



April 23, 2021

WEEK EIGHT **ALMOST AT THE FINISH LINE** **2021 LEGISLATIVE SESSION**

Officially one week left until the end of Session! This week wrapped up the last committee meetings and much of the week was spent on the House and Senate Floor. As we near the end of Session, FAC is grateful to all our members who have remained engaged and supported our lobbying efforts in an unprecedented Legislative Session.

Finally, budget conferences began this past weekend and into the week. As a reminder, for them to finish according to schedule, the budget will have to be completed by April 27 in order to allow for the 72 hours "cooling-off" period for all parties to review.



Last Thursday, April 15th, the U.S. Department of Treasury released its guidelines on pre-award requirements that counties need to take in order to receive direct payments under the Coronavirus State and Local Fiscal Funds, view those guidelines [here](#). You can also access all future Treasury guideline updates, details of the plan, NACo's county-by-county allocation estimates, questions sent by NACo to the U.S. Treasury, and all the latest resources on the FAC's American Rescue Plan Resource Webpage. If you have any questions about the American Rescue Plan, please submit your questions on the webpage.

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!



SIGNED INTO LAW

Online Sales Tax Bill Signed into Law -FAC SUPPORTED

[CS/CS/SB 50-Taxation](#) was signed into law Monday evening, April 29 and will take effect on July 1, 2021. SB 50 applies Florida's sales and use tax to online/e-commerce sales from out of state retailers regardless of whether the entity has a physical presence within the state. Prior to this legislation, 43 of 45 states that collect sales tax have authorized sales tax on out-of-state vendors since the 2018 SCOTUS decision, *Wayfair v. South Dakota*, authorizing the practice. Florida now joins the list. As a long-term advocate of e-fairness, FAC celebrates this economic victory for our counties and our local brick and mortar businesses.

A Top GOP Priority, Anti-Riot Bill Signed into Law

[HB 1- Combating Public Disorder](#) - As a top priority for GOP leadership this Session, HB 1 was signed into law and was effective immediately on Monday, April 19. HB 1 defines crimes related to rioting and enhances penalties for aggravated rioting, including, but not limited to, acts of assault, battery, mob intimidation, destroying a memorial or historic property, and cyber intimidation. Among other things, the bill creates a budget appeal process to challenge reductions in municipal law enforcement agencies' budgets similar to that available to a county sheriff.

BILLS FOR FINAL APPROVAL BY THE GOVERNOR

Reclaimed Water Legislation Amended and Heading to Governor's Desk

[CS/SB 64- Reclaimed Water](#) by Sen. Albritton was passed (32-0) on the Senate Floor after concurring with the House amendment on Wednesday. The amendment delayed implementation of ending surface water discharges until January 1st, 2032. The bill requires local governmental utilities to submit plans to DEP for the elimination of surface water discharges by 11/21/21. The bill provides exceptions for discharge conditions including; when associated with an indirect potable reuse project, wet weather discharge, stormwater management system discharge withdrawn for irrigation purposes, utilities operating 90% reuse of annual average flow, or when discharges provide direct ecological or public water supply benefits. Additionally, the bill provides exceptions for hardship conditions including when a utility demonstrates that the project is: technically, economically, or environmentally infeasible, or the utility is within a fiscally constrained county. The utility must update plans annually to verify hardship conditions. Timelines and plans must be implemented by 1/1/32. The bill authorizes utilities to include conceptual plans for potable reuse projects or projects that provide direct ecological or public water supply, however, those plans cannot extend the timeline for implementation of the plan.

Other provisions in the bill include:

- Authorizes DEP to convene a technical advisory group to coordinate rulemaking and review of reviews for potable reuse;
- Specifies that potable reuse is an alternative water supply, for purposes of making reuse projects eligible for alternative water supply funding;
- Incentivizes the development of potable reuse projects;

- Requires each county, municipality, and special district to promote the beneficial reuse of water by authorizing the use of residential graywater technologies within its jurisdiction, requiring such technologies to meet certain requirements, and providing incentives to developers to fully offset the capital costs of the technology.
- Specifies the total dissolved solids allowable in aquifer storage and recovery in certain circumstances

Public Records Exemptions in Emergencies Ready for the Governor – FAC SUPPORTED

[CS/SB 418- Public Records/Persons Provided Public Emergency Shelter](#) by Sen. Burgess was heard and passed unanimously and substituted for its House companion, CS/CS/HB 327- Public Records/ Disaster Response by Rep. Rommel. 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 bill provides that the exemption created under the bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and will be repealed on October 2, 2026, unless reviewed and saved from repeal by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution, providing that the exemption is necessary to limit the amount of privacy a person must forfeit by choosing to enter a shelter, and to protect a person from those who might seek to exploit their vulnerability following a catastrophic event. The bill heads to the Governor's desk for final approval.

Agritourism and Farmer Liability Protections Heads to the Governor

[CS/CS/HB 1601- Farming Operations](#) by Rep. Williamson was substituted on the House Floor for its Senate companion, CS/CS/SB 88- Farming Operations by Sen. Brodeur. 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. SB 88 passed favorably (110-7) and will head to the Governor for final approval.

Fuel Pump Preemption Heads to Governor's Desk

[CS/HB 991- Fuel Measuring Devices](#) by Rep. Busatta Cabrera was substituted for the Senate companion, CS/SB 430- Petroleum Fuel Measuring Devices by Sen. Ana Maria Rodriguez. The bill preempts to the state the regulation of fuel measuring devices. Additionally, effective January 1, 2022, the bill requires owners of measuring devices to affix or install onto each measuring device at least two security measures, instead of one. Finally, the bill limits DACS' authority to impose administrative fines and penalties for violations of measuring device requirements, unless the person who owns the measuring device has failed to install or implement a security measure or placed the measuring device back in service before compliance has been restored. Currently, three counties have adopted additional consumer protection measures to protect against card skimming at gas pumps. SB 430 passed favorably (111-4) and heads to the Governor for final approval.

HEALTH, SAFETY, & JUSTICE

Legislation Addressing Emergency Powers of Local Governments Passes on Senate Floor

[CS/CS/SB 2006-Emergency Management](#) by Sen. Burgess was heard on the Senate Floor this week. 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 to include in the state comprehensive emergency management plan provisions addressing public-health-emergency preparedness, response, recovery, and mitigation.

CS/CS/SB 2006 requires the political subdivision imposing an ordinance or other measure that deprives a person of a right, a liberty, or property, to prove that the measure is "narrowly tailored" and serves a "compelling governmental interest" through the "least intrusive means". Additionally, the bill provides that a city or county emergency order will automatically expire 10 days after its issuance, however, an order may be extended for 10-day periods, extended by a majority vote of the political subdivision's governing body.

The bill was amended on the Senate Floor to include if a governing body is unable to convene due to a natural disaster or hurricane, the 10-day period is tolled until the body can reconvene. An emergency

order issued under this section may not exceed 30 days unless the governing body approves the extension. The emergency order may not be amended or replaced by the chief elected officer or chief administrative officer without the ratification of the governing body. If a physical meeting is unfeasible due to conditions related to the state of emergency, a public meeting over telephone, real-time video conferencing or other real-time electronic and or video conferencing will be allowed. Any quorum requirements of a governing body to meet will be suspended of such meeting. Additionally, if an order issues imposes a curfew restricting travel or movement during designated time periods, the order must allow individuals to travel to and from work.

Lastly, the bill was amended to prohibit certain businesses government entities, and educational institutions from requiring documentation, often referred to as “vaccine passports,” indicating COVID-19 vaccination or post-infection recovery, excluding health care providers. SB 2006 passed favorably (27-9) on the Senate Floor.


The House companion, [CS/HB 7047- Emergency Management](#) by Rep. Leek was heard in its last committee stop, House Health & Human Service on Monday and a PCS was adopted. Similar to the Senate companion, HB 7047 amends the State Emergency Management Act with the intent to address better emergency preparedness and response from the State, while remaining transparent to the public. The bill increases transparency related to emergency orders and requires all emergency proclamations be posted online. Additionally, emergency orders automatically expire after 7 days, and may be extended by a majority vote of the political subdivision’s governing body. However, orders may not exceed more than 42 days and may not be substantially similar upon renewal. The Governor has the authority to invalidate an emergency order that “unnecessarily restricts individual rights or liberties.” Lastly, the bill prohibits certain businesses government entities, and educational institutions from requiring documentation of COVID-19 vaccination or post-infection recovery, excluding health care providers. The Department of Health is authorized to issue fines to businesses and institutions who violate the terms, however, the fines may not exceed \$5,000 per violation. HB 7047 passed favorably (14-7) and waits to be considered on the House Floor.

Bill Allowing Faith-Based Volunteer Ambulance Services Advances in Both Chambers

[CS/HB 805- Volunteer Ambulance Services](#) by Rep. Caruso was heard and amended in its last committee stop, House Health and Human Services and on the House Floor this week. HB 805 passed favorably (98-12) on the House Floor on Friday morning. The bill allows a volunteer ambulance service vehicle that qualifies as an authorized emergency vehicle to disregard specified traffic laws and ordinances and use emergency lights and sirens while responding to an emergency. The bill also allows physicians or medical technicians of a volunteer ambulance service to disregard specified traffic laws and ordinances and use red lights in their privately owned vehicles when responding to an emergency in the line of duty. The bill exempts faith-based volunteer first responder agencies from the public convenience and necessity requirements if the agency:

- Has been operating in this state for at least 10 years;
- Has no for-profit subsidiaries;
- Is a not-for-profit corporation registered under ch. 617, F.S.;
- Uses volunteers to provide services;
- Does not operate for pecuniary profit or financial gain and does not distribute to or inure to the benefit of its directors, members, or officers any part of its assets or income;
- Does not receive government funds, however, may receive funding from specialty license proceeds;
- Has never had a license denied, revoked, or suspended;
- Provides free service;
- Provides a management plan to DOH that includes a training program, complaint management system, accident or injury handling system, quality assurance program, and proof of adequate insurance requirements; and
- Provides a disclaimer on all written materials that the service is not associated with the state’s 911 system.

This exemption may be granted to no more than four counties and the service must comply with all other requirements for licensure. Senate companion, [CS/SB 1084- Volunteer Ambulance Services](#) by Senator Pizzo was heard in Senate Appropriations on Wednesday evening. In Committee, the bill passed favorably (16-3) and was placed on the Special Order Calendar for next week.



Other Bills of Interest This Week

[HB 1113- Traffic and Pedestrian Safety](#) by Rep. Fine, was heard on Second Reading in the House. An amendment was adopted by Rep. Slosberg, that requires each pedestrian crosswalk on a public highway, street, or road include an advance yield or stop pavement markings at least 30 feet in advance of the pedestrian crosswalk.

[CS/SB 334 – Regulation of Smoking in Public Places](#) by Sen. Gruters, the bill allowing counties to further restrict smoking, except for smoking cigars or pipe tobacco, within the boundaries of any public beaches or public parks that they own was temporarily postponed in its last committee, Senate Rules.

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COMMUNITY & URBAN AFFAIRS

Election Legislation Moves Forward in Both the House and Senate

[CS/CS/CS/SB 90- Election Administration](#) by Sen. Baxley in its last committee stop, Senate Rules and on the Senate Floor. The bill was amended in Committee and on the Floor and wants to be considered on Third Reading. As passed, the bill:

- Reduces the number of elections for which one request for a vote-by-mail (VBM) ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election;
- Limits a person's lawful possession of a VBM ballot to his or her own, those of his or her immediate family, and two others, and expands the definition of "immediate family" to include a grandchild;
- Prohibits a governmental entity from mailing or otherwise providing a VBM ballot without a request;
- Limits use of drop boxes to a county's early voting hours of operation and requires drop boxes at all locations to be monitored in person;
- Creates additional security and accountability measures related to drop boxes;
- Conforms the distances for the two no-solicitation zones;
- Adds giving any item to a voter to the list of activities prohibited within the no-solicitation zone, except that supervisors' staff may still provide needed items to voters within the no-solicitation zone;
- Improves security for voter registration and VBM ballot requests by requiring an additional identifier number for the elector and requiring additional risk assessments for the online voter registration system;
- Increases transparency by creating new requirements for real-time election data reporting, observers of canvassing processes, duplication of VBM ballots, notice regarding canvassing board members, and notice regarding drop box locations;
- Moves up the starting time for canvassing vote-by-mail ballots from 22 days before an election to 35-40 days before an election;
- Subjects no-party-affiliation candidates to the same oath requirements as those for candidates affiliated with a party;
- Conforms provisions regarding the declaration of felon voting eligibility and third-party voter registrations to court orders; and
- Makes other, administrative changes intended to facilitate election administration.

The bill was amended on the Floor to remove a provision limiting voter signature verification to "wet signatures," modified a provision regarding the duplication of ballots in overvoted and undervoted races, and adopted an amendment allowing supervised voting in assisted living facilities and nursing homes.

A similar House companion, [CS/CS/HB 7041- Elections](#) by Reps. Ingoglia and Byrd was heard in its last committee, House State Affairs. As passed, the bill:

- Improves security and reliability of registration records and voter changes; requiring signature matches be to a signature less than eight years old or the most recent wet signature, unless no other signature is available; and eliminating voter solicitation of any kind within 150 feet of polling places or drop box sites;
- Improves security and integrity of vote-by-mail (VBM) ballot requests; requiring better monitoring of all VBM ballot drop boxes; and making it a misdemeanor for anyone to possess VBM ballots without authorization;
- Requires all election records be retained 22 months;

- Requires a voter's name to appear on VBM ballot return envelopes; requiring a record of identity of designees requesting VBM ballots for another; recording the address to which VBM ballots are mailed; requiring supervisors to report on uncounted VBM ballots received;
- Requires publication of canvassing board members on official website and each board meeting notice; and
- Registration applications will have to be delivered to election supervisors within 14 days after their collection; and organizations must inform applicants of the possible registration delay and the opportunity to register online or to deliver the application themselves.

In addition, the bill requires that at the next election following each constitutionally required, decennial redistricting, each county commissioner that is elected from a single-member district must stand for election; and thereafter, the terms commissioners will be staggered as provided in s. 100.041. The requirement does not apply to Miami-Dade County or in any county where county commissioners are subject to term limits and does not affect at-large commissioners or district commissioners elected county-wide. The Committee passed the bill (16-8), and it heads to be considered on the House Floor.

Public Works Projects Bill Advances in Both Chambers

CS/CS/CS/HB 53- Public Works Projects by Rep. DiCeglie was heard in its last committee, House State Affairs and passed favorably (78-36) on the House Floor this week. The bill was amended to:

- Increase the state-appropriated funding threshold within the definition of “public works project” from \$300,000 to \$1 million.
- Remove the penalty-based prohibition for state colleges or local governments using any competitive solicitation for construction services and instead prohibited using a local ordinance or regulation to prevent a certified, licensed, or registered contractor, subcontractor or material supplier or carrier, from participating in the bidding process based on certain preferences.
- Provide that s. 255.0992, F.S., does not apply to the use of discretionary sales surtax proceeds authorized under s. 212.055(1), F.S.
- Remove the penalty-based prohibition for the state or any political subdivision that contracts for a public works project and instead prohibited a certified, licensed, or registered contractor, subcontractor, or material supplier or carrier, from participating in the bidding process based on certain preferences.
- Remove the prohibition for the state or political subdivision to require employees to be trained in designated programs with a restricted curriculum or from a single source and provided a prohibition on requiring employees to be recruited, trained, or hired from a designated, restricted, or single source.
- Require EDR to include an analysis of the expenditures necessary to repair, replace, and expand water-related infrastructure in its annual assessment of Florida's water resources and conservation lands.
- Require each county, municipality, or special district providing wastewater or stormwater services to develop an analysis of the wastewater and stormwater needs of its jurisdiction over the next 20 years.

The Senate companion, [CS/CS/CS/SB 1076- Public Works Projects](#) by Sen. Brodeur was heard in Senate Rules on Tuesday and passed favorably (9-6) but was temporarily postponed on Second Reading.

Bert Harris Property Rights Legislation Passes Through the House

[CS/HB 421- Governmental Actions Affecting Private Property Rights](#) by Reps. Tuck and Persons-Mulicka was heard on the House Floor and passed favorably (90-29).

As passed, the bill modifies the Bert Harris Act by:

- Revising the term “action of a governmental entity” to include adopting or enforcing any ordinance, resolution, regulation, rule, or policy and the term “real property” to include any legal interest in land, including surface, subsurface, and mineral estates and any other relevant land interest held by a property owner;
- Reducing the timeframe, from 150 days to 90 days, under which a property owner must notify the government before filing a court action;
- Specifying that written settlement offers are presumed to protect the public interest;
- Allowing the property owner to have the court, rather than a jury, determine damages;
- Extending the point from which a prevailing property owner may recover attorney fees and costs – from the date of filing the circuit court action to the date the property owner presents the claim to the head of the governmental entity; and
- Authorizing a property owner, at any time after enactment of a law or regulation, to notify the government in writing that he or she deems a law or regulation's impact on his or her real property to be restrictive of allowable uses. The government entity must respond to the property owner within 45 days after receiving the property owner's written notice to describe the limitations imposed on the property by the law or regulation.

The bill also allows a property owner to challenge an unlawful government exaction upon his or her

property without waiting for a written notice of the action if the local government action is imminent. Finally, the bill revises the definitions of "land" and "real property" under Florida Land Use and Environmental Dispute Resolution Act (FLUEDRA).

A similar bill, [CS/SB 1876- Relief from Burdens on Real Property Rights](#) by Sen. Albritton was heard and passed (10-6) in its last committee, Senate Rules. The bill was amended to match the House companion, to clarify that term appraisal means as defined in §475.611(1)(a) and to change the effective date of the bill from July 1, 2021, to October 1, 2021. The bill is on Special Order for Monday, April 26, for full Senate consideration.

Fiduciary Duties for Appointed Public Officials and Executive Officers Ready for Final Passage in House

On Thursday, the full House considered CS/CS/HB 573 - Fiduciary Duty of Care for Appointed Public Officials and Executive Officers by Rep. Beltran, which establishes fiduciary duty of care standards applicable to executive officers and appointed public officials of governmental entities. The House adopted a strike-all amendment that made several changes to the bill, and on Friday, passed the bill to the Senate on a (116-0) vote. Its companion measure, SB 758 - Fiduciary Duty of Care for Appointed Public Officials and Executive Officers by Sen. Diaz, is in the Senate Appropriations Committee which is no longer meeting. Therefore, the bill's passage is presently uncertain.

As passed, the bill added a definition of "general counsel" and provides for the following six fiduciary duties:

- Acting in accordance with the laws, ordinances, rules, policies, and terms governing his or her office or employment;
- Acting with the care, competence, and diligence normally exercised by private business professionals in similar corporate and proprietary circumstances;
- Acting only within the scope of his or her authority;
- Refraining from conduct that is likely to damage the financial or economic interests of the governmental entity;
- Using reasonable efforts to maintain public records in accordance with applicable laws; and
- Maintaining reasonable oversight of any delegated authority and discharge his or her duties with the care that a reasonably prudent person in a like private business position would believe appropriate under the circumstances, including becoming reasonably informed about decision making functions, devoting attention to oversight functions, keeping informed about the government entity's affairs, and keeping informed about the performance of the governmental entity's officers, agents and employees.

The bill requires governmental entities to provide appointed public officials and executive officers the opportunity to complete five hours of board governance training. The governmental entity must give those individuals notice that the training is available within 30 days of appointment, reappointment, hiring, or any contract entered into or renewed on or after July 1, 2021. If an appointed public official or executive officer requests board governance training the governmental entity must provide the training within 180 days after such request.

The bill sets the minimum content requirements for the training and specifies that training may be provided by a public body with management duties over public officials and executive officers, a Florida College System institution, a state university, an accredited law school, or a nationally recognized entity specializing in board governance education. However, the bill allows governmental entities with annual revenue less than \$1 million to have the training provided through inhouse legal counsel or by the unit of government that created the entity.

The bill mandates the appointment of an executive officer or general counsel (in-house or outside) be subject to approval by majority vote of the governmental entity. The bill further requires all legal counsel and lobbyists employed by a governmental entity represent the legal interest and position of the governmental entity's governing board and not the interest of any individual or employee.

The bill requires the governing body of a governmental entity to determine, on the record at a properly noticed meeting, whether the entity should obtain an outside opinion for any measure that will require the governmental entity to make any of the following expenditures:

- An amount in excess of \$1 million in any fiscal year;
- An amount in excess of \$5 million in the aggregate; or
- An amount in excess of \$250,000 in total annual compensation.

Lastly, the bill specifies that nothing in the bill can be construed to create a private cause of action against an executive officer, an appointed public official, or a governmental entity.

Building Code Legislation Passes House and Gets Amended by Senate

On Thursday, the full House passed (118-0) this Session's Building Code bill, [CS/CS/HB 401-Florida Building Code](#) by Rep. Fetterhoff, and immediately certified the bill to the Senate where its companion

was awaiting floor action. In a procedural move, the Senate later substitute the Senate measure with the House bill and amended it before rolling the bill to Third Reading.

HB 401 allows a substantially affected person to petition the Florida Building Commission (the "Commission") for a non-binding advisory opinion on whether a local government regulation is an improper amendment to the Building Code and establishes a process for such petitions. The Commission may issue an "errata to the code" to list demonstrated errors in provisions contained within the Building Code.

The Commission must adopt rules for approving product evaluation entities in addition to the ones already listed and approved in current law. The bill clarifies the Commission may suspend product evaluation entities. The bill further clarifies that local government entities may use private providers for plan reviews and building code inspection required for their own construction projects.

In addition, the bill provides that a local government may use excess funds generated by building code enforcement for the construction of a building or structure that houses the local government's building department or provides training programs for building officials, inspectors, or plans examiners. However, excess funds used to construct such a building or structure must be designated for such purpose by the local government and may not be carried forward for more than four years. The bill prohibits a local government from requiring a contract between a builder and an owner as a condition of applying for or obtaining a building permit.

The Senate amended the bill to provide that a municipality, county, or special district may not use preliminary maps issued by the Federal Emergency Management Agency for any law, ordinance, rule, or other measure that has the effect of imposing land use changes or permits. The Senate also adopted an amendment that included the substance of [CS/SB 284- Building Design](#) by Sen. Perry, which prohibits local governments from applying building design elements to single-family and two-family dwellings unless the dwellings fall under one of the exceptions in the bill. The bill is on Third Reading and if passed must go back to the House for final passage or further amendment.

Other Bills of Interest This Week

[CS/CS/CS/HB 267- State Preemption of Seaport Regulations](#) by Rep. Roach adopted an amendment to match the Senate companion, [CS/CS/CS/SB 426- State Preemption of Seaport Regulations](#) by Rep. Boyd. SB 426 passed favorably (25-14) on the Senate Floor, while HB 267 was placed on Second Reading.

CS/CS/SB 522- Vacation Rentals by Sen. Diaz, the bill revising the regulation of vacation rentals and preempting the regulation of advertising platforms to the state was temporarily postponed in Senate Rules on Tuesday for a second time.

[CS/SB 102-Matters of Great Governmental Concern](#) by Sen. Burgess was temporarily postponed for a second time in the Senate Appropriations Committee on Tuesday. The bill makes the Attorney General responsible for the prosecution, management, and coordination of any civil proceeding brought by governmental entities in matters the Legislature has declared to be of great governmental concern. The House measure, [CS/HB 1053- Attorney General Designation of Matters of Great Governmental Concern](#) by Rep. Overdorf, was not scheduled for a hearing in the House Judiciary Committee on Monday greatly reducing the prospects for the legislation passing this Session. The House bill requires local government to provide notice to the Attorney General of each civil action it files, and provides 180 days for the Attorney General to declare the subject matter to be a matter of great government concern. The declaration automatically stays any civil proceeding brought by a local government and provides the Attorney General with up to 1 year to file suit. Any recovery reached by the Attorney General must be deposited in the state General Fund to be appropriated by the Legislature at its discretion.

FAC Contact:

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Amendment Adding Solar Energy Preemption to Renewable Natural Gas Legislation

[CS/CS/SB 896- Renewable Energy](#) by Sen. Brodeur was heard during the Senate Rules Committee and amendment, and subsequently amended on the Senate Floor. Originally, the bill amended s.366.91, F.S. by adding the terms “biogas” and “renewable natural gas” and expanding the term “renewable energy.” In Senate Rules on Tuesday, an amendment was adopted that added in language from the solar preemption bill (HB 761/SB 1008- Solar Electric Generating Facilities). The bill now requires solar facilities to be permitted use in all agricultural land use categories in a local government’s comprehensive plan, all agricultural zoning districts within an unincorporated area. A county may only adopt an ordinance specifying buffer and landscaping requirements for solar facilities. On the Floor, an amendment was adopted that the provisions within the bill do not apply to any site that was the subject of an application to construct a solar facility submitted to a local governmental entity before July 1, 2021. The House companion, [CS/CS/HB 539- Renewable Energy](#) by Rep. Byrd was temporarily postponed on Second Reading, and an amendment was filed to match the Senate companion.

Energy Preemption of Fuel Retailers Passes on House Floor

[CS/CS/SB 856- Express Preemption of Fuel Retailers and Related Transportation Infrastructure](#) by Sen. Hutson was substituted for its House companion, [CS/CS/HB 839- State Preemption of Transportation Energy Infrastructure Regulation](#) by Rep. Fabricio. 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 bill passed favorably in the House (79-38) and is awaiting Third Reading in the Senate.

Bill Preempting Public Utility Services Passes on House Floor

[CS/CS/SB 1128-Preemption on Restriction of Utility Services](#) by Sen. Hutson was substituted with House companion, [CS/CS/HB 919 - Preemption Over Restriction of Utility Services](#) by Rep. Tomkow. HB 919 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. An amendment was adopted that provides the bill does not prohibit a governmental entity from adopting rules, regulations, and policies governing an electric or natural gas utility that it owns or operates and directly controls. The bill passed favorably in the House (81-34) and is awaiting Third Reading in the Senate.

Biosolids Rule Ratification Advances on Senate Floor

[CS/SB 7060- Biosolids](#) by Sen. Brodeur was substituted for its House companion, [HB 1309-Ratification of Department of Environmental Protection Rules](#) by Rep. Payne. The bill ratifies DEP’s proposed rules on biosolids and exempts the biosolids rules from review and approval by the Environmental Regulation Commission. In the Senate, the bill was amended to include the provisions of the Central Florida Water Initiative ratification (SB 7062) and passed unanimously (39-0) and waits to be reconsidered in House messages.

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OTHER TECH INDUSTRIES

Another Week of Broadband, Three Broadband Bills Move to the Floor

[CS/CS/SB 1560- Broadband Internet Service](#) by Sen. Ausley was heard and amended in its last committee stop, Senate Appropriations on Monday. SB 1560 revises the duties of the Florida Office of Broadband within the Department of Economic Opportunity and establishes a Broadband Opportunity Grant program. The bill was amended to include new requirements for the strategic plan of the Office of Broadband (SB 2004). 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. SB 1560 also contains a modified version of the Opportunity Grant program to expand broadband access to unserved and underserved communities. While is supportive of Senator Ausley’s bill, one provision of the legislation

renders the grant program ineffective. The bill includes language that prohibits state funds to a geographic area in which broadband is “already deployed by at least one provider”. However, this includes every region of the state. Under the current [FCC Broadband Map](#), no opportunity to expand broadband access will be granted. There are additional restrictions with the grant program, but SB 1560 does permit local governments as applicants. SB 1560 passed unanimously and waits to be considered on the Senate Floor.

[CS/CS/HB 1239- Broadband Internet Infrastructure](#) by Rep. Tomkow was heard in House Commerce and on the House Floor this week. A delete everything amendment was adopted that adds in the language from HB 753 that establishes Opportunity Grants to focus broadband expansion in unserved areas with fewer than 25 megabits per second (Mbps) download speed and 3 Mbps upload speed. The bill limits grant awards to 50% of the total cost of the project, or no more than \$5 million per grant. However, the bill prohibits grants awards for projects that receive other federal funding. The bill also includes language that prohibits state funds to a geographic area in which broadband is “already deployed by at least one provider”. Additionally, the bill requires municipal electric utilities to offer broadband service providers a discounted rate of one dollar per attachment per year for any new pole attachment necessary to make broadband service available to an unserved or underserved broadband Internet customers through July 1, 2024. The bill prohibits municipal electric utilities from raising their current pole attachment rates for broadband providers before July 31, 2022. HB 1239 passed unanimously in House Commerce and was considered on Second Reading today, April 23, 2021. A comparable bill, [CS/CS/SB 1592-Broadband Internet Infrastructure](#) by Sen. Burgess was heard and passed unanimously in its last committee, Senate Appropriations. A proposed committee substitute was adopted to match HB 1239, but excludes the language on the Opportunity Grant program. SB 1592 waits to be considered on the Senate Floor.

Autonomous Vehicles Legislation Moves Through Both Chambers

[CS/SB 1620-Autonomous Vehicles](#) by Sen. Brandes was heard and passed unanimously in Senate Rules on Tuesday. The bill allows autonomous delivery vehicles to operate on streets or roads where the posted speed limit is 35 miles per hour or less. A low-speed autonomous delivery vehicle may operate on a street or road with a posted speed limit of more than 35 miles per hour, but no more than 45 miles per hour, under certain conditions. All provisions within this bill are replaced by conflicting federal regulations. A low-speed autonomous delivery vehicle must be covered by automobile insurance policy and require seatbelts if there is a person on the vehicle. House companion, [HB 1289- Autonomous Vehicles](#) by Rep. McFarland passed (113,0) off the House Floor. SB 1620 is on the Special Order Calendar for next week.

Drone Legislation Soars Through Both Chambers

The four drone bills hit the House and Senate Floor this week.

[CS/HB 433- Use of Drones by Government Agencies](#) by Rep. Andrade was heard and passed unanimously in House Judiciary on Monday. This bill allows a state agency or political subdivision to use a drone to assess damage during a declared state of emergency from a hurricane, flood, wildfire, or other natural disaster. A similar bill, [SB 518- Drones](#) by Sen. Diaz provides exceptions for law enforcement agencies, fire departments when assessing damage due to natural disasters. SB 518 passed unanimously on the Floor.

[CS/CS/HB 1049-Use of Drones by Government Agencies](#) by Rep. Giallombardo was substituted for its Senate companion, [CS/CS/SB 44- Drones](#) by Sen. Wright on Second Reading. The bill provides exemptions for law enforcement use of drones for traffic management and collection of evidence at a crime or traffic scene. The bill specifies for drone use on a crowd of 50 people guidelines must be followed. This includes, specified use for the drone, appropriate release storage and release of images or videos collected by the drone, and the head of law enforcement must have written authorization for drone use. Additionally, the bill allows state agencies and local governments to assess damage due to flood, wildfire, or any other natural disaster as well as monitoring vegetation or wildlife management on publicly land or water.

FAC Contact:

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FINANCE, TAX, & ADMINISTRATION

Impact Fees Addressing Cap Increases Advances in Both Chambers

[CS/CS/CS/SB 750- Impact Fees](#) by Sen. Gruters was substituted on the Floor for its House companion, [CS/CS/CS/HB 337- Impact Fees](#) by Rep. Deceglie. While HB 337 passed (94-23) on the House Floor on Wednesday, it awaits Third Reading in the Senate. The bill revises the limitations and requirements of impact fees by local governments.

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 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. However, a local government, school district, or special district may increase an impact fee rate beyond the cap amounts. In order to increase an impact fee beyond the cap amount, three requirements must be met:

1. A demonstrated need study justifying the increase that has been completed within 12 months prior to the adoption of the impact fee that expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations
2. Two publicly noticed workshops dedicated to the extraordinary circumstances the need to exceed the phase-in limitations
3. The impact fee increase must be approved by no less than a two-thirds vote of the governing body.

The cap language operates retroactively to January 1, 2021.

The bill also revises the provision that passed into law last year providing that impact fee credits are assignable and transferable at any time to another that is within the same or an adjoining impact fee zone or district. The above requirement applies to all impact fee credits without regard to whether the credits were established before or after the effective date of this act.

Both bills include in the definition of infrastructure fire department vehicles, emergency medical service vehicles, sheriff's office vehicles, police department vehicles, school buses, and the equipment necessary for these vehicles or buses. Furthermore, the bill revises the credit requirements on certain contributions against the collection of an impact fee: contributions related to improvement of public facilities or infrastructure must be credited, credits must be applied on impact fees collected for the general category or class of public facilities or infrastructure for which the contribution was made; and credits cannot be applied if a local government does not charge and collect an impact fee for the general category or class of public facilities.

Senate Tax Package Passes Appropriations Committee

[SB 7068-Taxation](#) by Senate Finance and Tax Committee passed the Senate Appropriations Committee. The bill originated as a committee bill dealing with tax administration and was the Department of Revenue legislative package. A strike all amendment was adopted that turned the bill into the Senate Tax Package. The bill included all the substance of the original bill and added the following provisions:

Ad Valorem Provisions:

Fully exempts certain affordable housing properties currently receiving a 50% discount (\$22.8 million)
Use of Charitable Properties (insignificant)
Repeals section 193.019, Dealing with Hospitals, Community Benefit Reporting (indeterminate)
Change of Ownership, Calamity and Misfortune (indeterminate)
House of Worship Educational Property (\$7.6 million Nonrecurring, 0.5 million recurring)
Educational Facilities – S. 212.062 (\$0.6 million)
Motor Sports Complex (\$0.6 million)

Sales Tax Provisions:

Data Center Exemption extension
Independent Living items exemption
Seven Day Back to School Tax Holiday, including computers up to \$1000 - 7/31 to 8/7 (\$44.9 million)
Seven Day Disaster Preparedness Holiday 5/28 to 6/6 (\$6.0 million)

Other Provisions:

Documentary Stamp Tax – Revision of Interest Rate Index (insignificant)
Multiple Taxes – Strong Families Tax Credit Program (\$5.0 million)
Corporate Income Tax – Internship Credit (\$2.5 million)

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 Jeff Scala at 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:

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DATA POINT #12: MATTERS OF GREAT GOVERNMENTAL CONCERN: OPIOID LITIGATION

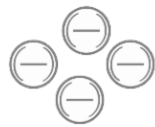
Matters of Great Governmental Concern: Opioid Litigation

Opioid Crisis: On the Rise

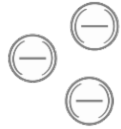
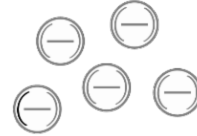
Over the past year amid a global pandemic, individuals have prioritized their health and safety, and are eager to better understand our public health and healthcare systems in times of crisis. With COVID-19 as the top priority, it is imperative to not forget a second public health crisis, the Opioid crisis. Bloomberg Businessweek addresses the seriousness of the Opioid crisis alongside COVID-19. The pandemic has "exacerbated the crisis" as individuals who abuse substances or on the road to recovery or feel isolated and stressed. From August 2019-July 2020, of the 84,000 deaths from drug overdose in the U.S., 61,000 or 73% of those deaths account for Opioid overdoses. According to Project Opioid, overdose deaths in Florida are up 50% during the pandemic compared to 2019. There were 3,606 deaths from March to August 2020.

NUMBER OF DRUG OVERDOSES IN US

FROM AUGUST 2019-JULY 2020



84,000 DEATHS
FROM DRUG OVERDOSE IN THE U.S



61,000 OR 73%

OF THOSE DEATHS ACCOUNT FOR OPIOID OVERDOSES



Related Florida Legislation

This Session two bills have been filed, CS/SB 102-Matters of Great Governmental Concern by Sen. Burgess and CS/HB 1053- Attorney General Designation of Matters of Great Governmental Concern by Rep. Overdorf. The bills seek to make the Attorney General, the sole responsibility for the prosecution, management, and coordination of any civil proceedings brought by governmental entities in “matters of great governmental concerns.” Within SB 102, to declare a “matter of great governmental concern,” the Legislature has the power to declare, amend, or rescind via a concurrent resolution. The House companion, HB 1053, requires a political subdivision that files a civil action in state court to serve a written notice to the Attorney General. The Attorney General has 180 days to determine whether the action involves a matter of great governmental concern and one year from initial notice to file a civil action on behalf of Florida.

HB 1053:

Any conduct or harm that adversely affects the interest of citizens of at least five counties in the state.

SB 102:

Any fact, circumstance, or conduct that has caused substantial economic loss or harm of similar nature to governmental entities in 15 or more counties in the state.

Matters that could be defined as a “matter of great governmental concern” could be extensive litigation such as Opioid, tobacco, or oil spill suits. This legislation would effectively trump local governments from filing civil actions on “matter of statewide concern.” In the case of Opioid litigation, many Florida local governments have filed suits against drug makers, manufacturers, and distributors. To name a few Florida counties involved in Opioid litigation include Alachua, Escambia, Hillsborough, Hernando, Leon, Manatee, Orange, Palm Beach, Pinellas, and Polk. Furthermore, hospitals, totaling 27 institutions in South Florida are joining the opioid lawsuit battle against Purdue Pharma, Johnson & Johnson, and others in the opioid industry. Hospitals are among the stakeholders who are taking a significant negative financial impact from the cost of opioid treatments and fallout.

On the national scale, Florida Attorney General Ashley Moody joined 47 states across the country against McKinsey & Company in a multistate action lawsuit in the company’s role in working with opioid companies to promote the opioid drug. Florida will receive more than \$40 million in settlement. Additionally, Attorney General Moody secured additional funding “more than \$4 billion” through Purdue Pharma.

Proponents of the bill argue that for litigation with many counties affected and of statewide interest, a lawsuit filed by the Attorney General on behalf of government entities maximizes recovers and minimizes cost. Additionally, proponents argue that this legislation would be more efficient than hundreds of individual civil lawsuits filed by different government entities and represented by different attorneys.

Lastly, any award for damages from a settlement arising from a “matter of great governmental concern”

will be subject to full appropriation by the Legislature and lays out procedures for attorney recovery fees. This legislation may decrease damage awards to local governments, as they lose their ability to sue on matters that are declared matters of great governmental concern by the state. FAC has spoken in opposition against the bills. Both bills are stuck in committee, and it is unlikely they will be heard this late in Session.

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Florida Association of Counties (fl-counties.com)

