- Farming Operations](#) by Rep. Williamson was heard for the first time in House Civil Justice & Property Rights on Wednesday. The bill amends the Florida Right to Farm Act to include agritourism in the definition of farm operations. Furthermore, the bill provides strong liability protections for farming operations from public and private nuisance lawsuits including agritourism activities. The bill further limits who can bring nuisance claims to those within one-half mile of the alleged source of the nuisance and which violate existing environmental laws. HB 1601 passed (14-4) and awaits its second committee stop, House Environment, Agriculture & Flooding Subcommittee. The Senate companion, [CS/CS/CS/SB 88- Farming Operations](#) passed (37-1) on the Senate Floor on Thursday.

OTHER TECH INDUSTRIES

Two Broadband Bills Advance in Senate Committees

[CS/SB 1560- Broadband Internet Service](#) by Sen. Ausley was heard for the first time in Senate Commerce and Tourism. The bill revises the duties of the Florida Office of Broadband within the Department of Economic Opportunity and establishes the Broadband Deployment Task Force. The Task Force will provide recommendations to the office for the deployment of broadband Internet service throughout the state, including, rural buildout and urban adoption strategies. Furthermore, the Task Force will include one member of the Florida Association of Counties to represent underserved or unserved rural communities. The bill requires the Office to develop geographic information system maps and annually update such maps, in collaboration with specified entities and consistent with certain federal reporting standards by June 30,2022 to identify gaps of broadband internet coverage. Lastly, the bill requires the office to establish a process to identify eligible households to receive federal Emergency Broadband Benefit Program funds under certain circumstances. SB 1560 was amended to include the provisions of the Broadband Opportunity Grants that are in HB 753 with the exception of revenues from M-CORES and also includes underserved communities within the grant program. As HB 753, only includes unserved within the grant program. However, political subdivisions, non-profits, and rural electric cooperatives would be prohibited from receiving grants under the program. The bill passed unanimously and moves to its second committee stop, Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development. Two House comparable bills, [CS/HB 753-Broadband Internet Deployment](#) by Rep. Clemons is in its last committee, House Commerce, and [HB 1339-Broadband Internet Service](#) by Rep. Goff-Marcil has not been heard.

[CS/SB 2004- Broadband Internet](#) by Sen. Burgess was heard in its first committee stop in (Senate Commerce and Tourism on Monday. The bill requires the Office of Broadband (Office) within the Department of Economic Opportunity to address additional areas in its strategic plan. Specifically, the Office must develop short-term and long-term goals and strategies to increase the availability of and access to broadband Internet service in Florida; incorporate federal broadband activities that may improve Florida's broadband Internet service; and identify available federal funding for the expansion or improvement of broadband Internet service. The bill requires the Office to complete and submit its strategic plan by June 30, 2022. Furthermore, the bill includes an appropriation of \$1.4 million in nonrecurring funds for the purpose of commissioning a broadband feasibility study and developing the strategic plan. SB 2004 passed unanimously and moves to its second committee stop, Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

Florida Forever Bonding Extension Clears First Senate Committee

[SB 1480 – Land Acquisition Trust Fund](#) by Sen. Brodeur was heard for the first time in Senate Environment and Natural Resources Committee. The bill extends the date by which bonds issued to fund the Florida Forever Act are intended to be retired to December 31, 2054. Under current law, the bonds are intended to be retired by December 31, 2040. The bill passed unanimously. The House companion, [HB 1173 – Florida Forever Bonds](#) by Rep. Roth, has not been heard this Session.

FAC Contact:

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FINANCE, TAX, & ADMINISTRATION

Impact Fees Addressing Cap Increases Passes House Committee

[CS/HB 337- Impact Fees](#) by Rep. DiCeglie was heard for the first time in House Local Administration & Veterans Affairs Subcommittee. A committee substitute was adopted that revised the cap for impact fee increases and removed the provision that required projects to be planned or funded within the same assessment district in order to be able to collect the impact fee. In regards to a cap increase, there are six provisions which include: An impact fee may be increased only pursuant to a plan for the imposition, collection and use of the increased impact fee that complies with this section; Any increase to a current impact fee rate of not more than 25 percent of the current rate must be implemented in two equal annual installments; An increase to a current impact fee that exceeds 25 percent but not more than 50% of the current rate must be implemented in four equal annual installments; No current impact fee increase may exceed 50 percent of the current impact fee rate; An impact fee may not be increased more than once every 4 years; and An impact fee may not be increased retroactively for a previous or current fiscal or calendar year. A local government, school district, or special district may increase an impact fee rate by establishing the need for such increase in full compliance with the requirements of a dual rational nexus test. Note that the caps do not apply if things are done as they must be done under current law. HB 337 passed favorably (13-5) and now moves to its second committee stop, House Ways & Means. A similar bill, [SB 750 - Impact Fees](#) by Sen. Gruters has not yet been heard.

Fiduciary Duty of Care Legislation Pass House and Senate Committees

[CS/SB 758- Fiduciary Duty of Care for Appointed Public Officials and Executive Officers](#) by Sen. Diaz was heard in Senate Community Affairs. The bill establishes an express fiduciary duty of care for each appointed public official and executive officer that serves a government entity. More specifically, the bill provides that each appointed public official and executive officer has the duty to:

- Act in accordance with the laws, ordinances, rules, policies, and terms governing his or her office or employment;
- Act with the care, competence, and diligence normally exercised by reasonably prudent persons in similar corporate and proprietary circumstances;
- Act only within the scope of his or her authority;
- Refrain from conduct that is likely to damage the financial or economic interests of the governmental entity;
- Use reasonable efforts to maintain documentation in accordance with applicable laws; and
- Maintain reasonable oversight of any delegated authority and discharge his or her duties with the care that a reasonably prudent person in a like business position would believe appropriate under the circumstances.

Additionally, the bill establishes training requirements for each appointed public official and executive

officer to begin on January 1, 2022. Appointed officials and executive officers must complete a minimum of five hours of board governance training for each term served. The bill requires the Department of Business and Professional Regulation (DBPR), by January 1, 2022, to either (1) contract for or approve a board governance training program that includes an affordable web-based electronic media option; or (2) publish a list of approved training providers.

Governmental entities with annual revenues of less than \$300,000 may use in-house counsel or the in-house counsel for the unit of government that created the entity, to provide the training as long as it comports with the minimum course content established by DBPR rule. The bill includes three exceptions to the training requirement for (1) appointed public officials and executive officers of governmental entities whose annual revenues are less than \$100,000; (2) appointed officials who hold elected office in another capacity; or (3) appointed public officials or executive officers who complete board governance training involving fiduciary duties or responsibilities which is required under any other state law. The bill requires appointed public officials and executive officers to provide written certification of compliance with the board governance training.

The appointment of an executive officer or general counsel must be approved by a majority vote of the governing body of the governmental entity. The bill specifies that all legal counsel employed by a governmental entity must represent the legal interests and positions of the governmental entity, and not the interest of any individual or employee of the governmental entity, unless such representation is directed by the governmental entity.

The Senate Committee adopted an amendment that removes pension and retirement board members from the definition of "appointed public official" and passed unanimously. The bill heads to its last committee, Senate Appropriations.

The House companion, [HB 573-Fiduciary Duty of Care for Appointed Public Officials and Executive Officers](#) by Rep. Beltran was considered in the House Public Integrity and Elections Committee on Thursday. The Committee adopted two amendments to align the House and Senate bills and passed (13-1). The bill now heads to the House State Administration and Technology Appropriations Subcommittee.

Tourism Development and Convention Development Tax Expansion Clears First Committee

[HB 1429- Tourist and Convention Development Taxes](#) by Rep. Avila was heard in its first committee stop, House Environment, Agriculture, & Flooding Subcommittee. The bill authorizes counties imposing the Tourist Development Tax (TDTs) or Convention Development Tax (CDTs) to allow the use of tax revenues to be used to finance flood mitigation projects. Furthermore, the bill requires all TDTs and CDTs to be approved by referendum every five years and requires any TDT or CDT currently imposed to be renewed in a referendum on or before July 1, 2026. HB 1429 passed unanimously and heads to House Ways & Means Committee. The Senate companion, [SB 2008- Tourist and Convention Development Taxes](#) by Sen. Diaz has not been heard.

Small Business Sales Tax Holiday Bill Moves in First Senate Committee

[CS/SB 302- Small Business Saturday Sales Tax Holiday](#) was heard for the first time in Senate Commerce and Tourism. SB 302 provides that small businesses on Saturday, November 27, 2021, are not required to collect the sales and use tax, both state sales tax and local discretionary sales surtaxes, on the retail sale of certain items costing less than \$1000. The bill was amended to clarify if a small business chooses to not participate in the sales tax holiday they must notify the Department of Revenue by November 16, 2021, and the business must post a copy of that notice at its place of business. The bill passed unanimously and moves to Senate Finance and Tax. The House companion, [HB 637- Small Business Saturday Sales Tax Holiday](#) by Rep. Tant has not been heard.

Bills Prohibiting Declaratory Relief in Response to Record Requests Move to Final Committees

[CS/SB 400- Public Records](#) by Sen. Rodrigues was heard in its second committee, Senate Judiciary. The companion legislation, [CS/HB 913- Requests for Public Records](#) by Rep. McClure was heard in its second committee stop, House Civil Justice & Property Rights Subcommittee.

The bills prohibit an agency from responding to a request to inspect or copy a record by filing an action for declaratory relief against the requester to determine whether the record is a public record as defined in [s. 119.011, F.S.](#), or the status of the record as confidential or exempt from the provisions of [s. 119.07\(1\), F.S.](#)

SB 400 passed through unanimously and moves to its last committee, Senate Rules. HB 913 passed unanimously and is in its final committee, House State Affairs.

Sales Tax Exemption Bill Passes

[SB 224- Sales Tax Exemption](#) by Sen. Berman was heard for the first time in Senate Children, Families,

and Elder Affairs. SB 224 exempts specified items from sales and use tax that assist in independent living when purchased for noncommercial home or personal use; items include bed transfer handles, bed rails, grab bars, shower seats. This exemption does not apply to a purchase made by a business, including a medical institution or an assisted living facility. The Revenue Estimating Conference estimated the cost of the bill would reduce General Revenue Fund receipts by \$1.2 million for the first year, with a recurring loss of \$2.9 million. Additionally, the conference estimated local government revenues will be reduced by approximately \$400,000 for Fiscal Year 2021-2022, with a recurring loss of \$900,000. The bill passed unanimously and moves to Senate Finance and Tax. The House companion, [HB 81- A Sales and Use Tax Exemption](#) by Rep. Casello has not been heard.

Extension of the Qualified Target Industry Refund Program Clears Second Committee

[SB 982- Tax Refund Program for Qualified Target Industry Businesses](#) by Sen. Gruters was heard on Thursday in Senate Finance and Tax. SB 982 reauthorizes the Qualified Target Tax Industry Refund Program by repealing the June 30, 2020 deadline for applicants to be certified for the program. FAC's 2021 Legislative Program supports the reauthorization of the Qualified Targeted Industries Tax Refund for another 10 years. SB 982 passed unanimously. The House companion, [HB 6071-Tax Refund Program for Qualified Target Industry Businesses](#) by Rep. LaMarca has not been heard.

FAC Contact:

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PREEMPTION TRACKER

Among Other, Some Preemptions to Look out for This Session

[HB 215 Prohibition of Public Funds for Lobbying by Local Governments](#) by Rep. Sabatini, among other things, prohibits a local government from using public funds to retain a lobbyist to represent the local government before the legislative or executive branch. However, a full-time employee of the local government may register as a lobbyist and represent that local government before the legislative or executive branch. Except as a full-time employee, a person may not accept public funds from a local government for lobbying. HB215 has been referenced to committees but not heard. As of yet, there is no Senate companion and the bill has not been scheduled for any committee agendas.

[CS/HB 219 / CS/CS/SB 522 Vacation Rentals](#) by Rep. Fischer and Sen. Diaz preempts the regulation of vacation rentals to the state. This bill prohibits a local law, ordinance, or regulation from allowing or requiring inspections or licensing of vacation rentals and preempts the regulation of advertising platforms for vacation rentals. On SB 522, an amendment was adopted removed the bill's preemptive language that: Added licensing to the list of regulations of public lodging establishments and public food service establishments that would be expressly preempted to the state; Added language providing that a local law, ordinance, or regulation may not require local inspection or licensing of the public lodging or public food service establishments; Provided a local government may regulate activities that arise when a property is used as a vacation rental if the regulation applies uniformly to all residential properties. SB 522 continues to expressly preempt the regulation of vacation rental advertising platforms to the state. On February 10, HB 219 passed favorably (10-7) in its first committee, House Regulatory Reform Subcommittee, and is expected to be heard on Monday, March 22, in House Ways & Means. On March 11, the Senate companion, SB 522 by Senator Diaz passed favorably in its second committee, Senate Appropriations and is now in its last committee stop, Senate Rules.

[CS/HB 267 / CS/SB 426 State Preemption of Seaport Regulations](#) by Rep. Roach and Rep. Sirois and Sen. Boyd preempts to the state the regulation of commerce in state seaports. The bill prohibits a municipal government from regulating commerce in seaports in the state, including but not limited to, regulating or restricting a vessel's type or size, source or type of cargo, or the number, origin, or nationality of passengers, all matters will be preempted to the state. The bill no longer impacts county-owned or operated seaports and those ports owned and operated by independent special districts. SB 426 prohibits a local ballot initiative or referendum from restricting maritime commerce in Florida's seaports including but not limited to, regulating or restricting a vessel's type or size, source or type of cargo, or the number, origin, or nationality of passengers, environmental or health records of a particular vessel or vessel line. On March 3, HB 267 passed favorably (12-6) in its first committee, House Tourism, Infrastructure & Energy Subcommittee, and is now in House Local Administration & Veterans Affairs Subcommittee. On March 10, SB 426 passed favorably (6-2) in its first committee stop, Senate Transportation, and is now in Senate Community Affairs.

[HB 761 / SB 1008 Solar Electrical Generating Facilities](#) by Rep. Overdorf and Sen. Huston

requires that solar facilities are a permitted use in all agriculture land use categories in local government comprehensive plan and all agriculture zoning districts. Under this bill, a county may adopt an ordinance to specifying buffer and landscape requirements for solar facilities with exceptions. Also, the bill modifies the Florida Electrical Power Plant Siting Act certification doubling capacity limits for solar electrical generating facilities from 75 megawatts to 150 megawatts. Both bills have not been heard.

[View the Full 2021 Preemption Tracker Online](#)

FAC Contact:

For additional information, please contact Eddy Labrador at elabrador@fl-counties.com.

UPDATE ON ACCESS 67 AND THE LOCAL GOVERNMENT EFFICIENCY TASK FORCE

Access 67

FAC would like to urge all counties to adopt a resolution in support of broadband deployment. The Rural Caucus' call to action at FAC's Legislative Conference in December is more important now than ever as session begins and several broadband legislation has been filed. Please visit Access 67 at <https://www.fl-counties.com/access-67> to view county resolutions that have been adopted.



We urge your county to adopt a resolution and submit it to Sara Henley at shenley@fl-counties.com, so that we may share the resolution with legislators as broadband legislation moves through the legislative process.

FAC Contact:

For additional information, please contact Sara Henley and Jeff Scala at shenley@fl-counties.com and jscala@fl-counties.com.

Local Government Efficiency Task Force

The 2020 Legislature created the Local Government Efficiency Task Force via Ch. [2020-114](#), *Laws of Florida*. The law directs the Office of Program Policy Analysis and Governmental Accountability to provide the task force research support. The purpose of the task force is to review the governance structure and function of local governments and determine if changes are necessary to make such governments more efficient. The task force's final report is due by June 1, 2021. To view more information, please visit <https://oppaga.fl.gov/TaskForce>.

FAC Contact:

For additional information, please contact Eddy Labrador at elabrador@fl-counties.com.

DATA POINT #8 THE ERA OF BROADBAND POLICY

The Era of Broadband Policy

Over the past two years, broadband legislation has become a top priority of FAC as local governments seek to bridge the digital divide in both their rural and urban communities. Broadband access has increasingly become an essential service in our everyday lives and

State and Federal lawmakers have taken notice of the calls from local governments to close the gap of the digital divide. Americans heavily rely on Internet access for work, education, healthcare, and online commerce, and even more after the global pandemic forced most of the population to an online-centered lifestyle. The Digital Divide characterizes the gap between those with or without access to telecommunication and information technologies. The term may refer to both high-speed internet and broadband access. In the past year, COVID-19 has been a driving force behind the quick implementation and funding around broadband and has been included in Federal COVID-19 relief legislation. Recently under the American Rescue Plan and within the Coronavirus State and Local Fiscal Recovery Fund, the \$65.1 billion allocation to counties includes broadband as an eligible use fund. Additionally, the Coronavirus Capital Projects fund includes an additional \$100 million to each state for critical capital projects such as broadband infrastructure. Lack of Internet access has quickly become an issue that can no longer be pushed to the side. For both rural and urban communities, policy creating opportunity and funding for broadband infrastructure is crucial to having equal opportunities and access to essential services and lifestyle.

BROADBAND FAST FACTS

Broadband Internet is defined as download speeds greater than 25 Megabits per second (Mbps and upload speeds of 3 Mbps.)

98%

Florida's urban areas
fixed broadband
coverage rate

78.6%

Florida's rural areas
fixed broadband
coverage rate

5th

Florida 5th best
broadband access
in the US

Sources

[BroadbandNow](#)
[Federal Communications Commission Report 21](#)

What's happening with Broadband in Florida?

Last Session, HB 969 Broadband Internet Service by Representatives Drake and Ausley (SB 1166 by Senator Albritton) passed which created the Office of Broadband within the Department of Economic Opportunity (DEO). The Florida Office of Broadband “works with local and state government agencies, community organizations and private businesses to increase the availability and effectiveness of broadband internet throughout the state, specifically in small and rural communities. Through these partnerships, the Office encourages investment in grant funding opportunities for the broadband program that focus on the expansion of broadband.” As passed in FY22-23 through Florida’s Turnpike Enterprise for the MCORES program, five million annually may be used for broadband infrastructure projects with priority given to the rural areas of opportunity.

Upon creation of the Florida Office of Broadband, [a State of Florida Minimum Internet Download Speeds Map](#) was formed from the Federal Communications Commission (FCC) data. The map indicates areas unserved, underserved, and served.

This year, Florida lawmakers are introducing legislation to deal with some of the challenges of broadband implementation across the state. While introducing SB 1560, Senator Ausley, announced rural deployment and urban adoption and affordability have been challenges after HB 969 was signed into law last year. Below, are four pieces of broadband legislation that is FAC is following this year.

BROADBAND LEGISLATION TO WATCH: SESSION 2021

FAC Supports Compare Bills			
HB 1339 /SB 1560 Broadband Internet Service	HB 753 Broadband Internet Deployment	SB 2004 Broadband Internet	HB 1239/ SB 1592 Broadband Internet Infrastructure
Representative Goff-Marcil/ Senator Ausley	Representative Clemons	Senator Burgess	Representative Tomkow/ Senator Burgess
<p>Revises the duties of the Florida Office of Broadband within the Department of Economic Opportunity and establishes the Broadband Deployment Task Force.</p> <ul style="list-style-type: none"> The Task Force will provide recommendations to the Office for the deployment of broadband Internet service throughout the state, including, rural buildout and urban adoption strategies. The Task Force will include one member of the Florida Association of Counties to represent underserved or unserved rural communities. Requires the Office to develop geographic information system maps and annually update such maps, in collaboration with specified entities and consistent with certain federal reporting standards by June 30, 2022 to identify gaps of broadband internet coverage. Requires the Office to establish a process to identify eligible households to receive federal Emergency Broadband Benefit Program funds under certain circumstances. SB 1560: Creates the Broadband Opportunity Program to award Opportunity Grants to focus broadband expansion in unserved and underserved areas. The bill adds a definition for "unserved" to mean an area where there is no provider of broadband Internet service with the capacity for Internet speeds of 25/3Mbps. The bill amends the term "underserved" to mean an area where there is no internet service provider that offers Internet speeds of 100/10Mbps. 	<p>Creates the Broadband Opportunity Program.</p> <ul style="list-style-type: none"> Awards Opportunity Grants to focus broadband expansion in unserved areas with fewer than 25 megabits per second (Mbps) download speed and 3 Mbps upload speed. Reallocates 50 percent of the revenues currently allocated to the M-CORPES program, approximately \$66.3 million, to the Office of Broadband for purposes of administering the grant program. Requires the Department of Transportation to consult with the Florida Office of Broadband to ensure projects are consistent with a strategic plan. 	<p>Requires the Office of Broadband within the Department of Economic Opportunity to address additional areas in its strategic plan by developing short-term and long-term goals and strategies to increase the availability and access to broadband service.</p> <ul style="list-style-type: none"> Incorporate federal broadband activities that may improve Florida's broadband Internet service; and identify available federal funding for the expansion or improvement of broadband Internet service. Requires the Office to complete and submit its strategic plan by June 30, 2022. Includes an appropriation of \$1.4 million in nonrecurring funds for the purpose of commissioning a broadband feasibility study and developing the strategic plan. 	<p>Cites the act as the "Florida Broadband Deployment Act of 2021." Exempts from the sales and use tax the purchase, lease, or sale of equipment used by providers of communication services or Internet access services. Note: the bill does not specify that tax incentives be linked to additional investments in broadband deployment to underserved or unserved areas. Potential negative fiscal impact to local government revenues.</p> <ul style="list-style-type: none"> Provides a procedure for access by broadband providers for attachments to utility poles of municipal electric utilities and the adoption of rates, terms, and conditions for the access to the poles consistent with federal requirements. Includes prohibitions on municipal electric utilities from preventing or requiring a broadband provider to use certain techniques or comply with specifications when installing.

Resources

Organizations across the country have created apps and websites to test broadband speeds to find areas of need within communities:

NACo TestIT

[TestIT: How Fast is Your Broadband \(naco.org\)](http://naco.org)

NACo partnered with national organizations to develop the TestIT mobile app to provide individual data experiences for both cellular and broadband speeds. The information collected identified both low or no connectivity areas to better inform federal policymakers for funding decisions and future investments in broadband infrastructure.

Federal Communications Commission: Fixed Broadband Deployment Map

[Home | Fixed Broadband Deployment Data | Federal Communications Commission \(fcc.gov\)](http://fcc.gov)

To learn more about how FAC is continuing to push the conversation around broadband access in the state of Florida, visit our Access 67 page: [Access 67 | Florida Association of Counties \(fl-counties.com\)](http://fl-counties.com)

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For additional information, please contact Sara Henley at shenley@fl-counties.com.

Register for the Webinar Now

Rural Broadband Solutions

Wednesday, March 24 2:00 PM EST



